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The Emerging Role of the Lieutenant Governor in Illinois

THE HONORABLE NEIL F. HARTIGAN*

In 1970 the people of Illinois adopted a complex and large-scale revision of their one hundred year old constitution. One result of that revision was that the office of Lieutenant Governor was transformed into a primarily executive position with few constraints making new, diverse responsibilities possible. Lieutenant Governor Hartigan, the first person elected to the position under the new constitutional provisions, briefly reviews the origins and make-up of the Lieutenant Governor's office in Illinois as compared to the office in other states. He then discusses its emerging role in Illinois and proposes two new executive responsibilities for the office. Although his office has been responsible for several major accomplishments, including spearheading the successful effort to establish a cabinet level Department on Aging, Lieutenant Governor Hartigan advocates creating additional statutory responsibilities for Illinois' second highest elected official. The first proposal would create an Office of Citizen Information and Research Services within the office of Lieutenant Governor and the second would establish an Energy Policy Council for the State of Illinois which the Lieutenant Governor would chair. Both proposals, he hopes, will serve to give "direction and substance" to the new office, and at the same time improve the government's response to citizen needs.

PREFACE

The office of lieutenant governor in Illinois is at a threshold in its historical development. The office has emerged under the provisions of the 1970 Illinois Constitution1 from a century and a half of relative obscurity with a new focus, a broad mandate and a greatly enhanced

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* Illinois Lieutenant Governor, 1972- ; B.S., Georgetown University (1959); J.D., Loyola University of Chicago School of Law (1962). Prior to becoming Lieutenant Governor Mr. Hartigan served as General Counsel to the Chicago Park District and Legislative Counsel to the 75th Illinois General Assembly for the City of Chicago, and admin. ass't. to the mayor. He is a member of the Executive Committee of the National Conference of Lieutenant Governors.

1. ILL. CONST. art. V, § 14 (1970); see also id. §§ 1, 4, 6, 8, 19.
potential for effective contributions to state government. From an office occupied primarily with the duty of presiding over the Senate and filling in for the governor during his absence from the state, the lieutenant governorship has been transformed into a full-time executive position with responsibilities primarily in that branch of government. The new constitution contemplates a lieutenant governor who participates in the high level communications and decision-making networks of the executive branch as the potential successor to the chief executive; who is capable of responding to assignments delegated by the governor; and is equipped to fulfill continuous substantive responsibilities as provided by the legislature; and who can initiate progressive government activities under the auspices of his office.

These three constitutional obligations are broad and non-restrictive. They set the wide outer limits of the office; but the actual content and specific array of substantive duties and responsibilities remain to be filled in by the General Assembly and the incumbents of the office. The office of lieutenant governor stands uniquely among state offices at a point where it can be redirected in light of the special priorities of the 1970's. If government is to be responsive to the people and creative in its handling of problems such as services to the aging, ecologically sound industrial development and the proper supply and utilization of energy, the actions taken to define the powers and duties of the lieutenant governorship will be a test of that resolve.

One goal of this article is to promote a more widespread and ultimately a more refined understanding of the lieutenant governorship. No office has been less the object of informed discourse and evaluation than the office of lieutenant governor. Virtually no one—elected official, political scientist, member of the legal profession, informed citizen—has seriously thought out or brought to public attention the issues involved in defining the proper powers, duties, and responsibilities of the lieutenant governor.2

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2. This fact is reflected in the absence of published material on the office of lieutenant governor. Textbooks on American government are almost silent on the topic. Serious journal articles are few. W. I. Ison, The Office of Lieutenant Governor in the States, 32 AMER. POL. SCI. REV. 921-26 (1938); B. Nispel, Reform of the Office of Lieutenant Governor, in ANNALS OF AMERICAN GOVERNMENT 1-20 (1958) [hereinafter cited as Nispel]; and H. Walker, The Office of Lieutenant Governor: Its Status and Future, 39 STATE GOVERNMENT 240-46 (1966) [hereinafter cited as Walker].

Three states (Massachusetts, Texas and Virginia) have been the subjects of monograph-length treatments: COMMONWEALTH OF MASSACHUSETTS, LEGISLATIVE RESEARCH COUNCIL, DUTIES AND POWERS OF THE LIEUTENANT GOVERNOR (advance mimeo draft) (December 29, 1971) [hereinafter cited as Commonwealth Draft]; J.W. DAVIS, INSTITUTE OF PUBLIC AFFAIRS, UNIVERSITY OF TEXAS, THERE SHALL ALSO BE A LIEUTENANT GOVERNOR (1967) [hereinafter cited as Davis]; and T.R. MORRIS, GOVERNMENTAL AND ADMINISTRATIVE RESEARCH DIVISION, INSTITUTE OF GOVERNMENT, UNIVERSITY OF VIRGINIA, VIRGINIA'S LIEUTENANT GOVERNORS: THE OFFICE AND
The first section of this article provides a very brief look at the origins and early conceptions of the office. In the second section the office of lieutenant governor in Illinois is compared with contemporary practices of its counterparts in other states. The third and fourth parts deal with the powers and duties of lieutenant governors as previously exercised under the 1870 Illinois Constitution and with the changes in the office brought about by the constitutional revision of 1970. Sections of the 1970 Illinois Constitution which affect the lieutenant governorship are set forth along with explanatory commentary as prepared by the Executive Article Committee of the 1970 Illinois Constitutional Convention.

The final section achieves the second goal of the article which is to fashion and propose two new substantive executive responsibilities for the office of lieutenant governor. These proposals—to create an Office of Citizen Information and Research Services within the lieutenant governor's office, and to establish an Illinois Energy Policy Council charged with coordinating a government-wide response to the energy crisis—are inspired by the new constitutional provisions, are informed by innovative practices in other jurisdictions and will build upon the office's existing strengths and accomplishments. These new duties will not supersede or replace the responsibilities of the office as they are currently being fulfilled in such areas as services to the aged, minority affairs, mental health and developmental disabilities. Rather, the two proposals reflect the principle that the citizens of Illinois deserve and have a right to demand of the lieutenant governor, no less than of other high officials, full-time attention to government problem solving, maximum responsiveness and accountability. The Office of Citizen Information and Research Services and the Illinois Energy Policy Council will not only add definition and structure to the lieutenant governorship, they

THE PERSON (1970) [hereinafter cited as Morris].

