

REPORT

October, 1967

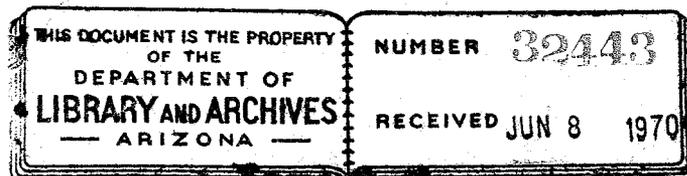
by

Heinz R. Hink

to

Council on Organization of Arizona State Government

1. A report on the work of the Joint Legislative Budget Committee.
2. The advisability of changing the powers and duties of all constitutional offices.
  - A. Powers and duties of constitutional offices.
  - B. Consideration of four-year terms of office.



## SUMMARY OF REPORT

1. The Joint Legislative Budget Committee in the field of auditing, taking into account the Recommendations of the Citizens Committee on Auditing, is getting ready to act on draft proposals to amend Articles 5 and 18 of the Constitution of Arizona, eliminating the offices of State Auditor and State Examiner, to establish the office of Auditor General and to transfer the functions of the State Auditor to the Department of Finance, and the functions of the Post Auditor and State Examiner to the Auditor General. The Joint Legislative Budget Committee is not yet ready to make recommendations in the field of personnel services.

2. A. The problem of changing the powers and duties of the constitutional offices, in terms of whether these offices should be retained in their present form or made appointive, is only in part related to the issue of administrative reorganization. Reorganization authority may be obtained, and a restructuring of the many existing administrative agencies, boards and commissions into fewer and more manageable departments may be accomplished, independent of any change in the powers and duties of the constitutional offices.

The Governor and Secretary of State perform functions of state government which in all but three of the 50 states are performed by elective constitutional officers. The Attorney General as head of the Department of Law and the Superintendent of Public Instruction as head of the Department of Public Instruction, administer agencies which would have to be provided under any suitable plan of organization, whether these two offices be elective or appointive positions. The State Auditor, State Treasurer, State Examiner and Mine Inspector perform duties which in terms of an efficient organization of state government could be reassigned to other government departments headed by appointive officials.

B. In 1895, only 19 states elected their Governor for a four-year term. Today, 40 states make provision for a four-year term for the Governor and for most other constitutional executive offices. Twenty-four states restrict the Governor in the right to succeed himself. In 11 states he may have only one term, in 13 states he may not succeed himself beyond a second term. The national trend is toward lengthening the term of the Governor and other executive officers.

Retention of the plural executive is not incompatible with proposing a constitutional amendment to extend the terms of some executive officers, like the Governor and the Secretary of State. Twelve states now either have provisions for the joint election of the Governor and the Lieutenant Governor or the Secretary of State, or are considering constitutional changes to that effect.

1. Report on the work of the Joint Legislative Budget Committee in the fields of auditing and personnel and its preliminary data report.

The Joint Legislative Budget Committee was appointed by the Twenty-eight Legislature in accordance with Laws of 1966, Ch. 28. The Committee is chaired by Representative John C. Pritzlaff, Jr., with Senator Thomas M. Knowles serving as vice-chairman. The Joint Legislative Budget Committee has received the Recommendations of the Citizens Committee on Auditing, dated February, 1967, of which copies have been distributed to all members of the Council on Arizona State Government Organization. The Citizens Committee was headed by Mr. Lyman Davidson. The Recommendation of the Citizens Committee have been studied by the Joint Legislative Budget Committee and by a sub-committee on auditing headed by Senator William Huso and Representative Albert C. Williams. The sub-committee has asked the research staff of the Arizona Legislative Council for draft legislation to provide the necessary constitutional and statutory changes required to implement the recommendations contained in the Davidson Report. The sub-committee has made a preliminary report to the Joint Legislative Budget Committee on August 10, 1967, and is expected to report the draft bills in their final to the Budget Committee at its October 19, 1967, meeting.

A second sub-committee, consisting of Senator William C. Jacquin and Representative Ruth Adams has been working on proposals for a state personnel system. The sub-committee has discarded H. B. 5, introduced during the first regular session of the Twenty-eight Legislature, and is now looking at proposals which would result in the creation of a Department of Personnel rather than a Personnel Committee or Commission. A rough draft prepared by the research staff of the Arizona Legislative Council is still very much in the

discussion stage, and the sub-committee has as yet not reported to the Joint Legislative Budget Committee.

In view of the repeated interest shown by members of the Council on Organization of Arizona State Government in the Audit Committee Report as a possible first step towards strengthening the executive branch, I have analyzed the Report of the Citizens Committee on Auditing, the draft Concurrent Resolution proposing an amendment of the Constitution of Arizona abolishing the offices of State Auditor and State Examiner, and the draft bill implementing statutory legislation prepared for the Joint Legislative Budget Committee. Copies of the draft legislation are attached to this report.

