

A Comparative Analysis of the Michigan Constitution

Volumes I

Articles I



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I BOUNDARIES AND SEAT OF GOVERNMENT

A. STATE BOUNDARIES

Article I: Section 1. The State of Michigan consists of and has jurisdiction over the territory embraced within the following boundaries, to wit: Commencing at a point on the eastern boundary line of the state of Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of Maumee Bay shall intersect the same—said point being the northwest point of the state of Ohio, as established by act of congress, entitled “An act to establish the northern boundary line of the state of Ohio, and to provide for the admission of the state of Michigan into the Union upon the conditions therein expressed,” approved June fifteenth eighteen hundred thirty-six; thence with the said boundary line of the state of Ohio, until it intersects the boundary line between the United States and Canada in Lake Erie; thence with the said boundary line between the United States and Canada through the Detroit river, Lake Huron and Lake Superior to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal river; thence through the middle of the main channel of the westerly branch of the Montreal river to Island Lake, the head waters thereof; thence in a direct line to the center of the channel between Middle and South Islands in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore and down the River Brule to the main channel of the Menominee river; thence down the center of the main channel of the same to the center of the most usual ship channel of the Green Bay of Lake Michigan; thence through the center of the most usual ship channel of the said bay to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the state of Indiana, as that line was established by the act of congress of the nineteenth of April, eighteen hundred sixteen; thence due east with the north boundary line of the said state of Indiana to the northeast corner thereof; and thence south with the eastern boundary line of Indiana to the place of beginning.

Constitutions of 1835 and 1850

Michigan had boundary problems even before its admission as a state. The 1835 constitution did not have a provision specifically defining the state boundaries, except indirectly by reference in the preamble to the 1805 Act of Congress which established the Michigan Territory.¹

Errors in the Michigan-Wisconsin boundary as set forth in the enabling act were corrected through a survey made by the federal government in 1847. The 1850 constitution contained a boundary description which included this correction of the Michigan-Wisconsin boundary line.

Constitution of 1908

Part of the boundary description as set forth in the 1850 constitution was changed in the convention of 1907-08 in order to enhance a Michigan claim (based upon the vagueness and inaccuracy in the enabling act) to an area long administered by Wisconsin. Mr. Burton indicated in the convention of 1907-08 that the committee in charge of this matter would probably have omitted the boundaries provision if it had not been for the dispute then in progress with Wisconsin.²

Statutory Implementation

By legislative joint resolution (No. 6) of 1917, Michigan accepted a “joint relocation and permanent monumenting of the line between Ohio and Michigan.”³ By a statute of 1947 (Public Act No. 267), Michigan accepted an interstate compact with Wisconsin and Minnesota defining the lake boundaries of these states with one another.⁴

¹ This act made the so-called “Toledo Strip” a part of the territory. However, Michigan’s admission to the Union as a state was made conditional upon its relinquishing claim to the “Toledo Strip” by its assent (in convention) to the boundaries as described in the enabling act of June 15, 1836. Michigan, however, was given the upper peninsula (which was detached from the Wisconsin Territory) by this enabling act as compensation for the loss of the “Toledo Strip.”

² Proceedings and Debates, pp. 766-767. The change in the wording to “the westerly branch of the Montreal river to Island Lake, the head waters thereof” was the change made from the 1850 provision— “the said River Montreal to the head waters thereof.”

³ M.S.A. 4.131.

⁴ M.S.A. 4.144.

As defined by this compact, the lake boundaries with these two states are set forth at much greater length than the full boundary description in the constitution.⁵

Judicial Interpretation

The dispute over the boundary between Michigan and Wisconsin was finally settled by the supreme court of the United States in 1926.⁶ Wisconsin was awarded the area in dispute (west of the upper peninsula) largely because Michigan had long acquiesced in Wisconsin's effective possession and administration of this area. The court was not impressed with the constitutional status given to the disputed area by Michigan and noted the obvious purpose of the changes made in the convention of 1907-08.

Other State Constitutions

Constitutional definition, or description, of state boundaries is common to only a slight majority of state constitutions. Most of these state constitutional boundary descriptions are briefer than the Michigan provision. Alaska and Hawaii define boundaries in their constitutions very briefly and simply by reference to what constituted their territorial boundaries.