However, the most profitable sources of material on the lieutenant governor are the National Conference of Lieutenant Governors and the Council of State Governments (with its headquarters located at Iron Works Pike, Lexington, Kentucky 40505). Both groups maintain files of published and unpublished materials on the lieutenant governor. Their services have been relied upon in drafting this article and their resources are recommended to anyone undertaking an investigation of the office.

3. ILL. CONST. art. V, §§ 17, 18 (1870); see text accompanying infra notes 43 through 58.

4. ILL. CONST. art. V, § 14 (1970); see text accompanying infra notes 59 through 67.

5. Sixth Illinois Constitutional Convention, Committee on the Executive Proposal No. 1 (1970) [hereinafter cited as Con-Con Executive Committee Report] (a seventy-page mimeo actually submitted to the con-con delegates at the convention on May 14, 1970, now on file at the Municipal Library, City Hall, Chicago, Illinois. The mimeo is to be distinguished from the multi-volume publication issued by the State of Illinois after final adoption of the constitution in 1970).
will also provide tangible evidence of the willingness and capacity of government to be responsive to citizen needs and meet the challenge of the energy crisis.

ORIGINS OF THE OFFICE IN AMERICA

The office and title “lieutenant governor” has been tentatively traced to sixteenth-century England where the post appears to have been of a military and quasi-judicial nature, responsible for law and order at the shire level. In this country, the position was often referred to as “deputy governor” or “deputy to the governor” and it first appeared in the English colonies in the 1680’s. (The first specific mention of the position is contained in the Massachusetts Charter of 1691.) Because governors to the colonies appointed by the Crown were often resident in England for long periods (one titular governor of Virginia never set foot there), the office of deputy or lieutenant to the governor was established to insure that the governor's powers were continuously exercised. Some colonial charters also assigned the lieutenant governor to membership on the governor's council. One historian of the office suggests that the present widespread employment of the lieutenant governor as the presiding officer of the Senate has its roots in this colonial practice. The tradition of the lieutenant governor as the immediate successor to the governor also stems from colonial arrangements.

Although the position existed in nearly every colony, it was not a particularly significant or influential office. One scholar notes that such offices tended to be sinecures and cites the example of an individual who petitioned the Crown for appointment to the Office of Lieutenant Governor of South Carolina saying that he desired “a little power and perhaps a little profit.” After independence, several states, beginning with New York in 1777, provided for the office of lieutenant governor in their constitutions. The primary purpose of the office was similar to that provided in the colonial charters: insurance against a gubernatorial vacancy. Later, in the early years of the nineteenth century, as many states wrote new constitutions, often relying on the

6. Davis, supra note 2, at 1 et seq.
7. Id.
8. Morris, supra note 2, at 3.
9. Id. at 4.
10. Davis, supra note 2, at 3; Walker, supra note 2, at 241.
example of the Vice-President in the Federal Constitution, the gover-
nor-in-waiting component of the office was supplemented with the re-
sponsibility of presiding over the upper house of the state assembly.

THE LIEUTENANT GOVERNOR IN THE OTHER STATES

Today, of the 50 states, 41 constitutionally provide for a lieutenant
governor. In another state, Tennessee, the office has been created by
statute. Oregon is in the process of considering the addition of the
office to its roster of elected officials. The powers and responsibili-
ties of the lieutenant governors are, like the states themselves, highly di-
vergent. At one end of the spectrum are lieutenant governors whose
only responsibility is to preside over the Senate. On the other hand,
in large industrial states such as California, New York, and Michigan,
the lieutenant governor has important executive as well as legis-
lative duties and is supported by a large staff.

There is a basic division in the definition of the office: most state
constitutions give the lieutenant governor the duty of presiding over
the Senate and at the same time make him a member of the execu-
tive branch. Today, 36 of 42 lieutenant governors preside over their
respective state Senates. Many of these officers are deeply in-
volved in legislative affairs; they appoint committees, cast tie-breaking
votes, serve on legislative councils, and the like. Texas provides an
extreme case. There, the lieutenant governor (with the support of
a full-time staff of some 30 persons) possesses all of these powers and

14. The material presented in this section is admittedly incomplete and subject
to revision and correction. The duties of lieutenant governors in many states are
informal or voluntary and are thus likely to change with changing administrations
and even within the course of a single administration. The examples in the text
are drawn mainly from The Council of State Governments, The Lieutenant Governor,
The Office and its Powers (1973) [hereinafter cited as Council Report]. Supplemen-
tary information was gleaned from two questionnaire survey studies of the powers
and duties of lieutenant governors: one conducted in 1972 by Senator John Burns,
President of the Oregon State Senate [hereinafter cited as Burns Survey Study];
the other conducted by Lieutenant Governor George Nigh of Oklahoma in 1970
under the auspices of the National Conference of Lieutenant Governors. The original
questionnaires were kindly made available by the Council of State Governments and
are on file at the Council's Lexington headquarters, supra note 2.

My own participation in the activities of the National Conference of Lieutenant
Governors has brought me into contact with many current incumbents from other
states. The recent Lieutenant Governors' Conference (October, 1973, St. Croix, Virgin
Islands) enabled me to query many of these individuals as to their powers and
duties and such information has been incorporated in this section of the article.


16. Id. In Tennessee the lieutenant governor is selected by the state senate.

17. Personal correspondence with the Honorable Les AuCoin, Majority Leader,

18. Montana, Vermont and Virginia are examples of states in which the lieu-
tenant governor has such a minimal role. See Burns Survey Study, supra note 14;
see Morris, supra note 2, at 16 et seq.
in addition may both debate and vote when the Senate is in committee of the whole.\textsuperscript{19} The remaining six states (Alaska, Florida, Hawaii, Illinois, Massachusetts and Maryland) have a lieutenant governor with powers and responsibilities exclusively in the executive branch. Of course, those states which require legislative service may also grant the lieutenant governor executive powers and duties.