The purpose of the Davidson Report and of the draft legislation is to establish a new office of Auditor General, appointed by the Joint Legislative Budget Committee and responsible to the legislative branch of government, to perform the post auditing function. This is accompanied with a proposal to eliminate the statutory office of Post Auditor as it now exists, giving consideration to the transfer of qualified personnel to the office of Auditor General. Both of these changes may be accomplished by statute and are incorporated in the draft bill. The Davidson Report further recommends elimination of the constitutional offices of State Auditor and State Examiner, to be accomplished by constitutional amendments. The functions of the State Auditor (pre-audit and general accountant of the State) would be transferred to the Department of Finance in the executive branch, and the post auditing duties of the State Examiner would be transferred to the new Auditor General. Both of the transfers are provided for in the draft bill.

The establishment of the new office of Auditor General together with the elimination of the Post Auditor may be accomplished by statute. It is, therefore, not dependent on passage of constitutional amendments abolishing the State Auditor and State Examiner. The State Auditor has already been stripped of all post auditing functions by the Laws of 1951, Chaps. 17 and 20, which have vested the post-auditing function in the Post Auditor, a legislative office established by Laws of 1950, Ch. 28. The main thrust behind the creation of the new office of Auditor General is essentially an upgrading of the position now held by the Post Auditor. Both are legislative offices. Another reason for the creation of an Auditor General is the consolidation of the post auditing function in one official. Such consolidation requires the elimination of the State Examiner, a constitutional officer, whose principal function is that of conducting post audits of all school districts in the state. The financing of public education presents one of the largest costs to the taxpayer, and, since the function of the State Examiner is similar to that of the Auditor General, the elimination of the State Examiner's office and the transfer of his functions to the new Auditor General seem logical. The State Examiner was established as a constitutional office, filled by gubernatorial appointment; therefore, a constitutional amendment is required to bring about the recommended change.

A legislative auditor is now in existence in 25 of the 50 states, with most such positions having been created during the past ten years. (Davidson Report, p. 23). Provision for a legislative auditor to conduct post-audits is made in Section 4.17 of the Model State Constitution (6th ed., 1963). Alaska, Michigan and Nevada not only have created a legislative auditor but make him perform the functions of the state auditor as well. In these states,

as well as in Hawaii, New Jersey and Virginia, the auditor is a constitutional office, with the incumbent elected by the Legislature; but the function performed by the office of auditor in these states is, in fact, the legislative post-auditing function. (Book of the States, 1966-67, pp 151-54). Among other states with recent experience in constitutional revision and reorganization, Wisconsin - which this summer completed functional reorganization of the executive branch by statutory reorganization (Chapter 75, Laws of 1967,) State of Wisconsin [Senate Bill 55] is now in the process of legislative reorganization. The second draft of LRB-5506, dated September 18, 1967, provides for an audit bureau headed by a legislative State Auditor in the Division of Services of the Department of the Legislature. In Maryland, the Comptroller, a constitutional and elective officer, at present supervises the post-audit review conducted by the State Auditor, who is an official appointed by the Governor. The Interim Report of the Constitutional Convention Commission of Maryland, issued May 26, 1967, has expressed itself strongly in favor of having the post-audit function performed by an official who is completely independent of the executive branch and responsible to the Legislature (p. 77).

Actually, in Arizona the principle of a legislatively appointed post auditor is not at all a new one, but one which has been accepted following the recommendations of the Griffenhagen Report of 1949, and the creation of the present Post Auditor in 1950. In proposing the creation of an Auditor General and the transfer of the functions of the Post Auditor and State Examiner to the Auditor General, the Davidson Report and the proposed legislation simply reaffirm an existing principle of state government organization in Arizona, extending it logically to a uniform system for state departments, school districts, etc., by eliminating the State Examiner.

The recommendation to eliminate the office of State Auditor and to

transfer his functions to the Department of Finance is based on different considerations. There is no absolutely binding connection between the creation of an Auditor General and the elimination of the State Auditor. The legislative Auditor General could be authorized by law to audit the general accounting functions of the State Auditor's office even if the latter should continue to be an elective constitutional office. In fact, though 25 states now have a legislative auditor, 29 states also continue to have the constitutional office of state auditor elected by the people (Book of the States, 1966-67. p. 138). It is difficult to determine, however, what functions in each case are performed by the state auditor, without looking in detail at the statutes of each state. The situation is further complicated by the fact that 26 states also have an official called the controller, with California, New Hampshire and New York and Tennessee each having a controller but no auditor, while in Rhode Island the functions of both offices are performed by other officials (ibid., pp. 138-9 and 150-51).

