The Executive Article of the 1970 Illinois Constitution

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THE EXECUTIVE ARTICLE OF THE 1970 ILLINOIS CONSTITUTION

Staff Introduction

This paper, prepared by Northern Illinois University Professor William R. Monat for the Committee of 50 to Re-examine the Illinois Constitution, explores Article V of the Illinois Constitution. Some potentially controversial issues surrounding the executive branch of Illinois state government are emphasized, particularly the governor's amendatory veto power which has been widely disputed.

The Illinois Constitution grants the governor more power than most other state constitutions. The governor can:

- prepare and implement the state budget;
- exercise an unusually broad veto power, including a line-item veto and amendatory veto;
- initiate administrative reforms;
- appoint and remove agency executives; and
- call the legislature into special session.

In addition, there is no constitutional limitation on the number of terms a governor can serve.

The executive article in the 1970 Constitution provides for the popular election of the governor, lieutenant governor, attorney general, secretary of state, comptroller, and treasurer. Three major changes were made with regard to the executive officers:

- The governor and lieutenant governor now run as a team, whereas before they were elected separately; in addition the lieutenant governor no longer serves as Senate president, but performs duties delegated by the governor.
- The elected auditor of public accounts was replaced by an elected comptroller; and
- The superintendent of public instruction was removed as an elective office.

The most significant changes, and the ones most likely to cause controversy if another constitutional convention is called, involve the changes made in the powers given to the governor.

In addition to the appointment and removal powers, the ability to initiate administrative reforms and the preparation of the budget, the governor has a broad veto power which has been criticized by some legislative leaders. Although the veto powers are contained in the legislative, not the executive article, they constitute a central feature of the executive power and are controversial.

The governor is given both a line-item veto power and an amendatory veto. The line item veto is a continuation of an 1848 amendment, which allowed the governor to veto specific lines of appropriations bills. In 1970 this power was expanded to allow a reduction veto through which a specific appropriation can be reduced. A gubernatorial veto can be overturned by a three-fifths majority vote in both houses of the legislature.

The amendatory veto has been the subject of controversy and would certainly be a subject of discussion if a new constitutional convention were called. This power, established in the 1970 Constitution, allows the governor to return a bill to the house of origin with suggested changes. If the changes are accepted by members of the General Assembly, the bill becomes law; otherwise the members must override the veto by a majority vote.

The courts have ruled on the scope of the amendatory veto. On the one hand, it cannot be confined to merely technical changes; on the other, it cannot be a means of writing completely new legislation, or of altering the purpose of the original bill. There is a lot of latitude here, and a new convention would be very likely to discuss the elimination, or at least more specific definition, of the amendatory veto.

Other items which could become matters of discussion at a future constitutional convention include a limitation on the number of terms a governor may serve, the restoration of the lieutenant governor's role as president of the senate, the restoration of an elected superintendent of education, or some alteration of the functions now performed by the treasurer or the comptroller. None of these, however, is as controversial as the governor's amendatory veto power.

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Alexander Hamilton in The Federalist, No. 70, stated the case for a strong presidency under the proposed 1787 federal Constitution by observing:

> Energy in the Executive is the leading character in the definition of good government. A feeble Executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be, in practice, a bad government.

The constitutional executive power in Illinois since the 1818 Constitution has met Hamilton's test, while also reflecting changes in American constitutional values.

The 1818 Constitution was the only one to provide for a governor and lieutenant governor as the sole elected executives. The executive team serving a four year-term, however, could not succeed itself. The governor was also denied exclusive authority to appoint other executive officers. Unlike most other state constitutions of the time, the 1818 Illinois Constitution gave the governor a veto power, but it, too, was shared with a council of revision and could be overridden by a simple majority vote in the legislature.

Consistent with prevailing constitutional practice, the 1848 Constitution prohibited legislative appointment of executive and administrative officers and gave the governor alone the veto power. The 1848 Constitution, however, introduced the multiple executive, which persisted through the 1970 Constitution. This provided for the popular election of the secretary of state, state auditor and state treasurer; a "long ballot" which was extended when the 1870 Constitution specified that the attorney general and the superintendent of public instruction also be elected by popular vote. Beginning with the 1848 charter, elected executives, except for the state treasurer, could succeed themselves in office.

