

Pennsylvania Constitutional
Convention
of 1967-1968

Daily Journals

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Volume 1

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Number 1

The Convention was called to order at 12:00 Noon.

THE GOVERNOR (Raymond P. Shafer) IN THE CHAIR

GOVERNOR SHAFER. This being the day and the hour as prescribed by law for the convening of the 1967 Pennsylvania Constitutional Convention, I now call this convention to order.

INVOCATION

THE RIGHT REVEREND ROBERT L. DEWITT of the Episcopal Diocese of Pennsylvania offered the following prayer:

Almighty God, Who has given us this good land for our heritage, we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Bless our land with honorable industry, sound learning and pure manners; save us from violence, discord and confusion, from pride and arrogance and from every evil way. Defend our liberties and fashion into one united people the multitude brought hither out of many kindreds and tongues. Imbue with a spirit of wisdom those to whom in Thy name we entrust the authority of government, that there may be justice and peace at home and that, through obedience to Thy law, we may show forth Thy praise among the nations of the earth. In a time of prosperity, fill our hearts with thankfulness and in the day of trouble suffer not our trust in Thee to fail, all of which we ask in Thy Name. Amen.

OPENING ADDRESS BY GOVERNOR RAYMOND P. SHAFER

GOVERNOR SHAFER. Distinguished Delegates to the Constitutional Convention and My Fellow Pennsylvanians:

Today, we meet with history.

We meet in a time that demands heroic efforts if we are to conquer the complex challenges that lie before us, and our children, on the path to the 21st Century.

Whether history records this meeting as one of greatness and excellence, or as one of insignificance and mediocrity, depends on you—the 163 chosen delegates of the people.

It depends on your wisdom and your understanding that nothing can be great without the highest of motives and goals as a beginning.

It depends on your collective courage to make an heroic effort to forsake the selfish interests of today for the universal interests of tomorrow.

That, indeed, is the effort required of you if the challenges confronting this Convention are to be met.

You have been given an overwhelming mandate for change by the electors of Pennsylvania.

You are here because Pennsylvanians want change.

You are not here to maintain the status quo.

It has been almost a century since Pennsylvanians met in convention to modernize their Constitution.

The length of time between then and now proves at least two things about what you have been called here to do:

First, that there are many self-seeking forces prepared to battle long and hard to keep things just as they are and

Second, that the people do not take lightly the thought of changing the basic law that anchors, balances and guides us in the way we govern ourselves.

The latter shows the high degree of trust that has been placed in you. For no law, save that of God, is more important, or more sacred.

But unlike God's law, man's law must stand the test of time. Its strength and durability depends solely on the excellence of the men and women who write it.

You are here because the people of Pennsylvania have decided that their current basic law has not withstood the test of time.

They have recognized that their Constitution, while it contains much that is sound and enduring, was written in the narrow specifics of another day. And the specifics of that day cannot be stretched to deal with the enormous problems of economic, social and scientific change that is sweeping through the late 20th Century.

Change is our master. Now, we must master change.

The people clearly demanded constitutional revision last May.

They approved seven important amendments that are doing much to help us modernize the executive and legislative branches of State Government. Those of us involved in the everyday function of these branches can already attest to the improvement.

They overwhelmingly approved the calling of this limited Convention to complete the job of modernizing our Constitution.

The power and authority of their vote directs you to consider change in four major areas—the Judiciary, Local Government, Finance and Taxation, and Legislative Apportionment.

In effect, the people have said:

"We want changes to assure us that every man

will be equally represented in the making of laws."

"We want a better system of financing State Government."

"We want streamlined local government that responds more effectively to our common needs."

"We want revision of the way justice is administered to all citizens at all levels of the law."

With these demands, you have been handed one of the most difficult and controversial tasks ever undertaken in Pennsylvania history, especially in the areas of judicial and local government reform.

The road you are taking—though restricted—is still fraught with danger. And to reach the end of that road without meaningful reform would be a disaster.

Consider for a minute what occurred recently in New York when the voters rejected a new Constitution proposed after a six-month Convention.

The failure of the delegates to eschew partisanship had much to do with that crushing defeat.

In addition, many controversial issues were wrapped up in a package and presented to the voters on a take-it-or-leave-it basis.

The failure of the New York Convention delegates to go forth with a unity of purpose to support and defend what they had done should haunt this Convention from now until you finish your work in February.

As an individual Pennsylvanian deeply concerned about the success of this venture, I believe some of the pitfalls have already been removed for you.

Despite the debate about the limited nature of this Convention, I believe it was a wise decision, especially in view of the fact that seven new constitutional amendments were approved in May.

It also was a wise decision of the General Assembly and the people to require that your work in each area be presented to the people in separate recommendations. This will help us prevent the "package disaster" of our sister State.

But as for political partisanship, only you can prevent the bickering that befell that Convention.

May I remind you that this Convention was born out of one of the greatest bipartisan efforts ever undertaken by Pennsylvanians.

Republicans and Democrats and Independents alike, as Pennsylvanians, spread out across this Commonwealth to tell the people why a new Constitution was so critically needed.

And now that you are here, this same spirit should prevail as you act as unencumbered individual citizens of Pennsylvania.

It is not my purpose to come before you today with specific recommendations which this Convention should adopt. To do so would be a violation of my call for unencumbered deliberations.

But as your Governor, I do urge you to keep divisive partisan elements out of your deliberations.

Agree or disagree as Pennsylvanians, not as Republicans or Democrats or Independents.

I urge you to constantly remind yourselves that you are seeking to change the law, the basic rules

of conduct, of all our citizens, regardless of political labels.

I urge you to constantly remind yourselves that the ultimate success, or failure, of this Convention depends on your dedication to bring meaningful reforms in which the people can place their faith and their future. For they will be your final judge in April.

And history will judge us all. It will say whether this generation of Pennsylvanians measured up to the challenge and responsibility of our time:

—The challenge to change what must be changed.

—The responsibility to make certain that what is changed will not unbalance the principles of our government.

If you are successful in what you attempt here, Pennsylvania will wear a new mantle of leadership and her future, and the future of our Republic, will be more secure.

We will have shown the world that representative government can respond to the great need for reform in a rapidly expanding, over-problemated world and still remain devoted to the greatest principles of human freedom ever established by man.

So, as you begin this meeting with history, the minds and the hearts of 12 million Pennsylvanians are with you. For they too are on trial.

Thank you

CERTIFICATION OF ELECTION RETURNS PRESENTED

GOVERNOR SHAFER. The Chair recognizes the Honorable Craig Truax, Secretary of the Commonwealth.

HONORABLE CRAIG TRUAX. Your Excellency, Governor Shafer, I present certification of 150 elected district delegates to this Convention.

Certification is based upon original documents filed in the State Department by the 67 County Boards of Election, following their official canvassing of the results of the November 7, 1967 election.

GOVERNOR SHAFER. The Chair wishes to thank the Secretary of the Commonwealth, the Honorable Craig Truax, and on behalf of the Convention, I wish to thank you and your staff for the long and sometimes frustrating hours spent in order to insure that these returns would be available today.

Again, thank you, Mr. Secretary.

The clerk read the certified election returns as submitted by the Secretary of the Commonwealth:

COMMONWEALTH OF PENNSYLVANIA, SS:

I, COMBS CRAIG TRUAX, Secretary of the Commonwealth, in and for the Commonwealth of Pennsylvania, do hereby certify that I have received the returns of the election for Delegate to the Constitutional Convention from the sixty-seven (67) counties held on November 7, 1967, and I do hereby certify that the following persons have been elected as Delegates in the districts named:

First District—Leon Silverman, Americo V. Cortese, Samuel Rappaport

Second District—Alan I. Aberman, Julian F. King, Robert M. Sebastian
 Third District—William H. Gray, Jr., German Quiles, Hobson R. Reynolds
 Fourth District—Edward H. Rovner, Edward H. Meyer, Jr., Charles McGlynn
 Fifth District—Charles E. Murray, Jr., Samuel Camardella, Joseph Goldstein
 Sixth District—William J. Devlin, Howard R. Erwin, Martin W. Bashoff
 Seventh District—Gustav G. Amsterdam, Isadore A. Shrager, Herbert R. Cain, Jr.
 Eighth District—Dante Mattioni, Harry T. Kelly, Joseph M. More
 Ninth District—James L. Desmond, Weldon B. Heyburn, Philip L. Harding
 Tenth District—Marvin V. Keller, Jerry Powell, James A. Michener
 Eleventh District—Donald W. Bagenstose, Walter A. Benfield, Thomas K. Leinbach
 Twelfth District—John F. Baldwin, Charlotte D. Fawcett, David V. Shapiro
 Thirteenth District—Daniel B. Strickler, A. Hugh Forster, H. Clay Burkholder
 Fourteenth District—Joseph G. Tomascik, Frank M. Fay, Theodore R. Laputka
 Fifteenth District—Robert E. Woodside, Blaine C. Hocker, Guy J. Swope
 Sixteenth District—Marian E. Markley, John T. Van Sant, Roy W. Miller
 Seventeenth District—Bruce W. Kauffman, C. H. Whittum, Jr., Richard Gerber
 Eighteenth District—Carleton T. Woodring, Justin D. Jirolanio, Ralph A. Clark
 Nineteenth District—John B. Hannum, Harold A. Thomson, William J. C. O'Donnell
 Twentieth District—Lewis B. Lee, Walter F. Wilmarth, John Nelson Roberts
 Twenty-first District—W. Walter Braham, Beulah J. Brown, Joseph Solomon
 Twenty-second District—Robert P. Casey, William W. Scranton, Edward Popil
 Twenty-third District—Thomas E. Wilcox, Thelma D. Humes, Edward M. Dailey, Jr.
 Twenty-fourth District—Georgette B. Griffith, Samuel C. Corey, Barbara S. Sprogel
 Twenty-fifth District—William F. Clinger, Jr., Victor J. Westenberg, Max P. Gabreski
 Twenty-sixth District—Robert E. J. Curran, Benjamin J. Levin, Holbrook M. Bunting, Jr.
 Twenty-seventh District—Robert M. Fortney, Frank D. Croop, James W. Percy
 Twenty-eighth District—Daniel W. Shoemaker, Mildred D. Michael, Gerald E. Ruth
 Twenty-ninth District—Howard W. Krill, Leonard H. Hatter, Gilbert J. Allison
 Thirtieth District—James W. Nelson, Frank A. Orban, Jr., Peter T. Dumtauld
 Thirty-first District—Floyd W. Musselman, Dorothy K. Tully, H. Richard Hostetler
 Thirty-second District—Edwin G. Warman, Louis L. Manderino, Herman M. Buck
 Thirty-third District—John W. Keller, David McNitt Barron, Matthew M. Gouger
 Thirty-fourth District—M. Nelson McGeary, George W. Shively, Richard M. Sharp

Thirty-fifth District—William D. Shettig, Frank J. Pasquerilla, Fred E. Cunningham
 Thirty-sixth District—Rachael P. Benedict, Robert L. Leonard, Mercer D. Tate
 Thirty-seventh District—Henry E. Rea, Jr., Harold H. Goldman, John J. Redick
 Thirty-eighth District—John Conley, David C. Baldus, F. Garrett Richter
 Thirty-ninth District—John N. Scales, Ralph E. Orbin, Sr., Franklin A. Mangery
 Fortieth District—George F. Pott, Robert P. Fohl, Thomas H. Welsh
 Forty-first District—Charles P. Leach, Robert W. Baldrige, Robert B. Filson
 Forty-second District—Thomas Fagan, Joseph L. Coseth, J. Edward Waldron
 Forty-third District—Dorothy Miller, Marie C. Aurentz, Richard L. Thornburgh
 Forty-fourth District—Henry P. Otto, James D. Morton, T. Robert Brennan
 Forty-fifth District—Francis A. Barry, Gay B. Banes, Richard L. Huggins
 Forty-sixth District—William B. Stout, James Hook, I. C. Bloom
 Forty-seventh District—Eugene A. Caputo, Charles P. Henderson, Edward A. Sahli, Sr.
 Forty-eighth District—Bryon K. Horne, Richard J. Caron, Philip H. Feather
 Forty-ninth District—John M. Scarlett, A. Jake Gehrlein, Douglas M. Moorhead
 Fiftieth District—Basil C. Scott, Lawrence L. Pelletier, Dr. Roy H. Johnson

COMMONWEALTH OF PENNSYLVANIA)

SS:

Department of State)

I certify that I have compared the foregoing with the original certificates filed in this department, and that the same is a correct transcript therefrom and of the whole of such original.

GIVEN under my hand and official seal of office, at the City of Harrisburg, this 29th day of November, 1967.

COMBS CRAIG TRUAX,
 Secretary of State

ROLL CALL OF DELEGATES

GOVERNOR SHAFER. The clerk will now call the roll of delegates. When your name is called, please answer "present." If the clerk mispronounces your name, will you please give the correct pronunciation when you answer.

The clerk will proceed.

(The roll was called)

GOVERNOR SHAFER. The clerk will repeat once more the names of the delegates who did not respond.

The CLERK. Robert D. Fleming, William J. C. O'Donnell, David V. Shapiro.

(No response.)

The roll was called and the following delegates-elect were present:

YEAS—160

Aberman	Donaldson	Kline	Rea
Allison	Donolow	Krill	Redick
Amsterdam	Dumbauld	Lane	Reynolds
Aurentz	Erwin	Laputka	Richter
Bagenstose	Fagan	Leach	Roberts
Baldrige	Fawcett	Lee, K	Rovner
Baldus	Fay	Lee, L.	Ruth
Baldwin	Feather	Lembach	Sahli
Banes	Filson	Leonard	Scales
Barron	Finneman	Levin	Scarlett
Barry	Fohl	Manderino	Scott
Bashoff	Forster	Mangery	Seranton
Benedict	Fortney	Markley	Sebastian
Benfield	Gabreski	Mathoni	Sharp
Bloom	Gehrslein	McGeary	Shettig
Braham	Gerber	McGlynn	Shively
Brennan	Goldman	Meyer	Shoemaker
Broderick	Goldstein	Michael	Shrager
Brown	Gouger	Michener	Silverman
Buck	Gray	Miller, D.	Solomon
Bunting	Griffith	Miller, R.	Spiegel
Burkholder	Hannum	Moorhead	Stout
Butera	Harding	More	Strickler
Cain	Hatter	Morton	Stroup
Camardella	Henderson	Murray	Swope
Caputo	Heyburn	Musselman	Tate
Caron	Himes	Nelson	Thomson
Casey	Hocker	Orban	Thornburgh
Clark	Hook	Orban	Tomasick
Clinger	Horne	Otto	Tully
Conley	Hosteller	Pasquerilla	Van Sant
Corey	Huggins	Pechan	Waldron
Cortese	Ivins	Pelletier	Warman
Cosetti	Jirolamo	Percey	Welsh
Croop	Johnson	Popil	Westerberg
Cunningham	Kauffman	Pott	Whittum
Curran	Keller, J.	Powell	Wilcox
Dalley	Keller, M.	Premdergast	Wilmarth
Desmond	Kelly	Quiles	Woodring
Devlin	King	Rappaport	Woodside

NAYS—0

NOT VOTING—3

Fleming O'Donnell Shapiro

One hundred and sixty delegates-elect having answered to their names, a quorum is present.

ANNOUNCEMENT

GOVERNOR SHAFER. Many of us here assembled are seeing each other for the first time. In order that we may get to know one another, as the song from the "King and I" begins, "Getting to Know You," I am sure the delegates will cooperate on behalf of the staff and the news media representatives. I know they will appreciate it if, for the first week or so when you address the Chair, you would state your name clearly and the district which you represent.

OATH OF OFFICE

GOVERNOR SHAFER. We now come to that point in the proceedings when the delegates must take their oaths of office. You have on your desks copies of the oath. After the oath has been administered, please sign both copies and leave them on your desks and we will collect them.

I repeat that. After you have taken the oath of office, please sign both of the copies that are on your desk and leave them there so that they may be collected.

You will also find at your desk a personal Bible for your use when you are taking the oath. The only exceptions are in those cases where delegates who affirm have requested no Bible.

If you will now, at this time, please remove the Bibles from the boxes in which they are contained.

Are there any delegates who do not have Bibles or copies of the oath?

CHIEF JUSTICE BELL PRESENTED

GOVERNOR SHAFER. We are indeed honored to have with us today the Chief Justice of the Supreme Court of Pennsylvania, John C. Bell, Jr. He will administer the oath to each of you, and I deem it a great privilege and honor to introduce to you at this time and turn over the proceedings to Chief Justice Bell.

CHIEF JUSTICE BELL. Ladies and gentlemen delegates, I will now administer the oath which has been prescribed by the legislature. Those who do not wish to swear may, of course, affirm. In order to aid you I will speak a few words of your oath, and when I pause, you will kindly repeat these solemn words.

Please rise, raise your right hand and those of you who swear, place your left hand on the Bible. Repeat after me these words:

I do solemnly swear that I will support, obey and defend the Constitution of the United States, and the Constitution of this Commonwealth, and that I will discharge the duties of my office with fidelity.

(The Delegates complied.)

Ladies and gentlemen, you have, as I am sure you must know, a highly important duty and, as Governor Shafer so ably said, a great opportunity.

Nearly everyone agrees that our Constitution should be improved and modernized. I urge you to approach and study every question and every problem from a non-partisan and nonpolitical standpoint and to consider every issue solely on the basis of what is wisest and best for Pennsylvania.

GOVERNOR SHAFER. Thank you very much, Mr. Chief Justice, for being with us today and performing this most important function.

PRAYER

GOVERNOR SHAFER. At this time, I would like to call upon Rabbi David L. Silver, of the Keshet Israel Congregation, to offer a prayer of thanks.

RABBI SILVER. May the Almighty grant that the deliberations of this Constitutional Convention shall meet in large measure the high expectations of the citizens of our Commonwealth.

May you delegates be amply endowed with a kind of insight and vision essential to resolve not only the knotty problems of the present but to provide, as well, the guidelines that will enable coming generations to face up to the challenging problems likely to arise in the years to come.

May your dedicated labors be fully blessed and may your conclusions lead to the advancement of the cause of justice for all men and may the fruits of your efforts here be commensurate with the great confidence placed in you and commensurate with the great needs of the component elements of our Commonwealth. Amen.

GOVERNOR SHAFER. Thank you, Rabbi Silver.

ELECTION OF OFFICERS

GOVERNOR SHAFER. We now come to that part of

the opening day ceremonies which is very important and very meaningful to all of us, namely, the election of the permanent officers of this convention.

The Chair at this point now recognizes the Delegate from Clarion, Mr. Leach, for the purpose of offering a resolution.

Mr. LEACH. Your Excellency, following your orders, my name is Charles P. Leach from the 41st Senatorial District.

I offer the following resolution and move its immediate adoption.

GOVERNOR SHAFER. The Delegate from Clarion, Mr. Leach, presents the following resolution, which the clerk will read:

In the Convention,
December 1, 1967.

RESOLVED, That the Constitutional Convention elect from among its Delegates a President, a First Vice President, a Second Vice President and a Secretary. The President and the Second Vice President shall be from one political party different from that of the First Vice President and the Secretary. All elections by the Convention shall be by roll call vote. Nominating speeches shall be limited to three minutes. There shall be no more than three nominating speeches for any one candidate for each office. As soon as all nominations have been made for a particular office, the presiding officer shall declare the nominations closed; in the event that there are two or more nominations, appoint two Delegates to act as tellers; order the Clerk to call the roll of Delegates arranged alphabetically according to surname. Each Delegate shall state the candidate for whom he votes as his name is called. Eighty-two votes, being a majority of the total number of Delegates as prescribed by law, shall be necessary for election. If no candidate receives such majority, succeeding ballots shall be cast in the same manner.

GOVERNOR SHAFER. It has been moved by Delegate Charles Leach and seconded by Delegate Ernest Kline that the resolution just read be adopted.

On the question,

Will the Delegates adopt the resolution?

It was adopted.

ELECTION OF PRESIDENT

GOVERNOR SHAFER. With the adoption of this resolution, we will now proceed with the election of a president of the Constitutional Convention.

Is there a nominee?

The Chair recognizes the Delegate from Lackawanna, Mr. Scranton.

DELEGATE SCRANTON. Your Excellency and fellow delegates, ladies and gentlemen, I have the name of a delegate to place in nomination for the presidency of this Constitutional Convention of the Commonwealth of Pennsylvania.

Over the last several months in this Commonwealth, there has been activity in the pursuit of a better constitution. This was activated, as you know, many years ago, but it has particularly been fruitful and ebullient in the last few months.

No man who is a delegate or woman who is a delegate to this convention has been more active in that endeavor than the man whose name I wish to place in nomination. He not only was in the forefront of the battle for the effort made in the primary last May and went across this State backward and forward at all times to pursue this effort for a constitution of modernity and excellence, but he also was the man who was chosen as the head of the Preparatory Committee, which has been diligently at work for several months now to prepare for us to do our job.

In that effort, he has headed a group of 13 people who deserve our full commendation, six Democrats and six Republicans from the legislature, and he has led these gentlemen in an effort which has been both bipartisan and, as you can see from the results therefrom, a non-partisan effort, which is an achievement indeed.

It is my great honor as an upstater to nominate a Philadelphia lawyer for the presidency of this Constitutional Convention. It is the Lieutenant Governor of Pennsylvania, the Honorable Raymond J. Broderick.

NOMINATION SECONDED

GOVERNOR SHAFER. The Chair recognizes the delegate from Dauphin, Mr. Woodside.

DELEGATE WOODSIDE. Your Excellency, members and guests of this convention, Benjamin Franklin started presiding over the constitutional conventions of this Commonwealth. He was followed by Thomas Mifflin, the Governor of this Commonwealth, by the eminent John Sargent, by William M. Meredith, an Attorney General and the United States Secretary of the Treasury, and by John H. Walker.

This convention can meet the high standards set by prior conventions for their presiding officers. It shall add to this distinguished list of convention leaders the name of Raymond J. Broderick.

We need not speculate what kind of presiding officer he will be. He has proven his ability in the Senate to preside fairly, firmly and courteously.

This convention has a momentous task to perform in a very limited time. We need a presiding officer with the energy and the executive know-how to forge this group of 163 individualists into a well organized, hard-working, deliberative body that will produce for the people of this Commonwealth a thoroughly considered, superbly drafted and eminently acceptable document to guide this Commonwealth toward a new excellence.

Ray Broderick has the legal knowledge, the judicial temperament, the parliamentary acumen, the Irish wit, the youthful energy and the executive ability that will make him a great presiding officer of this convention.

I enthusiastically second the nomination of the Honorable Raymond J. Broderick for President of this convention.

NOMINATION SECONDED

The GOVERNOR. The Chair now recognizes the Delegate from Chester, Mr. Harold A. Thomson.

DELEGATE THOMSON. Your Excellency, ladies and gentlemen of the Convention, I want to assure you that my remarks will be brief.

I feel that it should be called to the attention of the ladies and gentlemen of the Convention that many of you are familiar with the difficulties that Pennsylvania has had with calling a Convention. Six times prior to the

present Convention a referendum has been called for and six times it has been voted down by the people of Pennsylvania. When the seventh time arrived, under the auspices of our present Governor Shafer, the situation required planning.

I might say that he had at his right hand a dynamic and very, very good man. We have seen him manage the campaign for the approval of the referendum in a masterful manner, so that upon this seventh attempt the people of Pennsylvania approved the idea of a Constitutional Convention.

Then another large problem arose and that was the problem of forming and bringing the Convention into being. And, here again, the Governor fell back upon his good right hand and we saw this gentleman prepare this Convention.

As chairman of the Preparatory Committee, he had a tremendous job to perform that he had to do without precedent and he had to do it without any prior experience in the matter.

We are pioneering new ground and we believe that his success in that field, evident to all of us here today, speaks for itself. I can also attest to the remarks of the previous speaker as to his legislative ability. For over a year I have watched him preside over the senior body of the Pennsylvania Legislature and he has done that with dignity, dispatch and, above all, with fairness. It demonstrates his ability in that particular field. All of these facts have convinced me that the good of the Commonwealth of Pennsylvania and of this Convention has a logical man for our presiding officer.

It is also with a great deal of personal pleasure that I second the nomination of Lieutenant Governor Raymond J. Broderick for President of this Convention. May his hand, in directing the affairs of this Convention, be guided by God to a successful and profitable conclusion.

Thank you.

NOMINATIONS CLOSED

GOVERNOR SHAFER. Despite the conflict that we will now see between the Senate and the House, the Chair asks if there are any further nominations.

The Chair hears none.

The Chair now declares the nominations closed.

If there is no objection, the Chair will order the clerk to cast a unanimous ballot of this convention for the election of Raymond J. Broderick as president of the convention. The Chair hears no objection; therefore, the clerk will cast this unanimous ballot in favor of Raymond J. Broderick.

The roll call for President was as follows:

YEAS—160

Aberman	Donaldson	Kline	Rea
Allison	Donolow	Krill	Redick
Amsterdam	Dumbauld	Lane	Reynolds
Aurentz	Erwin	Laputka	Richter
Bagenstose	Fagan	Leach	Roberts
Baldrige	Fawcett	Lee, K.	Royster
Baldus	Fay	Lee, L.	Ruth
Baldwin	Feather	Leinbach	Sahl
Banes	Filson	Leonard	Scales
Barron	Fineman	Levin	Scarlett
Barry	Fohl	Manderino	Scott
Bashoff	Forster	Mangery	Scranton
Benedict	Fortney	Markley	Sebastian
Benfield	Gabreski	Mattioni	Sharp
Bloom	Gehrlan	McGeary	Shetlig
Braham	Gerber	McGlynn	Shively

Brennan	Goldman	Meyer	Shoemaker
Broderick	Goldstein	Michael	Shrager
Brown	Gouger	Michener	Silverman
Buck	Gray	Miller, D.	Solomon
Bunting	Griffith	Miller, R.	Sprogel
Burkholder	Hannum	Moorhead	Stout
Butera	Harding	More	Strickler
Can	Hatter	Morton	Stroup
Camardella	Henderson	Murray	Swope
Caputo	Heyburn	Murkelman	Tate
Caron	Himes	Nelson	Thomson
Casey	Hocker	Orban	Thornburgh
Clark	Hook	Orbm	Tomascek
Chager	Horne	Otto	Tully
Conley	Hostetler	Pasquetilla	Van Sant
Corey	Huggins	Pechan	Waldron
Cortese	Irvis	Pelletier	Warman
Cosetti	Jurolanio	Percey	Weish
Croop	Johnson	Popl	Westerberg
Cunningham	Kaufman	Pott	Whitum
Curran	Keller, J.	Powell	Wilcox
Dailey	Keller, M.	Prendergast	Wilmarth
Desmond	Kelly	Quiles	Woodring
Devlin	King	Rappaport	Woodside

NAYS—0

NOT VOTING—3

Fleming O'Donnell Shapiro

One hundred and sixty delegates having cast their votes for President, Raymond J. Broderick is declared President of this Convention

COMMITTEE OF ESCORT DISCHARGED

GOVERNOR SHAFER. The Chair discharges the Committee of Escort with the thanks of the Convention.

GAVEL PRESENTED TO PRESIDENT BRODERICK

GOVERNOR SHAFER. President Broderick, I know the delegates here are just as pleased and proud as I am, and I know that you are deeply aware that they have conferred upon you high honor and a great distinction.

As I transfer to you this gavel, I am transferring the authority as President of this Convention. Of course, it is with great pleasure that I make this transfer. I know that you will be a good president and that many good things will come out of this convention.

As I hand it to you, I must say that this is another proud day in the history of the Commonwealth of Pennsylvania. I am very pleased and honored to have a part in it, and I offer you my personal congratulations and Godspeed.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRESIDENT'S ACCEPTANCE

PRESIDENT BRODERICK. Thank you very much, Your Excellency.

I am not going to give an acceptance speech. Do not all stand up and applaud.

I just want to say that I thank you from the bottom of my heart. This is the greatest honor that I have ever received. It is a challenge, a real challenge, and I can only pledge to you that I will work day and night for the next 90 days to measure up to that challenge. I am sure that I will have your help and support because the people of Pennsylvania have given us a mandate to recommend to them changes which will make our constitution

the best in the land. Working together, we will do the job in the next 90 days.

Thank you.

The Chair will now ask the sergeant at arms to come forward and escort our Governor back to his office.

(The Governor was escorted from the rostrum.)

NOMINATION OF FIRST VICE PRESIDENT

PRESIDENT BRODERICK. In accordance with the resolution which was adopted here a few moments ago by this Convention, we shall now proceed with the election of a First Vice President, a Second Vice President and a Secretary. We will act on these nominations in the order which I just mentioned.

The oath of office for all three of these officers will be administered at the conclusion of the balloting for the secretary, the last officer for whom we will ballot.

I will now ask if there are any nominees for the office of First Vice President?

The Chair now recognizes the Delegate from Dauphin, Mr. Swope.

DELEGATE SWOPE. Mr. President, those of the 160 delegates who are assembled here this afternoon and our guests, I am sure, are fully conscious of the historic occasion which this represents. We are here as delegates under our peculiar system of representation that has been forged for us by our forebears in this country.

These 160 men and women, representing 11 million and more residents of Pennsylvania, come from all walks of life. We range the entire gamut of age from extreme youth to more maturity.

As one of the more mature members, in point of age only, I hasten to add, it is my privilege today to give you a nomination for the First Vice Presidency to assist you, Mr. President, in your work in holding this bunch of broncos in proper shape to do the work which they are supposed to do, a young man whom I have known for a number of years. I assure you that he is a young man only in point of age. He has had a good training in parliamentarianism and in the public affairs of this Commonwealth. It has been my privilege to know him. I was a supporter of his when he aspired to the highest office that the voters of this Commonwealth can bestow upon one of its citizens.