In Arizona, the State Auditor today performs primarily a pre-audit and general accounting function. The recommendation to eliminate the office as a separate constitutional and elective office, and to transfer the functions of the State Auditor to the Department of Finance in the executive branch are based on the belief that it is "an anachronism in today's world" to have an elected official perform the pre-audit and general accounting functions of a state and that these activities may better be performed by an official located in an administrative department within the executive branch of state government (Davidson Report, p. 26). This recommendation is in line with modern thinking about state government organization, as perhaps best expressed in the following statement: "As an aid in providing administrative leadership, the governor should be served by a department of administration

headed by a chief director and composed of such divisions as budget, personnel, planning, purchasing, accounting, and pre-auditing, each headed by a director" (Louis E. Lambert, "The Executive Article," in Major Problems in Constitution Revision, W. Brook Graves, ed., Chicago: Public Administration Service, 1960, p.195).

The Model State Constitution clearly recognizes the distinction between the post-auditing function entrusted to the legislative auditor, and general accounting and pre-auditing, which belong in an executive department. In states like Michigan (Constitution, Art. 5, Sect. 2) and Wisconsin (Senate Bill 504, September 20, 1967) these functions are entrusted to a department of administration. Hawaii has taken a somewhat different approach, by separating the various activities that are lumped together into one department of administration in Alaska, Michigan, Wisconsin and other states. Hawaii has provided for separate departments of personnel services (Section 14A-10 Statutes of Hawaii), of accounting and general services (Section 14A-11), and of budget and finance (Section 14A-13). In Delaware, the Budget Director has taken over the pre-audit functions from the Auditor, who now performs the post-audit function formerly exercised by a budget commission. The Maryland Constitutional Convention Commission has gone on record as saying that the keeping of accounts and of purely administrative functions with respect to the management of the revenue should be "exercised under the direct authority of the chief executive." (Interim Report, pp 76-7).

Arizona, somewhat along the lines of Hawaii rather than Alaska, Michigan and Wisconsin, has taken the first step toward the development of such a structure by establishing the Department of Finance. At present, this Department has four divisions: budget division, planning division, purchasing division, and accounts and controls. The transfer of the pre-auditing and general accounting functions of the present office of State Auditor to the Department of Finance,

where there might be created a new division of auditing and accounts, would be the next logical step in the direction of providing the State of Arizona with a modern structure of state administrative organization.

Summary: The Joint Legislative Budget Committee in the field of auditing, taking into account the Recommendations of the Citizens Committee on Auditing, is getting ready to act on draft proposals to amend Articles 5 and 18 of the Constitution of Arizona, eliminating the offices of State Auditor and State Examiner, to establish the office of Auditor General and to transfer the functions of the State Auditor, Post Auditor and state Examiner to the Department of Finance and the Auditor General respectively. The Joint Legislative Budget Committee is not yet ready to make recommendations in the field of personnel services.

2. The advisability of changing the powers and duties of all constitutional offices, in terms of a total review of Article 5 and of the offices of Mine Inspector and State Examiner; such studies also to include the consideration of four-year terms of office.

A. Powers and Duties of Constitutional Offices. The Constitution of Arizona in Article 5 specifically prescribes the following offices: Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, and Superintendent of Public Instruction. All of these offices are filled by election to a two-year term, as is the office of Mine Inspector, created by Article 19. Another constitutional officer, the State Examiner, is appointed by the Governor, by and with the advice and consent of the Senate, to a two-year term (Article 22, Section 18). Another article of the Constitution of Arizona specifically provides for an elected Corporation Commission (Article 15), a State Board of Education (Article 11, Section 3), and the Arizona Board of Regents (Article 11, Section 5). The last mentioned three offices are not part of the present study.

Title 41 of the Arizona Revised Statutes sets forth the powers and duties of the Governor (Section 41-101), Secretary of State (41-121), State Auditor (41-141), State Treasurer (41-171), and Attorney General (41-191). The powers and duties of the Superintendent of Public Instruction are prescribed in the Education Code, ARS 15-121-3. The powers and duties of the State Examiner are found in ARS 41-333, and of the Mine Inspector in ARS 27-121.

Should the Legislature decide to follow the Recommendations of the Citizens Committee on Auditing and eliminate the offices of State

Auditor and State Examiner, Arizona would be left with only six constitutional officers, all elected for a term of two years by the people of the state: the Governor, Secretary of State, State Treasurer, Attorney General, Superintendent of Public Instruction and Mine Inspector.