The executive article of the 1970 Constitution, as its counterparts in the 1818, 1848 and 1870 charters, provided only general prescriptions of executive authority. The expansion of gubernatorial veto powers and the liberalization of the legislative override occurred in the 1970 legislative article (Article IV) rather than the executive article. Previous constitutions had implicitly recognized the governor's budgetary and financial prerogatives while the 1970 document provided an explicit constitutional grant of authority continued in a new finance article (Article III). The article also established the office of the auditor general as an arm of the General Assembly.

Scholars of state constitutions have identified the Illinois governor as among the strongest in the country in terms of constitutional powers, ranking the Illinois governor as second in power only to the governors of New York and New Jersey. The governor's powers include the preparation and implementation of the state budget, a veto power equaled in few other state constitutions, an

extensive power to appoint and remove agency executives, the authority to call the legislature into special session, the authority to initiate administrative reorganization and, with legislative concurrence, to implement reorganization plans. In addition, the governor can serve an unlimited number of four-year terms (as Governor Thompson has demonstrated).

These constitutional powers, however, are just that. They do not guarantee that a governor will, in Hamilton's phrase, provide "energy in the executive." Only two Governors, Dan Walker and James Thompson, have had the opportunity to exercise those powers during their entire tenure. The 1970 Constitution took effect July 1, 1971, two and one-half years into Governor Olgivie's term of office. It has become apparent even during this brief time that a politically astute governor can exploit to the fullest that constitutional grant of authority, and endow the office with highly charged governmental "energy."

The constitutional powers defined for the other elective executives are very general. Although the governor is extended "the supreme executive power" that power is never made explicit in the executive article. The powers enjoyed by the attorney general, the secretary of state, the comptroller and the treasurer, also defined in very general terms, establish specific government functions as constitutionally "off limits" for the governor.

To describe the scope and limits of the executive powers in the 1970 Constitution, this analysis will focus on (1) the executive article and the multiple executive; and (2) the constitutional governor as chief executive.

I. The Executive Article and the Multiple Executive

The "long" executive ballot prescribed by most state constitutions reflects the American preoccupation with constitutional checks and balances that evolved during the Jacksonian era. The 1970 Constitutional Convention addressed the issue of elected state executives, but recommended only three changes. An effort was made to eliminate the state treasurer as an elected official, primarily because the office was viewed as basically "ministerial" in nature. The effort lost on final reading by a 51-56 roll call vote, and attempts to make other elected executives appointive failed by much wider margins.

Three major changes were incorporated into the 1970 Constitution. The elected auditor of public accounts was replaced by an elected comptroller. The governor and lieutenant governor, who previously had been elected separately, were united as a team for electoral purposes; the document did not mandate that the gubernatorial ticket be nominated together, although this possibility was left open for statutory action. Finally, the superintendent of public instruction was removed as an elected position, and with the creation of a State Board of Education, provision was made for a chief educational officer selected by that board.

Lieutenant Governor: The lieutenant governor has been an elected office since 1818 and is constitutionally the designated successor in the event that a vacancy occurs in the governor's office. The 1970 constitution did not alter these two features but did introduce two major changes. As noted above, party candidates for governor and lieutenant governor now appear on the general election ballot as a party team. The option of nominating candidates for the two top executive offices as a single team was left to the legislature.

Only once under the 1870 Constitution did the governor and lieutenant governor represent different political parties (1969-1973). The 1986 Democratic Party primary election results clearly demonstrated the electoral hazards of separate nominations.

The 1970 Constitution also altered the lieutenant governor's powers. From 1818 until the 1970 Constitution became effective, the lieutenant governor was constitutionally designated as "president," or presiding officer of the state Senate, a responsibility removed by the 1970 document. The office now performs "the duties and exercise(s) the powers in the Executive Branch that may be delegated. . .by the Governor and that may be prescribed by law." The three individuals who have held this office under the 1970 Constitution have assumed those nonstatutory responsibilities acceptable to the governor as well as several statutory responsibilities. It is of some interest to note that none of them functioned in any capacity as "deputy governor."