The lieutenant governor's executive duties may derive from: (a) the constitution, (b) statutes, (c) executive orders or (d) formal or informal gubernatorial delegation. Some state constitutions are massive documents, rich in the type of detail that might normally be found in legislative codes. Thus, many states do prescribe non-legislative duties for the lieutenant governor in their constitutions. For example, in California the lieutenant governor is constitutionally a member of the Board of Regents of the University of California;\textsuperscript{20} in Delaware he is a member of the Board of Pardons;\textsuperscript{21} in North Carolina he is a constitutional member of the Council of State.\textsuperscript{22} More commonly, the constitution does not specifically enumerate extra-legislative duties for the lieutenant governor in their constitutions. For example, in Maryland the lieutenant governor “shall have only the duties delegated to him by the Governor;”\textsuperscript{23} in Hawaii, he “shall perform such duties as may be prescribed by law.”\textsuperscript{24} Two states, Maryland and Michigan, provide constitutional restrictions on the executive functions of the lieutenant governor: no power specifically vested in the governor may be delegated to the lieutenant governor.\textsuperscript{25}

A more pervasive source of executive powers and duties has been legislative enactments. About half of the states have assigned some duty to the lieutenant governor by statute. In many cases, statutory duties involve service on commissions, boards and councils, as was the case in Illinois prior to the 1970 Constitution. Often, these bodies are legislative rather than executive branch organs. Because most state constitutions do not place restrictions on the duties of the office, the power of the legislature to elaborate the role seems to be unlimited and widely invoked. A major exception to this necessarily tentative generalization is the case of Maryland where the legislature is constitutionally prohibited from assigning duties to the lieutenant governor.\textsuperscript{26}

\textsuperscript{19} See Davis, supra note 2, at 20-32.
\textsuperscript{20} Calif. Const. art. IX, § 9 (1918); see Burns Survey Study, supra note 14.
\textsuperscript{21} Del. Const. art. VII, § 2 (1897); see Burns Survey Study, supra note 14.
\textsuperscript{22} N.C. Const. art. III, § 8 (1970); see Burns Survey Study, supra note 14.
\textsuperscript{23} Md. Const. art. II, § 1A (1970); see Burns Survey Study, supra note 14.
\textsuperscript{24} Hawaii Const. art. IV, § 2 (1959), cited in Commonwealth of Mass. Mimeo Draft, supra note 2, at 35.
\textsuperscript{26} See Burns Survey Study, supra note 14.
Executive orders and gubernatorial delegation or assignment are the source of duties for the lieutenant governor in approximately twenty states. The governor's authority to assign duties, if not granted explicitly in the constitution or statute, is based on the governor's generalized "power of appointment," or is exercised through the mechanism of an executive order. While executive orders in practice have no currency between one elected administration and the next, in a limited number of cases they have proved effective in providing meaningful executive duties for the lieutenant governor. The most interesting example of this mode of authorizing action on the part of the lieutenant governor is in California. There the lieutenant governor acts as chairman of the powerful Economic Development Commission—a body created by executive order.

There are many patterns and combinations of constitutional, statutory and gubernatorial assignment of duties to lieutenant governors. In New York, the lieutenant governor's duties are based almost exclusively on informal delegations of responsibility by the governor. In California, executive orders have played a significant role in defining the duties of the office. In Virginia, the lieutenant governorship has not been affected by either statute or executive order and the incumbent's duties are based solely on constitutional provisions. The norm, however, is probably closer to the situation in states such as Colorado, Kentucky or Michigan where the executive duties and responsibilities of the lieutenant governor derive almost equally from statutory and gubernatorial assignment.

The non-legislative duties of lieutenant governors are highly varied. In terms of statistical frequency, the most significant duty is that of sitting on or chairing some of the standing boards and committees which proliferate at all levels of government. In some instances, these appointments are ex officio or they are to bodies with a topical or short-term mandate such that the role of the lieutenant governor in the group is circumscribed. But in a large number of cases, boards or committees are important and the lieutenant governor's role in their operation is substantial. Several states, among them Alabama, Alaska,
California, Florida, Kansas and Mississippi, utilize the lieutenant governor on commissions or councils which oversee state industrial and economic development.\textsuperscript{33} In New Mexico, Michigan, Ohio and New York lieutenant governors have been active on committees and boards dealing with state manpower needs and in particular with the problems of integrating young people into the work force.\textsuperscript{34} Several lieutenant governors, e.g. those in California, New York and North Carolina, sit on state boards of education.\textsuperscript{35}

Several lieutenant governors serve as the chairmen of special task forces, study groups, coordinating councils or commissions. In the first capacity, the lieutenant governor's role is usually one of supervising long-range and in-depth studies which will culminate in concrete legislative proposals or policy recommendations. Because such bodies require a continuity of direction and extensive supporting staffs, the role of the lieutenant governor is an important one. As chairman of a coordinating council, the lieutenant governor's role is one of bringing together the chiefs of existing government agencies and bureaus to deal with problems and issues which affect a large number of departments but which do not fall directly within the purview of any one of them. Such high level coordination and planning responsibilities have been assigned to the lieutenant governors of California (Commission for Economic Development), Indiana (Commission on Economic and Industrial Development), Kansas (Economic Development Commission), and Oklahoma (Tourism and Recreation Commission).\textsuperscript{36}

The executive duties assigned to lieutenant governors in the various states are not limited to service on boards and commissions. A smaller but still significant number of lieutenant governors play active parts in the executive level functioning of state government. In the policy-making arena, the lieutenant governors of California, Hawaii, Massachusetts and Maryland serve as key members of the governor's cabinet, and take part in important decision-making forums.\textsuperscript{37} Some lieutenant governors function extensively in the area of legislative liaison and as spokesmen for administrative policy in the state assembly. Within the executive branch itself, the lieutenant governors of at least two states (Colorado and Hawaii) serve as liaison between the chief executive and the heads of the various departments and agencies.\textsuperscript{38}

