

Committee that if the governor desires to reallocate that function to some other, perhaps a department of transportation, that that would, in essence, be changing the existing statutory law and to that extent the executive order would be a substitute for a normally enacted statutory provision, hence the term "by law" means to one member of the Committee at least, if the executive order changes terms insofar as the assignment of existing functions are concerned on a statute which is currently on the books, that that executive order would in effect have the force of law and therefore, it would have to go through this procedure.

If, on the other hand, it is merely a re-assignment of something which is now within the executive power, but is not otherwise prescribed by legislation then it need not be done as a result of the executive power.

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: Mr. Chairman, Delegate Adkins explained what I had intended to speak to.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Mr. Chairman, there is one point that I would like to make here which I think the members should understand.

If this Convention is not here to really have the seed of a constitutional impact, it would be very conceivable without very strong cooperation between the executive and legislative branch that the legislature would continually disapprove the reorganization plans of the executive. This is easily conceivable unless this type of cooperation existed, so that even in spite of the language of 4.18 that there only be 20 principal departments, if the legislature vetoes the gubernatorial executive order, this could continue indefinitely.

The purpose of the temporary provision is to make certain that this constitutional impasse will not develop. The logical and sensible way to approach this problem is for the executive and the legislative branches to cooperate during this early period, the first two years and to develop the necessary basic statute to provide this broad reorganization and I believe this is the intention of the Committee. Once that is accomplished by the joint cooperation of the executive under the provisions of this section, then thereafter the provisions of section 4.19 could be easily administered.

THE CHAIRMAN: Delegate Cardin.

DELEGATE CARDIN: Mr. Chairman, I should like to clarify in my mind and I imagine I would ask this question of Delegate Adkins, if he would yield to this question.

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: Yes.

THE CHAIRMAN: Delegate Cardin.

DELEGATE CARDIN: Beginning line 9, section 4.19 your explanation now would give me the impression, or I want to know if this leaves this impression that the governor may only make those changes with regard to including the establishment or acquisition of principal departments and the assignment of functions among these units. The governor is then limited to those changes, is that correct?

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: I would certainly say that this is this member's understanding of the intention. It was, I think not — no, it was not my intention but, of course, I cannot speak for the Committee. It was not my intention that the governor should have any power to create new programs as Senator James has said or new functions, but was simply given the power to reorganize the effective execution of such existing programs.

THE CHAIRMAN: Delegate Cardin.

DELEGATE CARDIN: Then, following that, where you have line 34 and 35, where those changes require the force of law, you are referring to only those limited changes of reorganizing within the narrow framework of the functions already established?

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: Again I can speak only as one member, but that was my understanding and has been throughout the whole course of consideration of this item. In other words, we are not giving the governor a power to establish a new program for water pollution. If there is an existing program for water pollution, he can reallocate it within such departments as he sees fit but the establishment of the program itself would have to come from the General Assembly.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: Mr. Chairman, I have no quarrel with the general concept but I would like to make a comment.