I now give you a man who sat in the State Senate from the great county of Lackawanna to be the First Vice President of this body, the Honorable Robert P. Casey.

NOMINATION SECONDED

PRESIDENT BRODERICK. The Chair recognizes the Delegate from Beaver. Mr. Kline.

DELEGATE KLINE. Mr. President, ladies and gentlemen, it is a personal privilege for me to second the nomination of my former colleague in the Senate, Senator Casey.

Mr. President, if you will remember during the primary campaign when you flew into Beaver County to campaign for this convention, a few hours after you arrived Senator Casey arrived to stand at your shoulder, as he did across the Commonwealth with others who supported this convention, to convince the people of Pennsylvania that this was indeed a bipartisan effort to rewrite the basic document of Pennsylvania. He is capable from his service in the Pennsylvania Senate, as a brilliant lawyer, and as a Pennsylvanian.

It is a privilege for me to second his nomination.

NOMINATION SECONDED

PRESIDENT BRODERICK. The Chair recognizes the Delegate from Allegheny, Mr. Baner.

DELEGATE BANES. Mr. President, fellow delegates and honored guests, no delegate here labors under any delusion as to the monumental task awaiting this Constitutional Convention of 1967. In our organization, there is no doubt that we need men of stature, ability and leadership to guide our deliberations.

I am sure all of us have listened with pleasure to the adoption of the resolution dividing the officers between the two parties in a true spirit of nonpartisanship. May this spirit culminate in a successful constitutional proposal to the electorate.

The candidate nominated for First Vice President has distinguished himself in his profession as a lawyer and has served his Commonwealth in the office of State Senator.

It is a privilege, indeed, to second the nomination of my good friend, Robert P. Casey.

PRESIDENT BRODERICK. Thank you, Mr. Baner.

NOMINATIONS CLOSED

PRESIDENT BRODERICK. Are there any other nominations for the office of First Vice President?

The Chair hears none.

I, therefore, declare the nomination for First Vice President closed.

Since there has been only one nomination for the office of First Vice President of the Convention, I will, if there is no objection, order the clerk to cast the unanimous ballot of this Convention for the election of Delegate Robert Casey as First Vice President of the Convention. Are there any objections?

The Chair hears none.

I hear no objection, therefore, the clerk will cast the unanimous ballot in favor of Delegate Robert Casey.

The roll call for First Vice President was as follows:

YEAS—160

Aberman	Donaldson	Kline	Rea
Allison	Donolow	Krill	Redick
Amsterdam	Dumbauld	Lane	Reynolds
Aurenz	Erwin	Laputka	Richter
Bagenstose	Fagan	Leach	Roberts
Baldrige	Fawcett	Lee, K	Rovner
Baldus	Fay	Lee, L	Ruth
Baldwin	Feather	Lembach	Sahl
Baner	Filson	Leonard	Scales
Barron	Fineman	Levin	Scarlett
Barry	Fohl	Manderino	Scott
Bashoff	Forster	Mangery	Scranton
Benedict	Fortney	Markley	Sebastian
Benfield	Gabreski	Mattoni	Sharp
Bloom	Gehrlein	McGeary	Shetlig
Braham	Gerber	McGlynn	Shively
Brennan	Goldman	Meyer	Shoemaker
Broderick	Goldstein	Michael	Shrager
Brown	Gouger	Michener	Silverman
Buck	Gray	Miller, D.	Solomon
Bunting	Griffith	Miller, R.	Sprogel
Burkholder	Hannum	Moorhead	Stout
Butera	Harding	More	Strickler
Cain	Hatter	Morton	Stroup
Camardella	Henderson	Murray	Swope
Caputo	Heyburn	Musselman	Tate
Caron	Himes	Nelson	Thomson
Casey	Hocker	Orban	Thornburgh
Clark	Hook	Orbin	Tomasek
Clinger	Horne	Otto	Tully
Conley	Hostetler	Pasquerilla	Van Sant
Coprey	Huggins	Pechan	Waldron
Cortese	Iris	Pelletier	Warman

Cosetti	Jirolamo	Percey	Welsh
Croop	Johnson	Popil	Westerberg
Cunningham	Kauffman	Poit	Whittum
Curran	Keller, J.	Powell	Wilcox
Dalley	Keller, M.	Prendergast	Wilmarth
Desmond	Kelly	Quiles	Woodring
Devlin	King	Rappaort	Woodside

NAYS—0

NOT VOTING—3

Fleming O'Donnell Shapiro

One hundred and sixty delegates having cast their votes for First Vice President, Robert P. Casey is declared to be First Vice President of this Convention.

PRESIDENT BRODERICK. May I say congratulations. I am proud that we are going to serve and work together.

ELECTION OF SECOND VICE PRESIDENT

PRESIDENT BRODERICK. We will now take up the election of a Second Vice President. Are there any nominees?

The Chair recognizes the Delegate from Allegheny, Mr. Donaldson.

DELEGATE DONALDSON. Mr. President, I resist the obvious temptation to say "Mr. Speaker and members of the House" and I say, "Mr. President and fellow delegates."

In the sometimes partisan atmosphere of the House of Representatives, I would normally occupy the other microphone. I would hope that the motion that I will make today will meet with greater success than most of the motions that I have been making lately.

Mr. President, as Governor Shafer indicated, I could not let the remarks of my good friend, the Delegate from Chester County, go unanswered in these chambers when he referred to "the other body" as the senior branch of this General Assembly.

Mr. President, maybe we will find that if deliberations have to come only from this chamber, we will be a lot better off in this Convention than we normally are in the legislative process.

Mr. President, I am particularly delighted that you were elected President, because that apparently makes my seat available again.

As a service to the Commonwealth, we have before us on this historic occasion a rare opportunity to significantly better the lives of all our fellow Pennsylvanians, an opportunity unmatched in our own lifetimes. We can achieve the aims of the legislators who called for this convention and the citizens of Pennsylvania who voted for it to take place. To do this, of course, we pledged devoted attention to our duties and unswerving responsible action which will surely be asked of us time and time again in the next three months.

One who thoroughly understands the full implications of this great trust invested in us 163 Pennsylvanians, is the man I wish to place in nomination for the Second Vice Presidency of this convention.

He is a life-long Pennsylvanian, born in Summerhill Township, Cambria County, an attorney at law who has practiced his profession for 29 years before the courts of Pennsylvania and those of other States and of the United States. He has held various public offices, including that of District Attorney; devoted a large part of his life to community service, to organizations such as the American Cancer Society. He is a veteran of the second

World War, a church-goer, husband and father of three young students. He served with distinction in the hall of the House of Representatives, as do all members who serve in this House.

His election as a delegate to this Constitutional Convention, like our election, accords him the privilege of framing a modern, streamlined charter for this Commonwealth. I am certain that he will, like all here, dedicate himself to this challenge in whatever role he is asked to take.

I hereby place in nomination for Second Vice President of the Pennsylvania Constitutional Convention of 1967-1968, the name of the Honorable Frank A. Orban, Jr., Somerset County, 30th Senatorial District.

PRESIDENT BRODERICK. Thank you, Mr. Donaldson.

NOMINATION SECONDED

PRESIDENT BRODERICK. The Chair recognizes the Delegate from Blair, Mr. Nelson.

DELEGATE NELSON. Mr. President, we are embarked on an extremely serious piece of business for the people of the Commonwealth of Pennsylvania. If we expect to achieve results that will meet with their approval come election day next April, we must have the finest leadership that this body will provide.

I think I know Frank Orban well. For many years we practiced law in the neighboring counties of Somerset and Blair. I campaigned with him for this office.

Because I believe that he is best qualified by education, experience, and particularly the traits of character that it is going to take to do this job, I am proud and happy to second his nomination.

PRESIDENT BRODERICK. Thank you, Mr. Nelson.

The Chair now recognizes the Delegate from Armstrong County, Mr. Pechan.

DELEGATE PECHAN. Mr. President, I am very happy to second the nomination of my friend, Frank A. Orban, Jr. I knew Frank when he served in the House. He did it with distinction. But more than that, I am happy to second the nomination because as this Convention starts out with a bipartisan flavor, I am hopeful that it will continue to do so, but beyond that, the officers come from urban and rural areas so we are going to have a real representation. Frank is knowledgeable, he is industrious and certainly has been one of the strong supporters of the Convention.

It gives me great pleasure to second the nomination of Frank A. Orban, Jr.

PRESIDENT BRODERICK. Thank you, Mr. Pechan.

NOMINATION CLOSED

PRESIDENT BRODERICK. The Chair asks, are there any other nominations? The Chair hears none. I, therefore, declare the nomination for Second Vice President closed.

Since there has been only one nomination for the office of Second Vice President, I will, if there is no objection, order the clerk to cast the unanimous ballot of this Convention for the election of Frank A. Orban, Jr., as Second Vice President of the Convention.

The Chair hears no objection and the clerk will cast the unanimous ballot in favor of Frank A. Orban, Jr.

The roll call for Second Vice President was as follows:

YEAS—160

Aberman	Donaldson	Kline	Rea
Allison	Donolow	Krill	Redick
Amsterdam	Dumbauld	Lane	Reynolds
Aurentz	Erwin	Laputka	Richter
Bagenstose	Fagan	Leach	Roberts
Baldridge	Fawcett	Lee, K.	Rovner
Baldus	Fay	Lee, L.	Ruth
Baldwin	Feather	Leinbach	Sahli
Banes	Filson	Leonard	Seales
Barron	Fineman	Levin	Scarlett
Barry	Fohl	Manderino	Scranton
Bashoff	Forster	Mangery	Scott
Benedict	Fortney	Markley	Sebastian
Benfield	Gabreski	Mattioni	Sharp
Bloom	Gehrlein	McGeary	Shetting
Braham	Gerber	McGlynn	Shively
Brennan	Goldman	Meyer	Shoemaker
Broderick	Goldstein	Michael	Shrager
Brown	Gouger	Michener	Silverman
Buck	Gray	Miller, D.	Solomon
Bunting	Griffith	Miller, R.	Sprogel
Burkholder	Hannum	Moorhead	Stout
Butera	Harding	More	Strickler
Cain	Hatter	Morton	Stroup
Camardella	Henderson	Murray	Swope
Caputo	Heyburn	Musselman	Tate
Caron	Himes	Nelson	Thomson
Casey	Hocker	Orban	Thornburgh
Clark	Hook	Orkin	Tomascek
Clinger	Horne	Otto	Tully
Conley	Hostetler	Pasquerilla	Van Sant
Coney	Huggins	Pechan	Waldron
Cortese	Iris	Pelletier	Warman
Cosetti	Jirolanio	Percey	Welsh
Croop	Johnson	Popil	Westerberg
Cunningham	Kauffman	Pott	Whitum
Curran	Keller, J.	Powell	Wilcox
Dalley	Keller, M.	Prendergast	Wilmarth
Desmond	Kelly	Quiles	Woodring
Devlin	King	Rappaport	Woodside

NAYS—0

NOT VOTING—3

Fleming O'Donnell Shapiro

One hundred and sixty delegates having voted for Second Vice President, Frank A. Orban, Jr., is declared Second Vice President of this Convention.

PRESIDENT BRODERICK. Frank, I congratulate you.

NOMINATION FOR SECRETARY

PRESIDENT BRODERICK. Our last election will be that of Secretary, a very important post.

Are there any nominees?

The Chair recognizes the Delegate from Montgomery County, Mr. Gerber.

DELEGATE GERBER. Mr. President, I would like to nominate a man for the position of secretary to the Constitutional Convention of the Commonwealth of Pennsylvania who has brought great distinction, not only to himself, but to all who know him and to this great Commonwealth. A man who is a scholar, a graduate of Swarthmore College, a man who has been a Professor of Government at the University of Colorado and an author of international renown. I might add, it gives me interesting pleasure to nominate the first non-lawyer at this time at this Convention today, being a lawyer myself.

He not only has been a success in his own chosen profession, but he has demonstrated a keen awareness, not only through his books about his fellowmen, a respect and a love for them and how they live, but he has evidenced a splendid understanding of the science of politics as a candidate for Congress in the 10th Congressional District of our great State in 1962 when he went down to defeat to one of our very fine former Congressmen from Penn-

sylvania, the Honorable Willard Curtin. As a result of that campaign, he gave to all of us a great book in practical politics and practical campaigning in his report to the county chairman, dedicated to our friend in Bucks County, John Welsh.

As a candidate for delegate in his district, he polled votes of tremendous numbers which indicates that not only did he have the strong support of his own party, but the support of many in the other party which indicates that he is personally illustrative and symbolic of bipartisanship in a bipartisan-nonpartisan approach that must prevail at this Convention if it is to be successful.

I think it is important to turn to men of greatness in this Convention, and he is a proven man of greatness. In the search of the late Governor Lawrence, Governor Leader, Governor Scranton, Governor Shafer, Lieutenant Governor Broderick and Senator Casey in their efforts to bring about this Convention, I think it is only fitting that they be joined in leadership by my neighbor my friend, my fellow suburbanite, James A. Michener

NOMINATION SECONDED

PRESIDENT BRODERICK. The Chair recognizes the Delegate from Northampton, Mr. Prendergast.

DELEGATE PRENDERGAST. Mr. President, it is a privilege to second the nomination of a gentleman who is an internationally known author; a keen student of local government; a former candidate for Congress from Bucks County, his home county, and a gentleman who was an intimate of our late and great President Kennedy. I know that he will conduct the duties of the office for which he was nominated in a bipartisan manner. I cannot think of any member of this delegation more highly qualified by education and by profession for the office of Secretary to the Convention.

It is a great privilege to second the nomination of James A. Michener from the tenth district.

PRESIDENT BRODERICK. The Chair recognizes the Delegate from Juniata, Mr. Hostetler.

DELEGATE HOSTETTLER. Mr. President, I think there is little question as we embark on this historic event, that we need dramatic leadership to help guide us in our endeavors here in the Constitutional Convention.

It gives me a great deal of pleasure to second the nomination of a man whom I feel can lend this type of leadership to this Convention. Unquestionably, he is one of the most knowledgeable individuals in the Commonwealth today. He is a scholar; he has worked many, many years in civic and in governmental activities. He has the qualifications and knowledge to lend to this convention many, many facets of knowledge, which I feel will be beneficial to all.

It gives me a great deal of pleasure, at this time, to second the nomination of James A. Michener for Secretary. Thank you.

NOMINATION CLOSED

PRESIDENT BRODERICK. The Chair asks, are there any other nominations for the office of Secretary?

The Chair hears none. I, therefore, declare the nomination for Secretary closed. Since there has been only one nomination for the office of Secretary I will, unless there is objection, order the clerk to cast the unanimous

ballot of this Convention for the election of James Michener, Secretary of the Convention.

The Chair hears no objection, therefore, the clerk will cast the unanimous ballot in favor of James Michener.

The roll call for Secretary was as follows:

YEAS—160

Aberman	Donaldson	Kline	Rea
Allison	Donolow	Krill	Redick
Amsterdam	Dumbauld	Lane	Reynolds
Aurenz	Erwin	Laputka	Richter
Bagenstose	Fagan	Leach	Roberts
Baldrige	Fawcett	Lee, K.	Rovner
Baldus	Fay	Lee, L.	Ruth
Baldwin	Feather	Leinbach	Sahl
Banes	Filson	Leonard	Scales
Barron	Fineman	Levin	Scarlett
Barry	Fohl	Manderino	Scott
Bashoff	Forster	Mangery	Scranton
Benedict	Fortney	Markley	Sebastian
Benfield	Gabreski	Mattioni	Sharp
Bloom	Gehrlen	McGeary	Shettig
Braham	Gerber	McGlynn	Shively
Brennan	Goldman	Meyer	Shoemaker
Broderick	Goldstein	Michael	Shrager
Brown	Gouger	Michener	Silverman
Buck	Gray	Miller, D.	Solomon
Bunting	Griffith	Miller, B.	Sprogel
Burkholder	Hannum	Moorhead	Stout
Butera	Harding	More	Strickler
Cain	Hatter	Morton	Stroup
Camardella	Henderson	Murray	Swope
Caputo	Heyburn	Musselman	Tate
Caron	Himes	Nelson	Thomson
Casey	Hocker	Orban	Thornburgh
Clark	Hook	Orbin	Tomascik
Clinger	Horne	Otto	Tully
Conley	Hostetler	Pasquerilla	Van Sant
Corey	Huggins	Pechan	Waldron
Cortese	Irviss	Pelletier	Warman
Cosetti	Jrolanio	Percey	Welsh
Croop	Johnson	Popil	Westerberg
Cunningham	Kauffman	Pott	Whitturn
Curran	Keller, J.	Powell	Wilcox
Dalley	Keller, M.	Prendergast	Wilmarth
Desmond	Kelly	Quiles	Woodring
Devlin	King	Rappaport	Woodside

NAYS—0

NOT VOTING—3

Fleming	O'Donnell	Shapiro
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One hundred and sixty delegates having cast their votes for Secretary, James Michener is declared Secretary of this Convention.

PRESIDENT BRODERICK. Congratulations, Mr. Michener.

COMMITTEE TO ESCORT OFFICERS-ELECT

PRESIDENT BRODERICK. It is now my pleasure to appoint Mr. Swope, Mr. Donaldson and Mr. Gerber as the committee to escort the First Vice President-elect, Mr. Casey, the Second Vice President-elect, Mr. Orban, and the Secretary-elect, Mr. Michener, to the rostrum for administration of the oath of office.

OATH OF OFFICE

PRESIDENT BRODERICK. Will the officers-elect please bring their own Bibles with them?

Once again, the Chair is going to call upon the hardest working Chief Justice in Pennsylvania today to administer the oath of office to these newly elected officers of the Convention.

Will the delegates please rise for the administration of the oath of office.

CHIEF JUSTICE BELL. Those who swear, kindly raise

their right hand, place their left hand on the Bible. Those who affirm, kindly affirm instead of swearing. Repeat after me the following oath:

I, do solemnly swear or affirm that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth, and that I will discharge the duties of my office with fidelity

PRESENTATION OF OFFICERS

PRESIDENT BRODERICK. I would like at this time to present to our fellow delegates our First Vice President to say a few words.

VICE PRESIDENT CASEY. Thank you very much, Mr. President. And a few words it will be I want to say, from the bottom of my heart, that I appreciate very, very much the high honor which all of you, my fellow delegates, have bestowed upon me. I realize full well the heavy burden of responsibility which is mine and I pledge my untiring efforts and time until this Convention is ended to the effort of working together with you in a combined, joint, nonpartisan effort to build a better Pennsylvania.

Thank you.

PRESIDENT BRODERICK. And now, I want to present to you our Second Vice President, Frank Orban. Congratulations Frank. Would you say a word?

Mr. ORBAN. Mr. President, ladies and gentlemen of the Convention, thank you so very, very much for this high honor. I hope that in some little way I can add to the greatness of the document which we can, must and will forge in this Convention.

PRESIDENT BRODERICK. And now I present to you our newly-elected Secretary, who is still warm from the election, Mr. Michener.

Mr. MICHENER. Mr. President, if I tell this body that words fail me, it is going to be hard to prove, but that is the case. This is an honor which the four of us on this dais appreciate and know the value of more than we can express. This is an historic occasion. We are here to try to provide the documents whereby our Commonwealth can move forward into the new centuries ahead. It is going to be a hard working Convention and I will be here 24 hours a day on the job.

Thank you.

PRESIDENT THANKS CHIEF JUSTICE BELL

PRESIDENT BRODERICK. I think I would be remiss if the Chair did not thank Chief Justice Bell for the part that he has played in these historic ceremonies. On behalf of every delegate and the officers, thank you, Mr. Chief Justice, for the great job in administering our oaths of office.

We will proceed to the next order of business, which will be the recognition of the Delegate from Philadelphia, Mr. Fineman.

RESOLUTION PRESENTED

DELEGATE FINEMAN. Mr. President, to comply with the request of the Chair I identify myself this morning as a Statutory Delegate. I cannot help but take this opportunity to say, as did my counterpart in the House of Representatives, the distinguished leader of the Republicans on the floor of the House, Representative Donaldson,

that I find speaking from this side of the aisle to be a bewildering experience. The only saving grace about this change of position is that as much as it is a bewildering experience for me, I am sure it is just as great an educational and beneficial experience for Mr. Donaldson.

Mr. President, I offer the following resolution and move its adoption.

PRESIDENT BRODERICK. Thank you, Mr. Fineman.

The following resolution was read by the clerk:

In the Convention,
December 1, 1967.

RESOLVED, That a temporary committee on Rules and Organization be appointed by the President to consist of two Co-Chairmen and sixteen Delegates.

The Committee shall be composed of Delegates from each political party and shall be as nearly bipartisan as possible. The first two Delegates named to the Committee shall be of different political parties, and shall be designated as Co-Chairmen. The Committee shall report as soon as practicable proposed permanent rules and organization for the Convention.

PRESIDENT BRODERICK. It has been moved by the Delegate from Philadelphia, Mr. Fineman, and seconded by the Delegate from Montgomery, Mr. Butera, that this resolution be adopted.

On the question,
Will the Delegates adopt the resolution?
It was adopted.

COMMITTEE ON RULES APPOINTED

PRESIDENT BRODERICK. The Chair, at this time, would like to announce the names of the Delegates appointed to this temporary Committee on Rules for the organization of this Convention.

If I may have your attention, the first two Delegates named will be the co-chairmen of the Committee on Rules.

Delegate William Scranton and Delegate Robert Casey will be co-chairmen of the Committee on Rules.

The following Delegates are also members of this Committee:

Herbert Fineman
Kenneth B. Lee
K. LeRoy Irvis
Charles P. Leach
Ernest P. Kline
Frank Pasquerilla
James Prendergast
William J. Devlin
William J. Lane
Robert E. Woodside
Benjamin R. Donolow
Stanley G. Stroup
Gustave Amsterdam
Lee A. Donaldson
William Gray
Albert Pechan

MEETING OF COMMITTEE ON RULES

PRESIDENT BRODERICK The Chair would like to

announce a meeting of the Committee on Rules immediately after we adjourn, for its first meeting, in the office of the President, which is to the rear of the House chamber.

RESOLUTION OF COMMENDATION PRESENTED

PRESIDENT BRODERICK. The Chair, at this time, recognizes the Delegate from Philadelphia, Mr. Devlin.

DELEGATE DEVLIN. I am William Devlin from the Sixth Senatorial District, Mr. President. I offer the following resolution and move for its immediate adoption.

PRESIDENT BRODERICK The delegate from Philadelphia, Mr. Devlin, offers a resolution which the clerk will now read:

In the Convention,
December 1, 1967.

WHEREAS, It is obvious to all who are gathered here that considerable time, effort and expense has been put forth by various individuals in order to insure the success of this Constitutional Convention; and

WHEREAS, The efforts of these individuals have contributed greatly to the personal comforts of each Delegate; and

WHEREAS, Without the efforts of these individuals the Convention would have been forced to expend considerable time and money in making preparatory arrangements; and

WHEREAS, The work of these various individuals has been officially completed and will be long remembered by the Delegates to the Convention, therefore be it

RESOLVED, That this Convention of Constitutional Delegates does hereby commend and extend its sincere appreciation to the following:

To the Constitutional Convention Preparatory Committee, its chairman, its members and staff, for the outstanding work which the committee has performed in securing the physical facilities in which the Convention will be working; the preparation and dissemination of vital information and for the excellent reports and studies which have been prepared in order to assist and guide this Convention in its deliberations. The conduct of the Preparatory Committee, its chairman, its members and its staff have been of the highest caliber and have been beyond reproach and for this they are to be commended and congratulated;

To the General Assembly and staff for cooperation in assisting with preparation and for making available staff, space and equipment facilities for the temporary use of the Convention;

To Governor Raymond P. Shafer and his department heads and staff for assistance and cooperation in preparation for and conduct of the Convention, by furnishing services, space, furniture and equipment for the temporary use of the Convention; and

To Chief Justice John C. Bell, Jr. of the Pennsylvania Supreme Court for his services in qualifying the Delegates to this Constitutional Convention.

PRESIDENT BRODERICK. It has been moved by the Delegate from Philadelphia, Mr. Devlin, and seconded by

the Delegate from Philadelphia, Mr. Amsterdam, that this resolution be adopted.

On the question,
Will the House adopt the resolution?
It was adopted.

PREPARATORY COMMITTEE INTRODUCED

PRESIDENT BRODERICK. At this time the Chair would like to introduce to you the members of the Preparatory Committee who have worked so hard to make this opening day and the next 90 days a success. I would like the Delegates, Messrs. Stroup, Fineman, Pechan, Irvis, Prendergast, Butera, Lane, Donaldson and Kline, to please rise.

We thank you for your cooperation and the great job you have done.

RESOLUTION ON ADJOURNMENT PRESENTED

PRESIDENT BRODERICK. The Chair takes pleasure in recognizing the Delegate from Butler, Mrs. Brown.

DELEGATE BROWN. Mr. President, I would like to offer the following resolution and move for its adoption:

The following resolution was read by the clerk:

In the Convention,
December 1, 1967.

RESOLVED, That when the Convention adjourns today it shall reconvene on Monday, December 4, at 1:30 o'clock p.m., E.S.T.

PRESIDENT BRODERICK. It has been moved by the Delegate from Butler, Mrs. Brown, and seconded by the Delegate from Fayette, Mr. Warman, that the Convention adopt the resolution of adjournment.

On the question,
Will the House adopt the resolution?
It was adopted.

STATEMENT BY THE PRESIDENT

PRESIDENT BRODERICK. At this time I want to say as we bring this first session to a close, that I am just absolutely elated with the wonderful cooperative spirit—this bipartisan spirit, nonpartisan spirit—I do not care what you call it, but the spirit of all of us working together so that we can draft changes acceptable to the citizens of Pennsylvania just must prevail for the next 90 days.

The changes which we recommend will carry our great Commonwealth forward in this 20th Century which is upon us.

Let us try to put aside any personal desires, any sectional interests and any partisan issues because only by working together can we serve the people of Pennsylvania.

There are some announcements now by the clerk before we have the benediction.

ANNOUNCEMENTS BY CLERK

The CLERK. Because of late certifications of the election of several of the delegates, some have not yet received a form asking for preference of committee assignment. Any delegate not yet having submitted his form may fill one out at the registration desk in the Capitol rotunda.

Also, because of several late certifications, some dele-

gates may not have received their complete set of records and manuals. Please leave word at the registration desk and they will see that you receive your set.

A permanent identification badge, intended to be worn on the lapel, is available for each delegate and will be distributed at the registration desk following this session.

Parking permits will also be distributed at that time. Permits will be required after Monday, December 4.

Please be sure, each and every Delegate, that your oaths are signed and left on your desk. Immediately upon adjournment, the page boys will gather these forms.

Thank you.

BENEDICTION

PRESIDENT BRODERICK. It is now the pleasure and honor of the Chair to present to you for the ceremony of benediction, our concluding ceremony, the Roman Catholic Bishop from the Diocese of Harrisburg, Bishop Joseph Daley.

MOST REVEREND JOSEPH T DALEY. God, the Ruler of the world, look favorably on the members of this convention chosen for the revision of our constitution. Into their hands, O God, are committed in great part the welfare of this Commonwealth of Pennsylvania and the happiness of all its people of all nationalities, races and creeds. Inspire them with the knowledge of Your rule of life that the laws they formulate may be in conformity with Your divine precepts. Bless them with the light of Your wisdom that they may know and appreciate the needs and concerns of all the people whom they represent. Open their minds to the future as well as to the present that their deliberations may benefit both this generation and those who shall live under our constitution in the years to come.

May the all-living, all-knowing and all-merciful God bless you and our beloved Pennsylvania forever and ever. Amen.

IN MEMORIAM

PRESIDENT BRODERICK. Would you please remain standing. I would like to make an announcement.

One of our delegates who was to be with us today, Delegate David Shapiro, when he arrived, received the news that his father, Senator Shapiro, had passed away.

I would like each and every one of us to bow our heads in a moment of silence for Dave's dad, Senator Shapiro.

(The delegates complied.)

Now if you will, please remain standing for the retirement of the colors.

(The colors were retired.)

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate BROWN for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE BROWN. Mr. President, I move that this Convention now adjourn until Monday, December 4, 1967, at 1:30 p.m., e. s. t.

PRESIDENT BRODERICK. It has been moved by Delegate Mrs. Brown and seconded by Delegate Herbert Fineman that this Convention do now adjourn until Monday, December 4, 1967, at 1:30 p.m., e. s. t.

The motion was agreed to and (at 1:52 p.m., e. s. t.) the Convention was adjourned.

JOURNAL

Volume 1

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Number 2

GOVERNORS' DAY

The Convention was called to order at 1:30 p.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND JOHN A. FREHN, pastor of the Camp Hill Methodist Church, Camp Hill, Pennsylvania, offered the following prayer:

Let us pray.

Almighty God, our heavenly Father, in this Advent season we are reminded of the words of the prophet when he said, "His Name shall be called Wonderful Counselor, the Almighty God, the Everlasting Father, of the increase of government and peace there shall be no end."

Grant, we pray Thee, this sacred moment of quietness that we may be still and know that Thou are God.

As we take up the duties of this day, may we ever need Thy presence, Thy wisdom and Thy guidance.

In this Constitutional Convention as we begin this afternoon's session, bless these men who have been chosen by the people of this State. Thou knowest their needs, their motives, their hopes and their fears. Give them strength and wisdom greater than their own. May they never be frightened by the problems that confront them, but may they give Thee thanks Who makes them equal for every task.

May we resolve, with God's help, never to be a part of the problems of this day or the days of the future, that Thou will make us an answer to all the major problems of life, of the State, of the Nation and the World.