\textsuperscript{33} Council Report, \textit{supra} note 14, at 22-29.
\textsuperscript{34} \textit{Id}.
\textsuperscript{35} \textit{Id}.
\textsuperscript{36} \textit{Id}.
\textsuperscript{37} \textit{Id}.
\textsuperscript{38} \textit{Id}.
A third general category of executive duties commonly undertaken by lieutenant governors is service as an ombudsman. The employment of the lieutenant governor in this capacity was initiated by former Lieutenant Governor Paul Simon of Illinois. It proves to be an effective utilization of the lieutenant governorship because of the unique status of the office as one which possesses few routine administrative obligations yet is located high in the executive branch, in close communication with executive policy makers and departmental or agency chiefs. It may be noted that most lieutenant governors who serve as ombudsmen do so informally. In only one state, New Mexico, does the lieutenant governor serve in that capacity by statute.\textsuperscript{39}

While the powers and duties of lieutenant governors are usually divided on the basis of whether they are legislative or executive in nature, a small number of lieutenant governors possess responsibilities which are not comprehended by either of these general categories. In at least three states (Delaware, Louisiana and Pennsylvania) the lieutenant governors serve in a quasi-judicial capacity as members of state boards of pardon or parole.\textsuperscript{40} More significantly, in two other states, Florida and Indiana, the lieutenant governors are assigned to administrative duties as heads of a state agency or department. In Florida, the lieutenant governor serves as the Secretary of Commerce and has the day-to-day responsibility of administering the Department of Commerce.\textsuperscript{41} In Indiana, the lieutenant governor serves as the Director of the Department of Commerce.\textsuperscript{42}

While this brief list does not exhaust the duties of lieutenant governors in the various states, it does indicate some of the more important areas in which they are active. No single lieutenant governor has responsibilities in all of these areas, and some perform none of them. From a developmental perspective, however, there appears to be a secular trend in the direction of allocating increased executive duties and powers to lieutenant governors. There is also increasing interest in the utilization of the lieutenant governor in a more directly administrative capacity as the head of a department which requires direction and authority not usually available to an appointed official.

\textsuperscript{39} N.M. STAT. ANN. § 4-1-3 (Repl. 1971); see B. Frank (ed.), AMERICAN BAR ASSOCIATION, SECTION OF ADMINISTRATIVE LAW, OMBUDSMAN COMMITTEE, DEVELOPMENT REPORT (1972-73) [hereinafter cited as A.B.A. Ombudsman Report]; and personal correspondence with New Mexico Lieutenant Governor Robert Mondragon, October, 1973.

\textsuperscript{40} Burns Survey Study, supra note 14.

\textsuperscript{41} FLA. STAT. ANN. § 420.17(1) (1972); see Council Report, supra note 14, at 24; Commonwealth of Mass. Mimeo Draft, supra note 2, at 34.

\textsuperscript{42} IND. CODE § 4-4-3-2 (1971); see Council Report, supra note 14, at 25; Commonwealth of Mass. Mimeo Draft, supra note 2, at 36.
The Office of Lieutenant Governor in Illinois (1818-1970)

The office of lieutenant governor has always existed in Illinois, and the powers and duties of the office have been stated in the three previous constitutions—1818, 1840 and 1870.\(^4^3\) Despite its longevity, however, in the century and a half between initial statehood and the most recent constitutional revision, the office underwent little appreciable change. The lieutenant governor was one of seven executive officers provided in the 1870 Constitution.\(^4^4\) Two sections of the executive article expressly concerned this office and defined its duties and powers:

Sec. 17. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the Governor, the powers, duties and emoluments of the office, for the residue of the term, or until the disability shall be removed, shall devolve upon the Lieutenant Governor.

Sec. 18. The Lieutenant Governor shall be President of the Senate and shall vote only when the Senate is equally divided. The Senate shall choose a President, pro tempore, to preside in case of the absence or impeachment of the Lieutenant Governor, or when he shall hold the office of Governor.\(^4^5\)

Simply stated, the lieutenant governor’s only constitutional duty (except to succeed the governor) was to preside over the Senate. As a background paper of the office revealed, “[h]is position is one . . . [upon which] no official duty is imposed . . . when the Governor is in good health and is within the State and the legislature is not in session.”\(^4^6\) It should be emphasized that the lieutenant governor was not an executive officer at all except when acting as governor.\(^4^7\)

Constitutions do not typically contain detailed enumeration of executive responsibility. Within the boundaries of constitutional provisions, the actual performance of constitutional officers is influenced by legislative enactments, judicial interpretation and extra-legal practice, tradition and convention. Investigation has revealed no Illinois court


\(^4^4\) ILL. CONST. art. V, § 1 (1870).

\(^4^5\) ILL. CONST. art. V, §§ 17 and 18 (1870).


cases dealing substantively with the office of lieutenant governor. This stands in marked contrast to the other constitutional executive offices. The office of Attorney General, for example, has often been the subject of adjudication, and its powers and duties have been enhanced over the years as a result of judicial decisions. In other states, court interpretation has also played a part in defining the office of lieutenant governor. Cases are most numerous in the area of succession; they have arisen by virtue of the imprecision of constitutional formulations regulating the process of succession.

Legislative enactments have been important in determining the responsibilities and duties of the lieutenant governor in Illinois, but in the period prior to the 1970 Constitution, their net effect was not great. Of five statutes from this period still on the books, three assign the lieutenant governor to membership on standing commissions or committees: Illinois Commission on Intergovernmental Co-operation, Senate Chambers Maintenance Commission, and Governor's Traffic Safety Co-ordinating Committee. Another requires the lieutenant governor (as well as all other state officers) to comply with the provisions of the Personnel Code. A final statute relates to travel arrangements for personnel in the office of the lieutenant governor.