Secretary of State: The Illinois Secretary of State enjoys the widest scope of constitutional and statutory responsibilities of any comparable office in the nation. The office has generally been perceived as second only to the Governor in state-wide political importance, with the Attorney General coming in as a close third.

The 1970 Constitution requires the secretary of state to "maintain the official records of the acts of the General Assembly and such official records of the Executive Branch as provided by law," to "keep the Great Seal of the State of Illinois," and to "perform other duties that may be prescribed by law." The latter very general authorization covers most of the significant responsibilities of the office. By statute, the secretary of state is also the state librarian with responsibility for the state archives, the Illinois State Library, and the administration of a multi-million dollar program in state library grants to local libraries and library systems. But of greater continuing impact on the citizens of Illinois are the secretary of state's statutory responsibilities for motor vehicle licensing and titles, driver licensing and relocation, the registration of both profit and not-for-profit corporations and the sale of stocks, bonds and other securities, and the commissioning of notaries public. The Office also maintains the secretary of state's police. Finally the secretary, as ex-officio clerk of the court of claims, maintains the official records of the court of claims, serves as its administrative and fiscal officer, and provides courtroom and office space for the court. To perform all of these responsibilities and others specified by statute, the secretary of state's office employs approximately 4,000 people.

Attorney General: The attorney general became a constitutionally elected office in the 1870 Constitution and has been designated since then by constitution, court decisions and law as the "legal officer of the state," with duties and powers that may be prescribed by law." Unlike the U.S. attorney general, who possesses comparable authority and is appointed by the President with the advice and consent of the U.S. Senate, the Illinois attorney general is elected by and accountable politically to the same electorate as the governor. As a consequence, it should not be surprising that the attorney general on occasion pursues legal initiatives independent of the governor and, indeed, divergent from the governor.

The attorney general, despite this constitutional and political independence from the governor, does function through attorneys employed for legal purposes by state agencies and as the official attorney and legal adviser to all state executives and the General Assembly. The attorney general also represents the state in all litigation. This authority stems less from an explicit constitutional definition than from court interpretation. The State Supreme Court in 1915 decided that state agencies could not employ attorneys to represent the agency in court, independent of the attorney general. The rationale used by the Court, one which critics suggest is historically tenuous, was the assumption that the state attorney general possessed all the power the English attorney general enjoyed under common law. The decision in effect endowed the attorney general with a privileged constitutional position vis-a-vis other constitutional executives by asserting a kind of inherent power for the attorney general, flowing from common law, while other executives possessed only those grants of authority specified either by the constitution or by statute. As recently as 1974, the court reasserted this interpretation.

State Treasurer: The 1818 Constitution established the position of treasurer appointed for a two-year renewable term by joint resolution of both houses of the General Assembly. The 1948 Constitution retained the two-year term but made the office elective. A prohibition against successive terms contained in the 1870 Constitution was removed by the 1970 Constitution and the term of office extended to four years by a 1954 constitutional amendment was retained. The 1970 Constitution also changed the election date by providing that the treasurer's term and election be coterminous with other elected state executives: previously the treasurer and the superintendent of public instruction were elected in "off years" from the state-wide election for governor and the other state executives.

Most students of the state government agree that the treasurer's responsibilities are essentially "ministerial" in nature; that is, they involve very little discretionary authority. The 1970 document defines the treasurer's constitutional authority as possessing responsibility "in accordance with law ... for the safekeeping and investment of monies and securities deposited with him, and for their disbursement upon order of the Comptroller." The Treasurer's basic task, therefore, is the custody, investment and disbursement of several billion dollars of state funds. The major discretionary power involves the treasurer's authority governing the investment of funds. Recent state treasurers have exercised the discretionary authority to further public policy objectives independent of both the governor and the General Assembly.