And, as Godfearing men, that we may know only in Thee and doing Thy will can we find peace on earth, good will toward men. As the Master of all men has taught us to pray, "Thy kingdom come, Thy will be done," may all be done to Thy Name's honor and glory that the kingdoms of this world become the kingdoms of our Lord and His Christ, and He shall reign forever and forever.

We pray in His holy Name. Amen.

OATH OF OFFICE

PRESIDENT BRODERICK. The first order of business on today's calendar is the administration of the oath of office to the three delegates who were unable to be here at our opening session last Friday.

I might add, before we call the delegates to the bar for the administration of the oath, that we received a wire from Mr. Chief Justice Bell who regrets that he cannot be with us again today, but I must say that he has appointed a very able and fine judge to take his place, Judge Homer

L. Kreider, of the Court of Common Pleas of Dauphin County, whom I shall ask to step forward.

Will Senator Fleming and Messrs. O'Donnell and Shapiro come to the center desk for the administration of the oath. Please bring your Bibles with you, gentlemen.

Will the Convention please rise?

HONORABLE HOMER L. KREIDER. Do you solemnly swear that you will support, obey and defend the Constitution of the United States, and the constitution of this Commonwealth, and that you will discharge the duties of your office with fidelity?

(The delegates replied affirmatively.)

PRESIDENT BRODERICK. Thank you Judge Kreider. May I, on behalf of the delegates, welcome our three newly sworn members which now bring our total to a full complement of 163 members.

APPROVAL OF JOURNAL POSTPONED

PRESIDENT BRODERICK. The next order of business ordinarily would be the approval of the Journal of the preceding session but if we do not hear an objection, we will dispense with the approval of the Journal until it is printed.

Not hearing any objection, I will consider the approval of the Journal dispensed with.

ANNOUNCEMENTS BY THE PRESIDENT

PRESIDENT BRODERICK. We would ordinarily take a roll call, but it is quite apparent that we have a quorum present here today and unless I hear an objection, I will proceed without the detailed calling of the roll.

I might add that we are waiting until the seating arrangements have been determined upon by our entire body, awaiting the recommendation of our Rules Committee. Until we have received that recommendation and approved it, of course, we will remain in our present seats.

Also, we are waiting for the change of the roll call, the electric board which you see on the side, to put the delegates' names on after the seating arrangement has been determined by the body.

We now come to the special event for today, and that is a very important part of our opening ceremonies, honoring the former governors of the Commonwealth of Pennsylvania.

DELEGATE ROBERT D. FLEMING REQUESTED TO PRESIDE

PRESIDENT BRODERICK. The Chair at this time takes great pleasure in turning the duties of the presiding

officer over to the newly sworn Delegate from Allegheny County, Delegate Fleming.

Would you please come up and take over, Delegate Fleming?

At the same time, I would request, if they are not already here, that we have Delegate Van Sant, Delegate Casey and Delegate Stroup come to the rostrum.

ADDRESS BY DELEGATE FLEMING

DELEGATE FLEMING. Mr. President, ladies and gentlemen, fellow delegates and honored guests, we are privileged to have here with us today three of Pennsylvania's former governors. The tenure of their service to Pennsylvania spans a generation, and I am certain that if they related to us their experiences in office, we would discover that their wisdom would span several generations.

Pennsylvania has been fortunate to have the advantage of their best years, their skills and their great patience. This can also be said of 17 other distinguished men of both political parties, who filled the Governor's office since the last previous Constitutional Convention took place in 1872 and 1873.

Here to encourage us and to support our efforts are the Honorable John S. Fine, who was Governor from 1950 to 1954; the Honorable George M. Leader, our Governor from 1954 to 1958; and our distinguished colleague and fellow delegate, William W. Scranton, Governor from 1962 to 1968.

When we think in terms of their contributions to Pennsylvania, we frequently consider how well they fulfilled their duties, but the emphasis must be on the fact that their achievements go far beyond simply fulfilling their duties. The roll of the Chief Executive has increased continuously and tremendously over the past 94 years, while our constitution in Pennsylvania has gone without significant revision.

This growth in the Executive office has taken place without benefit of an up-to-date body of laws. Governors, particularly those who served in the last two decades, those here with us, have found the office of Governor a momentous and taxing job. Its importance grows constantly; its responsibilities are heavier; the people whose welfare rests with the Governor multiply in number. Yet each of these men, in his turn, has taken the torch from his predecessor, so to speak, and has run a stout race against the increasing pressures of the office. In each case, he has won that race.

Those of us who serve or have served on a lawmaking body frequently stand in awe of the Governor. He is the one man responsible for the health, welfare and progress of a vast populace and blossoming State, 12 million persons.

Those of us chosen to serve in this fifth Constitutional Convention will quickly come to realize the magnitude of the Governor's office. A reading of our constitution tells us he is the supreme executive power, one who "shall take care that the laws are faithfully executed." This in itself is a tall order, but his duties continue for 22 sections of the constitution. These compose just a surface of the tremendous sea of problems and challenges he must unceasingly be called to deal with.

As the individual entrusted with the care that the laws are faithfully executed, the Governor now calls upon us, the delegates of the Constitutional Convention, to

draft new laws in four important parts of our constitution, so that the present Governor and future Governors will have the benefit of an up-to-date body of laws to ease, somewhat, the mighty pressures brought on our executive office by modern times and contemporary events.

Where our laws are antiquated and inadequate the Governor's hands, as well as those of the legislators, are tied. We cannot take all of the vital forward steps at the most opportune time. We cannot keep pace with the ever changing world of today. The presence of these three former Governors, here among us, should challenge us and remind us that they and their predecessors have faced many hardships because of an outdated constitution.

We must now consider again the grave responsibility we have, not just to the people of Pennsylvania who called this convention, not just to our lawmakers, but also to our Chief Executives now and in the future. We can only expect that the office of Governor will become a more difficult one. While we can hopefully look forward for more outstanding men and possibly some day a woman to serve, we will turn away many of our most outstanding Pennsylvanians of all political persuasions if we at this convention do not provide the necessary tools for our Governors to handle this vast job.

In years to come there will be bigger problems, greater responsibilities, and more decisions confronting our Chief Executives. We have an obligation to Pennsylvania and a commitment to our Governors. We must accomplish what we set out to do when we took our oath of office last Friday. Our Governors have come too far, worked too hard, sacrificed too much and placed too great a trust in us to lose one iota of the accomplishments foreseen for us in the next 87 days here. Yes, the days and hours are already fleeting. The esteemed gentlemen, whom we honor today, would have given their eye teeth for the changes a Constitutional Convention can now generate.

Six times since the last Constitutional Convention the electorate turned down a convention question. This occurred twice during the terms of former Governors in this room with us. We have now an opportunity that no Pennsylvanians have had in a lifetime. Almost certainly, none of us was alive when the last convention was called. We will hear echoes of that particular challenge many times in the weeks and months ahead. Personally, I do not think one hundred reminders are too many.

We have a chance to give Pennsylvania its greatest push forward. I am certain these three former Governors share that thought with me at this moment and say "Amen" to it. While each of these three accomplished wonders in his term, each faced countless obstacles which hindered him in protecting the health and insuring the welfare of all Pennsylvanians. Each has stood in behalf of the convention proposal. Each gives it his hearty endorsement, his time and his energies to help convince the people of this Commonwealth that this is the right course.

We all say to you, our three former Chief Executives, we shall clear the way so that we may launch a brighter future.

DELEGATE VAN SANT PRESENTED

DELEGATE FLEMING. Now, briefly, permit me to exercise the great privilege that I have of presenting to you some of my present colleagues and one of my former colleagues who in turn will present these former Governors to you.

It is now my great privilege to present to you one of the outstanding State Senators in Pennsylvania in many years, a delegate to this convention, the Honorable John Van Sant of Lehigh County, who will present to you Governor Fine.

GOVERNOR FINE PRESENTED

DELEGATE VAN SANT. Thank you very much, Delegate Fleming.

Mr. President, distinguished guests, fellow delegates, the presence today of Governor Fine brings back early memories of the first time I sat in this hall in the year 1951 as an elected member of the House of Representatives. It was then that I came to know and understand much better the gentleman who was His Excellency, the Governor of the Commonwealth, for he had come, ironically enough, from the county from which I also came, that of Luzerne.

He assumed the role of Governor at a time when the Commonwealth of Pennsylvania was faced with many new programs which had to be resolved, and with many new programs you have new taxes. Governor Fine had the courage and stamina, despite great personal loss, to stand and bring to the Commonwealth of Pennsylvania the foundation of our basic tax today so that our educational programs, our programs in public health and welfare and our programs to the needy, yes, even to the aged, had their foundation under his rule as our Governor of the Commonwealth for through the broad-base tax we have been able to continue since that time without a patchwork tax program despite the problems that we currently face in the legislature.

In addition to that, personally Governor Fine was always a fine gentleman, one who went out of his way to be kind to people and to exercise the authority of his office to do for others. For this the Commonwealth of Pennsylvania and its people have been most grateful.

So it is with personal pride that I present to you today His Excellency, the Honorable John Fine.

ADDRESS BY GOVERNOR JOHN S. FINE

Delegate Van Sant; Delegate and President of this Convention, the Honorable Mr. Broderick; ex-Governor and Delegate, Mr. Scranton; Governor Leader; Delegates and your guests: First, I must make an observation that of the three ex-Governors on the platform, two of the three on the platform come from the anthracite region. Three of the full-time six working Governors come from the anthracite region. Some are of considerable age; some have a long way to go. It bespeaks well of the anthracite region if you want to be Governor or if you want to live long. God bless the anthracite region!

I do not propose to give you any specifics today on what you should do. Probably I should speak on what you should not do. First, however, I want to extend to all of you delegates and members of this Convention, my sincerest and warmest congratulations. I join with millions of fellow Pennsylvanians in wishing you Godspeed and a crowning achievement in the discharge of your heavy responsibilities.

There is no certain way to predict the con-

clusions you may reach. However, we are encouraged by the intelligent approaches already made to this Convention in its preparations. We are well pleased, too, with the meaningful happenings which have already taken place since you assembled here a few days ago.

Heretofore, numerous efforts to rewrite the Commonwealth's basic law have failed. During my administration such an effort failed at the 1953 general election, although many influential citizens and powerful organizations enthusiastically supported such a move.

By specifically limiting this Convention to four subjects, one of which has been quite thoroughly resolved by the United States Supreme Court, the opposition to this specific method has eliminated, to a large extent, the opposition of those citizens who were against change to the constitution's uniformity clause and the bill of rights. That opposition at the last election was quite thoroughly removed. The present electoral interdiction against unrestrained change is evidence of the faith of our citizens in the many constitutional anchorages to the good and the hallowed of the past. To most Pennsylvanians their constitution charts the free life and the highest aspirations of it. To them, the constitution ranks in significance only below the Bible. This very thought should give pause to any change not wrought on the anvil of common sense, of intelligent debate and of wisdom elicited by consultations between the fellow delegates and from extensive and expansive research by you and by your staff or by anyone in your behalf. Your patriotic application to your envied labors should be subordinated to no person or thing. It should be subordinated only to your God.

A basic decision requiring your early attention will be the length of the documents specifically submitted for your consideration. Should they provide only the framework of a basic structure of your government, leaving to the General Assembly the responsibility of providing the details and adjusting them to the changing times or unforeseen developments, or, should the constitution itself detail the governmental structure so that it is frozen from legislative touch?

The present constitution was formed during a time, 1874, when there was great distrust of legislatures. Hence, the argument for rewriting the present constitution was most forceful when it posed and recalled the many details in the constitution which they allege should have better been left to the legislature to define and spell out.

This argument against the constitution, so earnestly made for so many years, has to a large extent been abandoned. In its wake have come suggestions from groups and organizations not willing to submit their reforms to the legislature for enactment. They have some uneasiness about the acceptance and enactment of their programs by the legislative body.

The convention should exercise care and caution to retain the good and to discard that which is not good. Tampering with those governmental agencies and procedures that have met a century's test of satisfactoriness should be avoided.

During the depression of the 30's, the legislature and the courts, moved by tragic economic developments, circumvented the constitutional borrowing limitations by the device of the authorities. These agencies have since grown like "Topsy" and expanded outside constitutional guidelines. A revision and modernization of the procedure of governmental finance to meet today's needs certainly deserve your most serious consideration.

Our judicial system, although not as bad as sometimes asserted and assailed, can and should be improved. You will have many suggestions which will merit your study and attention.

The problems of local government are manifestly serious, complex and involved. Keeping local government close to the people is important and has merit, but it must be also remembered that all the methods from 1874 are not applicable to the jet and space age.

For the solution of the foregoing matters, with all their relevant ramifications, you will muster all the intelligence necessary for the task before you. That intelligence, I am sure, will be seasoned by the exercise of common sense and larded by integrity, honor, unselfishness and unadulterated patriotism. Imbued, then, with the highest idealism and with a devotion solely to the public interest, you should mold a document in the spirit of the founding fathers, whose labors in Philadelphia gave to us that great heritage, the Federal Constitution. Indeed, their labors created the most illuminating page of all governmental history.

If you here resolve an intelligent, prudent, inspiring solution to the tasks before you, this Convention will have historical significance. If you fail, this Convention will be a mere footnote to the chronicles of the passing events of your and my time.

We do trust, we Pennsylvanians do fervently hope this Convention will provide in clear and precise language future guidelines for a better Pennsylvania. Then and only then will Pennsylvanians be grateful for this Convention, long to be remembered and never to be forgotten.

May it truly merit the faith of all Pennsylvanians in you, and win from our electorate, April next, a thunderous vote of approval.

Thank you.

DELEGATE FLEMING. Thank you, Governor Fine.

DELEGATE STROUP PRESENTED

DELEGATE FLEMING. Now, ladies and gentlemen of the Convention, it is my privilege again to present to you an outstanding member of the Senate of Pennsylvania, a fellow delegate of ours. He is the majority floor leader in the Senate of Pennsylvania, where he has distinguished himself for many years, a man whose influence in this Convention, and advice, I am sure will be sought after by all of us.

I am happy now to present to you the gentleman who will introduce former Governor George M. Leader, our friend and colleague, Senator Stroup.

GOVERNOR GEORGE M. LEADER PRESENTED

DELEGATE STROUP. Mr. President, ladies and gentlemen of the convention, today we embark on the first full week of our three month meeting with history. To use the words of Governor Shafer last Friday, and the plea we heard that still echoes in our ears is the plea for bipartisanship, the plea to act as Pennsylvanians rather than as Republicans, Democrats or Independents.

No one, I submit to you ladies and gentlemen, symbolizes the bipartisan nature of this Constitutional Convention more than our former Governor George M. Leader, for it was George Leader, along with another former governor of another party who played the most vital role in the campaign to win the support of the public that brought all of us here today.

George Leader, Governor of the Commonwealth of Pennsylvania from 1955 to 1958, served as co-chairman of the committee for nine "yes" votes, which blanketed the State during the summer and fall of 1967, urging the public to lend their support to this constitutional proposal.

His example, working as a Pennsylvanian first, cannot help but have an impact on all of us as delegates as we begin the difficult job of bringing Pennsylvania's basic charter out of the 19th century and into the modern era of today where it so well belongs.

Born on January 17, 1918 near York, Pennsylvania, former Governor Leader attended Gettysburg College, graduated from the University of Pennsylvania in 1939 with a degree of Bachelor of Science in Education. He also holds honorary degrees from Temple University, Gettysburg College, Elizabethtown College, Lincoln University and LaSalle College.

While at graduate school at the Wharton School of Finance at the University in 1942, George Leader enlisted in the United States Navy. He was commissioned as an ensign and left that service as a lieutenant.

He returned to York County in 1946 and was elected chairman of the York County Democratic Committee launching at that time, I believe, his very illustrious career as a public servant. He was reelected County Chairman in 1948 and served in that capacity until 1950 when he was named to the Pennsylvania State Senate as the representative from the 28th District. In 1952 he was an unsuccessful candidate for the office of State Treasurer. And then in 1954, as we all so well remember, he achieved the highest office of this Commonwealth as our Governor.

It was during those four years, ladies and gentlemen of the convention, that I learned to know George Leader for I served here in this chamber at that time, and I grew, during the four years from my knowledge and work with him as a legislator, to admire and respect him not only for the courage of his convictions which he constantly displayed, for the dedication and devotion to his task as the Governor of the Commonwealth, but for one outstanding quality which still follows him and leaves his impact upon our Commonwealth, and that was the quality of humanitarianism. Indeed, he is even today credited with starting Pennsylvania's modern mental health program on the road to its progress that we enjoy in this field today. Of course, there were many more vital programs developed during his administration which laid the groundwork upon which we labor today.

Pennsylvania is indeed fortunate, my fellow delegates, to have had a man of the caliber of George Leader play-

ing an active role in such a vital undertaking as bringing about our convention.

Now, it is my privilege and indeed my high honor to present to you the Honorable George M. Leader, former Governor of Pennsylvania. George Leader.

ADDRESS BY GOVERNOR GEORGE M. LEADER

Thank you very much, Delegate Stroup, for that most generous introduction.

Mr. President, the Honorable Ray Broderick, Judge Kreider, Reverend Frehn, my fellow former Governors, delegates to this historic Convention and your guests, allow me at the outset to congratulate each one of you on being delegates to this great and historic Convention. I congratulate you not alone upon the fact that you were successful in being elected and receiving sufficient votes to be elected, but I congratulate you because you have indicated sufficient interest in free government and in the government of this Commonwealth to put aside all your responsibilities outside of government and come here and make this great contribution.

As I look around this room, I see many of you who began your service in the cause of constitutional revision not here in this room a few days ago, but who have labored over the years in this cause and for that, also, I commend you and congratulate you.

Prior to his inauguration, the Governor-elect, Raymond P. Shafer, telephoned me and asked me if I would serve with Governor Scranton as co-chairmen of a bipartisan committee to support the referendum calling for this Constitutional Convention to deal with four important sections of our constitution.

In spite of the fact that referenda of this type have been singularly unsuccessful over the years, I agreed to serve. A few days ago, Governor Shafer stood before this convention and set the tone, I believe, for your deliberations. Although I was not present, I did hear a good portion of that address on television and I was most favorably impressed with his pleas for a nonpartisan approach.

For Governor Shafer's bipartisan approach to the referendum and for his nonpartisan approach for these deliberations I want to extend to him my heartiest congratulations since, in my opinion, it is only in an environment of this kind that this effort can be successful. I also wish to commend Lieutenant Governor Broderick, Governor Scranton, Senator Casey and leaders of both Houses of our General Assembly who are exemplifying here the highest standards of public service in carrying out their responsibilities. In a State which has from time to time suffered from an over-zealous partisanship, I would like to believe that this is the beginning of a new era.

As you approach your responsibilities, I hope that you will do so with a keen appreciation of the fact that you are helping to write the history of this Commonwealth.

The last time Pennsylvania gathered in a sim-

ilar undertaking was back in 1872-73. At that time in our history we had some very specific problems. Perhaps the major one was the scandalous special legislation which was allowed under the constitution of 1838. As a matter of fact, it is written that in the seven years preceding the Constitutional Convention of 1874, only 475 general laws were passed but during that same period 8,755 private acts were passed, many of which were intended to confer some direct benefit upon some individual or corporation. This was an era of laissez faire economy, corruption in government and generally low standards of morality among the people. As a result, the drafters of our constitution were more concerned with placing the proper constraints in the constitution than they were with drafting an instrument responding to human needs. In their effort to avoid the excesses of the times they drafted a very detailed constitution so that in spite of the many dozens of amendments that have been approved by the people of this Commonwealth, it has been hard to keep our constitution responsive to the advancement in our society, the growth of our economy and the expanding needs of our government.

Our Federal Constitution, on the other hand, which is almost twice as old as our State Constitution, with only 25 amendments, has responded to the needs of our nation. This is true because it was of the shorter type spelling out only the basic principles under which our government should function, leaving the rest to legislative action and judicial interpretation. So, if I may be so bold as to recommend, may I suggest that you are drafting four sections of our constitution not only to serve the needs of today but to serve us in a world in which human beings may be inhabiting far off planets and new sources of energy will be far cheaper than anything we have seen to date, a world where deserts will be virtually eliminated because we will be desalting sea water and pumping it there from the oceans and a world where from those same oceans we will be harvesting an abundance of food, a world in which a dinner trip from Philadelphia to Paris will be so short that one will hardly have time to finish his dessert.

I believe you are designing a constitution, or at least a segment of a constitution, for a new kind of people in a new kind of environment. This constitution must be designed for people who will be not only generally literate, but who will be politically literate from border to border. You are designing a constitution for a state and local government with a two-party system which will work not only sometimes in some places but will work at all times in all places. You are designing a constitution for an era in which the mass media will saturate not only our adult population but our children as well in the schools with an in-depth information on all things happening in their government.

Finally, you are designing a constitution for an era in which both public and private morality will reach standards far higher than those we have ever known before.

So today I challenge you, do not write a constitution of constraint, but write one which releases our great and varied capacities to service the needs of our people. We are no longer the rural society of 1874. We must release ourselves to cope with the urban society and the urban problems because we are becoming more and more required to meet the needs of the vast metropolitan areas which are expanding so rapidly.

Pennsylvania has a great heritage, ladies and gentlemen, delegates to this convention, beginning with William Penn and the Quakers, and from those of us who have been the recipients of such a great heritage much is expected. In times of great stress it is always good to go back to the source of our strength, and in Pennsylvania our founder is one such unfailing source.

May I suggest to you that if you are ever in doubt, if you are ever tempted to do the expedient thing, walk through the door over here on my left and down the corridor and into the reception room of the Governor's office. There you will find the Violet Oakley paintings depicting the life and faith of our founder. This great Quaker gave up wealth, position, comfort and even for a time his freedom in order to follow his inner light and eventually to create this great Commonwealth. We need do so little by comparison to make his holy experiment succeed.

May I wish you Godspeed in this great endeavor.

DELEGATE CASEY PRESENTED

DELEGATE FLEMING. Thank you, Governor Leader.

Ladies and gentlemen of the Convention, it is again my great privilege to present to you a former colleague of mine in the Senate of Pennsylvania, a man who has gained statewide prominence, a man who served with much distinction in the Senate of Pennsylvania. You, the delegates of this historic Convention, have honored him by electing him the First Vice President of this Convention.

May I present to you now the gentleman who will present the former Governor Scranton, the former Senator Robert Casey.

GOVERNOR WILLIAM W. SCRANTON PRESENTED

VICE PRESIDENT CASEY. Thank you very much Delegate Fleming. Mr. President, Judge Kreider, distinguished former Governors, and my fellow delegates, when I was elected by you last Friday as First Vice President, I did not realize that one of the singular distinctions which would accompany this office would be the very happy privilege which I am now about to exercise, to present to you the former Governor of Pennsylvania, the Honorable William W. Scranton.

It is a special privilege for me because he and I are residents of Lackawanna County. He and I came to Harrisburg together in 1962 and we left together in 1966, although for different reasons, and we returned again together just the other day to join with you in this great endeavor.

I have no intention of outlining his biography to you; it is too well-known to each of you and to the people of this State to require elaboration. I will merely

say this: He is the son of a great family, a family which is not new to public service, a family which has a very high place in the industrial life in the Commonwealth of Pennsylvania, a family which did a great, great deal for the people of Northeastern Pennsylvania during some very trying and some very difficult years when unemployment was one of our most serious problems.

Governor Scranton was born to public service and it was quite natural that in 1960 he should aspire to Congress. Following his election he served with great distinction in Congress, and his record in Congress gave a hint of his future because it marked him as one who had his finger on the pulse of the changing times in which we live. In 1962, he was elected Governor of Pennsylvania. He carried to that high office the same awareness and the same compassion and the same sense of history which marked his tenure in that office, and in a few brief years beginning in 1960 and culminating today, he became a national figure, not only within his political party, but in the governmental life of the United States. His tenure as Governor was eventful, was progressive. We saw great strides in education and transportation, in the reform of State Government and in an area which was especially dear to his heart because of the problems of the anthracite region—industrial development. One of the primary concerns of his administration and one of his primary concerns since he left the Governor's office has been the great task that brings us here—constitutional reform. And so it is to his great credit that he joined with Governor Shafer and Governor Leader and many, many other people all across this State, just this past spring to encourage the people of the Commonwealth to adopt and pass the referendum which brings us here. I say to all of you, my fellow delegates, that we are extremely fortunate at this moment in our history to have seated among us a delegate, a man of the stature and the ability and the dedication of Governor Scranton.

And so it is a great privilege and personal pleasure for me to present to you, my fellow delegates from Lackawanna County, a man of whom Lackawanna County and all of the people of this State are very, very proud, the Honorable William W. Scranton.

ADDRESS BY GOVERNOR WILLIAM W. SCRANTON

Mr. President, Governor Fine, Governor Leader, Judge Kreider, Senator Fleming and ladies and gentlemen, the last four Governors of Pennsylvania have been unanimous in their support of this effort for 14 years. You have heard from Governor Fine and you have heard both today and in the past year a good deal from Governor Leader and me on this subject. I only wish that Governor Lawrence could be with us to give his high esteem of what you are now attempting to do, for he, too, felt as we do that the single most important step forward to be done legally and governmentally for the future of Pennsylvania is a good revision of its constitution.

A couple of years ago, it was suggested that 13 of these articles should be revised, and, to put what we are attempting in context, I remind you that nine of these articles have been revised—two

by final vote in November 1966 and seven by final vote in May 1967. This Constitutional Convention has been convened under an arrangement made by Governor Shafer in his wisdom and that of the legislature to give unto those of us who are delegates, the task of trying to determine what to do about the most controversial articles in the constitution.

The plan that there should be only these four articles considered and the three months' limit on time was wise and I think as we go on we shall recognize the wisdom in it.

We have had an inspirational start. First and perhaps foremost inspired by Governor Shafer's speech, which I hope all of you will reread about halfway through this Convention because it is a remarkably fine statement, and by the actions that have been taken by you as the delegates to this Convention already in selecting four officers all of whom strongly advocate the nonpartisanship approach. Among them is my colleague from Lackawanna County whom you not only have made your first vice president—and I take this moment to tell you how proud we all are in northeastern Pennsylvania of him and of that action of yours to give him this honor—and likewise by his having been appointed as the chairman of the Rules Committee in which he is already functioning on the high standards that he always does.

Third, by the fact that the Preparatory Committee over a period of months has worked assiduously, sometimes night and day, at providing you with the best prepared Convention that has ever been the case in the history of the United States.

Take a look at the one for the Federal Constitution, for example, and see the preparation that was made for that back in the 18th century. Take a look at any of the modern conventions that are presently going on. Despite the fact that a great many accolades have been given Maryland, and they deserve it, nevertheless, this is a better prepared convention—prepared, it has not been executed yet—than Maryland's.

Likewise, by the Rules Committee's meeting this morning, the atmosphere in that working committee is excellent. Also by the fact that you, the members of this Convention, have already sent in a great many suggestions about those rules and procedures, all on a high plane, all to good purpose.

Most importantly of all and that which thrills me the most about this particular convention is the feeling that I see and feel here, particularly on Friday when I had an opportunity to talk with a large number of you personally. All of you know that you have a job to do—an honor, yes, but particularly a job—and that your intention is to do it and to do it well. Not just worthy of yourselves, which is reason enough to do it well, but worthy of the approval of the people of Pennsylvania who have the ultimate decisions to make. They will decide if your work is worthy or not.

Who do we represent in this endeavor? Yes, we have been elected in senatorial districts and, yes, we represent them and, yes, we are happy to. We are all very proud of where we come from and

what those areas mean to this great Commonwealth. But a convention for the change of the constitution is different than a legislature. Each of us represents all the people. The basic law, the constitution of this Commonwealth of ours, pertains to every person in Pennsylvania and we must think in those terms. We must put ourselves really on the spot, by remembering day in and day out as we do our work that what we do here will subsequently go to the people and they are a very educated and very responsible group of people, the people of Pennsylvania. The action they take on what we do will be the determinant as to whether we have done well.

A lot has been said about the New York State Constitution. The fact that it failed has been dramatically headlined in the papers and on the media. I remind you that concurrently there is a Convention going on in Maryland to which I have already referred and which is doing relatively well, although momentarily it is having some problems with the local government section. I especially point out to you that Rhode Island has had a Constitutional Convention going for over three years. They finally came up with something to submit to the people this past November. It aroused such antagonism and, indeed, the complete opposition of the present Governor, who is a Republican if you wish to be partisan about this, and the immediate past Governor, who is a Democrat and who also was chairman of the Convention and, likewise, a great many other people that they decided not to submit it to the people and voted to go back into session.

I remind you, too, if need be, that in September of last year we entered the last third of the 20th Century, a generation which will be run by leaders born in this century and of it. Probably no one will be in a leading position in the United States in a few years from now who lived through any part of the 19th Century but only those who know of it in terms of history.

I remind you also that the 21st Century is not very far away. Thirty odd years may seem like a lot to you and me, but it is not very much in the history of mankind.

An engineer has predicted, for example, that by the next generation you will be living in an age of space flights to the planets; of undersea farming; of computerized instruction; biomedical engineering and brain-wave communication. I envy those who are going to have all of those things and I wish I could live to see them—except maybe biomedical engineering. I am not so interested in people getting after me biomedically.

I do say to you with all my heart and I hope my mind and, indeed, my soul that those of us who have sat in that Governor's chair over the last 12 to 16 years have a very firm feeling about what you are about to undertake from our own experience, and it is not because any of us wish to be dictators, and it is not because we think governors are the most important persons in Pennsylvania. It is because of the mechanics of trying to operate a government in this day and age based on a restrictive constitution which, as

many of the former speakers have told you, was based on the fact that in that day and age some unfortunate events had happened in government and so they had a Convention and they set up a constitution which is highly restrictive, indeed, and with little faith in their representatives in the legislature, to say nothing of the Governor or the Judiciary.