Anyone concerned with administrative reorganization in Arizona should be mindful of the observation made in the Griffenhagen Report:

In only a few cases would the inability to make constitutional changes constitute a serious barrier to a sound organization framework. ... since in most instances agencies comparable to the constitutional agencies would have to be provided under any suitable plan of organization. (State of Arizona, 19th Legislature, 1950. Report of the Special Legislative Committee on State Operations; commonly referred to as the Griffenhagen Report, p. 27).

The point should be made strongly that administrative reorganization and the elimination of certain constitutional and elective offices are interrelated - but, also, that they are not the same. It is easiest to reorganize the executive branch of state government by eliminating all constitutional officers save the Governor and a Lieutenant Governor or, as in Arizona, a Secretary of State. However, should the political environment require to go about administrative reorganization at a different pace, it is perfectly possible to leave the existing executive offices as elective constitutional offices and yet go ahead and regroup the existing administrative agencies, boards and commissions into fewer and more manageable departments.

The "ideal" solution to strengthening the role of the Governor as chief executive is to eliminate as many elective and constitutional offices as possible and put the Governor, as a single executive, in charge of the executive branch. This solution was adopted in Alaska,

where only the Governor and Secretary of State are elected, in Hawaii, where only the Governor and the Lieutenant Governor are elected, and in New Jersey where the Governor is the only official elected by the people. It is a solution also proposed by the Constitutional Convention Commission of Maryland (Interim Report, p. 78), and in the Model State Constitution (comment to Section 5.04, 6th ed., 1963, pp. 68, 69). But political considerations and governmental needs vary from state to state in our federal system. Michigan, which went through a constitutional convention in 1963, provided for the election not only of a Governor and Lieutenant Governor on the same ticket, but also retained the constitutional and elective offices of Secretary of State and Attorney General, plus the constitutional office of the Auditor, to be elected by the Legislature. Wisconsin, just this year, has ratified a constitutional amendment increasing the terms of Governor and Lieutenant Governor from two to four years, with the provision that they be elected on the same ticket, but has retained the other constitutional offices and increased their term to four years as well. Yet, without waiting for a constitutional amendment to specifically authorize reorganization, the Wisconsin Legislature also has gone ahead and exercised the authority it already possesses under the constitution of that state, and has reorganized the executive branch (Laws of 1967, Ch. 75, Laws of Wisconsin). Ninety-one separate agencies have been reduced to 32 reorganized departments and agencies.

Colorado, having studied the problem of reorganization continuously since 1961, in the 1966 general election overwhelmingly (by a vote of 369,366 to 162,038) adopted a reorganization amendment,

adding the following Section to Article 4 of the Colorado Constitution:

Section 22. Principal departments. All executive and administrative offices, agencies, and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor and lieutenant governor, shall be allocated by law among and within not more than twenty departments by no later than June 30, 1968. Subsequently, all new powers or functions shall be assigned to departments, divisions, sections, or units in such a manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a principal department. Nothing in this section shall supersede the provisions of section 13, article XII, of this constitution. (Colorado Legislative Council Staff, Memorandum No. 1, May 12, 1967).

The reference in the last sentence of this constitutional provision is to the civil service system which is very strong in Colorado. The existing plural executive offices have been brought under the span of control through integration into the reorganized framework of not more than twenty government departments, though the existing constitutional offices as such have been preserved. In essence, the Colorado solution simply by-passed the issue of revising the executive article through constitutional amendments eliminating the established constitutional offices, and concentrated on reorganization authority instead. The reorganization authority obtained, however, is of a limited nature, since it requires legislative action and does not give the governor authority to reorganize by executive order, as provided for in the Model State Constitution (Section 5.06), the Constitution of Alaska of 1956 (Article 3, Section 23), and the Constitution of Michigan of 1963 (Schedule and Temporary Provisions, Section 12).

The point cannot be made too strongly: the constitutional designation of an executive officer does not necessarily determine the location of the functions he performs within the administrative structure of state government organization. An analysis of the eight constitutional offices in Arizona which are subject of the present study should proceed with that in mind. Four of the officers are given functions which not only are essential, but also are logically structured.

Governor and Secretary of State. Under our system of government, there has to be a Governor and a possible successor to that office, in Arizona the Secretary of State. If history, tradition and custom in other states is any indication, it is only fit and proper that these two officers be elected by the people of the state. In all states the Governor is elected. In addition, 38 states provide for an elected Lieutenant Governor, and one, Tennessee, provides for the election of the Lieutenant Governor by the State Senate. All states but Hawaii (which, however, has an elective Lieutenant Governor) also have a Secretary of State, and in 39 of the 50 states he is elected. Only three states do not have either a popularly-elected Lieutenant Governor or Secretary of State: Maine, which has no Lieutenant Governor and elects its constitutional Secretary of State by the Legislature; New Jersey, which has adopted the most radical and consistent system of reorganization, has no Lieutenant Governor and provides for the appointment of a Secretary of State by the Governor with the consent of the Senate; and Tennessee, where the Lieutenant Governor is elected by the Senate, and where the constitutional office of Secretary of State is filled by election through the Legislature (Book of the States, 1966-67, pp. 19-21, 138).