Usual practice—"tradition," if you will—is perhaps the single most influential factor in the evolution of any institutional role, and it is particularly important for an office such as lieutenant governor which has not been clearly defined by legal mechanisms. In Illinois, the lieutenant governor has traditionally served on specially created public bodies. As expressed in the Illinois Blue Book, he serves "as a member of certain specified boards and commissions, and of those additional ones which the governor may designate from time to time." Over the last fifty years, the Illinois lieutenant governor has served on bodies such as the following: State and Local Defense Committee, Centennial Building Commission, Illinois Constitution Sesquicenten-
These constitutional and statutory provisions and board and commission memberships appear to exhaust the pre-1970 official duties of the lieutenant governor as an executive officer. Needless to say, many incumbents have performed unofficial functions actively and effectively. For example, Lieutenant Governor Samuel Shapiro played an active leadership role in mental health, and Paul Simon established an ombudsman function within his office. While these activities were undertaken informally, without statutory obligation, there was no challenge to their right to become so involved.

Lacking formal powers and responsibilities in the executive branch, the lieutenant governor’s main contribution to state government was in the legislature where he served as president of the Senate. But, even prior to 1970, a gradual attenuation of the role of the lieutenant governor in the legislative process was underway. Beginning in the 1940’s, many powers of the lieutenant governor in the Senate, e.g., the appointment of standing committees, the assignment of bills to committees, the naming of members to interim or permanent legislative commissions, had been shifted to the president pro tempore or to legislative committees.\(^{57}\)

As the legislative power of the office was reduced, more attention was given to the lieutenant governor’s position within the executive branch. Governor Adlai Stevenson, for example, created a Commission to Study State Government which recommended in 1950 that the lieutenant governor be made a member of all public bodies, boards, and commissions on which the Governor served and that the lieutenant governor exercise the governor’s powers, if his absence warranted.\(^ {58}\) This would increase the visibility and powers of the lieutenant governor and at the same time free the governor for executive duties. Although the recommendation was not adopted, it is symptomatic of interest during the 1950’s and 1960’s to provide meaningful executive functions for the lieutenant governor.

**THE 1970 CONSTITUTION**

Alone among the seven executive officers provided by the Illinois

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Constitution of 1870, the lieutenant governor was exempted from the obligation of maintaining his residence and official records in the state capitol. The 1970 Illinois Constitution revokes that exemption and thereby symbolizes the desire on the part of the delegates to the 1970 Constitutional Convention to place the lieutenant governor in a position of executive leadership and independent accountability within the executive sphere.

The new constitution removes the lieutenant governor from the legislative branch of government and contemplates expanded executive responsibilities. But it does not enumerate these duties. Over the last few years there has been a movement both within the Lieutenant Governors' Conference and the Legislative Leaders Conference to remove the lieutenant governor from the legislative arena and make him a primarily executive officer. This recommendation was followed by the 1970 Illinois Constitutional Convention. The withdrawal of legislative power was not, however, matched by specific delegations of executive power. The 1970 Constitution places the office of lieutenant governor at the threshold of enhanced executive responsibilities. While the lieutenant governor may act independently, structural identity and continuity would be greatly strengthened by legislative action to designate specific substantive executive functions and powers.

The powers and duties of the lieutenant governor are prescribed in article V, section 14 of the 1970 Illinois Constitution:

The Lieutenant Governor shall perform the duties and exercise the powers in the Executive Branch that may be delegated to him by the Governor and that may be prescribed by law.

In addition, language relevant to the office is contained in the following sections of the Executive Article:

Sec. 1. Obliges the lieutenant governor to maintain his residence in Springfield, and requires that he maintain public records there.

Sec. 4. Provides for the joint election of the governor and lieutenant governor in the general election.

Sec. 6. Provides that the lieutenant governor succeed to the office of the governor.

Sec. 7. Withholds authority to fill a vacancy in the office of lieutenant governor.

Sec. 19. Provides that the lieutenant governor keep public records and make reports as requested by the governor.

59.  ILL. CONST. art. V, § 1 (1870).
Intent of the Framers

In the absence of court interpretation and statutory provision, the documents of the Constitutional Convention provide the most important source of explanation of the “meaning” of constitutional language on the role and responsibilities of the lieutenant governor. Proposal No. 12 of the Committee on the Executive is the most authoritative source of information on the intent of the delegates. In explaining the duties of the lieutenant governor, as expressed in section 14, the committee wrote:

The section here set forth attempts a broad, nonrestrictive mention of duties and powers to be assigned the Lieutenant Governor. Its essence is that he will have such role as may be delegated to him by the incumbent Governor, with whom he is elected as a running mate. This will, in any event, be restricted to the executive branch and further, be subject to whatever applicable limitations may be provided in the Constitution (e.g. he could not be given functions that belong to one of the other elective officers) or by supplemental law.63

The committee went on to suggest typical duties that might accrue to the lieutenant governor:

It is anticipated that the major responsibilities likely to be so entrusted to the Lieutenant Governor in the future would be those now performed by some appointive administrative aid [sic] to the Governor. There may well also be service on some interim study groups to which the Governor makes citizen appointments, and matters dealing with official representation by the state at various ceremonies and miscellaneous public affairs.64

In explaining section 4, which deals with the institution of the joint election of the governor and the lieutenant governor, the committee wrote:

["Team election"] is designed to provide two officers at the top of the executive branch who would be of the same political faith and who would have a maximum potential for co-operative action in the best interests of the people. The result should be increased utilization of the Lieutenant Governor as an aide to the Governor. This would be of value both in the on-going conduct of state affairs and as making for a smooth transition of duties and authority in the eventuality that the office of chief executive devolves upon the Lieutenant Governor.65

62. Con-Con Executive Committee Report, supra note 5.
63. Id. at 43-44.
64. Id. at 44.
65. Id. at 29.
Commentary on section 8, which concerns the problem of vacancies in the elective executive positions, defends the committee’s view that no authority need be given to fill a vacancy in the office of lieutenant governor. The reasoning:

We do not believe such a provision to be necessary in view of the limited role possessed by the Lieutenant Governor in administrative affairs and the readiness with which some regularly appointed official might temporarily act in the same capacity. If a vacancy in the office of Lieutenant Governor is to be filled it should be by election in order to have an understudy for the Governor chosen by the people.66

In comparison with the 1870 Illinois Constitution, the 1970 Constitution makes two important changes in the duties and powers of the lieutenant governor. First, in order to establish and reinforce a functional separation of powers, the lieutenant governor is removed from the traditional legislative duty of presiding over the Senate. Second, while the earlier constitution provided that the lieutenant governor assume gubernatorial powers in that officer’s “absence from the State,”67 the 1970 Constitution does not. Thus, of the three constitutionally enumerated duties of previous lieutenant governors—succession to the governorship, presiding over the Senate, assuming gubernatorial powers upon the chief executive’s temporary absence from the state—only the first continues as a constitutional prescription and duty today.