Comptroller: The 1970 Constitution both changed the title and the scope of responsibilities for this elective office. The 1818 Constitution provided for an auditor of public accounts appointed by the General Assembly for a term of four years. The 1848 Constitution made this office an elective one for a term of four years. Under the provisions of the 1870 Constitution, the Auditor of Public Accounts possessed both post-auditing and pre-auditing responsibilities. In addition, the auditor of public accounts, not the state treasurer, became in effect the constitutionally designated chief disbursing officer. The constitutional language, however, was so vague that the General Assembly removed the post-auditing responsibilities and assigned them to a statutory auditor general, following a 1956 scandal involving Auditor Orville Hodge.

The 1970 Constitution made several changes. The office was redesignated as the state comptroller, the disbursing responsibilities were assigned to the state treasurer, and the post-audit was assumed by a new constitutional officer, the auditor general, who is appointed for a ten-year term by the General Assembly. The 1970 Constitution defined the comptroller's responsibilities to "maintain the State's central fiscal accounts, and order payments into and out of the funds held by the Treasurer." The Comptroller, therefore, continued to perform pre-audit responsibilities. This responsibility also falls upon operating agencies.

The comptroller has been assigned other major statutory responsibilities which naturally flow from this constitutional mandate. The comptroller's Uniform Statewide Accounting System (CUSAS) governs all state fiscal records and accounts to assure that all fiscal transactions are conducted legally. Only after the legality of a payment has been determined will the comptroller issue a warrant to the state treasurer. The comptroller, in addition, issues a Monthly Fiscal Report which analyzes the condition of all state revenues and accounts. Almost all municipal, county, township and special purpose government districts must also submit annual audit reports to the comptroller.

The 1970 Constitution made two other major alterations. The superintendent of public instruction had been an elective office since 1870. Now the superintendent is appointed by the Illinois State Board of Education, which was created in 1975. The current state superintendent of education is the third person to hold that office.

As noted previously, the provisions of a new finance article (Article VIII) gave responsibility for conducting post-audits to a constitutionally established Auditor General, appointed for a ten-year term by the General Assembly and accountable for a significant part of the General Assembly's legislative oversight responsibilities. The auditor general is mandated to "conduct the audit of public funds of the State" and to "make additional reports and investigations as directed by the General Assembly."

II. The Constitutional Governor as Chief Executive

Although many of the executive powers exercised by the President of the United States have been distributed among other constitutional executives by Illinois constitutions, the Illinois governor has been and still is constitutionally among the most powerful in the nation. The constitutional foundations for that power are primarily contained in the executive article (Article V), the legislative article (Article IV), and the finance article (Article VIII). The most salient provisions are described below.

The 1970 Constitution incorporated a number of general changes affecting all elected executives. The minimum age requirement was reduced from 30 to 25. The state residency requirement was set at three years rather than five. Of greatest significance was the change in the timing of state-wide election for executive officers. Beginning with the general election of 1978, the election of state executives would occur at the same time (previously the treasurer had been elected in nongubernatorial election years) and in nonpresidential election years. Finally, the 1970 Constitution prescribed the method of gubernatorial succession in the event that the office became vacant, with the lieutenant governor, attorney general and secretary of state specified in succession, and with further succession to be determined by law.

Supreme Executive Power: Section 8 of the executive article states that "the Governor shall have the supreme executive power, and shall be responsible for the faithful execution of the laws." Although this is similar to the constitutional definition of the powers of the president of the United States, interpretations of the governor's executive power have avoided the concepts of an "inherent power" for the governor. Claims of inherent power have been made on behalf of the President but the courts have generally exercised great reluctance in acknowledging their existence, except for presidential powers in foreign affairs and those activities of the president as "Commander in Chief of the Army and Navy of the United States, and of the Militia of several states, when called in the actual service of the United States." An 1834 decision of the Illinois Supreme Court, rejecting the Governor's power to remove officials subject to gubernatorial appointment, asserted:

> The Constitution is a limitation upon the powers of the legislative department of the government; but it is to be regarded as a grant of power to the other department(s). Neither the executive nor the judiciary, therefore, can exercise any authority or power, except such as is clearly granted by the Constitution.