In short, at the beginning of this last third of our century, almost 100 years from the making of our present constitution, with nine out of the 13 changes achieved now, it is up to us to make absolutely certain that we produce for the people of Pennsylvania the most important legal and governmental document in the Commonwealth—important, yes, but more hopefully successful, not successful for us, but successful for those 12 million now and many millions more who will live under it.

DELEGATE FLEMING Thank you, Governor Scranton.

Of our former Governors who are still living and could not be here, Governor George Earle is ill; Governor Arthur James is ill and could not be here, and former Governor James Duff had a previous engagement of long standing and could not be here, but it is his hope that some time in the next three months he will be able to be with us.

Of course, the other living ex-Governor swore all of you in with the exception of those three of us today, Chief Justice Bell, so he has already been here with us.

IN MEMORIAM

DELEGATE FLEMING. Now, if I may, while we are honoring our former living Governors, I think it is only proper to honor and to remember two former Governors who departed this life just a short time ago. I would like to ask the delegates of the Convention to please rise for a moment of silence in remembrance of our former Governors, Edward Martin and David Lawrence.

(The delegates stood in silence.)

GAVEL RETURNED TO PRESIDENT BRODERICK

DELEGATE FLEMING. Mr. President, thank you for the privilege of presiding and I turn the gavel back to you.

PRESIDENT BRODERICK. Thank you, Delegate Fleming, for an excellent job well done.

GOVERNORS' WIVES WELCOMED

PRESIDENT BRODERICK. May the Chair take this opportunity to point out that while we have heard from at least one of our Governors about some of the dissimilarities between Governors, I would like to point out at least one similarity in former Governors, whether they be of Democrat or Republican persuasion. That is the fact that they all have such beautiful wives and I would like to present them here today.

Mrs. Leader, would you stand up, please, Mary Jane Leader; and Mrs. Fine, Bernice Fine. Although we are not privileged to have Mrs. Scranton, Mary Scranton with us, you all know how charming she is and we are sorry she is not with us today.

RECOMMENDATIONS TO RULES COMMITTEE

PRESIDENT BRODERICK. To return to the business at hand, I want to emphasize that the telegram which was sent to each and every delegate concerning presentation of your views to the Rules Committee was not intended to cut off your recommendations, suggestions or criticisms of the suggested rules by saying that they should be in by 11 a.m. this morning.

The Rules Committee sat this morning and will meet immediately after this session. They would appreciate it very much if every delegate who has a recommendation or suggestion would put it in writing and hand it to the pages. The pages will turn them over to either Delegate Scranton or Delegate Casey so that they will have them, if possible, for their deliberations this afternoon.

I know you share my feeling that we are anxious to get to work with the business at hand, but we do need a set of rules. I know that our Rules Committee is going to work this afternoon and perhaps this evening to get its recommendations in your hands as soon as possible so that we can get to the business of appointing committees and start the work of the Convention.

ANNOUNCEMENTS BY EXECUTIVE DIRECTOR INGRAM

PRESIDENT BRODERICK. Before introducing the next gentleman, I would like you to know that John Ingram, Executive Director of our convention and also Executive Director of the Preparatory Committee is one of the finest men that I personally have ever had the opportunity to work with and I mean that in the full sense of the word. He has done a marvelous job. He works day and night to make this a good convention. I would like to present John Ingram to you now. He has a few announcements as to what the convention is doing to make our work more successful.

Mr. INGRAM. Mr. President, honored guests, ladies and gentlemen, with your permission I would like to preface these announcements by saying to you that one of the most important and I might say also one of the most difficult tasks of the Preparatory Committee was that of providing for your personal needs, for the personal needs of the delegates in terms of working and meeting space, in terms of equipment and supplies, staff services and all of the many logistics and the logistic support that was necessary to prepare in advance for an event which is very large, very short and unprecedented, at least in our lifetime.

You have received from time to time over the past several weeks communications and materials from the Preparatory Committee. These have been in the form of announcements and in some cases requests for information from you. You have received a set of manuals and you have received a delegate's guidebook. Let me say at this time that those of you who may not have received this material, if you will contact us, we will see that you get it immediately.

We have also received a large number of inquiries from delegates over the past several weeks about a lot of things concerning the facilities and comforts and other things that might be waiting for them when they arrive here in Harrisburg. What I am going to attempt to do today in terms of these announcements is to describe some of the services and some of the facilities which we have

prepared or are preparing for you and to anticipate what might be some of the questions which still remain with you concerning these facilities.

WORKING SPACE

One of the most important needs that you have, of course, is for space both for working and for meeting. Let me say that one of the most scarce and precious commodities in Harrisburg today, even more scarce at times than money, is space of all kinds in the Capitol building. The space that will be used by the Convention is located primarily in two places, here in this building which has been made available to us through the courtesy of the legislature and in the North Office Building which has been made available to us through the courtesy of the Office of Administration and the Department of Property and Supplies of the executive branch. If you do not know where the North Office Building is, it is directly to the north of the parking lot behind this building. The easiest way to reach it—and you may reach it without going outside—is to go to the basement of this building, go north, which is the end that the book store is in, not the end that the cafeteria is in. Directly north at the end of this building you will find a hallway, a tunnel, leading to the North Office Building. The space that has been made available for Convention use is on the fifth and sixth floors of the North Office Building.

CONVENTION OFFICE

The Convention office is in Room 500 on the fifth floor of the North Office Building and this is where the general staff headquarters is located. This is more or less the business office for the Convention, where checks are written and accounts kept and the general business of the Convention is carried on. The extension number there is 2915 if you wish to call concerning anything that you need. We will attempt to supply it to you, assuming, of course, that it is within reason.

DELEGATE OFFICES

In that same building, on the fifth and sixth floors, we will provide for each delegate a desk for working space. These will be assigned immediately following the announcement of committee chairmen appointments because this has something to do with the assignment of the desks to all delegates. Let me say that these desks you will find somewhat appropriate to the task to be carried out by this Convention, which is the modernization of our 1874 constitution, because many of these desks would appear to date back to 1874. However, we hope you will be patient with us. We will provide a space to write on and work on, and these are located several in a room. You will be asked to share with other delegates a room where each of you will have a desk. That room will be announced to you, there will be a place to hang your coats and to keep your papers and to do some desk work there.

COMMITTEE ROOMS

We are also attempting now to provide enough committee rooms so there will be one for each committee so that each committee can have a permanent place to meet. These again, will be furnished, not in Heywood Wake-

field furniture, but we will try to do the best we can to make these facilities useful to you.

LIBRARY FACILITIES

Aside from rooms and office space, one of the most important facilities that you will need throughout the convention will be, of course, library facilities. We are very fortunate to have a very excellent state library which is located in the Education Building which is to the rear of the Capitol on Commonwealth Avenue. We have had excellent cooperation from Mr. Doerschuk, the State Librarian. He is setting up a special shelf for group material which will be especially pertinent to the Constitutional Convention.

In Room 521 on the fifth floor of the North Office Building, we will have a lounge and a small library of reference materials that are most often used, some selected materials. We will have a librarian there to help you with any library problems and to get anything for you that is available in the way of library material. There will also be an assortment of newspapers from throughout the State available there and we hope enough comfortable furniture that you will have a place to relax and to read. There will also be some vending machines there to supply needs such as cigarettes, candy bars and perhaps other kinds of snacks.

LOUNGE ROOMS

Let me say something about the House facilities here. Immediately to the rear of this room through the left as you face the rear, there is a lounge which may be used by delegates to consult with guests and for other purposes of that kind. Off that lounge is a ladies' lounge. The men's room can be reached from the other side of the hall to the rear, that is, to the right beyond the elevators in the room used by the House of Representatives for lockers.

CAFETERIA FACILITIES

In the basement of this building is a cafeteria which serves breakfast and lunch. There is also a snack bar there open during daytime hours for sandwiches and other snacks. There is a counter where you may purchase newspapers, cigarettes, and so on.

PARKING SPACE

Parking is a very important problem to you, I know. Along with the book sent out to you, the Delegates' Guidebook, we enclosed an application for you to return to us if you need a parking space. Permits will be issued for those in need of parking space. The space available to us has been furnished through the cooperation of the Department of Property and Supplies and is the space reserved usually for the legislature when they are in session. It is, as I said, to the rear of this building. The permits which will be issued are permanent, good for the life of the Convention, and are, of course, issued for personal use only. That space is not to be used by the staff of the Convention or anyone else. We will ask you, if you do have space furnished to you, parking space, that goes with your hotel room or you have some other place to park your car, we would ask that you park it at that place since parking space is quite scarce.

COMMUNICATIONS

Communications, of course, is another very important need. We have a communications center in the North Office Building in Room 511 which will shortly be in operation. This center will handle mail, telephone calls and messages primarily. Incoming mail that you want addressed to you should be addressed to in care of P. O. Box 6, Harrisburg, 17108. Mailboxes for all delegates are located in this room. They are combination boxes and we will shortly assign you a box with your number which will probably be the same number as the desk that you will have here permanently and you will also be issued the combination. Mailboxes will be attended and you can ask the attendant for any help you need. The mail will be picked up several times daily here in Harrisburg, incoming mail, and distributed to your boxes. Messages will also be kept and found in those boxes. Outgoing mail, personal mail, can be deposited in any of the boxes, of course, in the Capitol or other buildings. Official mail which should, of course, be on official stationery, should be left in Room 511, communications center, in the North Office Building and postage will be applied and mailed by the staff.

STATIONERY

Stationery will be furnished, incidentally, to all delegates—official stationery as well as other supplies, and they will be placed on the desks when those desks are assigned.

Let me say in the meantime and before the desks are assigned, should you need a working space, desk space, please come to Room 500 in the North Office Building and we will attempt to find you a temporary place where you can work until your permanent desk is assigned.

TELEPHONE SERVICE

Telephone and message service—room 511 will be the message center and phone center. There will be a phone in each of the offices that are used on a communal basis by the delegates. Incoming or outgoing calls may be made from that telephone. Outgoing calls may also be made from Room 511. There will be attendants there to help you and the calls may be somewhat more private than the calls made from the phone in your office.

The convention number is 787-7100, and, of course, the area code in Harrisburg is 717. The operator will take messages as incoming calls come in for you and people should be told to call you at 7100. This phone will be manned at all times the Convention is in session, night or day; the operator will receive the calls; she will attempt to reach you by telephone. If she knows you are at a committee meeting, here on the floor or elsewhere, she will take the message in duplicate; she will put one in your mailbox and by messenger try to reach you and have him deliver the message to you personally, either here or elsewhere.

I would suggest that if you expect important calls that you especially keep the operator at 7100 informed as to where you may be found. As to outgoing calls, there are telephones in the rear, to the left facing the rear, off the lounge, which may be used for outgoing calls by the delegates. There are a number of phone booths there and there are attendants to assist you in the use of the state

system, which is a special kind of telephone system and in which you will need instructions.

You may also place calls, as I mentioned, in the office in which your desk is located or Room 511, where you will also have an attendant to help you.

Messages to other delegates may be given to a page or to a messenger for delivery. Let me say if you have outside visitors who may be calling upon you here, they should contact the sergeant at arms, who will contact you at your desk if you are in session.

PAGES

Let me mention here that the pages—and some of them are sitting down here this morning—are honor students who have been selected by the schools within a commuting distance of Harrisburg to serve as pages. Each of them will serve for a week at a time. There will be overlapping platoons of the honor pages serving throughout the Convention. This has been handled for us through the courtesy of the Department of Public Instruction.

STENOGRAPHERS

For stenographic help, there will be a stenographic pool. If you need typing done or if you want to dictate something to a stenographer, there will be a supervisor in Room 512 in the North Office Building. We will give you her extension shortly. I do not have—that phone has not been attached as yet. Priority for the stenographers and the secretaries in the pool will be given for official assignments or committee work and other work of the Convention, but they will also be available for dictation or typing on full assignment to delegates. Delegates should see the supervisor in Room 512 for this assistance.

MANUALS

The publications by the Preparatory Committee, major publications, a set of nine manuals, seven were mailed to you in the middle of last month and two more have just been mailed, the final two manuals, the index and the bibliography. If you did not receive a set, please call Room 500 and we will see that you get one, or give a note to a page and it will be delivered to us and we will see that one is mailed to you or handed to you. If anyone would like to have an extra set, please do the same and we will try to get it to you. Let me say that there was a limited quantity printed, 2,000 of each of the manuals. They were distributed first to the delegates and second to a list of more than 300 libraries, public and college. Some of you have contacted us and said that some of the largest libraries in your area were omitted from the list sent to you. Let me say that was an error. They were the regional libraries, the most important 30 libraries in the State, that were left off the list inadvertently and the manuals are being sent, of course, to all of them. You will get a revised list of those libraries.

Let me suggest that requests made to you by friends and others for a set of the manuals—I would suggest that you advise them that they are in the libraries. If it seems to you that they should have a set, have them write to the office, P. O. Box 6, Harrisburg, Constitutional Convention Office. We are accumulating those requests and will supply as many of them as we can. The other publication, the guidebook, the loose-leaf book, the big, black

one—if you did not receive it, please advise us and we will get one of those for you. It is to be used to store general instructions and information and announcements and directory materials and things of this sort that are of an administrative nature.

DELEGATE DIRECTORY

A delegate directory, a directory of all the delegates which was started some time ago, has been prepared by Secretary Mark Gruell of the Senate. It will soon be available and will be distributed to you.

EXPENSE AND MILEAGE

One other important thing, and one of the most important things, is the payment of your expense and mileage bills. As you know, the amount of \$2,500 is allocated for expense, provided for expense, for all the delegates according to law and is payable according to law in four payments of \$625 each on the 15th day of this month, January, February and on the last day of the Convention, February 29. These checks will be mailed to your home address, unless you instruct us otherwise. Please instruct us if you would like it sent to some address other than the address at which you received your manuals.

Mileage will be figured also according to law at the rate of 10 cents per mile, figured on the same basis as it is for the Senator from your district. It will be paid monthly, probably at the end of the month. The check will be mailed to you automatically, also to your home.

We will prepare a memo which you will receive, indicating what the regular mileage payment is and if there are any errors in that, we will like you to correct them and send them back to us. In any case you will be asked to initial it and return it to us so that we know we have the correct location for you.

GUIDE BOOKS

These and other instructions, many of these are already in your guide book, many of these will now be prepared in writing and as the Convention proceeds, there will be other announcements of this kind, administrative announcements, which will be punched so that you can put them in your guide books. You will receive a roster very shortly that can be put in your guide book. If you have any questions, any suggestions, need any help, please contact us at the staff office. Again, that telephone extension is 2915. The location is Room 500 in the North Office Building.

Thank you very much.

ADJOURNMENT

PRESIDENT BRODERICK. It has been moved by Delegate Gray and seconded by Delegate Prendergast that this Convention do now adjourn until Tuesday, December 5, 1967, at 9:30 a.m., e.s.t.

The motion was agreed to, and (at 3:12 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Tuesday December 5, 1967

Number 3

CONGRESSIONAL DAY

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

CALL TO ORDER

PRESIDENT BRODERICK. The convention will now come to order. Would the delegates please rise in order to honor our distinguished guests who are about to enter.

DISTINGUISHED GUESTS PRESENTED

PRESIDENT BRODERICK. The Chair now recognizes the sergeant at arms and asks him to bring the delegation forward.

SERGEANT AT ARMS. Mr. President, I have the honor to present the members of the United States Congress from Pennsylvania.

PRESIDENT BRODERICK. The Chair thanks the gentleman.

Will the United States Congressmen please come forward?

The Chair also invites the chaplain of the Senate and chaplain of today to come forward to the rostrum.

We would also like Delegates Baldus, Swope and Stahl to come forward. Will the delegates please remain standing while we introduce the chaplain.

Today's meeting will be opened with prayer offered by the Reverend John Tate of the Market Square Presbyterian Church in Harrisburg.

PRAYER

THE REVEREND JOHN TATE, pastor of the Market Square Presbyterian Church of Harrisburg, Pennsylvania, offered the following prayer:

Let us pray.

Gracious God, the creator of all things free and good, we thank Thee that Thou hast given us this wonderful land with all of its power and its beauty, its wealth and its potential. We acknowledge Thee to be the sovereign ruler and we are Thy servants.

We realize the awesome responsibility which accomplishes this privilege and we come to Thee seeking guidance and wisdom and understanding and strength, the ability to know what is right and the courage to do it.

Thou has not placed us here as a puppet government waiting to hear the latest whim of the dictator that we may abdicate our honor and make his madness law; rather Thou has brought us here with mind and will, and precept and precedence to guide us.

Let us think clearly and choose wisely for the future of this great State. Save us from forsaking mind and will and precept and precedent in order to serve selfish and grasping pride and prejudice. Let us care more for the rights and the freedoms of people than for the graft of pressure groups and for the acclaim of the powerful few. The responsibilities of guiding a democracy are staggering because the evil forces of opposition from within and without are more easily assimilated than eliminated.

We know what is right, but too often we find it too hard or too much of a threat to pursue it and so we give up and we drift with the tide of compromise.

Could we be different this time? Could we be true and clean and right? Could we move and march and drive for the best rather than merely the best compromise with entrenched and selfish wrong? Perhaps not, certainly not without Thy help.

We pray, O God of freedom and truth and justice, heed our plea and make us this day what Thou didst design us to be. Try us, O God, in Thy holy Name. Amen.

DELEGATE SWOPE REQUESTED TO PRESIDE

PRESIDENT BRODERICK. We now come to another one of the special events of our opening ceremonies. This morning, as you probably are already aware, we are going to honor our United States Congressmen.

The Chair at this time calls upon the delegate from Dauphin, Mr. Swope, who will preside over the ceremonies.

CONGRESSMEN WELCOMED

DELEGATE SWOPE. Mr. President, Doctor Tate, members of the American Congress, my fellow delegates and guests.

Today is designated Congressional Day for this Convention and it is my great pleasure to welcome to Harrisburg and to this hall some of the outstanding members of Pennsylvania's capable and distinguished delegation in the United States Congress. These eleven men represent all their colleagues from our State, 27 in number, and are here because of their great and deep dedication to the task which has been set before this Convention.

I have a particular feeling for the House of Representatives of our National Congress; it is the people's House because of the greater number of its members, all of them and each of them, is more closely attached to the constituency which he represents. And because of the shortness of the term, two years, there is, I assure you, a great tendency for each member to be alert and to be watchful for the day-to-day needs and interests of his

constituency. I for one, not intending ever to run again for Congress, believe that the two-year term is quite correct and should be maintained.

I was for a spell down in Washington as a member of the Congress from this district, of which Harrisburg is the center or used to be, should I say. Because, apparently, of my good conduct I was paroled by the court of last resort, the voters of my district, to return to Harrisburg into the custody of my Republican and Democratic friends. If there was any satisfaction in that event, it was, that my successor was not only one of my closest personal friends but as it turned out, he became a long-time and distinguished member of our National House. I refer to John C. Kurkel of this city.

These congressmen were chosen for their task, as we were chosen for ours, by the voters of the Commonwealth to represent the best interests of their constituents and the best interests of the State as a whole. When they speak, they voice these best interests clearly and deliberately. We might well pay close attention to the messages that they will bring to us.

Some of these members have served in the halls of the Pennsylvania Assembly at both ends of the capitol. Others worked diligently through the years in behalf of constitutional reform. For them this will be a memorable moment as participants in the series of opening ceremonies before our full task begins. Their presence is a testimony to the wide backing that this great bipartisan effort has stirred across the State. As we welcome our leaders in the United States Congress, let us be reminded again of the magnitude of the task before us.

Yesterday we heard from three of our past Governors who gave us words of encouragement and indicated how much they would have liked to have had a revised constitution during the time that they served in the Governor's office.

Governor Leader said, "Do not write a constitution of restraint, but one that releases our great and varied capacities to meet the demands of this vast, expanding world of ours."

Governor Scranton, a member of this delegate body and the recent former Governor, highly respected Governor of our State, said, "This is the best prepared convention in the history of the United States. It is up to us to make absolutely sure that this will be the most important, successful document we have ever had, especially to those of the future who will live under it."

The men who are with us today are well aware of the enduring qualities of the United States Constitution under which they work and serve. They are conscious of the spirit which permeates this hall. Now let us strive to combine those elements, vision and dedication, so that we may earn the trust of all Pennsylvanians, including our distinguished congressmen guests who are honoring us with their attendance and demonstrating their hearty support for us.

TELEGRAMS RECEIVED

I have before me telegrams from our two United States Senators, neither of whom could be with us this morning for good and sufficient reasons. I should like to read these telegrams.

Lieutenant Governor Raymond J. Broderick,
State Capitol, Harrisburg. Deeply regret that

my chairmanship of Senate-House Poverty Legislation Committee Conference will not permit me to attend special session of State Constitutional Convention.

As you know, I have worked for constitutional revision throughout my public career. You have begun your task well. Delegates are to be commended for selecting outstanding Convention officers. The voters have entrusted you with the difficult job of modernizing Pennsylvania's basic law.

I urge a strong bipartisan effort to rewrite the four assigned sections of the antiquated 1874 constitution. It is vital that Pennsylvania's constitution should be geared for today's vast and complex problems. As you begin these important deliberations, let wisdom and prudence prevail. All of you have the unique opportunity to affect the quality of government in our Commonwealth and shape the future of Pennsylvania's 12 million people. Good luck in your endeavors.

Signed, Joseph S. Clark, United States Senator.

Again, to the Honorable Raymond J. Broderick, Lieutenant Governor, State Capitol, Harrisburg. Unfortunately, I will not be able to be with you today to share in what is at one and the same time a great responsibility and a great opportunity.

You have all been delegated the responsibility of creating a rapport between the pragmatism of our experience and the wisdom of our forebears.

We have learned that Pennsylvania must have a modern constitution, if she is to truly become the Commonwealth of excellence. Best wishes. Hugh Scott, United States Senator.

Now it is an honor for me at this point to introduce some members of the congressional delegation from Pennsylvania; others will be introduced later.

As I announce the names of our congressmen, will they please rise and remain standing until we have announced all of them, except the two whom I will announce later.

The Honorable Edward G. Biester, Jr., 8th District, Bucks County, a member of the Judiciary Committee;

The Honorable Joshua Eilberg, 4th District, Philadelphia, member of the Judiciary Committee of the House and a former majority leader of the House of Representatives here;

The Honorable James G. Fulton, 27th District, South Hills, Pittsburgh, former State Senator, ranking member of the Space Committee, also a member of the Foreign Affairs Committee;

The Honorable George A. Goodling, my neighbor, 19th District, Loganville, former member of this State assembly and a member of the Agriculture Committee of the House;

The Honorable William J. Green, 3rd, 5th District, Philadelphia, member of Science and Astronautics Committee and Post Office and Civil Service;

My congressman, the Honorable Herman T. Schneebeli, 17th District, Williamsport, with his branch office in Harrisburg, a member of the Ways and Means Committee;

The Honorable Richard S. Schweiker, 13th District of Montgomery County, member of the Armed Services Committee;

The Honorable J. Irving Whalley, 12th District, Windber,

former State Senator and a member of the Foreign Affairs Committee;

The Honorable Joseph P. Vigorito, 24th District of Erie, member of the Agriculture Committee.

Will you welcome these gentlemen?

My friends, please return to the halls of Congress with a message that we are gathered here in Harrisburg, not simply to add another page to the history book, but to revise those pages in the state constitution that may have grown musty with disuse and have hamstrung our lawmakers for nearly a century.

I will now introduce, my fellow delegates, one of the members of this delegation who will speak for the whole body and later the second one from the delegation who will do the same.

CONGRESSMAN ROBERT J. CORBETT PRESENTED

DELEGATE SWOPE. This gentleman has served his Allegheny County District with distinction for 25 years—13 times he was elected to the House of Representatives. He has had, therefore, a long and distinguished career in the National House of Representatives and in the interests of his constituency. He is a native of Pittsburgh and he was at one time a sheriff of Allegheny County. He is a civic and fraternal leader in Pittsburgh and he is the ranking member of his State's Congressional Campaign Committee and, I believe, the dean of the Republican membership in the House.

Ladies and gentlemen, it affords me great pleasure to introduce to you, to present to you, at this time the Honorable Robert J. Corbett, Congressman from the 18th District of Pennsylvania.

ADDRESS BY CONGRESSMAN ROBERT J. CORBETT

CONGRESSMAN CORBETT. Mr. President, Mr. Swope, ladies and gentlemen of the Convention, I can tell you in all sincerity that we members of Congress got up at dawn this morning, went to considerable trouble to be here and all of the members who are not present have very vital reasons why they are absent. They simply could not come or they would have been here.

We come here on our own behalf and on behalf of the rest of the delegation to express to you personally our confidence in what you will accomplish. We come also to express our sincere belief that you are going to act in a way which is best for Pennsylvania; and if it is best for Pennsylvania, it is best for America. You not only have our respect for your dedication, you have all of our best wishes.

I have, of course, been following as closely as I can, through the newspapers, what you have done to date. All of it seems remarkably good. I am just very slightly disturbed by the talk of this being a bipartisan convention. I would have been happier had the word been nonpartisan. The very use of the word "partisan" is almost synonymous with selfishness. If you were to have a partisan convention, you would have two groups, at least, striving for any selfish advantage for their political group that they could get. This would

undoubtedly make the convention a shambles, would result inevitably in the people recognizing that certain provisions agreed to for the new parts of the constitution were designed to benefit in some way a special interest group.

Now, we are very glad you are started off on the business of being bipartisan or nonpartisan. We hope you end up as you began because we believe thoroughly that if you do an unselfish job in redrafting certain vital parts of our outworn constitution that you will have then made a real contribution to the health and happiness and welfare of the future people of Pennsylvania.

We commend you for your time and diligence, thoughtfulness and patience. We know in our hearts that you are going to do a fine job and that this Convention will go down in the history of Pennsylvania as something that we were all glad happened.

Thank you and good luck.

CONGRESSMAN JOHN H. DENT PRESENTED

DELEGATE SWOPE. Fellow delegates, it is a further privilege and pleasure to introduce another member of Congress from Pennsylvania, one whom I have known for many, many years. He is not at all a stranger to this Capitol. He served some terms in this House of Representatives and he served for 22 years in the State Senate, at the other end of the Capitol, 18 of which he was the Democratic floor leader. He has been in Congress for a number of terms now and is a member of the Education and Labor Committee of the House of Representatives. It is with keen personal pleasure that I present to you the Honorable John H. Dent.

ADDRESS BY CONGRESSMAN JOHN H. DENT

CONGRESSMAN DENT. Mr. Swope, President Broderick, my colleagues from the Congress of the United States, delegates to this great and promising Convention, I know you will forgive me if I stand for just a moment and reflect upon the pleasant memories of the many days that I spent in this body with so many of the colleagues, or I should say so few of the so many colleagues, that I served with.

We worked for many years under this constitution that still governs this State and while, as the years have gone by, many of us have found so many faults with it, do not forget completely new worlds have come into being since the wise men and women so many generations ago sat down and penned this rule of law for the citizens of this State.

What you do here, in this Convention, will not be for the moment, but for many of the years to come because the people, wisely so, hesitate much and long before they move into a new rule of order and a new constitution. Much has to be done, and in your studies and in your reflections one of the most important guiding lights that you must keep lit during all your deliberations would be that of interpretation of that which you prescribe. In doing so you must always remember that you must exercise every caution in order that

that which you intend shall be so clearly stated that there can be no mistake in the interpretation. Because you must now fully realize that while we have always had a great belief in the independence of the States in the firmament of our United Federal Government we know that as we move along in the various and grieving problems that afflict us in our everyday conduct, there is a greater interdependence between the States' governments and that of the Federal Government. So as you frame this constitution, frame it in such a way that all the avenues are open and all the road blocks have been removed in order that cooperation between the Federal and the States' governments will come in such a manner that the benefits to flow from this cooperation will meet the needs of the people as they are born in the next generations.

I commend you for the duties that you are performing and for the service that you are rendering to the people of our State. I thank you for the opportunity of again being a member of the General Assembly of Pennsylvania for a few minutes.

CONGRESSMEN THANKED

DELEGATE SWOPE. Gentlemen of the Congress, let me offer my own personal thanks to you for being willing to inconvenience yourselves, physically, and for taking off time from your very, very busy schedules to come back to the capital of your home State in order to bring to bear your influence upon this body of delegates and upon the citizens of our Commonwealth in giving encouragement to our performance of the hard tasks that are before us.

As the shadows lengthen for me, I do as most men do, think back over the past and wonder at the fact that so little has been accomplished in a long lifetime. But to all men there must be certain satisfactions about the times and the things they have done. As I look back, I find that one of the great satisfactions I have, brief though it may have been, was my membership in the greatest deliberative body in the whole world, the National House of Representatives.

Gentlemen, you are taking back a little piece of my heart today.

Thank you.

PRESIDENT BRODERICK IN THE CHAIR

PRESIDENT BRODERICK. Thank you, Delegate Swope. I think my fellow delegates share with me the feeling that you did an excellent job this morning in the presentation of our United States Congressmen.

I understand that our Congressional Delegation has a plane waiting, and I am sure that I express your sentiments when I say to them thank you very, very much for coming and giving us the encouragement that we need to do the job that Pennsylvania needs, and again on behalf of my fellow delegates, I say thank you.

May I ask our delegation if they will please rise in order to show our visiting Congressmen that we appreciated their performance.

COMMENDATION OF RESEARCH STAFF

PRESIDENT BRODERICK. We now have arrived at the part of our program which, I think, will be most interesting to each and every delegate, and I refer to the briefing that is going to be performed by the research directors, who did such an able job preparing these pamphlets and books which you have all received.