CURRENT STATUS OF THE OFFICE OF LIEUTENANT GOVERNOR IN ILLINOIS

While the 1970 Constitution envisions a lieutenant governor serving exclusively in the executive sphere, it does not replace the duties of the office not carried over from the previous constitution with correspondingly important duties and responsibilities in the executive branch. Rather, the 1970 Constitution sets forth a broad, nonrestrictive authorization. In providing that the lieutenant governor stand first in line to succeed to the governorship, the constitution obligates the lieutenant governor to make himself knowledgeable of executive affairs and of the conduct of state government at the highest levels. His first responsibility is to assume the role of understudy to the governor. The constitution also provides that the lieutenant governor perform such duties as are delegated by the chief executive. When called upon he must assume the role of aide or representative of the governor. Finally, the constitution provides that the lieutenant gover-

66. Id. at 37.
nor perform duties and take on responsibilities as assigned by the legislature—he must carry out specific duties as specified by statute.

The state's other elective offices are founded on similar broad constitutional grants of authority. For example, the new constitution provides that "the Attorney General shall be the legal officer of the state, and shall have the duties and powers that may be prescribed by law."\(^6\) The constitutional passages defining the offices of secretary of state, comptroller, and treasurer are scarcely more detailed.\(^7\) These offices differ from the lieutenant governorship only in that over the years, as government has responded to the changing needs of the state, these positions have been greatly expanded in scope through legislation and their powers and duties have thus been increased. The powers and activities of the attorney general's office have evolved as particular needs arose and as the General Assembly has provided statutory authorization. An example is the field of consumer fraud. Major responsibilities of the office of secretary of state—in the area of motor vehicle registration for example—were also granted by legislative action. If the lieutenant governorship is to respond similarly, and if the obligations of the office are to be met, then formal structures and permanent legislative grants of authority and responsibility should be provided so that incumbents may perform commensurate with their ability and in the best interests of a responsive and effective government.

The lieutenant governor is elected by and is accountable to a statewide constituency. Not only is his the second highest office in state government, it is the only office which does not have general administrative responsibility over a single department or agency of state government. The result is that the lieutenant governor is the only official in state government, except for the governor, who has the capacity and the freedom to directly represent all of the citizens of the state in a fair and independent manner. The other constitutional officers lack such independence with respect to programs which they administer. Their scope and power is limited to their respective jurisdictions. The lieutenant governorship, on the other hand, is not administratively limited to the special interest and programs of any particular department nor is it identified with a narrow sphere of governmental activity.

The basic obligation of the office is to monitor the broad range of governmental activity. In order to be adequately prepared for succession, the lieutenant governor must not be isolated from the processes


of high level communication and decision making. If the lieutenant governor has access to the regular reporting, briefing and budget preparation cycles of the various executive agencies and departments, then, in effect, he will receive a continuous education in all phases of government operation. This type of training and active involvement is absolutely necessary if the lieutenant governor is to be able to take over the reigns of government if circumstances require.

In meeting his constitutional obligations the lieutenant governor has a wide range of options and opportunities available to him to serve the interests of citizens and state government. As noted, the governor may under the new constitutional provisions assign executive responsibilities to the lieutenant governor. Experience to date indicates that such gubernatorial delegation, while insufficient by itself, is an important element in bringing about a greater utilization of the inherent powers of the office. In the current administration the lieutenant governor has accepted responsibility for insuring that state programs serving the aged are subject to comprehensive planning, evaluation and coordination. The major impact of the office’s activities in this area was a program calling for the creation of a cabinet level Department on Aging—the first of its kind in the nation. In addition to bringing needed relief to the elderly, the office has also accepted a leadership role in efforts to secure a new airport facility for the economically depressed southern Illinois region and has worked to better the position of the state’s substantial Spanish-speaking population. In all of these arenas the office’s capacity for independent initiative has been drawn upon to good advantage.

Under the new constitutional provisions, the lieutenant governor is also able to exert considerable influence in and work effectively with the legislature—perhaps even more effectively than in the past when the lieutenant governor’s role in the General Assembly was constrained by his largely ceremonial duties as president of the Senate. The lieutenant governor has, for example, served as a spokesman for legislation to increase funding for the arts, to insure that students are represented on the governing boards of state colleges and universities, to provide bilingual educational programs to minority youth, and to increase the state’s commitment to the purchase of open space lands for parks and recreation. The lieutenant governor has also been available to serve as a mediator between the sometimes divergent views of the executive and legislative branches of government and citizens’ groups. In the 78th General Assembly session a workable solution to a conflict over the organization and funding of state mental health and developmental
disabilities programs was achieved in this manner.\textsuperscript{70}

The constitution contemplates and the citizens of the state have a right to expect that the lieutenant governor have continuing major responsibilities and not function only at the governor's request. It is a full-time office and it should always be conducted as such. Since the lieutenant governorship is a high office, with statewide visibility and wide scope, it should be accorded responsibilities commensurate with these characteristics. Following are two proposals which embody these principles, and illustrate the type of substantive executive branch responsibilities which would enlarge the office's present capacity to be a viable instrument for innovative and responsive government in Illinois.

\textbf{NEW DIRECTIONS}

The proposals presented here for adding substantive content to the constitutionally prescribed duties of the lieutenant governor obviously do not exhaust all of the myriad possibilities which merit consideration. Some of the precedents set in other states warrant further attention and should be investigated in the light of the particular governmental structures and citizen needs in Illinois. While the two suggestions made below are directed towards increasing the executive responsibilities of the office, the General Assembly might choose to give the Illinois lieutenant governor administrative power and responsibility as did the legislatures in Florida and Indiana.\textsuperscript{71} Expansion of the office in the administrative field has not been elaborated here, but it would insure productive employment of the powers of the office and still allow the lieutenant governor to maintain the kind of independence necessary to fulfill his other constitutional obligations.