Though the Griffenhagen Report (p. 59) recommended abolition of the office of Secretary of State as an elective constitutional office, the experience of other states shows no necessity for such a step. It is my belief that it is best in keeping with tradition to allow the people to elect at least the chief executive and his successor, as we do on the national level by electing the President and Vice President. The only question would be whether we should rename the Secretary of State "Lieutenant Governor," and that would bring about complications, because in most states that have a Lieutenant Governor he also is the officer who presides over the Senate. There is little likelihood that Arizona is in the mood for such a change. My recommendation would be that the Governor and Secretary of State should be retained as elective constitutional offices.

Attorney General and Superintendent of Public Instruction. The other two officers who perform functions which not only are essential but also are logically structured are the Attorney General and the Superintendent of Public Instruction. Following the recommendations of the Griffenhagen Report, the Arizona Revised Statutes provide that the Attorney General is the head of the department of law (ARS 41-192). By administrative order, the Superintendent of Public Instruction is the head of the Department of Public Instruction. Law and education are vital functions of state government, and nobody would argue seriously against the need for a Department of Law and a Department of Public Instruction. The only question really is, whether the Attorney General as head of the Department of Law, and the Superintendent as head of the Department of Public Instruction should be constitutional officers elected by the people, or whether they should be

officials appointed by the Governor, probably with the advice and consent of the Senate? That is a question which must take into account purely political considerations. Is the abolition by constitutional amendment of the offices possible? Is it desirable? Would it make easier completion of administrative reorganization in other areas and, therefore, should it not be the first step? These are questions for you to answer. As I have pointed out, different states with recent experience in administrative reorganization have found different answers.

The other constitutional offices. Though the same political considerations undoubtedly prevail with regard to the remaining four constitutional offices, the needs of the state are perhaps different in these areas. I am referring to the State Auditor, State Treasurer, State Examiner and Mine Inspector. Each of these officers performs functions necessary within the context of Arizona government. But from the vantage point of modern public administration the question arises not only whether these functions should be performed by constitutional offices all of whom (with the exception of the State Examiner) elected by the people, but also whether these functions should be performed at all by separate executive and administrative offices. Should these functions not rather be reassigned to other government departments?

State Auditor and State Examiner. As discussed under Item 1, above, the Davidson Report and the draft legislation prepared for the Joint Legislative Budget Committee propose the abolition of the offices of State Auditor and State Examiner by constitutional amendment. The pre-audit and general accounting functions of the State

Auditor would be transferred to the Department of Finance; the post-auditing functions of the State Examiner and of the statutory office of Post Auditor would be transferred to the new Auditor General, appointed by the legislative branch. Such a move would strengthen the control of the Governor over fiscal matters, which was started with the creation of a Department of Finance; at the same time it would preserve the necessary checks and balances by giving the Legislature clear authority in the area of the post-auditing function. It is a solution which is in line with modern thinking in the field of state government organization, and from that point of view, one with which it is difficult to quarrel, (see, for instance, Carpenter and Elias, Arizona's Tax Structure and its Administration, Report to the Eleventh Arizona Town Hall, Phoenix, Arizona Academy, 1967, especially pp. 65-72). The participants of the Eleventh Arizona Town Hall have gone on record as favoring such change (Report of the Eleventh Arizona Town Hall, preliminary draft). Only considerations of political feasibility and of a tactics nature could speak against the implementation of these proposals. There is no functional need for the State Auditor and State Examiner in the form in which these offices are constituted at the present.

State Treasurer. The Eleventh Arizona Town Hall also has recommended that the office of the State Treasurer be abolished, and his functions be transferred to a new division of revenue in the Department of Finance. Viewed against the constitutional arrangement in the other states, this proposal would appear to be much more controversial. In 40 states the Treasurer is an officer prescribed in the constitution and elected by the people. In Maine, Maryland,

New Hampshire and Tennessee the Treasurer is a constitutional officer elected by the Legislature. In Virginia the Treasurer is appointed by the Governor, with the approval of both houses of the legislature, and in Michigan and New Jersey he is appointed by the Governor subject to the advice and consent of the Senate. Only Alaska, Hawaii, New York and the Commonwealth of Puerto Rico have abolished the office of Treasurer altogether.