I am going to ask one of our delegates this morning to introduce the first research director, but before I do, I would like to take the privilege of saying that if this is the best prepared convention that has ever been held, the credit is due to the wonderful research staff that we have had preparing these books and pamphlets and preparing the rules and making readiness for you in all details.

I would like to say that the credit belongs to men like Dave Stahl and Dean Laub from Dickinson and Dave Kurtzman, who is presently superintendent of Public Instruction, and Bill Willis who prepared the local government document; Mark Gruell who has been working daily for months on our rules and, of course, John Ingram who has been our Executive Director.

I think you all agree with me that in the preparation of this work they have done an outstanding job. I want to say this, the real purpose of it was not to hand something that was cut and dried to the delegates, but to enable you, when you reported on the first, today and from now on, to sit down with all the necessary materials at hand so we would not waste your valuable time and we could get down to the job that is expected of us by the people of Pennsylvania.

It is with great pleasure that I present the delegate from Allegheny County, Delegate Baldus, who will introduce our first research director.

DELEGATE BALDUS PRESENTS DAVID STAHL

DELEGATE BALDUS. Mr. President, fellow delegates, ladies and gentlemen, ask any author and he will tell you successful textbooks are years in the making. Vast research, painstaking writing and editing all take a great amount of time, yet today we have a man who, in less than two months, provided for the delegates of this convention a comprehensive reference manual on the intricate subject of legislative apportionment.

David Stahl was asked to do the job last July and given Labor Day as his deadline. Yet in 60 days, Mr. Stahl and his committee traced the historical development of legislative apportionment in Pennsylvania, analyzed all of the relevant court decisions, considered the experience in other States, identified the issues and compiled alternative proposals for change. To accomplish this task, Mr. Stahl worked day and night with a carefully selected committee consisting of: Ronald Davenport, Duquesne University; Rosalind Branning and Richard Seeburger, University of Pittsburgh; Ruth Silva, Pennsylvania State University; Robert Dixon, George Washington University; and student assistant James Vaughan, University of Pittsburgh; and Albert Odermatt, Dickinson. The success of their endeavor, I believe, will be apparent to anyone who has read the final product.

David Stahl graduated from the University of Pittsburgh in 1942. In 1949 he received his law degree from the same university. For the past 15 years, David Stahl has served both city and State government in Pennsyl-

vania. He was assistant Pittsburgh city solicitor from 1948 to 1952. He became city solicitor in 1959 and served in that post until 1961 when he was named Attorney General of the Commonwealth of Pennsylvania. Following nearly two years of distinguished state service, he returned to the duties of city solicitor in his native Pittsburgh where he still resides and acts as city solicitor.

At the age of 47, David Stahl has probably done more in the area of public service than most people accomplish in a lifetime. In 1964 he was executive director of the Lawyers' Committee for Civil Rights Under Law. He served as a member of the Pittsburgh City Planning Commission from 1963 to 1965. He was the chief counsel to the Mayor's Committee on Human Resources in 1965. He is currently a professor of law and lecturer in public and international affairs at the University of Pittsburgh.

It is, therefore, with great pleasure that I present to you, fellow delegates, David Stahl, distinguished public servant, governmental official and director of this Convention's task force on legislative apportionment.

ADDRESS BY DAVID STAHL

Mr. STAHL. It is gratifying for me, as I am sure it is for all of the others who served with the Preparatory Committee under the able leadership of Lieutenant Governor Broderick, to have had some small part in helping to prepare you for your deliberations. I am particularly privileged to have the opportunity to talk to you today as you begin to consider the substantive issues mandated in the call for the Constitutional Convention.

All of you have already made your mark in history by being selected to serve in Pennsylvania's first modern constitutional convention in the Twentieth Century. How indelible this mark will be will depend, of course, on what is achieved here when the gavel sounds the adjournment of the Convention three months hence.

I have a feeling that those who planned the first week's program wanted to ease you into your task by having the first briefing deal with what is probably the least complicated and least controversial topic on your agenda—Legislative Apportionment.

Yet the simplicity of this issue may be deceptive. How well this Convention deals with legislative apportionment may determine the success or failure of the State government for a generation to come. The effectiveness of the State Legislature, indeed the strength of representative government in Pennsylvania, may depend on how you fashion the structure of the General Assembly and its capacity to respond to periodic shifts in the State's population.

The pronouncements of the United States Supreme Court over the last decade have had a profound impact on American government and American society. The Court has proceeded boldly to redefine the United States Constitution to give fuller meaning to some of the great ideals of that instrument which we had followed more in our preachments than in our practice.

Prior to 1962, as we all know, there was wholesale disregard in most of the states for the re-

quirements of the state constitutions for periodic redistricting after each decennial census and for fair apportionment of legislative seats. Yet the courts refused to enforce these requirements because of their reluctance to encroach upon the domain of the legislative branches of state and federal governments.

In 1962, in the historic *Baker v. Carr* decision, the United States Supreme Court declared that the Fourteenth Amendment to the Federal Constitution meant what it said when it prohibited the states from denying to any of its citizens the equal protection of the laws. The Court said, in effect, that a voter in a single-member legislative district with a population of 80,000 is denied the equal protection of the laws when another legislative district with a population of only 5,000 is also entitled to a legislative seat. The citizen in the more populous district is not being treated equally when his vote carries only about one-eighteenth of the weight of the vote of a citizen in the sparsely populated district.

The Pennsylvania Story

The decision in *Baker v. Carr* did not come without a shock to many of us who were rooted in the old and placid ways of State government. Shortly after the United States Supreme Court decision was announced several suits were brought in the Commonwealth Court in Dauphin County to stop the 1962 legislative elections unless and until the General Assembly reapportioned itself. We wondered what was happening, — the very foundations of our government seemed to be shaken. We met with members of the Legislature to determine what to do, and I remember one venerable legislative leader pondering darkly whether federal troops would be patrolling the halls of the Legislature if it did not reapportion itself to suit the federal courts.

We prevailed upon the Dauphin County Court to permit the 1962 elections to proceed under existing apportionment, with the court affording the Legislature the opportunity to adopt a reapportionment plan in the 1963 session. The Court retained jurisdiction over the suits in the event the General Assembly failed to act.

The rest is history. The Legislature did not act on reapportionment at its regular 1963 session; then in a special session called later in the year two reapportionment statutes for the House and the Senate were enacted to become effective January 1964. The parties who had brought the suits in Dauphin County Court challenged the statutes and asked the Pennsylvania Supreme Court to take immediate jurisdiction to determine their validity in view of the approach of the 1964 legislative elections. A similar suit had also been initiated in the federal courts in Pennsylvania.

The Pennsylvania Supreme Court struck down the apportionment statutes as not meeting the constitutional guidelines which the United States Supreme Court had developed in some of the later cases following *Baker v. Carr*. The State Court permitted the 1964 elections to proceed

under the new apportionment laws, but it directed the Legislature to revise these laws by September 1, 1965.

When the Legislature failed to meet this deadline, the Pennsylvania Supreme Court itself undertook the task of reapportionment and the Court handed down its own reapportionment plan early in 1966 in time for the primary elections for legislative posts in that year. The Court apportionment plan for the State House and the State Senate is still in effect today.

Most other States have gone through comparable experiences in adjusting legislative apportionment to the standards laid down by the United States Supreme Court. It was truly a time of testing for our state governments. I believe that we came through the ordeal a stronger nation because fair and equal apportionment of our legislative bodies strengthens the states which form the backbone of our democracy.

The dire predictions of those who foresaw doom and chaos as a result of *Baker v. Carr* were widely off the mark. Of all of the sweeping decisions of the United States Supreme Court which have characterized the post-war period, the judicial decree compelling fair and prompt reapportionment of state legislative seats has been accepted most widely and readily by the people of the United States. In fact, the decisions on reapportionment appear to have given impetus to the move for constitutional reform in many states, including Pennsylvania.

Supreme Court Guidelines

The Reference Manual on Legislative Apportionment published by the Preparatory Committee, and the Summary of this topic contained in Reference Manual No. 1, will, I hope, give you an overall view of this topic. In my remarks today I would like to explain briefly what the United States Supreme Court has said about legislative apportionment, what the Pennsylvania Constitution now provides, and what issues you must consider in determining revisions of the Constitution.

The landmark case of *Baker v. Carr* in 1962 decided that the proper apportionment of state legislatures is a "justiciable" issue, which is a lawyer's fancy way of saying that the courts will consider the question. Under *Baker v. Carr*, then, an individual who claims that his voting power has been reduced through malapportionment of his state legislature may seek relief in the courts under the Equal Protection Clause of the Fourteenth Amendment. Redress may be sought either in the federal or state courts.

Baker v. Carr did not fix any standards for proper apportionment; it simply decided the power of the courts to deal with the matter. Guidelines for apportionment were first developed by the Supreme Court in six cases decided in 1964. The principal points made by the Court were:

1. That equality of population is to be controlling in the establishment of legislative districts, the "one-man, one-vote" principle, and

2. That both houses of state legislatures must be apportioned on the basis of population.

The Court rejected the federal analogy of the House of Representatives apportioned on the basis of population and the Senate on the basis of equal representation of all the states. The structure of Congress, the Court said, has no relevancy to state legislative apportionment.

The requirement that both houses of state legislatures must be apportioned strictly according to population cannot be altered by a state constitution. In one of the cases decided in 1964 the Supreme Court struck down an amendment to the Colorado Constitution, approved by the people, which would have permitted the apportionment of one house of the legislature partly on the basis of population and partly on the basis of geographic factors. The Court emphasized that an individual's constitutional rights may not be abridged by popular vote.

While equality of population is the polestar of legislative apportionment, the Supreme Court recognized that mathematical precision in establishing legislative districts is not possible. Minor deviations from the principle of equality in population are permissible so long as the population disparity between districts does not deviate from this principle in any significant way.

One nonpopulation factor that may be considered is political subdivision boundary lines. The Court realized that cities and counties are important in the scheme of state government. If possible they should be given separate representation in state legislatures, or at least not be divided in the establishment of legislative districts, so long as no gross disparities in population result. This is the reason that the guarantee of one representative for each county in the 1874 Constitution is no longer valid. Where the average statewide population per representative is 50,000, for example, it is no longer permissible to grant a legislative seat to a county with a population of 5,000. Nevertheless, in establishing a legislative district in which this small county will be included, its territorial integrity should be preserved if at all possible.

Other non-population factors may generally not be considered. The ringing words of Chief Justice Warren in the 1964 case of *Reynolds v. Sims*, a case only second in importance to *Baker v. Carr*, expresses this principle so well,

"Neither history alone, nor economic or other sorts of group interests, are permissible factors in attempting to justify disparities from population-based representation. Citizens, not history or economic interests, cast votes. Considerations of area alone provide an insufficient justification for deviations from the equal-population principles. Again, people, not land or trees or pastures, vote."

The spark for this concept of a purer form of democracy may have been lit long ago. I was fascinated to find in the debates of the 1873 Constitutional Convention, a passage from a speech by a Philadelphia delegate urging the adoption of

an apportionment plan for the state house of representatives different from the one ultimately adopted. His plan, he said, "does not give representation to hemlock trees, or beech or maple trees. It gives representation to people."

In the six cases decided in 1964 the Supreme Court stopped short of fixing any permissible limits on variations in population between legislative districts. The inequalities in the six cases were so clear that there was actually no need to decide how much of a population variance would be permitted under the particular circumstances in each state plan.

In several cases decided in 1967, the United States Supreme Court struck down the redistricting plans for the Florida and Texas legislatures. In these cases, the population variations from the representational norm, that is, from the average population per representatives, ranged above 10 or 15%.

It is difficult, and perhaps somewhat dangerous, to generalize from these two cases. In fact the Supreme Court cautioned that the fact that a population deviation of 10 to 15% is approved in one state has little bearing on whether a similar variance in another state will be upheld. I would therefore urge the Convention to consider carefully any suggestion for placing percentage limitations on population variances between legislative districts in the Constitution.

Perhaps the most important thing the United States Supreme Court has done is to command state legislatures to reapportion themselves periodically. The Court has not declared that reapportionment every ten years is a constitutional requirement; it did say that "decennial reapportionment appears to be a rational approach to readjustment of legislative representation," and "if reapportionment were accomplished with less frequency it would surely be constitutionally suspect."

The Pennsylvania Constitution

An examination of the sections of the Pennsylvania Constitution dealing with legislative apportionment may seem like a fruitless and unnecessary exercise since much of what is there has been held to be contrary to the Federal Constitution. However, in order to determine where we go, it may be instructive to see where we are.

Sections 16, 17 and 18 of Article II of the Constitution govern legislative apportionment. These sections are specifically listed in Act No. 2 of 1967, the enabling act under which you operate, as those which you may revise, repeal or replace.

Section 16

Section 16 divides the state into 50 senatorial districts, each of which is entitled to one senator. This section mandates 50 single-member senatorial districts, and this scheme has been retained in the present court-ordered apportionment plan.

To determine the senatorial ratio, that is, the population per senator, the total population of the

state is divided by 50. Each county which contains one or more "ratios" is entitled to a senator for each ratio. Section 16 then contains certain provisions for a single senator for counties which have less than a full ratio and for additional senators for counties having a fractional ratio remaining.

Other restrictions contained in Section 16 are that (1) no county may be divided unless it is entitled to two or more senators, (2) no city or county is entitled to more than one-sixth of the whole number of senators and (3) no ward, borough or township may be divided in the formation of a senatorial district.

The standard for dividing the state into 50 senatorial districts set forth in Section 16 is that the districts must be "of compact and contiguous territory as nearly equal in population as may be." This standard follows the United States Supreme Court guideline of substantial population equality.

The one-sixth membership limitation on any city or county, which has kept Philadelphia from having the number of senators to which it was entitled by virtue of its population, has been held to be invalid by the Pennsylvania Supreme Court.

The provisions for handling fractional ratios are doubtless void because they may violate the equal population principle.

The restriction on dividing counties and on cutting across ward, borough or township lines should be followed, according to the Pennsylvania Supreme Court, unless it is not possible to do so and satisfy the requirement of population equality at the same time.

Section 17

Article II, Section 17, dealing with the House of Representatives, provides for a formula based on a representational ratio obtained by dividing the total population of the State by 200. The number of representatives has been over 200, however, because of the many small counties which were entitled to at least one representative regardless of their population. Under Section 17, if a county has less than five "ratios," it is entitled to a representative for each full ratio plus an additional one if the balance exceeds half a ratio. If a county has five ratios or more, it is entitled to a representative for every full ratio with no additional one for any fractional ratio.

Multi-member districts, while not specifically mentioned, are tacitly permitted by the restriction against any district having more than four representatives.

In 1964, the State Supreme Court found the one-member-per-county guarantee to be clearly unconstitutional in light of the gross disparities in county population. The provision for handling fractional ratios is no doubt just as clearly void because it is not consistent with the principle of population equality.

With respect to multi-member districts, that is, districts in which the voters elect more than one representative, the federal and state courts have not found them to be inherently unconstitutional.

But the courts have cautioned that multi-member districts should not be established unless their need can be shown.

The Pennsylvania Supreme Court said in its 1964 apportionment decision that it "would be more prudent to approach the matter of apportionment by setting up single-member districts unless valid and compelling reasons exist which require the creation of some multi-member districts." When the State Supreme Court formulated an apportionment plan in 1966, it provided for all single-member districts for the State House of Representatives.

Section 18

Article II, Section 18, requires the General Assembly "immediately after each United States decennial census" to reapportion the State into senatorial and representative districts. No machinery is provided for accomplishing apportionment in the event the Legislature fails to act. And as in most American states, the General Assembly's record on reapportionment after the 1874 Constitution was not in accord with the mandate of Section 18.

Issues in Legislative Apportionment

What issues are involved in the subject of legislative apportionment? I will list the issues in the order in which they appear in your Reference Manual No. 6, which is not the order of their importance.

1. Number of Senators and Representatives
2. Population base for apportionment
3. Population variance
4. Separate representation for local government units.
5. Coterminous Senate and House districts
6. Single-member or multi-member districts
7. Gerrymandering
8. Bicameralism
9. Proper apportionment agencies
10. Frequency of apportionment.

1. Size

While the size of the Legislature is not strictly a problem of apportionment, it is certainly a related issue since the size of both houses is governed by Sections 16 and 17 of Article II. It appears that you have the power to determine the number of members in each House, or to let the size be fixed by the Legislature as is done in some states. (I should caution you at this point that this is a briefing and nothing else, and that you should be guided by the formal legal advice that you will receive from your staff and from your own interpretation of the enabling statute under which you operate).

The State Supreme Court established 203 seats in the House of Representatives in its 1966 apportionment plan. The various organizations which testified before the Preparatory Committee did not recommend any significant changes in the size of the Legislature. Other groups have

had a great deal to say about the size of state legislatures, however, and I am sure that you will hear more on this subject throughout your deliberations.

2. Population Base

The most common "population base" for apportionment is the federal census, that is, total population, and this is the basis on which we now operate in Pennsylvania.

A few states have developed a narrower concept of "population" by excluding certain categories of persons. For example, the population base for apportioning New York is "citizens," that is, total population less aliens. In Hawaii the population base has been the number of registered voters. This would, of course, eliminate persons under voting age as well as those not qualified to vote or failing to register.

While the Supreme Court approved the population base used in Hawaii, it is not yet clear whether the Court would uphold a population base formula which could result in a different pattern of representation than that which would be produced by a "total population" base.

3. Population Variance

We have already discussed the problems of population variance. While the United States Supreme Court has rejected any attempt to establish a precise arithmetic standard, it has also said that only "minor deviations" will be permitted. Some proponents of constitutional reform have recommended the insertion of maximum permissible percentage variations in state constitutions. Others suggest the use of more conventional standards, requiring legislative districts to be "as nearly equal in population as may be," the present language used in Article II, Sections 16 and 17, or "as nearly equal in population as practicable," or "as nearly equal in population as is reasonably possible." The more general approach would comply with constitutional requirements and is sufficiently flexible to shift with any changes in the Supreme Court's guidelines.

4. Political Subdivisions

The maintenance of political subdivision boundaries is the principal non-population factor sanctioned by the courts. This can be accomplished by separate representation for local government units, or by preventing the splitting up of political subdivisions in the formation of legislative districts. The Supreme Court has recognized that the establishment of legislative districts along political subdivision lines may also serve to deter gerrymandering.

To what extent the courts will permit variances in population in order to give recognition to political subdivision lines has not been conclusively determined. It is clear, however, that the variances may not be so great as to conflict with the overriding principle of population equality.

5. Coterminous Districts

By "coterminous senate and house districts" is meant a direct geographical relationship between Senate and House districts. For example, one organization appearing before the Preparatory Committee suggested a Senate of 50 members and a House of 200 members, with each Senatorial district composed of 4 House districts. Several states have adopted similar schemes.

6. Single-Member v. Multi-Member Districts

Before the Pennsylvania Supreme Court reapportioned the Legislature in 1966, Pennsylvania had a mixture of single-member and multi-member districts in the House of Representatives.

A federal district court ruled in 1964 that Pennsylvania's multi-member district system denied equal protection of the laws to those residing in single-member districts. This decision was vacated by the United States Supreme Court because the validity of the state apportionment laws was pending before the state courts.

The State Supreme Court did not go that far on the issue of multi-member districts but, as previously indicated, it did not believe there was any justification for the particular pattern of multi-member districts provided for in the 1964 apportionment statutes.

The United States Supreme Court has stated that the multi-member district may be vulnerable when it is used for the purpose of limiting the electoral power of a political or racial minority. Multi-member districts have also been criticized as tending to give undue influence to pressure groups within such districts and as being unfair to those who live in districts which elect only one representative and therefore presumably have less voting power.

In 1966 the United States Supreme Court reiterated its position that multi-member districting is not unconstitutional per se. At the present time multi-member districts can be found in at least one house in 33 states, particularly in the more densely populated areas.

7. Gerrymandering

Gerrymandering has been defined as the "artful technique of drawing district lines for partisan advantage." The gerrymandering of legislative districts may be accomplished in two ways: (1) by concentrating the electoral strength of the opposition party in a few districts so that this strength is dissipated in large electoral margins in those districts, (2) or by dividing the opposition party's electoral strength among a number of districts so that the opposition can carry few, if any, districts. Most gerrymanders combine both devices.

Gerrymandering may be used for political or racial purposes. Several decisions of the United States Supreme Court indicate that it will look into racial gerrymandering. Whether the Court will grant relief in a case involving political gerrymandering is far less certain.

The principle of population equality does not offer complete protection against gerrymandering. Three other basic restrictions traditionally used to check gerrymandering are the requirements of compactness and contiguity of legislative districts, requirements contained in Article II, Sections 16 and 17, of the present Constitution, and adherence to political subdivision boundaries.

Perhaps the most direct approach in attempting to deal with gerrymandering was the recommendation of the New York Constitutional Convention that the Constitution say simply that: "Gerrymandering for any purpose is prohibited."

8. Bicameralism

The constitutional requirement that representation in both houses of the state legislatures must be based on population has raised a question as to whether there is any reason to continue bicameral legislatures. The United States Supreme Court has stated that bicameralism continues to perform an important function because the two houses in state legislatures generally do not represent the same interests. The different viewpoints of the two houses and the check which one may have over the other may still be beneficial.

In any event, the bicameral character of the Pennsylvania Legislature is fixed by Article II, Section 1 of the Constitution, which is not within the scope of Act No. 2 of 1967 limiting the powers of this Convention. It does not appear, therefore, that the Convention may properly consider the question of unicameralism.

9. Agency for Apportionment

Apart from the failure to follow the principle of population equality, the main reason for the intervention by the United States Supreme Court in legislative apportionment was the failure to reapportion at all when significant population shifts became apparent after each decennial census. This raises perhaps the most critical decisions you will have to make on legislative apportionment. What agency should perform the apportionment function initially, and what happens if the initial apportionment agency fails to act?

The United States Supreme Court has never passed on this question directly. The Convention is free, therefore, to choose whatever agency it sees fit to perform the task.

In Pennsylvania and most other states apportionment has traditionally been the province of the legislature. There are many arguments for and against this approach. Other agencies have been suggested in which to vest the responsibility for apportionment such as bipartisan commissions appointed by the Governor or the Legislature.

The New York Constitutional Convention had proposed a plan for a five-man bipartisan commission as the initial apportionment agency. The Commission would consist of four persons to be appointed by the majority and minority leaders of the two houses of the legislature, with the chairman to be appointed by the full membership of the State's highest court.

Several states, including Michigan and Missouri, have adopted the bipartisan commission device for apportionment.

A reading of the debates of the 1873 Constitutional Convention teaches us that the commission proposal is not a novel one. Charles Buckalew, one of the leaders of that convention, had proposed several types of commissions, one composed of executive officers of the Commonwealth and another selected by the two houses.

If the Legislature is designated as the initial apportionment agency, the problem still remains of what steps to take to assure reapportionment in the event the Legislature fails to act. Again, the back-up apportionment agency could be a commission or, as recommended by several groups appearing before the Preparatory Committee, the State Supreme Court.

A different type of proposal to insure reapportionment is contained in the recommendations submitted to the Maryland Constitutional Convention presently in session. This proposal would require the Governor to submit an apportionment plan to the Legislature which could then adopt either the Governor's plan or a plan of its own. If the Legislature should fail to act within a prescribed period, however, the Governor's original plan would become law.

10. Frequency of Apportionment

The last issue is the frequency of apportionment. As stated previously, the Supreme Court appears to believe that decennial reapportionment meets constitutional requirements. More frequent apportionment would, of course, not be improper. Less frequent reapportionment might be.

There is presently a movement in Congress to have a census taken every five years. A five-year census would raise directly the question of whether it is desirable to reapportion more frequently than once every ten years. If there is any thought of more frequent apportionment, consideration should be given to its possible effect on the tenure of the members of the Legislature and on the stability of Legislature in general.

Summary of Issues

In summary, in your deliberations on apportionment of the State Legislature you will be concerned primarily with the following questions:

1. How many members should there be in each house?
2. What standards, consistent with the Federal Constitution, should be established for drawing the boundaries of state legislative districts?
3. Should multi-member districts be permitted or prohibited?
4. What consideration should, or may, be given to political subdivision boundary lines in the drawing of state legislative districts?
5. What restrictions, if any, should, or may, be adopted to restrict gerrymandering?
6. What should be the population base for apportionment, that is, total population, citizens or voting population?

7. What agency should perform the apportionment function—the Legislature or some other agency—and what happens if the agency having the initial responsibility fails to act properly?
8. What should be the frequency of apportionment?

Local Government Apportionment

One final point,—should the Convention deal with the apportionment of local government bodies?

The applicability of the one-man-one-vote rule to local government has not been directly decided by the United States Supreme Court. In four decisions issued earlier this year the Court avoided any express ruling on the question.

Many state courts and lower federal courts have applied the constitutional guidelines we have been discussing to local government units. The Pennsylvania Supreme Court did so in dealing with the challenge to the apportionment of Philadelphia's City Council. Very recently the State Superior Court likewise applied the doctrine of equality of population in several appeals challenging the division of reorganized school districts into regional areas for the election of school directors.

Many local officials in boroughs and first class townships are elected on a ward basis where population equality requirements may be significant.

The New York Constitutional Convention had recommended in its article on local government that the districting standards applicable to the state legislature should also govern the apportionment of local legislative bodies.

Before deciding whether the Convention should deal with this problem, a preliminary question arises as to whether it may do so under Act No. 2 of 1967. The Convention's express power to make recommendations on legislative apportionment refers to Article II, Sections 16, 17 and 18. These sections apply only to the State Legislature and they clearly would not support any regulation of local apportionment.

One of the other subjects within the scope of the Convention's powers, however, is "Local Government." Under a liberal view it may be argued that the Legislature intended to permit the Convention to consider all aspects of local government organization, including the apportionment of local legislative bodies.

Even if it is determined that the Convention may deal with local legislative apportionment, you should consider carefully whether, and to what extent, this should be controlled by the Constitution, or whether it should be left to regulation by the Legislature.

Conclusion

Where we go on legislative apportionment generally is now up to you. The courts have left some areas of discretion for you to consider. Your main task, I believe, will be to find a way

to make sure that the Legislature is reapportioned in an orderly fashion whenever necessary to reflect population changes, without the need for judicial prodding and extensive litigation.

May God and the welfare of the people of Pennsylvania be your constant guides as you carry out your duties for the remainder of the Convention.

APPRECIATION AND THANKS EXTENDED TO DAVID STAHL

PRESIDENT BRODERICK. I think I express the feeling of my fellow delegates when I say thank you for a most instructive discourse on one of our big jobs with which we are faced.

I feel that those of you who are not lawyers should be able, after we receive the remainder of our lectures from the research directors, to pick up your degree in law. Those of you who are already lawyers, I think you will be entitled to the degree of Doctor of Jurisprudence, but I think it just points out to us the depth of the job which we have to do.

Thank you very much, Dave, for an excellent job. We appreciate it.

MOTION BY DELEGATE SCRANTON

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Lackawanna, the anthracite region.

DELEGATE SCRANTON. Mr. President, I would like to make a motion that this Convention go on record in deep gratitude to David Stahl, a former Attorney General and a leading lawyer of this Commonwealth, not only for the presentation that he has made this morning, but also for the in-depth research work that has been done under his direction and with the hope that he will continue to give this Convention not only the wisdom that he has and the knowledge that he has gained and the experience that has come to him in his various endeavors, but likewise just for being himself.

PRESIDENT BRODERICK. Thank you.

A motion has been made by the delegate from Lackawanna, Delegate Scranton, that this convention go on record in the form of a resolution thanking Dave Stahl for the outstanding job that he has done, and we will put the resolution in the form of the language used by Delegate Scranton.

This motion is seconded by Delegate Stroup and Delegate Pechan.

On the question,

Will the Delegates agree to the resolution?

It was agreed to.

REPORT OF RULES COMMITTEE

PRESIDENT BRODERICK. For further work at hand, I would like to call on one of the co-chairmen of our temporary Rules Committee. I believe Delegate Casey will now give us a report on the progress of the Rules Committee.

The Chair recognizes the delegate from Lackawanna, Mr. Casey.

DELEGATE CASEY. Mr. President, members of the

Convention, the Rules Committee has requested that I provide to the delegates at this time a very brief report with regard to the progress of the deliberations of the Rules Committee.

I am happy to advise the Convention that the committee worked and is continuing to work very diligently on the matter of formulating at the earliest possible time a fair and equitable set of rules that will govern this Convention.

Our primary concerns have been, first of all, dispatch, that these rules be formulated as soon as possible, and secondly, that they be formulated in a democratic process, that is to say, that each delegate is given an opportunity to present to the committee his own individual views with regard to the final form these rules should take.

We spent approximately eight hours yesterday and made significant progress. We would like very much to continue today with the idea in mind of reporting before the day is over and before the session is completed today a final recommendation from the Rules Committee with the idea that the delegates be given the opportunity overnight to consider our work and then hopefully take action, Mr. President, as soon as you deem it expedient to do so.

With this thought in mind, I would now like to move that the convention recess until 3 p.m. today to permit the Rules Committee to go back into session and hopefully to come up with a final recommendation for presentation to the convention. Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Casey. I think I share the concern of each and every delegate when I say that we are hoping that you will be able to complete your job today and report back to the convention an agreement on a suggested proposed set of rules. I would say that if that is done, I think we need at least one day for you to read over the recommendations that come out of our temporary Rules Committee so that you would be prepared to vote on those recommendations, not today, but tomorrow.

If we are able to vote and adopt a set of rules tomorrow, I give you my assurance that in the event the committees are to be appointed by the presiding officer, those appointments will be made and announced on Thursday in that schedule. Of course, the Rules Committee is still in the process of discussing what committees we should have and the size of the committees.

