pected to make sophisticated judgments about narrow legislative issues without extensive public education. Hence, there is a real danger that the results of a referendum may be either left to chance or determined by the relative success of the public-relations efforts of the governor and legislature.

POWER OF THE GOVERNOR TO GET ADVISORY OPINIONS FROM THE STATE'S HIGHEST COURT

A number of states now permit the governor and/or legislature to get advisory opinions from the state's highest courts. The following quotation presents a summary:

> "Article 2, ch. 3, of the Constitution of Massachusetts (1780) provides each branch of the legislature as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court upon important questions of law, and upon solemn occasions. There are variants of this provision in the constitutions of New Hampshire, Maine, Rhode Island, Florida, Colorado, and South Dakota. The Missouri Constitution of 1865 included such a provision but it was abandoned ten years later. In at least four states, Delaware, Minnesota, Vermont, and Alabama, advisory opinions have been authorized, in certain circumstances, by statute. See *In the Matter of the Application of the Senate,* 10 Minn. 78 (1865) (holding the statute unconstitutional); *In re Opinions of the Justices,* 209 Ala. 593, 96 So. 487 (1923) (upholding the statute). In a few other states advisory opinions have sometimes been given without benefit of special authority. See, generally, Field, *The Advisory Opinion—An Analysis,* 24 Ind. L.J. 203 (1949)."[8]

For two reasons it is recommended that the governor not be given this power. First, if judges may give advisory opinions, they will often be called upon to act before an actual controversy arises. It is submitted that the judicial process is better suited to resolve disputes based on concrete facts. Second, often no real adversary proceeding will be joined with all of the concomitant pro-and-con advantages such a proceeding affords.

POWER OF THE GOVERNOR TO NEGOTIATE AND ENTER INTO INTERSTATE COMPACTS

Although the Maryland Constitution is silent, historically the General Assembly has been viewed as that branch of government with authority to enter into interstate compacts. From the 1785 Maryland-Virginia Potomac and Chesapeake Pact to present-day agreements on transportation and mental health, the General Assembly has consistently and exclusively exercised the State's authority. Such compacts are legislative in character and properly issue from the State's "predominant branch."

This traditional allocation of power does not prevent the governor and the executive department from playing an active role in negotiating and executing interstate compacts. Just as the governor initiates purely domestic legislation, he can also institute and present for approval an interstate agreement. However, there does appear to be a substantial constitutional obstacle to the governor's assumption of a role of leadership in interstate cooperation.

It is axiomatic that "except when authorized by the Constitution, the legislature cannot delegate the power to make

[8] H. HART & H. WECHSLER, FEDERAL COURTS AND FEDERAL SYSTEM 80 (1953).