

# IV

## *Executive Branch*

### EXTRAORDINARY POWERS OF THE GOVERNOR<sup>1</sup>

#### INTRODUCTION

The following is a discussion of the advisability of giving the governor certain extraordinary constitutional powers. The powers discussed are "extraordinary" in the sense that they are either not

in keeping with tradition or that they give the governor powers which interfere to some degree with what is presently a legislative prerogative.

#### ROLE OF GOVERNOR IN AMENDING OR REVISING THE CONSTITUTION

Article XIV of the Maryland Constitution presently provides for amending the Constitution in one of two ways. First, the General Assembly may by three-fifths vote propose amendments which are submitted to the people for approval or disapproval. The governor plays only a minor role in this procedure. He has the duty of ascertaining the result of the popular vote. Second, at a general election each twenty years the sense of the people is taken to determine whether a convention should be called to consider altering the Constitution.

Experience has clearly indicated the inadequacy of these provisions. In 1950, when the sense of the people was last

taken, an overwhelming majority (200,439 to 56,998) favored calling a constitutional convention. Despite this vote, the General Assembly refused to enact necessary enabling legislation because of opposition by legislators from less populous counties who feared that the convention might reapportion the legislature.

If this impasse still existed there might be merit in giving the governor powers to implement constitutional revision either by giving him the power to submit amendments to the people or to assemble conventions periodically. However, in light of recent United States Supreme Court decisions which require fair apportionment in state legislatures, these powers are neither necessary nor desirable.<sup>2</sup> Since future legislatures will be truly representative, they can reasonably be expected to submit constitutional amendments to the people when the need arises.

<sup>1</sup> This article was prepared for the Commission by Garrett Power, Commission reporter for the Committee on the Executive Department; Associate Professor at the University of Maryland School of Law; A.B., 1960, Duke University; LL.B., 1962, Duke University; LL.M., 1965, University of Illinois; member of the Maryland Bar.

<sup>2</sup> See *Md. Comm. v. Tawes*, 377 U.S. 656 (1964).