MEETING OF RULES COMMITTEE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lackawanna, Mr. Scranton.

DELEGATE SCRANTON. Deferring to my co-chairman a moment, may I just say three things about this.

The first is that the committee has already finished going over every single suggestion that was made by any delegate and the committee members themselves. This has been completed. Last night the provisions that we have suggested so far for change or addition were drafted and they are now ready for the committee to look at beginning right away. Third, we wish to have a meeting, Mr. President, of the Rules and Procedure Committee immediately following this meeting. And when I say immediately, I do not mean like yesterday, 40 minutes later, but as soon as this is over, immediately.

RECESS

PRESIDENT BRODERICK. The Chair, hearing no objection, will declare a recess until 3 p.m.

AFTER RECESS

PRESIDENT BRODERICK. The time for recess having expired, the Convention now will come to order.

I want to thank you for bearing with us while we had a little delay in the printing or the mimeographing of the amendments.

ANNOUNCEMENTS

PRESIDENT BRODERICK. Before we commence our afternoon session, I would just offer a word of explanation as to what we would like to do. We are going to have a report first from our temporary Rules Committee, and after that report, we would hope that any questions that you have in regard to the amendments or to the rules themselves, many of them, we hope, can be answered by the staff.

Parliamentarian Mark Gruell and one of his assistants, Attorney Russ Davis, will be in the Senate Caucus Room, which is on the first floor of the main building here, Room 157, immediately after the termination of today's session to answer questions concerning these amendments and the suggested rules being offered by the committee.

In that way, it may be possible to answer many of your questions without the delays that would be encountered if they were asked on the floor.

Tomorrow morning, as our first item of serious business, we hope that we will be able to act on the adoption of the rules. Of course, each and every delegate will be free, if he so desires, to offer his suggestions or recommendations in connection with the committee's report.

I have another announcement before we go to the committee report, and I think you will appreciate this. In order to expedite the work of the Convention, arrangements have been made for the Legislative Reference Bureau, which I think is referred to in the rules as the Convention Drafting Bureau, to accept at this time any proposals from any delegate and put them in the proper drafting form. This they will be willing to do today and tomorrow and in the following days in the event that the rules are not adopted tomorrow. In any event, this will expedite and permit you to get your proposals in the proper form for introduction.

I suggest that, if you have any questions, that you can take them up with Frank Garber. He is in room—and you may want to jot this down—641 on the fifth floor of the Capitol Building, the north wing. You just have to sit down over there with Frank Garber, or offer to him in writing any proposals that you have or amendments to the constitution in accordance with the four subjects that we are authorized to consider.

REPORT OF RULES COMMITTEE

PRESIDENT BRODERICK. As the first order of business for this afternoon, the Chair recognizes the co-chairman of the temporary Rules Committee, Delegate Scranton.

DELEGATE SCRANTON. Mr. President and delegates to the Convention, your Committee on Rules and Procedures did the following things: We met, as you remember,

immediately after that session and started to work on Friday afternoon and decided that the thing to do was to meet on Monday morning and to have as many of your suggestions available then as possible and, if there were not many available, to consider those that were being made by the members of the committee itself.

This occurred on Monday morning; at eleven we started in. The committee members had some suggestions, but the great majority of the suggestions came from you, the delegates of this convention, as they should. For this each and every one of us, Co-chairman Bob Casey and every one of the 18 members, are indeed most grateful. It is true that it made the work a little longer than we had anticipated, but it made it much more interesting. We all felt that it also made it an infinitely more democratic—with a small "d"—process than had previously been considered the case.

During the day and into the night we spent a lot of time on every single one of the suggestions that were made by any of you. Every suggestion that I know of was considered—and I may say not only considered but thoroughly discussed—either in the open or in the executive sessions.

We are also very grateful to our President, Mr. Broderick, who participated in these sessions although he had no vote and we did not allow him to vote, and likewise, particularly to the staff manned, of course, by Mark Gruell and Russell Davis, who had worked almost all night with the people upstairs getting the amendments ready for us today and again as we went over them today for you this afternoon.

It was an extremely open and very constructive committee. If you will forgive me, I would like to make a couple of personal remarks about its operation because this is the first committee of this Convention that has been in operation. It may give you some inkling as to what to expect in the future and what the nature of committees might be.

All of you have participated in committee work at some time or another and so have I. Like you, I have participated in all kinds of committees. For example, at the Santiago Conference for the Foreign Ministers of the Western Hemisphere we had a series of committee meetings which were literally attempted to be broken up by Raoul Castro and some of his armed cohorts. Likewise, at the United Nations we had some committee meetings which I remember quite distinctly. At one of them you may remember, too, seeing on television the kind of antics that went on from our friend, Mr. Krushchev, with his shoe banging on the table. I can assure you none of that happened in this committee.

It was not only a very open committee and a very constructive committee, but as far as I could make out there was absolutely no partisanship in it whatsoever, either bi- or otherwise, except non-; there was nonpartisanship. Everybody was an individual. They were representing what they thought should be the rules and from the standpoint not just for themselves but what they thought was in the best interests of our Commonwealth. It worked very successfully.

A great deal of the reason for this success—I am talking now only in terms of the operation of the committee which results you can see for yourselves and judge for yourselves, but the operation was successful—belongs to our Co-Chairman, Robert Casey.

What did we do? We considered every one, as I have said, of the suggestions that you made. Almost all of the

changes, amendments and additions in here are yours. There are only one or two that are from members of the committee itself. We will be presenting these rules to you now as changed. You will simply insert, if you will, the best readership beginning on page one through page 30, one by one. As you read your rules, you will come to these changes. You can do it the other way if you like and that is to note in your previous rules where these changes are made. Either system works.

The following amendments to Convention Rules were discussed:

AMENDMENTS TO CONVENTION RULES

Amend Rules, Convention Organization preceding page 1, by substituting the following in the second paragraph under "Assignment of Desks": Delegates to the Convention shall be assigned desks in the Hall of the House of Representatives alphabetically beginning with seat No. two.

Amend Rules, page 2, lines 22 and 23 by striking out: "If necessary he may vote to sustain his own decision on an appeal."

Amend Rules, page 2, line 24 by inserting after "Vice Presidents": and Secretary.

Amend Rules, page 3, lines 14 to 22 by striking out "Such news media repre-" in line 14, all of lines 15 to 21 and "that a news media representative will be present" in line 22

Amend Rules, page 4, lines 8 to 10, by striking out all of said lines and inserting: c Sound-on-film cameras and other cameras not in the portable category, shall be permitted in the well and the two front corners of the Convention Hall and in the committee rooms in such areas as the committee co-chairmen shall determine. Such cameras shall not be assembled, disassembled or removed while the Convention or committees are in session.

Amend Rules, page 13, line 1, by striking out at the end thereof "num-" and inserting: number

Amend Rules, page 17, line 16, by striking out "with the permission of the Convention,"

Amend Rules, page 19, line 13, by striking out at the end thereof "Pro"

Amend Rules, page 19, line 18, by striking out "member" and insert: Delegate

Amend Rules, page 25, by inserting between lines 14 and 15:

Whenever the term committee is used it shall mean the co-chairmen of the standing committee and the members of all of its sub-committees unless specifically designated otherwise by these rules.

A majority of all members of a standing committee, which includes all members of any sub-committee thereof, shall have control and supervision of all proposals referred to it by the President, and may, by a vote of a majority of the members of a standing committee, consider any proposal referred to one of its sub-committees.

In the event of any substantive or procedural disagreement between the co-chairmen of any standing or sub-committee on any subject under their jurisdiction such disagreement shall be re-

ferred to the applicable standing committee for determination by a majority vote of the entire membership of such standing committee.

All committee proposals shall be reported to the Convention by a vote of a majority of the entire membership of the standing committee and not by any sub-committee thereof.

Amend Rules, page 27, by inserting between line 12 and "POWERS OF COMMITTEE ON ADMINISTRATION AND FINANCE": 3. To authorize, upon request of a standing committee, the appointment of additional sub-committees and to merge existing sub-committees within the structure of the standing committee making such request

Amend Rules page 29, line 24, by striking out "three" and inserting: five

Amend Rules, page 30, lines 8 and 9, by striking out both of said lines and inserting: a standing committee shall be required to report a proposal from committee to the Convention.

Amend Rules, page 31, line 1, by striking out "shall" and insert: may

Amend Rules, page 31, lines 1 and 2, by striking out "as and when ordered by the Convention" and insert: subject to the approval of the Committee on Administration and Finance

Amend Rules page 24, line 5, by striking out "six" and insert: twelve

Amend Rules, page 24, line 7, by striking out "six" and insert: twelve

Amend Rules, page 25, line 7, by striking out "six" and insert: ten

Amend Rules, page 25, line 8, by striking out "six" and insert: ten

Amend Rules, page 25, line 9, by striking out "six" and insert: ten

Amend Rules, page 31, line 14, by inserting after "committee": or sub-committee

Amend Rules, page 31, line 20, by inserting after "mittee": or sub-committee

Amend Rules, page 32, line 3, by striking out "five" and insert: three

Amend Rules page 34, line 13, by inserting after "committee": and Delegates

Amend Rules page 35, line 4, by inserting after "Bureau", as designated by the Committee on Administration and Finance

Amend Rules, page 37, lines 5 and 6, by striking out "A proposal shall be limited to five sponsors."

Amend Rules page 37, line 23, by striking out "triplicate" and insert: quadruplicate

Amend Rules, page 37, line 24, by inserting after "the" where it appears the third time. Standing

Amend Rules, page 37, line 26, by inserting after "session": The Co-Chairmen of each Standing Committee shall in turn refer the proposal to its appropriate sub-committee as designated or hereafter created by these rules. Such referral shall be either on the day received from the President or the next day the Convention is in session and notice of such referral be given by the Co-Chairmen to the Convention.

Amend Rules, page 38, line 4, by striking out

"agency designated" and insert: Convention Drafting Bureau designated by the Committee on Administration and Finance

Amend Rules, page 39, line 2, by striking out "designated drafting agency for the Convention." and insert: Convention Drafting Bureau designated by the Committee on Administration and Finance.

Amend Rules, page 39, lines 5 and 6, by striking out all of said lines and insert: 3. A committee proposal shall be printed, placed on the desks of the Delegates and appear on the calendar for at least one Convention day before the Convention considers it for the first time.

Amend Rules, page 39, by inserting between lines 10 and 11: c First consideration.

Amend Rules, page 39, line 20, by striking out "ten" and insert: fifteen

Amend Rules, page 41, by inserting after line 8: AMENDMENTS

1. A proposal may be amended by a committee to which it is referred when reporting such proposal.

1a. Any Delegate may offer amendments to a proposal on second consideration and with the consent of a majority of the Delegates present when it is on third consideration.

2. No amendment may be offered on first consideration or final passage.

3. No amendment may be offered to any proposal or to any amendment to a proposal which is not germane to the original object or purpose or in the nature of a substitute if the substitute is not germane

4. An amendment may be amended but an amendment to an amendment shall not be in order.

5. Amendments must be presented in quadruplicate typewritten copies.

6. Amendments must be prepared by the Convention Drafting Bureau designated by the Committee on Administration and Finance.

Amend Rules, page 45, by striking out lines 1 to 13 inclusive.

DELEGATE SCRANTON. We are presenting these rules to you as amended and changed by us and I am particularly happy to say that with unanimous committee approval There is not one objection.

What are these changes? In the first place, the very first one refers to the fact that it is recommended that the seating be changed in the Convention so that it will be done purely and simply on an alphabetical basis. I think this committee at least believes that this is very much in the spirit of the Convention. At least two-thirds of the recommendations which we received from you were on this point alone and they were unanimous for having it done this way, not just the committee, but your recommendations. We are grateful to you for this suggestion and we think it is very wise and we unanimously recommend it

In the second place, we have suggested—I will not bother with all the minutiae; there are a lot of uniformity changes in here and there are a number of other technical ones, but I am talking about the main substantive ones—likewise we have recommended to you that the Secre-

tary of the Convention, Mr. Michener, who is the only nonlawyer among the officers, be added to the group who will be in charge of the committee selection and assignment. We think this is important, not because we are anti-lawyer necessarily, but we think it would be wise that this be a little more rounded out in personality. This, too, was not our suggestion; it came from one of the members, not the members of the committee, but one of you.

Thirdly—and this was the other major thing that a number of you brought up and which was brought up by some of the members also—was the operation and the establishment of the composition of the committees. In this field we have tried to do a job which would make them more democratic—again with a small "d"—in both their composition and in their operation because we felt very strongly that the spirit of this Convention was that way and that that was the way it should be. As a result, we have done a number of things to try to insure this democracy within the committees.

In the first place, we have given the general membership of the committees that is vis-a-vis the co-chairmen, a good deal more power in two or three of the changes we have made here that the membership itself of the standing committees would have more power to make decisions rather than the co-chairmen doing everything

In the second place, we have changed some of the working arrangements and procedures of the committees to both expedite our work and may I just paraphrase that one for a moment.

Remember we are only here for three months; remember that we have a tremendous lot to do, and I think I speak for the whole committee when I say that as we went through these rules, it became more and more clear to us that in order to get this job done we have to have the most expeditious type of operation that we possibly could. We have changed some of these arrangements so that it will expedite committee work and so that it will hopefully get it done more rapidly and get the kind of thorough consideration that a proposal should have and likewise, to minimize confusion, both in your minds and in the operation of the committees themselves, so that it is understandable and perhaps more clear as to how they are to operate and under what jurisdiction.

Also, with reference to the committees, we have increased the number of delegates on some of the substantive committees. This suggestion was made by at least two or three members of the Convention in written form to the committee, and we have adopted same and have asked the President and those who appoint the members of the committees and the co-chairmen to add onto at least two of the substantive committees so that more people may be members of these committees.

They are the four things that we are here to decide. It seemed very wise to us to put just as many people as possible on these committees so they would have an opportunity to be part and parcel of those decisions in committees as well as on the floor.

I remind you that it is perfectly possible, not only possible but highly likely and very good, in my opinion, to have floor participation in all of these matters so that any member can discuss anything

Likewise, the President has informed us that he has had a number of requests from members to be on the Style and Drafting Committee and the Arrangement Committee, which are extremely important ones. This is again my

personal opinion, not necessarily that of the Committee, because we did not discuss this at great length, but from the experience that they had in Michigan primarily, but also in Maryland so far, the Style and Drafting Committee has turned out to be the most important Committee in both of those Conventions. We are hopeful that the officers will appoint a number of you to this, and I think those of you who are appointed will find this to be the most important and the most basic work that there is.

Then we have put in a provision which will allow for more subcommittees, if so desired. A number of you made various suggestions of additional subcommittees. There was not any great unanimity as to what they should be. I think there were only two for any given new type of committee, but a lot of different ones were suggested. It did not seem to be an easy way to establish new subcommittees, so we have put a provision in here which makes it a simple thing to do and this seemed very wise to us again, to give more opportunity for flexibility, expediency and less confusion in the operation.

Now, with regard to procedures, we have made some changes in these too. For the first and foremost of these, we are particularly indebted to that wise judge, Judge Woodside, who came up with this proposition. We are very concerned about the fact that when a proposal comes to the floor, that everybody have an opportunity not only to speak on same, but to participate in this. He was particularly interested in this field, quite wisely in our opinion, and so we made a change in the procedure.

You will note that we have suggested that a proposal from any committee, once it is reported, be printed and one full day of the Convention pass after that printed proposal is on your desk so that you have at least one full day to consider it as written before there would be any formal consideration of it whatsoever. You know that it goes through three considerations—a first consideration and then a second consideration, at which time there is presumably heavy debate and amendments; a third consideration at which time amendments with the approval of the Convention can be offered also. The point was that he thought, and we agreed with him, that it would be unfortunate to have one of these come axiomatically from a committee and right to you and be immediately considered without your ever having an opportunity to study it for the very first consideration. I think this will help, and think it will give everybody an opportunity to do more thinking and presumably will result in a better type of operation on the floor.

Likewise, one of you had suggested that the sponsorship of the proposals, which was limited in the rules to only five people, be made unlimited. This is primarily done, frankly, because of some technical problems in the staffing, but we have opened it up so that any number of people, all 163 of us if we want, can sponsor a single proposition. I think this is advisable and helpful and will give us a better idea of who is supporting what before it ever comes to the floor of the Convention.

These are the main things that have been done. The whole theory and operation of almost all of these changes have been to make it more possible for more people to participate and to make it more possible for more people to have a part in not just the committee action, but the floor action, to be better informed, to have greater knowledge of what is going on and likewise to make it as efficient a procedure as we can possibly make it.

Last, but by no means least, I would like to say to you that we want you, in fact we implore you, to take the opportunity which is now before you, to go to the Senate Caucus Room at any time after this meeting and discuss any or all of these propositions with the staff members who are the best informed of all. That is, Mr. Gruell and Mr. Davis, who will be there, which is just downstairs at that point. It is conveniently located right in the main hall. If there are any questions in your minds with regard to why they were done or what the reasons are or anything else, you would have that opportunity.

Any and all of us on the committee are ready and willing to try to help with any questions you may have in your minds, but I say to you openly that we are not as well informed as they are. Likewise, as you know, these rules originally came from the Preparatory Committee; a number of us were not on the Preparatory Committee and may not be quite so knowledgeable as the members of the staff are who are working with them as well as with us.

Last, tomorrow morning when we come in here and after the other matters are finished, as the President has told you, there will be a motion placed before you by the committee asking for the adoption of these rules—the original rules as amended by these amendments you have. At that time we are open to discussion and to any further suggestions you may have. May I say to you this, again this is only me, not the Committee speaking now. I am very hopeful that you will confine your thoughts and ideas on this and also your expressions, not to limit debate, but to very constructive ideas that would probably have support of more than you, yourself. There are 163 of us. I used to operate in the House of Representatives in Washington at 435. I can assure you that any subject that is as complicated as this is, or any subject that comes before us as a matter of fact, as they are all interesting and important, if you cannot confine your work in your thoughts or ideas to things that are really constructive—I know you will—but I just give you a little warning on this we could literally be spending weeks on these things.

Also, from my own experience, if it means anything to you and there is no reason especially why it should, but I will give it to you anyway; in any convention or any group or any organization with which I have ever been connected, there is always a great deal of discussion at the beginning of rules and procedures, because that is all there is before you. Everybody wants to get in it and that is fine. But once you get into the real work of the Convention or the group or the organization or whatever it is, you will soon find out that the rules and the procedures are relatively unimportant and do not become a matter of great importance later on.

For example, in here you will find a number of places where it is necessary to get the permission of the Convention to do something or other. Some of these were taken from the legislative rules, but in every instance, they are the kind of thing that when you get into the Convention itself, you simply go over to a microphone and ask, May I have permission to do this or that or offer an amendment or extend my remarks or something else? It is almost always automatically given. In the House of Representatives in Washington, I do not remember an occasion when it was not.

Thank you very much.

PRESIDENT BRODERICK. The Chair now recognizes the other co-chairman of the Rules Committee, Bob Casey.

DELEGATE CASEY. Mr. President, my fellow delegates, it is not my intention to restate what Governor Scranton has stated so well and so persuasively, I might say, and so accurately.

But I would like to say, as co-chairman of the Rules Committee, that we have before us now, in my opinion, a set of rules which are fair and equitable and well considered in the interests of the overall success of this Convention, in the interests of maintaining the nonpartisan atmosphere which is basic for the success of this Convention, and I believe in my own heart that this can be done. Despite the feeling, perhaps, in some quarters that this is unrealistic, I happen to believe it can be done and I believe that the fact that we have a report from the Committee on Rules of the nature we have is proof that it can be done.

I say to you gentlemen, in the interests of Pennsylvania, it must be done. These rules which we have before us today are designed to accomplish that purpose. I am especially happy that the seating arrangement is going to be as it is, alphabetical. In my opinion, this is the way it should be.

I am very happy that a man of the stature and the maturity and the ability of Mr. Michener is going to be added to the process by which the committees for this Convention will be selected because, believe me, gentlemen, this is a difficult problem that requires the qualities and the characteristics that he possesses in abundance. I was very, very happy that the committee unanimously concurred in that suggestion.

Once again, ladies and gentlemen, this was your idea, and I think this is very, very important, because it indicates that the Rules Committee was responsive to the wishes and the viewpoints of the men who are the important people in this Convention, and that is the delegates who were sent here by the people to rewrite the basic law of Pennsylvania.

I am very, very glad that we have expanded the membership of some of the standing committees, the substantive committees that will consider the four basic changes that we are here to deliberate and decide.

Once again, this change was made in order to permit fuller participation to make it less likely that someone will be excluded from a meaningful participation, an important voice, in the deliberations of this Convention.

I think it is basic, too, to point out that there are things

in the report of the Committee on Rules that have not been changed. The system of committee co-chairmen has been retained. Once again, I think if the Committee on Rules can function effectively, and I believe it has functioned effectively on this basis, I see no reason why all of the committees of this Convention cannot function on a similar basis.

So I merely rise to add my endorsement to the comments of Governor Scranton, to the other members of the committee who worked very, very hard. There was no intention or no impression or no hint on the part of any member of that committee to give any undue advantage to any individual or any single group of individuals. The touchstone of our deliberations very simply was, what was the best for this Convention in terms of its overall operation and in terms of its ultimate success when we leave here in a very, very short period of time.

So I urge all of you to consider these changes very carefully, and I am sure tomorrow we will be in a position to discuss them and act on them with dispatch.

Thank you, Mr. President.

PRESIDENT BRODERICK. Before we entertain a motion to adjourn for the day, I want to point out again that Mark Gruell, our parliamentarian, and Russ Davis, who has been working with him on these rules, will be in the Senate Caucus Room immediately after adjournment—and that is Room 157 on the first floor—and they will attempt to answer your questions.

Let me say this, I hope that tomorrow this body can reach an agreement on a set of rules so that we can appoint our committees and get down to work. Thank you.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Mrs. Benedict, for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE BENEDICT. Mr. President, I move that this Convention now adjourn until Wednesday, December 6, 1967, at 9:30 a.m., est.

PRESIDENT BRODERICK. It has been moved by the delegate from Philadelphia, Mrs. Benedict, and seconded by the delegate from Bucks, Mr. Keller, that this Convention do now adjourn until Wednesday, December 6, 1967, at 9:30 a.m., est.

The motion was agreed to and (at 3:56 p.m., est.) the Convention was adjourned.

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GENERAL ASSEMBLY DAY

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRESIDENT BRODERICK. The Chair recognizes the sergeant at arms.

SERGEANT AT ARMS. Mr. President, I have the honor to present a committee representing the General Assembly Day.

PRESIDENT BRODERICK. Thank you for bringing them forward.

Will Chaplain Huggins, Dean Laub, Delegate Pechan, Senator Snyder, Delegate Orban and Representative Gallagher please come up to the rostrum.

The other members of the General Assembly who are present, we would appreciate it if you would take the seats we have provided for you up front today.

I now request the sergeant at arms to bring any member of the General Assembly who presents himself up front to the seats provided for our distinguished guests whom we honor today.

Today's meeting like all our meetings will be opened with prayer.

PRAYER

THE REVEREND RICHARD L. HUGGINS, pastor of the Liberty Presbyterian Church of Liberty, Pennsylvania, offered the following prayer:

Eternal God, we find it difficult to express words that convey our hopes for this Convention. In humility, we ask for continued dedication of purpose, for vision beyond the provincial party authority that dominates our thinking, an acceptance of each other as people who need Your continued guidance which comes beyond the trivial thinking of our secluded lives.

God, bless our endeavors and the life these endeavors will bear for the sake of man, Your creation. Amen.

MEMBERS OF GENERAL ASSEMBLY WELCOMED

PRESIDENT BRODERICK. Thank you, Chaplain Huggins.

We now come to another one of the special events that marks the opening ceremonies of this Convention.

Today, as I have already pointed out, we are honoring members of our General Assembly, who are seated as our guests in the front of the hall where they usually occupy the seats that you are now occupying.

On behalf of this delegation, I welcome you today and we are happy that you are with us.

DELEGATE ORBAN REQUESTED TO PRESIDE

PRESIDENT BRODERICK. At this time, the Chair calls on the Delegate from Somerset, our Second Vice President, Delegate Orban.

I turn over the gavel to him for the presentation of our honored guests.

DELEGATE ORBAN PRESIDING

GENERAL ASSEMBLY WELCOMED

DELEGATE ORBAN. Ladies and gentlemen, honored guests, visitors and my fellow delegates, I would like to quote briefly from the works of Henry Wadsworth Longfellow today to place in perspective the challenge before us as delegates to this Convention and to spotlight the very noteworthy accomplishments of the General Assembly in the 94 years since last there was a Constitutional Convention.

Longfellow said this: "All the means of action, the shapeless masses, the materials lie everywhere about us. What we need is a celestial fire to change the flint into transparent crystal bright and clear."

For nearly a century, a thousand men and more have come their various ways to Harrisburg with the materials to give their fellow Pennsylvanians better government and a better life. In the words of Longfellow, "To change the flint into transparent crystal bright and clear."

These men were sent to serve in the General Assembly. It is a wonder to me that they were able to accomplish what they have as state legislators. To me, this is one reason to dedicate this day of the Convention to them. They deserve recognition for their imagination and forbearance over the years, burdened as they were with an outdated constitution.

It has been the General Assembly, which through the amendment process has done its best to nurse along this crotchety set of laws so that Pennsylvania would have at least a shadow of a chance to keep pace with the times.

I found it educating to study the constitutional amendment process in Pennsylvania in the years since the Convention of 1872 and 1873. There was no amendment put to the electorate for 27 years after the fourth constitution was approved by the voters in 1874. Since 1901, the General Assembly has contended with the problems of an inadequate constitution by considering thousands of amendments. Several hundred were reported out of committee; half of these were approved in the legislature at least once; 112 reached the voters; 82 were approved by the electorate and became law. Remember, this is during the last 66 years.

Is it necessary to compare this with the United States Constitution, which has endured nearly three times as long with only 25 amendments? Is it necessary to stress the point that the members of our General Assembly since 1874 have labored under the burden of devoting a great deal of their time to simply keeping our basic laws in workable shape?

The members of the General Assembly deserve recognition for their valued work shoring up the dikes against the flood tide of social, economic and governmental changes over the years.

Moreover, the members of the General Assembly must be credited with playing a large part in bringing this Convention to reality. Six times previously our legislators attempted to call a convention, and six times the electorate and circumstances denied them the value of a convention's deliberations and accomplishments.

Today we express our gratitude to all members of the General Assembly for contributing their knowledge and assistance in bringing this Convention to reality. We say to you, gentlemen of the legislature, that we intend to make this Convention fruitful so that the future General Assemblies and all Pennsylvanians shall have the benefit of the best basic book of laws possible.

Our thanks also go out to those individuals who do more than their share in giving time and energy to the long and successful crusade to provide a new document for a new era. They continue to bring valuable recommendations for the improving of the Convention. Their service on the Preparatory Committee was notable. We honored them for it by resolution last Friday. Their presence here today indicates that we will have their continued support and encouragement in the weeks and months ahead.

Today we will hear from two outstanding legislators, who will speak for their colleagues and who will direct to us a now familiar reminder of the awesome task we have set forth upon.

We welcome you, gentlemen, to the Constitutional Convention of 1967-1968 and we welcome your words.

REPRESENTATIVE GALLAGHER PRESENTED

DELEGATE ORBAN. From the House of Representatives, we have a young man who was first elected by the Bucks County voters, now the Second District of Bucks County, when he was just 31 years of age. It was no obstacle to him, however, and he has been returned to the House on four more occasions. He is a native of Philadelphia, attended St. Joseph's College there and served in the United States Marine Corps. The operator of a bus tour agency, he has found time not only for the Commonwealth but for the political and labor organizations and community projects. Certainly, first of all, come his wife and four children.

It gives me pleasure to introduce to you the Honorable James J. Gallagher, Representative from Bucks County.

ADDRESS BY REPRESENTATIVE GALLAGHER

REPRESENTATIVE GALLAGHER. Mr. President, Delegates of the Convention.

My thanks for your kind introduction, Mr. Orban, and my gratitude to the delegates of this Convention for this privilege to sit with you today

and to consider the fine future in store for Pennsylvania if we can continue with such a wonderful atmosphere of cooperation and dedication.

I feel certain that this is much more than just a ceremonial week. I am deeply impressed with the progress that we have seen in the first few days of the Convention. It appears that the same cooperative atmosphere present when the General Assembly called for a convention referendum that blossomed when the voters approved a convention and grew when the Preparatory Committee set the stage for this historic meeting will continue to be present until the last hour of the last day of February.

This spirit of cooperation is vital not only for the success of the Convention, but also to impress the voters of Pennsylvania that they must ratify the changes which come out of here and go to them for their approval.

We have heard much these past few days about bipartisanship and nonpartisanship. Let me add my voice to those who are urging you to forget bipartisanship and to forget nonpartisanship, for I firmly believe that this Convention can only be successful if everyone here is dedicated not to a form of partisanship, but rather to the ideals of good citizenship; for your job here is basic to democracy with a small "d" and to citizenship with a capital "C."

Honestly and very frankly I am impressed, but not surprised. This spirit of cooperation has been growing through the years I have served in the House of Representatives, despite many differences on other legislative matters.

Many of my colleagues were forceful and convincing when they talked constitutional convention. Mr. Orban is very correct when he says that the General Assembly has been unnecessarily preoccupied too much of its time with a bucket-brigade approach to our constitutional problems. We have had to say, well, we will try to make it do. We have had to go through the long, tedious process of passing amendments which ordinarily would have been embodied in a modern constitution.

The General Assembly, and in particular the House of Representatives and its 203 members, is looking to the Convention to eliminate the countless problems in the four areas that you will study and revise.