\textit{Office of Citizen Information and Research Services}

The legislature should consider creating within the office of the lieutenant governor an \textit{Office of Citizen Information and Research Services}. Under the direction of the lieutenant governor and with the aid and advice of a government-wide \textit{Council for Information Policy} and an appointed \textit{Citizens Advisory Board}, such an office could fulfill two important functions: it would serve as a single centralized point to which all citizens could appeal for help in obtaining information about

\textsuperscript{70} For further details, see Neil F. Hartigan, \textit{One State One People: Lieutenant Governor's Report to the People, 1973} (1974).

\textsuperscript{71} See \textit{supra} notes 41 and 42.
the various departments, agencies and branches of state government and for assistance in handling disputes and complaints relating to such bodies. Second, the office would serve as a mechanism for monitoring, coordinating, consolidating and disseminating the results of the research studies and investigations undertaken by the various units of state government. Far too often in such a large enterprise as state government data and findings compiled and used in the decision making process in one agency are unknown to other departments.

As mentioned earlier, the office of lieutenant governor has become actively involved over the last four years in an "ombudsman" program. "Ombudsman" is a Swedish word, referring to any complaint or criticism-handling office which operates independently of the administrative structure. Such offices are now widespread; ombudsmen are employed in several states and in many local jurisdictions and their numbers continue to swell. There are two primary reasons for this increase. First, in an era of wide-spread cynicism, if not outright distrust of government, an informational and complaint-handling office serves to counteract citizen feelings that government is not responsive. Second, during the last three decades, government at all levels has grown larger and more complex. In Illinois, within the executive branch alone, there are now 60 budgeted agencies which, in turn, have 205 advisory committees and 113 inter-agency task forces associated with them. In addition, there are many small special purpose executive boards and other entities. Individual citizens armed only with directories of state agencies cannot cope with this complexity. Directories do not explain the purposes or identify the clients of departments, nor are they widely circulated. Experience in the lieutenant governor's office in Illinois coincides with experience in other states revealing that many ombudsman cases amount to simply putting people in contact with a responsible authority and providing information on the basic processes and structures of government.

It is not only the citizen who is affected adversely by the lack of information on the workings of the various agencies. While it sounds trite, unfortunately it is true, that among state agencies the right hand often does not know what the left hand is doing. Even those who work in the executive branch or in the legislature have difficulty tracking down information, isolating responsible and cooperative person-

72. Among the states with government-wide ombudsmen are Hawaii, Iowa, Montana, Nebraska, New Mexico, North Carolina, Oregon and South Carolina. For details, see A.B.A. Ombudsmen Report, supra note 39, at 28 et seq.
nel and getting answers to routine questions. The problem is not a lack of information, or a willful policy of non-compliance, but rather the absence of a highly visible and directly approachable office which coordinates and centralizes information and makes it readily available to all elements of the public—individuals, business, labor and the academic community—and to other government personnel.

The lack of communication and coordination between agencies is particularly destructive and costly in the area of research and data collection. The state authorizes and funds large numbers of research and development projects. Many agencies and departments collect data and undertake evaluation studies in the course of their day-to-day operations. When federal grants are applied for, when new programs are initiated, or existing programs reviewed, special in-depth investigations are commissioned and the findings employed in critical decision-making processes.

What becomes of these data and research findings? Too often they are simply filed in a corner of the agency which generated them. Sound findings and accurate data are, thus, used only once and not disseminated throughout an entire department much less made available to other agencies. There is little exchange and re-use of research findings because no one is responsible for the creation of channels through which these data can conveniently flow to potential users in other sections, departments or agencies. As a result, research programs are often duplicated, findings are not cumulative and mutually reinforcing and the interrelation between programs and institutions is often unknown. What is needed is not more research, but ways of securing a better social and economic return on existing research by consolidating, interpreting and disseminating it more widely. Citizen information and assistance and an effective research and data coordination and dissemination system are interrelated and should fall under direction of a single unit. They are programs which aim, on the one hand, to bring citizen and government into a more responsive relationship, and, on the other, to bring about a greater degree of responsiveness within government itself.

Under supervision of the lieutenant governor, the Office of Citizen Information and Research Services would function as a clearing house and as a state-wide locus of citizen information retrieval and distribution. It would continue to fulfill an ombudsman function, handling complaints and criticisms directed at state government agencies and could do so much more effectively with an enlarged information base. Complaints would come directly from individual citizens or would be
referred by members of the legislature who now receive many such inquiries but do not have the capacity to deal with them. The complaint-handling responsibility would be expanded to meet the needs of citizens and institutions who are seeking information on the multitude of state programs and services.

In the research services area, the office would survey existing research, prepare summary data documents for various fields, and make such consolidated listings available to interested individuals and groups. Means for increasing the transfer and exchange of information between the agencies of government would also be established. Of course, all government departments would retain their own independent research capacity and continue to pursue their specialized interests and directions. One important contribution of the office would be to open and maintain channels of communication so that each research department would know what all others are doing and could gain access to information relevant to its own needs.

While the lieutenant governor would be charged with the staffing and the implementation of these duties, a Council on Information Policy should also be established. The council should be chaired by the lieutenant governor and the membership should consist of all the heads of state departments (or their representatives) which produce substantial research and data. Upon periodic review of the entire array of government research efforts, the council would make recommendations concerning areas for further research and make changes in research priorities based on that evaluation. The council would also suggest means of standardizing data collection and means of increasing uniformity in reporting and analysis. Having collectively considered the total output of government research and data collection, the council as a whole would be able to recommend procedures for integrating government efforts with those of the academic community and of the private sector. The council members, as individual department heads, would be able to translate council recommendations directly into practice within their own jurisdictions, thus minimizing the usual lag time between policy recommendations and implementation and insuring effective coordination of efforts.