Although a concurring opinion recognized some inherent executive power, the concept was not explored and the reasoning of the Court has not been challenged since.

Article XII of the 1970 Constitution, establishing the state militia, identifies the governor as "commander-in-chief of the organized militia, except when they are in the service of the United States." The constitution authorizes the governor to call out the militia "to enforce the laws, suppress insurrection or repel invasion," although it also specifies that the General Assembly "shall provide by law for the organization, equipment and discipline of the militia." This authority has seldom been invoked in recent years.

Appointment and Removal Powers: The 1970 Constitution continued without major change the Governor's authority to nominate and, "with the advice and consent of the Senate," appoint all officers "whose election or appointment is not otherwise provided for." Most state employees are not subject to gubernatorial appointment and are appointed under provisions of the Illinois personnel code or other personnel systems (State Police Merit Board, State University Civil Service System, Illinois Tollway Authority, and the four elected state executives). Legislation in 1979 subjected as many as 1,000 senior "coded employees" to four-year terms renewable by the agency head. So-called "policy exempt positions" falling under direct gubernatorial appointment and removal authority number only several hundred and are clearly the kind of appointments any governor must be able to make in order to exercise policy and political leadership.

None of this means there is an absence of patronage. Every governor has maintained a patronage office which usually works effectively within the confines of the personnel code and cooperatively with state agencies. This report will not explore state government personnel practices, but is appropriate to acknowledge that the governor's patronage chief and the Director of the Department of Central Management Services, the agency responsible for administering the personnel code, cannot ignore the broad policy and political interests of the governor.

The 1970 Constitution also specified that the governor possesses the authority to fill the offices of attorney general, secretary of state, comptroller and treasurer in the event of a vacancy, but may not remove them once they have taken office. Governor Thompson has twice exercised this authority when he appointed his choices to the positions of secretary of state and attorney general. The same authority was not extended to the lieutenant governor; in the event of a vacancy, that office remains vacant until the end of the term. This occurred when Lieutenant Governor O'Neil resigned in 1983.

The 1970 charter limited both the governor's appointing authority and the Senate's confirmation role. If the Senate does not act on a gubernatorial appointment within 60 session days, the appointee "shall be deemed to have received the advice and consent of the Senate." But if the Senate rejects an appointment, the governor is prohibited from nominating the same person for the office during that session, or to make a recess appointment of the same individual.

Mention has been made of the 1834 state supreme court decision which questioned the power of the governor to remove his appointees without specific constitutional authorization. The issue was not explicitly addressed in either the 1848 or the 1870 Constitutions, but the 1970 Constitution specifically authorized the governor to "remove for incompetence, neglect of duty, or malfeasance in office any officer who may be appointed by the Governor."

Administrative Reorganization: Illinois has been a pioneer in state government reorganization. The reorganization movement was closely associated historically with the so-called "good government" and "economy and efficiency" reform initiatives of the early 20th Century. Indeed, the Illinois civil administrative code of 1917 was one of the nation's earliest state government administrative reorganizations. More than 100 state agencies were consolidated into nine code departments, each headed by a gubernatorial appointee. The 1917 reorganization grew out of recommendations of the Illinois Efficiency and Economy Committee, created by the General Assembly and supported by Democratic Governor Edward F. Dunne and his Republican successor, Frank O. Lowden. Since then, there have been both gubernatorial and legislative reorganization proposals. The most recent of these were the 1967 Illinois Commission on State Government and the privately supported Illinois Task Force on Governmental Reorganization, whose 1976 report provided Governor Thompson the basis for a number of subsequent reorganization proposals.

The issue of governmental reorganization was addressed directly by the 1970 Constitutional Convention. Along lines recommended by the Illinois Commission on State Government's 1967 report, the convention's proposed constitution authorized the governor to initiate administrative reorganization plans, subject to legislative disapproval, as part of both gubernatorial and legislative constitutional powers.