In the 47 states that have a Treasurer, his principal function is that of custodian of public monies. This is true also in Arizona (ARS 41-172). Part of this custodianship function is to make the actual payment of warrants. In Alaska this is done by the Department of Administration; in Hawaii by the Director of Finance; in New York by the Commissioner of Taxation and Finance; and in the Commonwealth of Puerto Rico by the Bureau of the Treasury in the Treasury Department.

Following the example of the short ballot advocated in the Model State Constitution, Section 5.07, and implemented most consistently in Alaska and Hawaii, the Maryland Constitutional Convention Commission also would abolish all elective constitutional offices save the Governor and Lieutenant Governor (Section 4.20, Interim Report, pp. 78, 79, 98). The elimination of the constitutional and elective office of Treasurer in Arizona was recommended by the Griffenhagen Report, which would have transferred to a Department of Revenue the functions of the Treasurer together with those of the Tax Commission, the Estate Tax Commissioner and the Department of Liquor Licenses and Control (pp. 61, 62). This recommendation had the support of the special legislative committee which reviewed the Griffenhagen recommendations (Riggs, The Movement for Administrative Reorganization in Arizona, University of Arizona, Tucson, 1964, p. 43). Under this

proposal, an appointive state treasurer would have headed a division of the treasury in the Department of Revenue (Ibid., p. 63).

The reasons for eliminating the Treasurer as a constitutional office are the same as those given by the advocates of strong executive power for making all officials but the Governor and the Lieutenant Governor or Secretary of State appointive positions. These reasons are well stated in the comment to Section 5.07 of the Model State Constitution:

The governor as responsible head of the administration should have the unencumbered power to select and, when necessary, remove the heads of all administrative departments. Public officials at the level of department head are not only administrators but also policy makers and should be directly and personally responsible to the governor (6th ed., 1963, p. 72).

- The question of retaining or eliminating the constitutional office of State Treasurer, like that of recommending the abolition of any constitutional office, again is a policy question which only the Council on Organization of Arizona State Government and not its consultant can resolve. The function of being custodian of public monies and issuing warrants for their disbursement obviously needs to be performed within the framework of state government. In 40 states this is done by an official directly elected by the people. However, the other ten states show that it need not necessarily be done that way, and Alaska, Hawaii and New York have shown that a state can do without the office of treasurer altogether. Even in Arizona today, the State Treasurer is not the custodian of all state funds. The three state universities, the Employment Security Commission, the Arizona Power Authority, and the Industrial Commission are custodians of their own funds (Carpenter and Elias, op. cit., p. 57, footnote 11).

Again, the point must be repeated that a consolidation of administrative functions in Arizona is possible even if the existing constitutional offices are not abolished. As head of a Department of Revenue, the State Treasurer could be made to fit in the scheme, though perhaps not as easily and not as logically as if his office were abolished and the functions transferred to a division in the Department of Finance.

Mine Inspector. Perhaps more than any other office prescribed in the Constitution of Arizona the office of Mine Inspector has its roots in the history and economy of the state. That fact alone requires that this office be treated with a great deal of respect and, in terms of a reorganization plan designed to abolish it, presents particular political problems. Arizona produces more than half of the copper mined in the United States, and mining continues to be one of the mainstays of Arizona's industry. One would look in vain for a similar constitutional office in states in which coal or ore mining is not as essential an industry, or in which the people working the mines did not have as significant a voice in the Constitutional Convention as they did in Arizona in 1910.

At present, at least five agencies are concerned with mining in Arizona: the Arizona Resources Board, the Department of Mineral Resources, the Board of Governors of the Department of Mineral Resources, the Copper Tariff Board, and the Mine Inspector. The Griffenhagen Report recommended that the functions of all of these five agencies be transferred to a Department of Natural Resources, and that the duties of the Mine Inspector be exercised by a division of mines and minerals within that Department (Griffenhagen Report, pp. 87-89).

Arizona's neighboring states show that there is a variety of approaches in dealing with this problem. The Utah Code of 1953 is silent on the topic of a copper mine inspector, but provides in Section 40-2-1:

For the purpose of securing an efficient and thorough inspection of all coal and hydrocarbon mines within the state, coal mine inspection and all matters relating thereto shall be under the control of the industrial commission.

The Idaho Code of 1947 provides for the office of mine inspector by statute, but makes him an elective official (Section 47-101). Attempts to abolish this office by statute have failed in recent sessions of the Idaho Legislature.

The Revised Code of Montana provides for a coal mine inspector, to be appointed by the Industrial Accident Board, which also fixes his term of office and his compensation (Section 50-402). However, for several years now Montana has not had a mine inspector, because the Industrial Accidents Board simply has not appointed one. The Montana Legislative Council points out:

The statutory qualifications for an inspector are high, and his work would only be part-time. Therefore, a man would have to be hired with high qualifications, but only 10% of his time would be needed for inspecting. The Industrial Accidents Board also has indicated that federal law provides for a Federal Mining Inspector. According to the Board, he does most of the inspecting, and a state inspector would merely be duplicating this work. (Letter of October 2, 1967).