In addition to the Council on Information Policy, there should also be created a Citizens Advisory Board. This board, appointed by the lieutenant governor, should consist of a broad range of citizen and institutional representatives so that the information requirements of the public can be effectively communicated to the office. It would serve, in conjunction with the council, to insure that the policies and opera-
tions of the Office of Citizen Information and Research Services are congruent with both citizen and governmental needs and priorities.

*Energy Policy Council*

The unique status of the office of the lieutenant governor should be capitalized upon by utilizing the office to coordinate inter-agency policy making. The many government activities and departments touching on what is popularly called the energy crisis is an area of state-wide concern that would benefit from government-wide coordination and short and long term policy analysis and consolidation.

The constitution\(^7\) provides that the governor possess supreme executive power within state government. That grant is not infringed upon by giving the lieutenant governor the responsibility of coordinating the work of appointed department heads on problems and policies which transcend their individual departments. It may prove that the lieutenant governor is best able to fulfill his constitutionally assigned role of assistant and understudy to the governor by performing high level coordination activities as well as by participating in superdepartmental decision making. Precedent for such a legislative delegation of responsibility to the lieutenant governor exists in the area of services to the aged.\(^7\) Moreover, by participating in decisions which go beyond agency and departmental boundaries the lieutenant governor will gain government-wide perspective on important issues and provide visible accountability to the statewide constituency of voters.

Many of the critical problems of the 1970's—problems which will be significant for decades—differ from those that governments have faced in the past. Services to the aging, transportation, economic and community development and energy production and consumption are areas of government concern which are highly complex and interdependent. These issues do not coincide neatly with existing state governmental divisions and jurisdictions and, as a result, they are not susceptible to agency-by-agency analysis and solution. In the area of services to the aging, for example, investigation revealed a highly dispersed set of programs and services which were operating independently of one another. The needs of senior citizens were not being met.\(^7\) The legislature reacted by consolidating all existing programs into a single state Department on Aging. A Technical Advisory Committee, chaired


\(^7\) E.g., Illinois P.A. 78-242 (signed August 9, 1973, effective November 9, 1973), Smith-Hurd Ann. Stat. ch. 23, § 6101-6111 (1973) [hereinafter cited as *Act on the Aging*].

by the lieutenant governor, was created to coordinate and evaluate the activities of the new department and to recommend policy.77

Experience gained in bringing coordination to programs for the aged can be applied to the energy crisis as well. Illinois is one of the largest consumers of energy in America. Our energy markets—transportation, industrial, commercial, governmental and residential—will continue to expand. But while demand for energy may be expected to rise, there are indications that supply—and more specifically the supply of cheap, environmentally acceptable energy—will not keep pace. This crisis may be traced in part to an inadequate concern for developing new sources of energy, in part to a profligate consumption of existing supplies, and in part to practices and events in jurisdictions over which the State of Illinois has no control. Responses to this situation should consist of positive action in the short term and a simultaneous restructuring of governmental and private sector inputs to plan for the long term. Agencies and departments should be brought together in a forum that will facilitate communication and coordination, rather than sporadic, ad hoc action. These activities should be guided by consistent government-wide policy goals and priorities backed up by extensive analysis and study.

Development of a comprehensive energy policy for Illinois should be the responsibility of the Illinois Energy Policy Council chaired by the lieutenant governor. Such a council, created by the legislature, would consist of the directors or representatives of all state departments and agencies which affect and are affected by the energy crisis. The Departments of Mines and Minerals, Transportation, Conservation, Agriculture and Labor are all involved in both the supply and demand aspects of the energy question. In addition, the Industrial Commission, Atomic Energy Commission, Commerce Commission, and the Environmental Protection Agency have significant interest in the energy question and should be represented.

The lieutenant governor should serve as the chairman of the Energy Policy Council with the responsibility of calling meetings, providing staff support and coordinating the council's efforts. The council would operate in a democratic manner. Its activities would consist of developing an energy policy for the entire state, recommending such policies to the governor, evaluating the results of such policy and revising these policies when required. Composed of a broad array of departmental and agency interests, the council would be in a unique position to consider economic, social, environmental, fiscal and all other pertinent factors in establishing energy policy. Having mutually con-

77. Act on the Aging, supra note 75, at §§ 6103.04, 6108.01-.03.
sidered these factors in the process of policy recommendation, the council members would then be better able to coordinate the actual performance of all the multiple energy activities of the state.

Working in tandem with the Energy Policy Council, would be an Energy Policy Advisory Committee created by the legislature. The Energy Policy Advisory Committee should be a broadly structured body representing all segments of the public. The advisory committee would bring private sector and consumer inputs to the attention of the Energy Policy Council. A major activity of the advisory committee would be to conduct public hearings throughout the state at which testimony and the views of diverse interests could be heard and then conveyed to both the council and to relevant departments. A structured and effective interfacing of governmental and citizen views should serve not only to enhance the development of a truly effective energy policy but should also serve as a tangible example of government's willingness and ability to respond constructively to public demands. That the lieutenant governor—representing and elected by a statewide electorate—should serve as the chairman of the council further cements this interrelationship and accords it a high degree of public visibility and prestige.

CONCLUSION

The future of the office of lieutenant governor in Illinois presents a two-fold challenge: a challenge to the government to make good on its assurance that it can be responsive to citizen needs; and a challenge to individual citizens to articulate their demands in a way that will bring about an effective restructuring of the institutions and offices which serve them.

John Kennedy once wrote that "[a]ny system of government will work when everything is going well. It's the system that functions in the pinches that survives." Burgeoning social and economic problems coupled with pervasive citizen dissatisfaction portend increasingly serious "pinches" for Illinois, for the other states and for the nation as a whole. This is a time when government and public alike can ill afford the luxury of supporting a high level elected official with no prescribed duties and only ceremonial responsibilities. The expanded duties proposed here, or others like them, would serve to give direction and substance to the office of lieutenant governor, an office which has not been used to full capacity in the past. More importantly, these proposals would afford the state a great advantage in attempting to deal with the issues facing it in the decades to come.

78. JOHN F. KENNEDY, WHY ENGLAND SLEPT 271 (1940).