The executive article (Section 11) specifically empowered the governor to "reassign functions among or reorganize executive agencies which are directly responsible to him" by exeutive order. The grant does not extend to the creation of new administrative agencies. If a reorganization proposal contravenes an existing statute, the executive order must be presented to and considered by the General Assembly. If either house disapproves by a majority vote, the proposal fails. If it is not considered or no action is taken by the General Assembly within 60 days, the proposal becomes effective.

Gubernatorial reorganization, however, has frequently been implemented by substantive legislation rather than specific approval or disapproval of the executive order by the General Assembly. The reason for this accommodation is simple: the legislature cannot amend an executive order and is confronted with only the options of approving or disapproving. Implementing legislation permits legislative amendatory responses and invites negotiation or compromise on reorganization issues, many of which have significant political overtones. On the other hand, on a number of occasions reorganization proposals have become effective by executive order. Recent examples are Governor Thompson's proposals to establish the Department of Commerce and Community Affairs (1979), the Department of Employment Security (1984), the Office of the Inspector General (1984), the Department of Historical Preservation (1985), and the Department of the Lottery (1986). Thompson has been the only governor to exercise the constitutional reorganization authority and has used it in a number of areas, including law enforcement, energy, human rights, and central management services, as well as those cited above.

The 1970 constitutional grant of reorganization initiative by the governor has become the primary source of administrative restructuring, and both the Governor and the General Assembly have generally acknowledged the desirability of, if not the necessity for, cooperation.

Public Policy Legislative Leadership: It has been noted on several occasions that the Illinois governor is among the most powerful in the country. This discussion focuses primarily on the constitutional foundations of that power, but it must be acknowledged that only a politically astute and strategically adept governor will be able to exploit to their fullest these constitutional grants of authority. Several of them have already been cited: the power of appointment and removal of major administrators, the authority to initiate administrative reorganization, and the responsibility for "faithful execution of the laws." Other constitutional grants of authority provide the governor with the sources for effective public policy and governmental leadership. These include the governor's requirement to make a report on the state's condition, his or her budget powers, and the use of the veto.

Messages and Reports: Section 13 of the executive article requires the governor at the beginning of each annual session to "report to the General Assembly on the Condition of the State and recommend such measures as he deems desirable." A similar report is required at the close of the governor's term. The so-called constitutionally required State of the State message is not the only occasion the governor has to address the General Assembly or to make specific public policy proposals for legislative consideration. It is obvious, however, that these constitutional cornerstones for gubernatorial power are just that. Only if a governor works closely with legislative leaders and politically influential constituencies, and assembles a competent team of advisers and agency executives will those foundations yield effective leadership.

Section 19 of the executive article also requires "all officers of the Executive Branch (to) keep accounts and (to) make such reports as may be required by law." In addition, these officers "shall provide the Governor with information relating to their respective offices, either in writing under oath, or otherwise, as the Governor may require."

Budget Power: The allocation of state revenues for public policy purposes represents the most important set of decisions made by a governor. Indeed, students of government generally agree that the executive budget is the single most important public policy document, and the decisions involved in its preparation and implementation are those which give the authoritative direction and provide the management controls essential for gubernatorial leadership. It is of some interest to note, therefore, that constitutional recognition and assignment of responsibility for the executive budget appeared for the first time in the 1970 Constitution. Article VIII, Section 2, provided that:

> The Governor shall prepare and submit to the General Assembly, at a time prescribed by law, a state budget for the ensuing fiscal year. The budget shall set forth the estimated balance of funds available for appropriation at the beginning of the fiscal year, the estimated receipts, and a plan for expenditures and obligations during the fiscal year of every department, authority, public corporation and quasi-public corporation of the state, every state college and university, and every other public agency created by the state, but not of units of local government or school districts.

Section 2 also assigned to the General Assembly the authority to "make appropriations for all expenditures of public funds by the State."