Then a great weight will be lifted from our shoulders. We will be able to concentrate on the creation of legislation in an up-to-date framework that will help Pennsylvania move ahead.

But we are not only thinking of ourselves and making our own jobs easier; we are thinking of this in respect to a greater good—the good we can do for Pennsylvania. If this cooperative spirit prevails among the delegates of the Constitutional Convention and among the members of the General Assembly, there is no doubt in my mind that the greatest benefactors will be Pennsylvanians; not the delegates, not the legislators, not the reformers, but the people of this Commonwealth.

While I cannot come up with a perfect quotation just off hand, I recall a passage in the Bible

which said, "By their fruits shall ye know them." That has a very direct application to all of us here in Harrisburg in the next three months. May this period be fruitful for all of you in Pennsylvania.

May I say, on behalf of the members of the House of Representatives, that we welcome your stay here. We look forward to the fruits which you are going to bear. We welcome you to the hall of this chamber and we ask of you to use our seats wisely and please do not scratch your initials on our desks. Thank you very much.

DELEGATE ORBAN. We extend to you our many thanks, Mr. Gallagher, for your remarks.

SENATOR SNYDER PRESENTED

DELEGATE ORBAN. Now we will move to a worthy member of the Pennsylvania Senate since 1963. This Lancaster resident is an attorney-at-law. He has been a newspaperman covering legislative affairs. He served in the United States Army including a period in the European Theatre during World War II. He was in counter-intelligence and subsequently was a captain in the Army Reserves.

His service to his community, to his profession and to the civic and fraternal organizations has been distinguished. He speaks on behalf of the members of the State Senate, who honor us by their presence here today.

I give you the Honorable Richard A. Snyder.

ADDRESS BY SENATOR SNYDER

SENATOR SNYDER. Vice President Orban, delegates to the Convention, fellow Pennsylvanians, ladies and gentlemen.

It is a very singular honor to represent the 49 State Senators at this affair. I see various members of our leadership present, and I must say that I feel very much like the man from Johnstown who had survived the flood and enjoyed telling about it. When he died and went up Saint Peter greeted him and said, "We always give a person an opening wish here. What would you like?" He said, "I enjoy telling about the Johnstown flood. If you could just get a few people together I would be happy to tell them about it." The next day they did; there was an assemblage there. The Johnstown man was ready to deliver his speech when Saint Peter leaned over to him and said something which completely disconcerted him. He said, "I owe it to you to tell you that Noah is in the audience."

I feel very much like that here today because my leadership, my superiors, are present.

We cannot lend you the Senate hall to meet in, but the Senate is happy that its presiding officer is your presiding officer. You will find Ray Broderick a delightful person to wield a gavel. He is a man of good humor and good sense. We are proud too that our leadership is among you from both sides of the aisle. We are proud too that a number of very competent staff members come from the Senate, notably Mr. Mark Gruell, who is our Senate secretary and who, I understand, will be your parliamentarian.

I think too we could offer you the Senate as a place of refuge and meditation if you find the excitement here too great. You will find it a very quiet chamber across the rotunda where you can go and escape from those you feel are pressing you too harshly.

Those of us in public life realize the sacrifice you are making. I am proud of the four men from my county. I know they have all interrupted a normally busy business or professional life, time with their families and time with their other activities. From what I have seen of others of you, and since I know some of you, I know that is equally true of you.

I am not worried about this matter of partisanship. This group, from what I know of its members and see of them, is mature enough to be only partisan when partisanship is called for, and to have the good sense and judgment to exercise that wisely. This group will have the character to stand on principle when principle must be adhered to. It will have the courage to face the facts as they find them.

You are well equipped with the background material from what I have seen of the little pack of books. You have the receptiveness of the news media for your work. You have public acceptance. The public gave you a mandate and certainly there is nothing to disillusion us at this point. You have seen an example of how not to run a Convention, from one of our neighboring States, which cannot do other than make us think twice about the conduct of this one. You have a deadline to meet which I think is a help rather than a hindrance. You have the time and the place for accomplishment and as Churchill would have said, "you have tools, you can finish the job."

I join with Representative Gallagher in congratulating you on the dispatch with which everything is moving; particularly your rules, which apparently are ready to be enacted. I share probably the feeling of some of you that maybe this all is happening too fast, but three months will proceed rapidly and the quicker you get to the real kernel of your problem, the better.

This Convention is unique, I think, in that it is sort of "quiet revolution." It did not come about through any great crisis or emergency or upheaval. It came about because of the simple, intellectual realization that something should be done and that it was long overdue.

The fact that you are here to solve four great riddles is because these riddles have not been solved by any of your fellow Pennsylvanians. Partly it is because they are such sensitive matters. They affect your pocketbook, your communities, your justice and your representation. They have not been solved by others because many of us know too much of the alleged handicaps. It is rather like General McClellan who was so skillful at retreating that he had forgotten how to advance.

You have two tremendous advantages that we in the legislature do not have. One is the fresh approach which you bring to it from your own

callings. The second is the fact that you are not candidates for re-election.

We in the Senate will be particularly interested in your discussions on reapportionment because this subject is so close to us personally. When it comes up, it affects ourselves, our friends, and the fellow across the aisle. It is a form of fratricide. It is this type of problem that Rebecca West, I think, said plagues society in various forms: Who polices the policemen? Who censors the censor? Here it is the case of, who reapportions the persons who must reapportion?

There is no perfect answer and yet an answer must be found. Fortunately you will have the help of one of my esteemed colleagues, Senator Keller of Bucks, who lived through this problem and was a leader in it in 1964.

We in the legislature have one other unique interest in your proceedings and in your result. You are in a perfect situation to set lawmakers a good example. It is no secret that the legislative branch is under attack both nationally and in the States. You read of severe criticism almost every time you look at an editorial page. I think a change of pace is in order if only to break the monotony of this criticism. If you can show us how to reach conclusions wisely, effectively and with dignity, you may be the breath of fresh air that we need. Your greater contribution may even be not the four answers to the riddles, but the example you set for a new and more mature era in lawmaking in this great republic.

Pennsylvania is the place where great things happen. Let us not forget that in Pennsylvania the Constitution of the United States was written. In Pennsylvania the Declaration of Independence was signed. In Pennsylvania the first American flag was made. You can add another chapter to this history by writing the constitution of 1968, a great document for a great State.

God bless you and good luck.

SENATOR SNYDER THANKED

DELEGATE ORBAN. Senator Snyder, we appreciate very much your words. Members of the General Assembly, we are grateful for your recognition.

PRESIDENT BRODERICK IN THE CHAIR

PRESIDENT BRODERICK. Thank you very much Delegate Orban for a job well done this morning.

The Chair is sure the members of the General Assembly present would be happy to hear the announcement that if you care to leave before we resume, you may, but you are welcome to stay during the remainder of the program. I want to say thank you for giving us this hall in which to meet. Thank you for providing us with your desks and your chairs and I say on behalf of the delegates that we will try to keep our initials out of both.

DELEGATE PECHAN PRESENTED

PRESIDENT BRODERICK. The Chair would like to call on the delegate from Armstrong County, Delegate

Pechan, to continue with the remainder of our program in connection with Dean Laub.

JUDGE BURTON R. LAUB PRESENTED

DELEGATE PECHAN. Mr. President, fellow delegates, honored visitors, ladies and gentlemen, the public Pennsylvania's historic Constitutional Convention is just a few days old, but for many of the people present here today it culminates months of work in preparation without which none of this could have been possible. One of those people is Judge Burton R. Laub, former Common Pleas Court Judge in Erie County, distinguished author and now Dean of the Dickinson Law School.

To Judge Laub the summer of 1967 will probably be best remembered as the summer of the threatening deadline. As he puts it William Shakespeare's famous prayer fits the situation better than anything else. "Stand still you ever moving spheres of Heaven, that time may cease and midnight never come." But even with time as his mortal enemy, Burt Laub, aided by a small handful of men and women, still managed to complete the impossible; to do in days what usually takes weeks; to do in weeks what usually takes months; and to do in a month what usually takes years. For it was Judge Laub as one of the Convention's four major task force directors who is responsible for the comprehensive 435 page reference manual on Judiciary, one of the most vital and possibly controversial issues we will face in this Convention.

No one summed it up better than Judge Laub himself when he wrote. "What must ultimately sustain the courts in public confidence is an efficient judicial system in which the judges are at once competent, of impeccable character and reasonably independent." It is small wonder that thousands upon thousands of words have been written calling for improvement and overhaul, especially in the area of judicial administration and organization. In little less than seven weeks time, Judge Laub and his committee prepared a book that is already proving invaluable to members of the Convention. Material was culled from a host of treatises, books, articles and pamphlets, all of which were felt to be helpful to the delegates in their search for an acceptable system. No one needs to tell you how successful all our task force chairmen have been. The proof is before you.

Born on October 9, 1903, in Berwick, Columbia County, Judge Burton Laub is a graduate of the University of Pennsylvania, Wharton School of Finance and Commerce and received his law degree in 1928. He served as First Assistant District Attorney for Erie County, from 1932 until 1940 and moved up to the office of District Attorney until he was elected Common Pleas Court Judge in 1946. Dean Laub remained a judge through 1966 when he took office as Dean of the Dickinson School of Law. It is indeed a great honor to have so distinguished a gentleman in our midst.

Let me say this in closing: Dean Laub, you ask for forgiveness in your preface, claiming you were unable to lick the manual into form as a mother cat does her kittens. May I say instead, we do not forgive you, we praise you for a job well done.

May I present now to the delegates of this Constitutional Convention, Judge Burton R. Laub, public servant, noted Judge, distinguished educator and author and director of the Constitution's task force on the Judiciary.

ADDRESS BY JUDGE BURTON R. LAUB

JUDGE LAUB Senator Pechan, Mr. President, delegates to the Constitutional Convention, which we now affectionately refer to as "Con-Con." I only wish my mother could have heard that introduction; she would have believed every word of it.

I have taken the liberty of bringing with me two of the three assistants who participated with me in the preparation of Manual No. 5 on the Judiciary. I did this out of a deep sense of inadequacy. I would like to introduce to you first the Assistant Director, Professor Joan Covey, of the Dickinson School of Law, whose principal task today will be to divert your eyes, so that they will not be concentrated upon me. I hope that her charm will lend itself a little to the prosaic remarks I am about to make.

Miss Covey, will you stand up, please?

My other assistant with me today is Professor Arthur Frankston, whose ponderous academic atmosphere is designed to give the appearance of scholarly majesty to an otherwise mundane effort. Professor Frankston.

Another reason I brought these people with me is to display them to the 12 members of the Convention who graduated from the Dickinson School of Law. I thought that the other members of the Convention would forgive the commercial.

From the very beginning of the Commonwealth, our literature has emphasized the importance of justice as a function of organized society. The obstruction of justice by the King was cited as a reason for our Declaration of Independence; a "firm adherence to justice" was called for in the fourteenth Declaration of Rights in Pennsylvania's first Constitution; Justice, as stated in its Preamble, was one of the aims of the United States Constitution. In 1948, a great advocate of universal justice wrote, "The human mind will never cease its search for . . . the determinants and aspirations of man for justice." Almost a quarter of a century before that, another author said, ". . . in all social deeds and human institutions is concealed a feeling and a longing for justice," and Daniel Webster summed it up in the Fall of 1845 thus, "Justice, sir, is the great interest of man on earth."

With such a philosophic background to spur us on, the research unit charged with presenting the material on the Judiciary Article felt a heavy weight of responsibility. The courts are the agencies of society to whom the function of justice-determination is delegated, and the penalty for failure of their purpose is heavy. As a great Italian doctor of the laws wrote, respecting the delegation of the judicial power to judges: "It (The State) knows that it is entrusting to them the dangerous power which, when abused, makes injustice just, forces the majesty of the law to serve evil, and indelibly marks white-robed innocence with a bloody brand which makes her indistinguishable from guilt."

In consideration of these things, every effort was made to present representative thought on every

phase of judicial administration, organization, selection and tenure. The results of our research are found in Reference Manual No. 5, and since we did not have the time to prepare a comprehensive index (to what turned out to be a fairly large volume) it may be helpful if we initiate our briefing session with some instructions on the use of the manual. But first, perhaps your attention should be called to a printing error which appears on page 40. The three small paragraphs set forth therein under the heading "Judicial Districts" are out of place and out of context. Those paragraphs belong under the map on page 35 marked Figure 1, and describe the figure for the enlightenment of the reader. There are also some small printing errors, such as the addition of a "U" to the word "poring" in the preface which lends an intriguing speculation as to what it was the gentleman in question was pouring over the manuscript, but errors such as this are inescapable in a frenzied work and we only ask your indulgence.

The manual itself is divided into eight parts, seven of which deal with the basic questions which confront the Convention as discovered by the researchers. The eighth part contains the written and oral submissions handed to or testified before the Preparatory Committee. The very end of the manual, beginning on Page 341, contains reference material which we believe the Convention should have before it for study. The documents contained in this section are called Annexes and are appropriately referred to in the discussions in the body of the work.

In each part, footnotes are indicated by the use of superior figures. These footnotes are collected at the end of each part. Note that the footnote numbers go up to 100 and then start over again. If you turn to page 44, for example, and look at the last sentence of the second paragraph, you will see the superior figure 100 and, at the end of the sentence the superior figure 1. The position of these figures in the text will clearly lead you to the appropriate footnote at the end of the part.

One final note: We are instructed not to espouse any plan, idea or scheme. You will not, therefore, find any argument in favor of any matters which originated with us, and usually, when arguments are set forth which emanate from another source, counter arguments are also given. I cannot reiterate too often or too strongly, the research committee has avoided "selling" any ideas to the convention. To have done so would not only have violated our instructions; it would have been an unwarranted invasion of the province of the delegates.

Now with respect to the general layout of the manual. We sampled the thoughts of students of government as they appeared in available literature and tried to arrive at a consensus wherever possible. In this way we ferreted out the principal problems which we believe will confront you.

We presented this material in this fashion: In the first chapter—that is, Part I, we assembled as much basic information as reasonably possible,

giving the history and content of the present Judiciary Article, the general picture of Pennsylvania's court structure and the duties and powers conferred upon you by the mandate of the people. In Section 6 of Part I, (which begins on page 46) we then outlined the broad basic subjects usually considered in the framing of a judicial article by students of the subject. This Section is highly important to an understanding of the manual, for you will find a much more detailed analysis of the essentials in later portions of the work and the section is designed to give you a panoramic view of the whole picture before you concentrate on the details. Let me give you an illustration:

In Part I, Section 6.3 on page 56 there is a discussion on "Manning the Courts." This is elaborated upon in Part II, page 85 where "Selection of Judges" is discussed and also in Part III, page 139, where Judicial Tenure is considered. In Part I, Section 6.4 which begins on page 58, the general picture of removal and retirement of judges is presented but in Parts IV, V, and VI, a detailed analysis is made of these topics. A similar situation obtains with respect to Part I, Section 6.6 on page 68, which is more thoroughly treated in Part VII.

Now, what do we have in Pennsylvania with respect to a judicial system and what have students of government to say about an ideal arrangement? Actually, we do not have a judicial system organized along conventional lines. We have a collection of courts, some of which are traditional and inherited from our foreign ancestors, and some of which have been created by statute. Each court is relatively autonomous and operates without external supervision. In each county there is at least one common pleas court and in addition thereto, in Philadelphia and Allegheny Counties there are trial courts known as the county courts. Each common pleas judge exercises criminal jurisdiction in two established criminal courts as well as general civil and equitable jurisdiction. It is the common pleas judges and the county court judges who are the trial "work horses" of the Commonwealth. It should be noted that both common pleas and county court judges wear more than one judicial hat. In some counties, common pleas judges are also judges of the orphans' courts and the juvenile courts, but one must study the structure in each county to obtain correct information, for they differ from county to county with respect to court jurisdiction and function.

We have two appellate courts, the Supreme Court, which is a constitutional court and the Superior Court which is a statutory court. The Supreme Court, while the highest court in the state and having the rule-making power as to practice and procedure, has no control over the inferior courts; each of the latter are relatively autonomous. The Supreme Court is the oracle of the law and is, as the wags at the bar call it, "the court of last resource and ultimate error." The Superior Court exercises whatever appellate jurisdiction the legislature confers upon it.

Below the trial level we have the summary level—that is, the magistrates, justices of the peace and aldermen. They too are autonomous and answerable to no one except in individual cases where a superior court hears a matter on certiorari or appeal. Figures 2, 3 and 4 on pages 36, 37 and 38 disclose the particulars of our judicial system at a glance.

As you can see, we have a number of courts manned by judges who exercise overlapping jurisdictional powers. All appellate, common pleas and county court judges are learned in the law except that in some counties there are adjuncts to the common pleas courts known as associate lay judges—judges who are not learned in the law. Further, the magistrates and justices of the peace are not, of course, required to be learned in the law.

Students of government call our system a congeries or collection of courts and many advocate the substitution of a system which, it is claimed, would eliminate its adverse phases. One of the strongest indictments against our system appeared in the consensus of a citizen's conference held in Philadelphia on January 9-10, 1964. According to that consensus, our judicial system "has failed time and time again to serve the needs of efficient administration of justice. A bewildering patchwork of courts with overlapping jurisdiction, unsupervised operations and, often, ill-trained judicial personnel has created congested dockets and costly delays which deprive the people of prompt, fair and equal justice under law."

This rather extravagant indictment of our judicial system is not, of course, the product of your Preparatory Committee and it is cited here only to indicate some of the things about which there are complaints.

The principal court organization plan advocated by many students of government is the "Unified" system—a system patterned after the one created by the British Judicature Act of 1873. Adoption of this system has been the aim of many reformers since the turn of the century and the concept of it has been suggested as the most desirable by the President's Commission on Law Enforcement and Administration of Justice. But, there are other systems available and, being man-made, probably no suggested system is free of fault. We have discussed the problems arising in the various suggested plans beginning with Part I, Section 6.1 on page 47 to Section 6.2.2. on page 53. If you turn to the Table of Contents, page 10 (in Roman numerals) and look at Section 6.2.1 you can see a complete outline of a unified system as it has been promulgated. We emphasize, however, that we take no stand whether the present court structure should be abandoned and another substituted. The convention will have available data before it and it may conceive a plan of its own, merely rearrange the present one or leave the structure untouched.

Probably the most troublesome problem to face you will be the manner of getting good judges on the bench. No matter how fine a judicial system

you may contrive, it will not be an effective system unless it is operated by good men on the bench. Judicial selection has been a recurring problem in our efforts to establish good government. It was a principal subject for debate during the Constitutional Conventions of 1837 and 1873 and has been heatedly discussed ever since. The literature of the law has been enriched by literally hundreds of articles on the subject and here in Pennsylvania there have recently been many vigorous discussions of the problem.

It not only involves such things as the age, residence, previous training and experience of prospective judges but more important and transcending all others is the problem how to attract good men to the bench and how to devise a satisfactory method of selecting them. Many good men will not seek the judgeship because it involves a partisan political election in the first instance and a partisan political election for another term in the second instance. While many good lawyers might be willing to risk an original election, the fact that they have to run again at the end of their first terms after they have given up a good practice, is a strong deterrent. They feel that the intervening ten years would be irretrievable in building up their practices again. Just how to select good men for the office without partisan politics and yet, at the same time, preserve a modicum of control in the people is a hard nut to crack. The difficulty is not diminished by the additional fact that there is no litmus by which judicial acidity can be tested. Our experience has shown that indifferent lawyers sometimes make superlative judges while superlative lawyers sometimes make indifferent judges. There are those who find the present elective method satisfactory—believing that this is the democratic way of holding judges responsible to the people. There are others who advocate another selection method, believing that the office should be free of politics and that judges should not be controlled by anything but legal principles.

Of recent years, a selection plan known variously as the "Merit Selection," the "Missouri" or the "Pennsylvania" Plan has become popular. The basic elements of this plan are (1), the nomination of slates of judicial candidates by nonpartisan, professional nominating commissions consisting of lawyers and nonlawyers; (2), the appointment of judges by the Governor from the panels submitted by the nominating commissions, and (3), the review of appointments by the voters in succeeding elections by which judges who have been appointed run unopposed on the sole question of whether their records warrant retention in office. It is claimed that the 27 years of experience with this plan in Missouri (where it originated) has been favorable. Between 1956 and 1966 variations of this method of selecting judges have been adopted in five states and rejected in one.

But the Missouri or Pennsylvania Plan is not the only suggested substitute for the elective method. There are those who argue that in the majority of cases, particularly in counties where "the sitting judge principle" is observed, the Gov-

ernor is the one who makes the selection of judges to fill vacancies and this usually results in eventual election—thus, the appointive method is really in force throughout the Commonwealth. The advocates of direct appointment, with the advice and consent of one or both houses of the assembly, believe that there is enough of the democratic process involved to recommend this means over any other. The various suggestions for judicial selections are discussed in detail in Part 2, page 83.

Getting good judges on the bench is one thing—getting rid of bad judges is another. At present, there are three constitutional methods of getting rid of judges, (1), impeachment, (2), address and (3), conviction of misbehavior in office or of any infamous crime. The first two methods are put in motion by the Legislature and are cumbersome, expensive and difficult. The third method is self-executing and amounts to a direct recall by the people of a judge convicted of the offenses mentioned.

There are approximately 9,000 judges in the United States and since judges are human, it would be expected that impeachment, address and conviction of serious crime, while unusual, would be relatively common. The truth is, however, that these methods of removal are so ineffective that they are seldom used and are virtually valueless. In all of Pennsylvania's long history, there have been but four instances of impeachment since (and including) the year 1780. There has not been a single instance of judicial impeachment in this State for over 150 years and up until 1962 at least, there have been no reported cases involving the removal of a judge for conviction of an infamous crime. Either we have uncommonly saintly judges, bad ones escape detection, or our removal methods are faulty.

Another pressing problem, however, centers around judges who are mentally or physically ill, senile or otherwise unsuited to fill judicial office. A corrupt judge may adversely affect public justice in a few particular cases before him, but a judge who is mentally or physically ill, who is addicted to the habitual use of drugs or alcohol in the discharge of his duties or who just refuses to attend to his duties at all has a great impact upon the administration of public justice generally. Unfortunately, however, these deficiencies are not within the purview of the removal procedures now available. It is not unknown in this Commonwealth for judges to be mentally ill on the bench or to refuse to discharge the duties of office, but even in these cases the Supreme Court has been unable (or unwilling) to cope with the problem. What is apparently needed, therefore, seems to be some means of removing or disciplining judges which is easily and effectively administered . . . a means which will not only embrace venality in judges, but infirmity and incompetence as well. There have been several experimented removal devices adopted in this country, particularly in New York, Missouri and California. The various removal methods have been discussed in Part IV, V and VI of

the Manual. All of these plans have defects, of course, and much may be said both ways. The plan which has apparently taken on of recent years is the California Plan which was adopted last summer by the Pennsylvania Bar Association as the most desirable. You will find the Pennsylvania Bar Association version of the California idea in Annex 5B.

Closely linked with the problem of removal is the question of tenure. Just what length of time should be established for a judicial term has also been the subject of vigorous debate for over a century. At the present time the tenure of judges at the trial level and on the Superior Court is ten years; at the summary level it is six years, and the Supreme Court tenure is 21 years without the right to be reelected. Judges on the federal bench serve for life or during good behavior and there are some who believe that the federal system is the best. Others do not see it that way. These believe that life tenure leads to judicial arrogance on the bench and a tendency to ignore public aspirations.

Actually, what the public seems to want with respect to tenure has an element of inconsistency in it. It wants judges who are independent and whose terms of office are long enough to attract competent men to the bench and to protect them from political pressures. On the other hand, it wants judges who are somewhat dependent upon the will of the electorate and whose terms are short enough to enforce public will through the threat of rejection at the polls. Obviously, if both desires are to be met, some sort of compromise is indicated.

The truth of the matter is that the convention will undoubtedly encounter many areas where compromise will be needed, and I commend to you the utterance of Benjamin Franklin at a similar gathering in Philadelphia 190 years ago. "I have always observed," he said, "that when a carpenter joins two boards together, he takes a little off of each one."

It is sometimes urged that if relatively simple removal procedures are adopted, the problem of tenure will take care of itself; that there is nothing wrong with retaining a judge on the bench so long as he meets required standards. The difficulty with this appears to be that the only way to test the public's concept of what those standards should be is through a public election. One would be naive, indeed, if he assumed that a judge would be removed from office under one of the suggested methods simply because his opinions did not jibe with the public's general concept of justice.

However, there is a general feeling among lawyers and thoughtful laymen alike that a partisan election is a demeaning process which adversely affects both the judge and his office. Further, as noted before, a limited tenure may make it extremely difficult to attract good men to the bench. The latter argument may lose some of its force with respect to the high appellate courts where most lawyers would like to sit. Given an opportunity to ascend the bench of one of these, almost any lawyer of stature might be willing to

chance a subsequent reelection. It might also be mentioned that contrary to popular thought, it is believed in some quarters that the higher the court, the greater the need for limited tenure of reasonable proportions. The reason is, of course, that the higher the court the greater the opportunity to inflict serious public damage. Several hundred years ago an English Bishop said: "Whoever hath an absolute authority to interpret any written or spoken laws, it is he who is truly the law-giver to all intents and purposes, and not the person who wrote or spoke them." If this utterance has any validity, then our courts, particularly the appellate courts, are the true lawgivers. They hold in their grasp the tillers of law which, in the final analysis, guide the destinies of American culture. The question then is, for how long a time should the destiny of the Commonwealth be committed to a single group of men without facing the public for approval or disapproval of its services?

Judges, in the very best of minds, often exercise power not for personal reasons or the desire for personal aggrandizement but rather in a form of "disinterested zeal for the public good." Robert Yates, in his 15th letter of Brutus written to the New York Journal and Weekly Register of March 20, 1788 said, speaking of tenure during good behavior for judges: "Men placed in this situation will generally soon feel themselves independent of heaven itself."

It should be mentioned in passing that history does not seem to support Robert Yates to the full. Human failings are always paramount considerations when dealing with power, but there does not seem to be too much evidence that the life terms of the federal judiciary have been accompanied by habitually deliberate arbitrariness in the exercise of power. There are some, however, who will violently disagree with this statement.

There are many other phases of your task which deserve comment. There is, for example, the extremely touchy problem of what to do with the minor judiciary. Should it be abolished and another method devised for performing the services which it now performs? Should the minor judiciary be retained without change or should there be constitutional reforms? The various ideas on this controversial subject are collected in the submissions found in Part 8 and the general topic is discussed in Part I, Section 6.7 beginning on page 73.

But there are other problems as well. The question of judicial retirement; the matter of the recall of retired judges; the all-important question of preserving the independence of the judiciary, of keeping the constitution simple but sufficiently explicit are all before you for decision and, in addition thereto, if substantial changes are to be made in the existing structure, you will have the difficult task of framing a Schedule which will govern the transition from the old way of life to the new one.

You, the living, will in the fulness of time, pass to your rewards. What you do now may govern lives as yet unborn, just as those who were

alive in 1874 have governed us for 93 years. Yours is an awesome task. You have many problems to resolve but perhaps this is not too unfortunate. The dripping faucet in the bathroom becomes a monumental problem by itself, but the fall of thousands of droplets in a rain has a soothing effect. Perhaps in the multitude of difficulties you will find the strength you need. I envy you your opportunities—I shudder at the magnitude of your responsibilities.

PRESIDENT BRODERICK. The Chair recognizes a delegate from Dickinson Law School, Mr. Hannum.

THANKS AND APPRECIATION TO JUDGE LAUB

DELEGATE HANNUM. Mr. President, my colleagues of this Convention, I move a resolution of secure and abiding gratitude of this Convention to a great Pennsylvanian for his lasting contribution to us for guidance in the best interests of the people of Pennsylvania. His briefing on the judiciary article and the manual are evident to us at once of manifest scholarship, craftsmanship, industry and delightful humor.

The late beloved Chief Justice Charles Alvin Jones described Judge Laub as among the four ablest nisi prius jurists in this Commonwealth. It is, therefore, fitting and appropriate that he should have done this.

Thank you, Judge Laub, for a sound and solid job.

PRESIDENT BRODERICK. Thank you, Delegate Hannum, and we will see that that resolution—and I am sure it is seconded by several of our delegates here, one of whom I will recognize. The first one is Delegate Pechan, who seconds the resolution.

On the question,

Will the Delegates adopt the resolution?

It was adopted.

PRESIDENT BRODERICK. The resolution is unanimously adopted and will be placed in the record, and the Chair requests that a copy of it be sent to the dean.

I want to offer my personal thanks and congratulations, and I am sure that I express the feeling of everyone here that you have given us the tools with which we can go forward and do our job in connection with the Judiciary Article. Thank you.

JUDGE LAUB. Ladies and gentlemen, I am just unscrupulous enough to accept the accolade, most of which belongs to my colleagues on the research unit. However, I want to thank you for your kindness.

When I receive a copy of that resolution, I expect to use it as the bald headed man said when he got a comb, I shall never part with it.

Thank you.

ORDER OF BUSINESS

PRESIDENT BRODERICK. The first item of business on our agenda this morning is taking up the report of the temporary Rules Committee, which we received yesterday. Before I recognize the Delegate from Lackawanna, the co-chairman of our Rules Committee, Delegate Casey, I think I should explain to you the procedure we intend to employ in connection with the business at hand in connection with the rules.

After the motion is made concerning the adoption of

the report of the temporary Rules Committee, we will then recognize any delegates who wish to discuss the matter or who wish to offer an amendment. If there are any amendments, we ask that the amendments be put in writing and passed up to the clerk or to the parliamentarian so that we will have the exact language. We would also ask you to state the amendment from the microphone and your name, of course.