The question of whether Arizona needs a constitutional office of Mine Inspector, elected by the people of the state, can only be resolved on the policy-making level. The question is whether there has been a substantial change in conditions and attitudes since 1910. Undoubtedly, some official ought to be charged with the inspection of our mines. Whether he ought to be a constitutional and elective

officer is highly doubtful. The function of inspecting could well be transferred to an appointed official in the Department of Mineral Resources, or in the Department of Health, or to the State Industrial Commission, or to a new Department of Natural Resources. The decision, however, is one of policy, and ought to be made by the Council.

Summary. The problem of changing the powers and duties of the constitutional offices, in terms of whether these offices should be retained in their present form or made appointive, is only in part related to the issue of administrative reorganization. Reorganization authority may be obtained, and a restructuring of the many existing administrative agencies, boards and commissions into fewer and more manageable departments may be accomplished, independent of any change in the powers and duties of the constitutional offices.

The Governor and Secretary of State perform functions of state government which in all but three of the 50 states are performed by elective constitutional officers. The Attorney General as head of the Department of Law and the Superintendent of Public Instruction as head of the Department of Public Instruction, administer agencies which would have to be provided under any suitable plan of organization, whether these two offices be elective or appointive positions. The State Auditor, State Treasurer, State Examiner and Mine Inspector perform duties which in terms of an efficient organization of state government could be reassigned to other government departments headed by appointive officials.

B. Consideration of four-year terms of office.

There was little discussion of a four-year term for executive officers in the Arizona Constitutional Convention of 1910. The prevailing sentiment was for shorter terms, and the traditional doctrine was well expressed by Mr. M. G. Cunniff, delegate from Yavapai County:

One of the guarantees of democratic government is short terms with frequent reference to the people, and it seems to be the best form of government in any state is to have the governor elected for two years. . . . In the state in which I was born we have the governor's term one year, and a constitutional amendment changing it to two years was voted down overwhelmingly. (Quoted in Riggs, op. cit., pp. 17,18).

The argument in favor of four-year terms has been equally well put by the Statement on National Policy by the Research and Policy Committee of the Committee for Economic Development, Modernizing State Government, July, 1967:

The two year term and constitutional barriers to self-succession disregard the need for continuous long-range planning. The value of experienced managerial leadership is also discounted. States fortunate enough to have outstanding governors are denied the benefits of continuing service. We believe that all governors should have four-year terms, with the right to seek re-election without restriction as to number of terms (p. 47).

Arizona's efforts to extend the terms of public officials from two to four years have been noticeably unsuccessful over the years, whether directed at the executive or at the legislative branch. A constitutional amendment initiated by petition to extend the tenure of state officers was defeated in 1926; as were constitutional amendments referred by the Legislature to the people in 1922 (state, county, and legislative terms), 1933 (state, county, and legislative

terms, and Mine Inspector), 1946 (state and county officials), and in 1950 (terms of state executive officers and county officials). (For a tabulation see Hink, Revision of Arizona's Constitution, Phoenix, 1964, pp. 54-58). However, the population of the state has changed much since 1950, the last year in which such an amendment was referred, and the negative evidence of the experience of the past is rendered inconclusive by the fact that in 1964 the people approved a constitutional amendment proposed by initiative petition to extend the terms of county offices from two to four years. The substantial majority of the vote in favor, 219,329 against 131,604, may be an indication that the Arizona electorate might now look upon a four-year term for state offices more approvingly than in the past.

Nationally, without any doubt, the trend has been towards a four-year term for the governor, which office will be used in the following to survey developments in the states of the Union. In 1895, James Bryce wrote: "[The governor's] term of office, in nineteen states, [is] four years, in two states, three years, in twenty-one states, two years, and in two states, Massachusetts and Rhode Island, one year." (The American Commonwealth, 3rd ed., Vol. I, 1895, p. 494). Today, the desirability of a four-year term is generally accepted, and constitutional changes in the various states have been from a shorter term to the four-year term of office (Louis E. Lambert, "The Executive Article," in W. Brooke Graves, ed., State Constitutional Revision, Chicago, 1960, p. 191).

At the present time, 40 states provide for a four-year gubernatorial term; with only the following states retaining a two-year term:

Arizona, Arkansas, Iowa, Kansas, New Hampshire, New Mexico, Rhode Island, South Dakota, Texas, and Vermont (Book of the States, 1966-67, pp. 129, 137; Modernizing State Government, Table 4, p. 83).