The 1870 Constitution indirectly acknowledged a budgetary power for the governor by requiring that at the commencement of each regular legislative session the governor "present estimates of the amount of money required to be raised by taxation for all purposes." Although the first budget was presented to the General Assembly in 1913, it was not until the enactment of the Civil Administrative Code in 1917 that there was any official (in this instance statutory) recognition of an "executive budget" when the Department of Finance was established and charged with the responsibility of preparing an operating budget for the governor. Even so, Illinois was a pioneer among the states in executive budgeting. At the federal level, the Budget Accounting Act of 1921 established the presidential budget and the Bureau of the Budget. Both the Illinois and the federal experiences were reflections of the "economy and efficiency movement" and its effort to designate the chief executive as the chief administrator armed with the power of the budget.

Prior to 1913-17, state agencies negotiated separately with the General Assembly for funding support. Even with the statutory authorization of an executive budget, the budgetary commission as a legislative budget agency screened gubernatorial recommendations prior to their submission to the General Assembly. In 1969 Governor Olgivie created the Bureau of the Budget, and for the first time a genuine "executive budget" was developed and presented to the General Assembly. The budgetary commission was a victim of Governor Olgivie's reform.

The 1970 Constitutional Convention clearly gave constitutional status to the gubernatorial authority to prepare the annual state budget. This carried with it the mandate that "proposed expenditures ... not exceed funds estimated to be available." The budgetary process as it has developed has moved significantly away from a detailed line item budget and its companion, line item appropriation bills. Only major line items are embodied in the budget and the appropriation bills, e.g., personal services, contractual services, equipment, etc. There is no more detailed breakdown. The New York state budget, by contrast, contains a far greater specification of expenditure categories. When the budget reaches the Illinois General Assembly, it takes the form of numerous appropriation bills, at least one for each agency. By contrast, the governor's budget in some states, such as Pennsylvania, takes the form of an omnibus general appropriation bill covering most state agencies and operations, and only a relatively few special appropriation bills.

During the ten years of Thompson's administration, the Bureau of the Budget has become the central agency in policy development for several reasons. Governor Thompson has used the budget process to discipline the policy process to conform with fiscal realities. Although the annual budget, which replaced the biennial budget process, was introduced before 1970 by Governor Olgivie, the 1970 Constitution mandated the annual budget and the duration of the Thompson administration has endowed the budget process with both planning and control functions that permeate the executive branch. A major factor has been the close relationship which has evolved between the Governor and Robert Mandeville, who has served as Director of the Bureau for the more than ten years of the Thompson Administration. Mandeville first came to Illinois state government in 1969 as head of the Division of Budget and Fiscal Analysis in the newly established bureau. Since then, the bureau and the governor's budget have realized Olgivie's vision that the budget process, through the Bureau of the Budget, would "be the primary instrument for defining state purposes and achieving public objectives."

In recent years, there have been suggestions that a return to the biennial budget might serve the state more effectively than the annual process. Advocates of the change, which would require constitutional revision, feel that more realistic long-range planning and effective legislative review could be achieved. Others counter this suggestion by noting that both gubernatorial and legislative control would be sacrificed by such a change. Other critics of the existing process advocate an earlier submission of the budget by the governor. This would enable more careful scrutiny by the legislature, a change that could be achieved without constitutional amendment. Little mobilized sentiment seems to exist for any change at the present time.

Veto Powers: The Illinois governor possesses what has become the strongest veto power of any state chief executive. Those veto powers are contained in the legislative article (Article IV, Section 9) and have significantly enhanced the governor's constitutional and legislative role. Although these powers are discussed in some detail in the background paper on the legislative article, an understanding of the governor's authority requires some attention here.

The Illinois governor has possessed veto authority under every state Constitution since 1818. The general veto authority continued in the 1848 and 1870 Constitutions was expanded by a constitutional amendment in 1884 to include a line item veto for appropriations bills. The 1970 Constitution significantly extended gubernatorial authority, providing a line item reduction veto for appropriation bills and an amendatory veto for substantive legislation, as well as the established general veto and line item veto powers available under the 1870 Constitution, as amended. This expanded gubernatorial authority was balanced by a broadened override authority on the part of the General Assembly. The line item reduction veto can be overridden by simple majority votes in both houses of the General Assembly. The regular line item veto override provision in the amended 1870 Constitution was retained in the 1970 document, requiring a three-fifths majority. The 1970 Constitution, however, eased the override of a regular veto by requiring only a three-fifths, rather than a two-thirds majority to overturn a gubernatorial veto.