Constitutional status for state boundary descriptions does not appear to give them any more authority than if they were not set forth as a constitutional provision. The U.S. Constitution and many state constitutions (including all of the 13 original states) do not define boundaries. No threat to their territorial integrity has developed as a result of this.⁷

⁵ In this compact, azimuths and geographical points (defined in terms of latitude and longitude) are carried out in degrees, minutes, and seconds.

⁶ State of Michigan v. State of Wisconsin, 270 U.S. 295

⁷ Index Digest, pp. 1065, 1116-1118; see also pertinent provisions in full. It was held judicially that the Indiana boundaries "were not fixed by the adoption of the state constitution, but by Congress and their recital in the constitution is merely a memorandum thereof." *Watts v. Evansville Railroad Co.*, 123 N.E. 709. California and Arizona have provisions whereby the legislature may change or redefine the state boundaries in cooperation with an adjoining state. Since all states have, and many including Michigan have exercised, such inherent power in regard to state boundaries, this feature of the California and Arizona constitutions would seem to be unnecessary.

Comment

If a description of the boundaries of Michigan is to be retained in a revision of the constitution, this description should probably be extensively detailed and technically correct. It undoubtedly should be in accord with the most authoritative boundary determinations up to the present time and reflect the most recent geographical information.

There is good evidence that constitutional status for state boundary lines does not enhance their authority or effectiveness. It is probably advisable to omit a definition of state boundaries from a constitution even if they can be defined briefly and in general terms. Michigan's boundaries are extremely complicated and have already given rise to various problems. These boundaries are probably more difficult to set forth authoritatively in a constitutional provision than are those of any other state.⁸

B. STATE CAPITAL

Article I: Section 2. The seat of government shall be at Lansing, where it is now established.

Constitutions of 1835 and 1850

The 1835 constitution (Article XII, Section 9) provided that the seat of government "shall be at Detroit, or at such other place or places as may be prescribed by law," until 1847, "when it shall be permanently located by the legislature." Detroit remained the state capital, as it had been when Michigan was a territory, until 1847 despite the legislature's constitutional authority to move it elsewhere. In 1847, the state capital was permanently located at what was to become the City of Lansing.⁹ In the 1850 constitution (Article II), the provision relating to the seat of government was the same as in the present constitution.

⁸ One possible alternative would be to omit the boundaries description, but to require in the constitution that the legislature provide by law that some state officer have custody of all material bearing upon the determination of the true boundaries of Michigan and to require this officer to keep such geographical boundary information current.

⁹ Acts No. 60 and 65 of 1847, No. 237 of 1848.

Constitution of 1908

This provision was carried over from the 1850 constitution unchanged.

Other State Constitutions

Approximately 14 state constitutions (including Michigan) fix the state capital at a specific city within the state without provision for its being changed. An additional 18 state constitutions specify a city as the capital with provision that it may be moved by law with a referendum vote almost universally required, or allow the capital to be determined by statute in conjunction with a referendum vote. Three state constitutions require a two-thirds vote of the electorate in order to change the site of the capital, whether or not a site is specified. Fifteen states have no provision relating to the location of the capital in their constitutions.¹⁰

Comment

The present location of the state capital or “seat of government” at Lansing is mandatory. Since Lansing has long been the state capital and serious agitation for a different site has been lacking in recent years, it does not appear that the mandatory feature of this provision will cause controversy. The clause following the comma “where it is now established” may have had more pertinence in 1850 in view of the relative newness of the Lansing location at that time. One original purpose of this clause may have been to forestall a change in the site by statutory designation of another city as “Lansing.” This effect could be maintained by providing that the seat of government “shall remain at Lansing.” The provision as presently stated would not seem to stand in the way of the governor’s authority under Article VI, Section 8 to convene the legislature “at some other place” when the capital “becomes dangerous from disease or a common enemy,” but some reference to this or any other related provision of the revised constitution might be added for further clarification.

¹⁰ Index Digest, pp. 922-923.

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Seat of Government