In the 40 states with a four-year term, the Governor is not permitted to succeed himself in 11 states: Alabama, Georgia, Indiana, Kentucky, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia (Ibid.). Also, the Governor is limited by the state constitution to two successive four-year terms in 11 more states: Alaska, Delaware, Louisiana, Maine, Maryland, Missouri, Nebraska, New Jersey, Ohio, Oregon, and Pennsylvania (Ibid.). In two states, New Mexico and South Dakota, the Governor is elected for a two-year term, with a constitutional barrier against more than two successive terms (Ibid.). Only 18 states provide for a four-year term of office (including Wisconsin, which will begin to do so in 1970) and have no constitutional limitations against a third successive term. The Model State Constitution is in favor of a four-year gubernatorial term and is strongly opposed to any restriction on the number of terms:

Limitations of this kind restrict the right of the people to pass judgment upon the quality of the gubernatorial service performed for them and thus eliminate from the field the one candidate about whom the voters usually know the most. From a program policy point of view, a restriction on service in office affects the governor's ability to develop and implement a long range plan (Comment to Section 5.02, op. cit., p. 66).

Arizona is one of the ten states where the force of progressivism has been strong enough to limit the Governor (and the other constitutional officers with the exception of the Arizona Corporation Commission) to a two-year term. At the same time, unlike 26 other states, the

Arizona Constitution creates no constitutional barriers against the Governor succeeding himself for as long as he can get elected by the people. The Griffenhagen Report advocated lengthening the term of the Governor to four years (p. 45), and the special legislative committee considering the Griffenhagen recommendations proposed that the Governor and the Attorney General be the only elective constitutional officers, each to be elected to a four-year term, but with the limitation that the Governor be limited to two successive terms (Riggs, op. cit., pp. 43, 44).

Several approaches are open to the Council on Organization of Arizona State Government. You may decide to leave the terms of office as they are. Or you may decide to recommend four-year terms for all executive offices under consideration. Or you may decide to recommend four-year terms only for the Governor; or the Governor and the Secretary of State; or the Governor, Secretary of State, Attorney General and Superintendent of Public Instruction, independent of the solution you may wish to adopt concerning retention or abolition of the other constitutional offices. The question of whether to shorten the ballot, which is another way of saying whether to eliminate the plural executive in order to strengthen the powers and duties of the Governors, is one of policy consideration. To reduce the number of executive officers, and to extend the term of the remaining constitutional officer from two to four years would be in keeping with modern thinking among experts in state government. Such solution would also be in line with the more progressive developments in other states.

Should you decide that it is your recommendation to the Governor and Legislature of Arizona to submit to the electorate of the state a constitutional amendment calling for basic changes in the executive article of the Constitution of Arizona, you may also wish to consider the joint election of the Governor and the Secretary of State, similar to the election of the President and Vice President under Article II, Section 1 and the XIIth Amendment of the Constitution of the United States. The joint election of the Governor and Lieutenant Governor has been effected by constitutional provision in New York (1953), New Mexico (1962), Michigan (1963), Hawaii (1964), and Wisconsin (1967 to become effective in 1970), and by statutory provision in Connecticut (1962). Similar proposals for joint election have been introduced in Pennsylvania, Rhode Island, Kansas, Massachusetts and Maryland. In Alaska, which like Arizona has no Lieutenant Governor, the 1956 Constitution provides for the joint election of the Governor and of the Secretary of State:

Constitution of Alaska, Article III, Section 8. The secretary of state shall be nominated in the manner provided by law for nominating candidates for other elective offices. In the general election the votes cast for governor shall be considered also cast for the candidate for secretary of state running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected secretary of state.

Since in Arizona the duties of the Governor fall upon the Secretary of State in the case of the death, resignation from office, permanent disability, or removal from office of the Governor (Article 5, Section 6), the joint election of the Governor and of the Secretary of State would assure the people of Arizona that the office of the Governor would be assumed by an elected official belonging to the Governor's own party, and thus, presumably, would guarantee some continuity in policies.

Summary: In 1895, only 19 states elected their Governor for a four-year term. Today, 40 states make provision for a four-year term for the Governor and for most other constitutional executive offices. Twenty-four states restrict the Governor in the right to succeed himself. In 11 states he may have only one term, in 13 states he may not succeed himself beyond a second term. The national trend is toward lengthening the term of the Governor and other executive officers.

Retention of the plural executive is not incompatible with proposing a constitutional amendment to extend the terms of some executive officers, like the Governor and the Secretary of State. Twelve states now either have provisions for the joint election of the Governor and the Lieutenant Governor or the Secretary of State, or are considering constitutional changes to that effect.