Little controversy has emerged since 1970 with respect to the governor's general and line item veto powers. The same cannot be said for the new amendatory veto, which has evoked considerable opposition. Some delegates to the constitutional convention, including current members of the General Assembly, particularly Speaker Michael Madigan and Senator Dawn Clark Netsch, insist that the amendatory veto has been abused by Governor Thompson and employed in ways not intended by the con-con. Senator Netsch, as a convention delegate, was the primary proponent of the amendatory veto. She argues that its intended purpose was to provide a vehicle for correcting technical errors and editorial changes in statutes approved by the General Assembly. Convention debate, however, was not conclusive. In the absence of a definitive record of convention intent, the state supreme court has refused to impose this strict limitation advocated by critics of the amendatory veto.

The court has, however, provided strictures on the use of the amendatory veto. In 1972 the court concluded that the governor could not use the amendatory veto to substitute "in form and substance completely new bills." The General Assembly proposed a constitutional amendment which would have limited use of the amendatory veto in correcting technical and clerical errors in legislatively approved statutes. The amendment lost in a 1974 referendum by 24,000 votes. Subsequently, the court decided in another challenge to a Thompson veto that the failure of the 1974 referendum and the ambiguity of the convention debate made it clear that the constitutional provision for the amendatory veto "was not intended by the voters to restrict the amendatory veto power to a proofreading device." The court concluded that "although the point beyond which the amendatory veto power does not extend is not as clear from the constitutional debates or referendum, that point is not, in our judgment, reached here." In another challenge, the court held that the governor's veto "was intended to improve the bill in material ways, yet not to alter its essential purpose and intent ... it therefore becomes a question of guided discretion to judge whether the changes are less than fundamental alterations but more than technical corrections."

With the failure of the General Assembly in 1983 to approve another constitutional amendment to limit the amendatory veto to technical corrections, this authority provides the governor with considerable legislative leverage. As it is now interpreted, the amendatory veto is limited to the extent that a governor may not completely replace one policy approved by the General Assembly with one more agreeable to him. But the

question of what constitutes an abuse remains unclear and is presumably subject to court interpretation on each specific challenge. The veto as it now stands allows the governor to return a bill approved by the General Assembly with recommended changes which may be approved by a simple majority vote in both houses. The legislature also has the option of overriding an amendatory veto by a three-fifths vote. If the amended bill is approved by the General Assembly, it must again be presented to the governor for his certification, or, if there have been legislative changes unacceptable to him, for his general veto. The latter is subject to the regular override majority of three-fifths.

In general, the use of veto powers has significantly enhanced gubernatorial legislative initiative and leadership. Under the 1870 Constitution, as amended, gubernatorial vetoes were reversed only on four occasions. With the expanded gubernatorial veto authority provided by the 1970 Constitution, the occurrence of successful override action by the General Assembly has increased dramatically. Even so, the 1970 document has provided the governor with veto authority that can be, and has been, employed with great effectiveness to strengthen the governor's public policy promotion role. It has also enlarged the legislative role in reviewing and acting upon gubernatorial vetoes and, in effect, has extended legislative involvement through the emergence of the so-called "veto session" in the fall of each year. It should be noted that one constitutional power enjoyed by the President of the United States and several state governors is not available to the Illinois governor, the so-called "pocket veto," by which the chief executive is able to veto legislation after legislative adjournment by merely not signing the enacted measure.

By 1987, seventeen years after the voters approved the 1970 Constitution and three governors have functioned under its provisions, it can be concluded that while the new charter did not alter the constitutional structure of the executive branch in major ways, the changes it introduced have enlarged the constitutional foundations for executive leadership in Illinois state government. Three strong governors have given vitality to those constitutional licenses and have provided the basis for a politically effective and, in the Hamiltonian sense, energetic governor. With political skill and creative use of the constitutional bases for executive leadership, the Illinois governor can become not only chief executive in the managerial sense, but also "chief legislator" and "keeper of the purse."

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