If there are amendments, we will, of course, vote on the amendments first. We will not move the question for a vote on the motion until we are satisfied that everyone has had an opportunity to either discuss the matter or offer an amendment.

The Chair recognizes the delegate from Lackawanna, Delegate Casey, co-chairman of the temporary Rules Committee.

MOTION TO ADOPT RULES

DELEGATE CASEY. Mr. President and members of the Convention, I now move that this Convention do adopt the report of the Committee on Rules submitted to this body yesterday by Delegate Scranton.

PRESIDENT BRODERICK. Do we have a second to that motion?

The Chair recognizes the delegate from Clarion, Delegate Leach.

Mr. LEACH. Mr. President, it is my pleasure to second the motion.

PRESIDENT BRODERICK. It has been moved by the delegate from Lackawanna, Mr. Casey, and it has been seconded by the delegate from Clarion, Mr. Leach, that the report of the temporary Rules Committee be adopted. I will state the question. The question is:

Will the Convention agree to the report?

Are there any delegates who wish to offer amendments at this time?

The Chair recognizes the delegate from the 14th District, Delegate Laputka.

AMENDMENT TO RULES

DELEGATE LAPUTKA. Mr. President, fellow delegates, I wish to offer an amendment to the rules proposing the additional appointment of a subcommittee on Minor Judiciary.

In brief, as Dean Laub stated from the platform, this was one of the most widely discussed and controversial issues as we campaigned as delegates. I believe it is something which deserves individual attention in its own right, and the subcommittee should be appointed at this time. I so move and ask the adoption of the amendment on the creation of a minor judiciary.

PRESIDENT BRODERICK. It has been moved by the delegate from Luzerne, Mr. Laputka, that the report of the temporary Committee on Rules be amended as follows:

“Amend page 24, line 18, by inserting thereafter:
f. Minor Judiciary, consisting of two co-chairmen and six delegates.”

Is that correct?

DELEGATE LAPUTKA. That is correct.

PRESIDENT BRODERICK. Is there any discussion on the amendment?

The Chair recognizes the delegate from Lackawanna, Delegate Scranton.

DELEGATE SCRANTON. I do not rise in support or in opposition to the amendment; I simply want to make an explanation, sir.

This matter was brought to the Rules and Procedure Committee by two members in written form and we discussed it at great length. Quite deliberatively we decided not to establish a special subcommittee for this purpose because it was understood that there are at least three, if not four, levels of organization of judicial administration, and if we had a subcommittee for one of them, we ought to have a subcommittee for each of the three others. It was implied, at least, and intended that in the Judiciary General Committee this subsection, the subcommittee on judicial administration and organization, would be in charge of this particular item.

May I say to you that I do not believe there is a member or a delegate here in this Convention who does not agree with Delegate Laputka on the importance of this subject. And the fact that it has taken tremendous prominence in the projection of this Convention in the first instance, we feel rather strongly in the committee that it is part and parcel of the entire administration and organization of the judiciary.

PRESIDENT BRODERICK. Thank you, Delegate Scranton.

The Chair recognizes the delegate from Lackawanna, Delegate Casey.

DELEGATE CASEY. Mr. President, I would merely rise to endorse and support the comments of Delegate Scranton with reference to the amendments. I do not rise to support or oppose it except to say that the sense of the Committee on Rules was that once we get into a categorization of individual or specific areas beyond what has been done in the present rules and in the absence of experience in the Convention, once proposals are started to be offered from the floor, we get into an almost endless task.

The omission of the language that Delegate Laputka has suggested does not indicate any disinclination on the part of the Rules Committee, certainly, and certainly not of this Convention, not to deal with that area. We know it is going to come up, we expect it to come up, it has to come up, but we feel it would be unnecessary at this time to delineate it specifically as a subcommittee.

PRESIDENT BRODERICK. Does any other delegate wish to be recognized?

The Chair recognizes the delegate from Philadelphia, Delegate Reynolds. Would you state your name please?

DELEGATE REYNOLDS. Mr. President, I am Hobson R. Reynolds, from the 3rd District of Philadelphia. I am a former magistrate and not a lawyer.

I believe that this gentleman has given us the right direction in this item. I hate to differ with my former governor and Mr. Casey, but I believe that this is sufficiently important that we should have a special committee to talk about this.

In Philadelphia it has been one of the greatest problems we have had recently. Most of us know about the investigations, and I am for improving the judicial and especially the magisterial problems of Philadelphia, but I feel that we ought to have a special consideration of it here.

I did not hear anybody else second the motion. I wish to second the motion of this good man and hope that we will

pass it. I do not think simply because there are three other issues we should duck any of our responsibilities because we do not want to get into another category. I think we should let each one stand for itself, therefore, I second the motion.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Devlin. State your name, please.

DELEGATE DEVLIN. Delegate Devlin from Philadelphia.

Mr. President, I would like to address a question to the Parliamentarian.

Are there provisions in the rules whereby these various committees—the four committees dealing with the articles we wish to revise or reconstruct in this constitution—as a whole could request additional subcommittees to deal with specific problems such as Delegate Laputka has mentioned, if they find that the present subcommittee is too small or the area in which they are working, such as the four areas of judicial administration, is too cumbersome or too difficult for this small group?

May I say this in closing, in the Rules Committee we found that we could have at least 50 to 60 subcommittees deal with each and every problem. We felt that if we adopted rules setting up subcommittees that could get this Convention off the ground in an orderly way and then come back to the Convention as a whole—if the Parliamentarian so discloses to us that there are rules whereby we can come back to the Convention as a whole—and get additional subcommittees it will be much more intelligent to do it that way rather than to fractionize or fragmentize the subcommittees we have now set up.

PRESIDENT BRODERICK. Our Parliamentarian will answer your question, Mr. Devlin.

PARLIAMENTARIAN GRUELL. If I may ask the delegates to refer to page 10 of the amendments submitted by the temporary Committee on Rules yesterday, they will find additional power given to the Committee on Rules. It would be number 3. "To authorize, upon request of a standing committee, the appointment of additional subcommittees and to merge existing subcommittees within the structure of the standing committee making such request."

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, if I may, I believe that the standing committees may make the request for additional subcommittees to the Committee on Administration and Finance.

PRESIDENT BRODERICK. The Parliamentarian has suggested that it is the Committee on Rules. I will permit him to explain it.

PARLIAMENTARIAN GRUELL. If I may again, if you will refer to page 27, line 13. If we numbered that line it would be Powers of Committee on Administration and Finance. This starts another committee. So we insert this number three immediately after line 12, which is under the Committee on Rules.

DELEGATE STROUP. I thank the Parliamentarian. I stand corrected.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Luzerne, Delegate Laputka.

DELEGATE LAPUTKA. Mr. President, in making my amendment I was well aware of the proposed change authorizing the committee to ask for other subcommittees. Discussing this with the other delegates between yesterday's meeting and today, they felt this was of sufficient importance and sufficient magnitude in that it had been so widely discussed and was perhaps one of the issues understood basically by the electorate. The subcommittee should now be appointed and publicity given to the existence of the committee at the outset.

PRESIDENT BRODERICK. Is there any further discussion?

The Chair now recognizes Delegate Scranton.

DELEGATE SCRANTON. I want to make sure that the membership does not misunderstand anything about this. I am sure nobody here thinks that the question of the minor judiciary is unimportant. It is certainly one of the most compelling reasons for this particular Convention and must be dealt with and must be handled, and, furthermore, it should be. I hope everybody feels this way very strongly; at least I do.

I am a little loath, frankly, to support a suggestion of having a special committee for it because I feel strongly that when the Judiciary Committee, which is already made up of 40 people, gets together and decides how it wants to operate it is going to find that trying to establish a special organization in relationship with the minor judiciary that has no relationship whatsoever to the other three levels will be a very different thing to do, and that it is far better to take the whole structure and reform the minor judiciary in compliance with what you want to do structurally all up and down the system. It gives a much wider opportunity to the committee as a whole to operate.

PRESIDENT BRODERICK. Thank you, Delegate Scranton.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair now recognizes Delegate Reynolds.

DELEGATE REYNOLDS. I would like to ask for some information from the Parliamentarian.

PRESIDENT BRODERICK. The Parliamentarian will be glad to answer your question.

DELEGATE REYNOLDS. Under the rule of the subcommittee, would it be permissible to have someone who is not on the regular Rules Committee to be on that subcommittee? I never knew until just a moment ago when the ex-governor spoke, that there are 40 members on that committee. I have never seen anything to say there would be 40. I do not know who they are and I do not know what their complexion is. I would like to know if it would be permissible to have a subcommittee that does not altogether include the members of the Rules Committee.

PARLIAMENTARIAN GRUELL. The parliamentarian has not been made aware as to who the members of the committee are going to be. I think this would be up to the President himself. He could probably answer that for you.

DELEGATE REYNOLDS. No, that was not the question. The question is—maybe, Mr. President, you will answer it.

PRESIDENT BRODERICK. I think I understand the delegate's question. The question is how many members are there on the Judiciary Committee in the rules as reported out by the committee?

DELEGATE REYNOLDS. No, that is not the question. My question is would it be allowed for other members, other than the Rules Committee, to be on the subcommittee that is going to work on this committee, the subcommittee that will be appointed?

PRESIDENT BRODERICK. I think the answer to that is "yes." The committees have not been designated as yet and, of course, will not be until we adopt the rules, but certainly there would be independent members on the Judiciary Committee who will not be on the Rules Committee and vice versa.

The Chair recognizes the Delegate from the 21st Senatorial District, Mr. Solomon.

DELEGATE SOLOMON. I am Joseph Solomon from the 21st Senatorial District.

I wish to add my word to Attorney Laputka's amendment and to ask that the members of this delegation remember and thank back several months ago to the discussion which perhaps led to our being here today. In the discussion of the possible duties of this Convention, the word was out throughout the length and breadth of this State that the question of the minor judiciary was of great and vital importance. I believe the debate upon it was what helped bring this Constitutional Convention to the people of Pennsylvania.

I turn to the bulletin put out by the Constitutional Convention. In discussing the judiciary article, I wish to point out to all of you that there was no question of any greater importance than the minor judiciary. I do not recall anybody in my district worrying about the tenure of judges or worrying about the replacing of sick judges. This is what your bulletin said: "The five subsections on the judiciary are not of equal importance." (quote). I, of course, personally am in favor of some change, great change in the minor judiciary, and I have been a lawyer for 29 years. But this is what the bulletin further said: "The major and most controversial issue surrounding any revision of the Judiciary Article involves the future status of the minor judiciary." (unquote).

I sent a note to the committee. I know many others of you did. There had to be more than two others. So I say to you, Mr. President, that the amendment as proposed by my good friend, Attorney Laputka, from Luzerne County, be given adequate consideration now and not be lost somewhere in the Rules Committee.

Students of government will remember what happened at the New York Constitutional Convention, where the rules of the Convention actually forbade ultimately the bringing to the people of New York proposals which the delegates wanted. So with that, I hope that those who have served so adequately on the Rules Committee will reconsider and add to this rule. Instead of the five, treat these gentlemen and give them a chance to speak on this particular subject. This they want now.

PRESIDENT BRODERICK. Thank you, Delegate Solomon.

The Chair recognizes Delegate Casey, who was at the microphone first. Proceed Delegate Casey.

DELEGATE CASEY. Mr. President, I think the record has got to be absolutely clear on this. I would not want

the question before this Convention to be understood as a vote for or against, or one way or the other, on the substantive question of whether or not the minor judiciary should or should not be reformed.

As a member of the State Senate, I am on record on this issue. I had to vote on this issue and I had very strong feelings on this issue, but that question is not before this Convention at the present moment. The question before us is the very simple procedural one of whether or not there should be an additional subcommittee. I think that question should be analyzed in and of itself and apart from the substantive issue of the reform of the minor judiciary and that the vote on this question should not be interpreted or misunderstood in any other light.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shoemaker. State your name.

DELEGATE SHOEMAKER. Dan Shoemaker from the 28th Senatorial District.

Mr. President, I rise in support of the Rules Committee and in opposition to the proposed amendment. I believe that these rules have been set forth in sufficient clarity that we can, if necessary, create an additional subcommittee later, if that should become necessary. I do not believe it to be necessary.

I would, therefore, oppose the amendment and would move the question on the amendment.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Montgomery, Delegate Kauffman. State your name, please.

DELEGATE KAUFFMAN. My name is Bruce Kauffman, Delegate from the 17th Senatorial District.

Mr. President, I would like to echo the sentiments of Governor Scranton and Senator Casey. I think it would be a grave error to attempt to isolate the issue of the minor judiciary from the overall administration of our judicial system. I think it is an integral part of it, and I also would like to echo the sentiment by so stating that no one here means to imply in any way that the question of the minor judiciary is not a very important one. The question obviously is one that is important and obviously one that is going to be considered.

However, I think if it is isolated out of the total area of judicial administration, we would be unsuccessful in formulating the very best possible plan for the best administration of justice in the Commonwealth.

Therefore, I oppose the amendment.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Croop. Would you state your name, Delegate Croop?

DELEGATE CROOP. Frank D. Croop, from the 27th District.

As I look at my sheet which calls for the various committees, I read as my heading, "Judiciary." Continually through sections A, B, C, D and E, the word "judicial" or "judge" is repeated time and time again.

Normally speaking, I do not think in the common language of the people we represent we call justices of the peace "judges," although, in joking reference, many times this term is used.

I think that Attorney Laputka's motion is well taken, his idea to have this a special committee. As this language has been so formulated in this manner and the talking about judges, I think whoever set up these subsections was

thinking of judges, judicial judges. I do not think they were thinking of minor judiciary.

As I read the amendment, this amendment says that any standing committee can originate or ask for a subcommittee. This certainly takes the power away from delegates, unless they are members of the standing committee. Standing committees would be those that are compromised in and provided for under this No. 2 judiciary. As I see it, this is talking about judges, and I think we are missing and will be missing to the people a big item which has been raised year after year. I think that his motion for amendment is well taken.

PRESIDENT BRODERICK. Thank you, Delegate Croop. The Chair now recognizes the delegate from Northampton.

DELEGATE JIROLANIO. My name is Jirolanio, and I come from the 18th Senatorial District.

I rise in support of the motion proposing that a subcommittee be made for the minor judiciary.

As I sat here and watched the expressions of the various delegates and saw the tremendous interest in this body on the subject of minor judiciary and heard the words of wisdom of former Governor Scranton, wherein he said that it was a compelling matter to be taken up, I think everybody here agrees that this is of tremendous importance. Now, if it is of such tremendous importance, what are we afraid of in having another subcommittee?

The minor judiciary, as you know as well as I, has over 5,200 members, 4,000 and some odd hundreds who have taken up that commission. They represent a tremendous number of people. We are here to work out the problem that is facing us and to see that the committee, which, as I understand it, is going to be composed of 40 members, would take this up at the proper time. Possibly I agree with them, but it might be lost in the shuffle.

In the meantime, if this matter of importance would be given its proper place and you would have a subcommittee, you could start working on this as soon as that subcommittee is in existence, and you would be in a position to come back with the proper findings and report way ahead of time than if you do it otherwise.

Therefore, I support the proposition that is before the Convention.

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham. Would you state your name, please?

DELEGATE BRAHAM. My name is Walter Braham, and I am from the 21st Senatorial District.

I want to add one practical factor to the matters referred to by Governor Scranton and by Mr. Casey. We must remember that in considering the Judicial Article we may decide to make changes in all of the judicial districts of the Commonwealth or in only a portion of the judicial districts of the Commonwealth.

Anyone who looks at this question about the justices of the peace may come to the conclusion that in that area as well there may have to be different provisions for the large districts and for those in the small districts. It may appear to some that the general apparatus that applies to the courts of record would be a bit cumbersome for the justices of the peace in the small counties. One of the members was speaking to me about a county with only three lawyers. Well, obviously, to apply all the apparatus provided for and some of the plans that will be presented

to the justices of the peace in that county would be unduly cumbersome.

Therefore, we had better keep this within the framework of the judicial organization of the Commonwealth. We do not want to start out to simplify that structure and end up by making it more complex and more difficult. It may be that changes might be made in the same classes of districts. We may have to decide where some of these changes would apply in first-class counties, as well as in all the others; the same way with cities. Therefore, I believe it should be kept as has been indicated by the gentleman who has spoken against this motion; that is, we should keep it simply in the framework of the judicial organization of the Commonwealth and not have a special committee.

PRESIDENT BRODERICK Thank you, Delegate Braham.

The Chair now recognizes Delegate Ruth. Would you state your name, please?

DELEGATE RUTH. My name is Gerald Ruth and I am from the 28th Senatorial District.

As has been pointed out by Dean Laub and by many of the studies on the judiciary, the basic problem with the judicial administration is its fragmentation and lack of unity and coherence. I, therefore, suggest that the recommendations of the Rules Committee be followed so that we do not fall into that trap again and have different sections of the judicial body considered and, therefore, not be coherent and not correlate with each other.

PRESIDENT BRODERICK. Thank you, Delegate Ruth. The Chair recognizes Delegate Murray from Philadelphia.

DELEGATE MURRAY. Mr. President, there is an uneasy feeling among many of the delegates, particularly, this muzzie-type feeling which seems to creep up on you once in awhile that you are not going to have your say or your representation. I think there is a little evidence of that right here in this room today. Committees are picked by the Rules Committee; there is a feeling that some of the members are not going to have their say in helping to formulate things that are very close and very dear to their hearts. One of the very, very important things happens to be the justices of the peace and the magisterial problem. This is one of the things that has been on the minds of the voters; it has been on the minds of the people who sent us here.

I think that Delegate Laputka from his district is very aware of this; so is Delegate Reynolds from Philadelphia; so are many of the other men. I am very concerned with it and I know a lot of my colleagues here are concerned with it.

I strongly feel that we should have a subcommittee, but I also feel that we should possibly delay the appointment of the subcommittee until the members have a little better chance to get to know each other and to find out who is interested in this committee and to get a better feeling. There is an awful lot of lack of knowledge on this particular item. We are dealing with different segments in the State. You have a magisterial system in Philadelphia, which is about one-fifth of our Commonwealth. You have JP systems in the rest of the Commonwealth. It is a very important phase. It touches the basic lives of most of our people. The minor judiciary should not be pushed aside as just another little segment of the overall picture

when you are dealing with JPs and magistrates. These are the people who touch more of the lives of the citizens of our Commonwealth than any other court system we have. It should get special emphasis and I honestly feel that it should have a special committee devoted to this problem.

I do feel we should delay the appointment of such a committee for possibly another seven days until the members get a chance to know each other better and start to formulate their ideas on this matter.

I do not think a hand-picked committee—and I hesitate to use the words "hand-picked committee"—a committee that is picked by the committee is what the overall body wants.

I would just like to put those comments on record and express my opinion.

PRESIDENT BRODERICK. The Chair now recognizes the Delegate from Delaware, Delegate Curran. Will you state your name, please.

DELEGATE CURRAN. Robert E. J. Curran from the 26th Senatorial District.

Mr. President, I think that we are having a very unfortunate argument as to semantics. There is no question in my mind as to the composition of subcommittees, that the subcommittee created under Section E is, in fact, the magistrates subcommittee. Anyone who thinks differently, I do not think has evaluated the whole problem. The problem cannot be solved in a vacuum. The whole judicial administration organization must be looked at together, and it is my prediction and conviction that this is exactly what this committee is going to do. It is going to be a magistrates committee, and I think perhaps if you had the word "magistrate" in parentheses, this whole argument would be unnecessary.

PRESIDENT BRODERICK. Thank you, Delegate Curran.

The Chair now recognizes Delegate Scales.

DELEGATE SCALES. Mr. President, my name is John Scales from the 39th Senatorial District.

I think what is happening here today is eloquent evidence that no one in this Convention is going to be muzzled. The issue here is not the importance of a minor judiciary change. The issue is rather, what is the best way in which to hear and determine all the suggestions that will be made on several sides of a very complicated issue.

I personally have no fear of having this issue lost in the dust. I have a premonition that we are not going to be allowed to do that even if we wished to do it. It is unconceivable to me that we can in any way adequately handle the minor judiciary issue other than in the context of judicial administration considering all levels of that administration in this State.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Scales. The Chair now recognizes Delegate Hook. Would you state your name, please.

MOTION

DELEGATE HOOK. Delegate James Hook, 46th Senatorial District.

I at this time would move for the question, Mr. President.

PRESIDENT BRODERICK. Is the motion to move the question seconded? It has been seconded.

On this question, will the delegates agree to the motion? It was agreed to.

PRESIDENT BRODERICK. The question recurs, will the Convention agree to the amendment?

Now I am going to read the amendment on which you are about to vote. I might add that in view of what I might call the spirited discussion we have had, I think we should have a call of the roll on this question so that there is no doubt as to how everyone feels.

I will restate the question. It was moved by Delegate Laputka that the report of the temporary Rules Committee be amended as follows:

"Amend on page 24, line 18, by inserting thereafter: f. Minor Judiciary, consisting of two co-chairmen and six delegates."

The clerk will now call the roll in connection with that amendment. Those voting "aye" will be voting to insert this amendment in the report of the Rules Committee, and those voting "no" will, of course, in effect be voting to retain the language that is presently in the report of the Rules Committee.

The Chair recognizes Delegate Curran.

DELEGATE CURRAN. Mr. President, there is some feeling that the question should be read again.

PRESIDENT BRODERICK. I will be glad to read the question again. We are voting on the amendment offered by Delegate Laputka, which is as follows:

"Amend page 24, line 18, by inserting thereafter: f. Minor Judiciary, consisting of two co-chairmen and six delegates."

The Chair will state again that those who vote "aye" will be voting for this amendment, that this amendment should be made a part of the report of the Rules Committee. Those voting "nay" will be voting against the amendment and to retain the present language in the section as reported by the Rules Committee.

On the question recurring,
Will the delegates agree to the amendments?

The clerk will call the roll.

The yeas and nays were taken in accordance with the provisions of the Constitutional Convention and were as follows:

YEAS—18

Aurentz	Jirolano	Powell	Silverman
Banes	Laputka	Rea	Solomon
Camardella	Markley	Redick	Van Sant
Croop	Morton	Reynolds	Westerberg
Fay	Murray		

NAYS—132

Aberman	Desmond	Keller, M.	Rappaport
Allison	Devlin	Kelly	Richter
Amsterdam	Donaldson	King	Roberts
Bagenstose	Dumbauld	Krill	Rovner
Baldrige	Erwin	Leach	Ruth
Baldus	Fagan	Lee, K.	Sahl
Baldwin	Fawcett	Lee, L.	Seales
Barron	Feather	Lembach	Searlett
Barry	Fikson	Leonard	Scott
Bashoff	Fohl	Levin	Scranton
Benedict	Forster	Manderino	Sebastian
Benfield	Fortney	Mangery	Sharp
Bloom	Gabreski	Mattioni	Shettig

Braham	Gehrlein	McGeary	Shively
Brennan	Gerber	McGlynn	Shoemaker
Broderick	Goldman	Meyer	Shrager
Brown	Gouger	Michael	Sprogel
Buck	Gray	Michener	Stout
Bunting	Griffith	Miller, R.	Strickler
Burkholder	Hannum	Moorhead	Stroup
Butera	Harding	More	Swope
Cain	Hatter	Musselman	Tate
Caputo	Henderson	Nelson	Thomson
Caron	Heyburn	Orban	Thornburgh
Casey	Himes	Orban	Tomasick
Clark	Hocker	Otto	Tully
Clinger	Hook	Pasquerilla	Waldron
Corey	Horne	Pechan	Warman
Cortese	Hosteller	Pelletier	Welsh
Cosetti	Huggins	Percey	Whittum
Cunningham	Johnson	Popil	Wilcox
Curran	Kauffman	Pott	Woodring
Dailey	Keller, J.	Prendergast	Woodside

NOT VOTING—13

Conley	Goldstein	Lane	Quiles
Donolow	Irlis	Miller, D.	Shapiro
Fineman	Kline	O'Donnell	Wilmarth
Fleming			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

To James A. Michener, Delegate and Secretary:

On the motion to amend the rules by creating a separate subcommittee to consider the minor judiciary, I voted in favor of the motion, because I had made a similar request in writing to the Rules Committee. In addition, I believe the question of minor judiciary can be considered separate from that of judicial administration. This entire area is of such great importance that I do not believe it can be considered as well by a subcommittee of six as compared to a larger subcommittee or two subcommittees.

JAMES D. MORTON
44th District.

MOTION TO ADOPT REPORT OF RULES COMMITTEE

PRESIDENT BRODERICK. It has been moved by Delegate Scranton and seconded by Delegate Casey that the Convention adopt the report of the Rules Committee as submitted.

Is there any discussion on the motion?

PARLIAMENTARY INQUIRIES

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 34th district, Delegate McGeary.

DELEGATE McGEARY. I have no complaint to make. I am asking for a clarification. Not being a legislator, I cannot answer it myself and several others that I talked to could not answer it.

On page 39 the Rules Committee deleted lines 5 and 6 stating "The reporting of a proposal from a committee for consideration shall be deemed a first consideration."

On page 26 of the report, the Rules Committee substituted "A committee proposal shall be printed, placed on the desks of the delegates and appear on the calendar for at least one Convention day before the Convention considers it for the first time."

My question is simply this, am I correct in understand-

ing there will be no debate at all for the first consideration?

PRESIDENT BRODERICK. I will ask the parliamentarian to answer your question.

DELEGATE McGEARY. It is not answered here. The way it was before, I assume, it meant no debate, but it is not specifically clear, it seems to me, as to whether debate is prohibited or where it is permitted.

PRESIDENT BRODERICK. I am asking Mr. Gruell to answer your question.

PARLIAMENTARIAN GRUELL. The only restriction we have in the rules on the first consideration is that it shall not be amended. I might say in further answer to your question, the Rules Committee thought in order to slow down the process a little bit that we would give you an extra day just to look at it to see what was in it before you proceeded on to second consideration. As far as I can see, if a delegate wants to get up and say something about it, there not being any provision in here limiting debate or saying no debate, I do not see why the delegate would be out of order.

PRESIDENT BRODERICK. As I understand the answer you can debate or discuss on the first consideration.

PARLIAMENTARIAN GRUELL. Yes.

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 25th District, Delegate Westerberg.

DELEGATE WESTERBERG. I should like to ask a question: On page 39, line 20, you have changed the rule that debate will be limited to three hours and no delegate shall speak for more than 15 minutes on second reading.

On page 40, line 20, under third reading, the debate there is limited again to three hours but it is left at 10 minutes for each delegate. I was just wondering why this was?

PRESIDENT BRODERICK. We will ask Mr. Gruell, our parliamentarian, to answer that question.

PARLIAMENTARIAN GRUELL. Somewhere between the committee and the Xerox machine an amendment on page 40 was omitted. The instructions from the Rules Committee were I do not have the original copy here, I am sorry to say—to prepare an amendment to change this 10 minutes to 15 minutes in both places.

PRESIDENT BRODERICK. Unless the Chair hears objection, we would like at this time to correct what was apparently a clerical omission.

In connection with the suggested rules the following amendments should be made:

Page 40, line 21, delete "10 minutes" and insert in lieu thereof "15 minutes."

Page 39, line 20, delete "10 minutes" and insert in lieu thereof "15 minutes."

Unless the Chair hears an objection, we will consider these corrections as having been made.

The Chair hears no objection.

Page 42, line 13?

PARLIAMENTARIAN GRUELL. If I may, sir, there was no change on this. The 10-minute restriction here applies to any other motion or question that comes before the Convention which is not otherwise provided for in the rules. The Rules Committee thought it best to keep that at 10 minutes, so there is no error there.

I want to apologize for the other one.

PRESIDENT BRODERICK. The question recurs, will

the Convention agree to the report of the temporary Rules Committee?

The Chair recognizes Delegate Keller.

DELEGATE JOHN W. KELLER. I note that the committees are all of an even number. I would ask the parliamentarian the effect of a deadlock in committee.

PRESIDENT BRODERICK. Will the parliamentarian attempt to answer that question?

PARLIAMENTARIAN GRUELL. As I told the Rules Committee yesterday when this question was brought up, somebody has to give.

DELEGATE JOHN W. KELLER. That being the ruling of the parliamentarian, I would move an amendment to page 4, line 19, by inserting after the word "committees," the words "provided, however, he may vote for the purpose of breaking a tie vote in committee."

This would authorize the President, or in the absence of the President, the Vice President, to break a tie vote in committee. I suggest to the Convention that this might be desirable in light of the debate we have already had this morning.

PRESIDENT BRODERICK. If I understand the suggested amendment correctly, it states, the suggested rules on page 4, line 19, shall be amended to read: "He shall be a member ex-officio without vote on all committees, provided, however, he may vote for the purpose of breaking a tie vote in committee."

Before putting this to a vote, if I may be permitted to state, the Rules Committee in discussing this particular question felt that this situation might never come about. Of course, there is always that possibility.

I would like to ask if either Co-Chairman Scranton or Co-Chairman Casey would like to make a statement on this.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, is there a second? Otherwise, there is no need for my discussing the motion.

PRESIDENT BRODERICK. The Chair as yet has not heard a second to that. Is there a second?

Delegate Amsterdam yields to Delegate Devlin.

DELEGATE DEVLIN. Mr. President, we had a discussion on this particular point in the Rules Committee, and I am delighted that the delegate brought the question to the floor, because it has not been resolved fully.

It was my understanding yesterday that tie votes—let me take a step back. There are two committees we speak of where we could have tie votes, one would be the subcommittee; one would be the committee as a whole, standing committee, if you please.

It was my understanding—and I would like to pose this question to the Parliamentarian—that if we have disagreements, and I am sure that the word "disagreement" could mean that either the co-chairmen disagree or the subcommittee—I am speaking of subcommittee only—disagree, then the question would be brought before the standing committee to be resolved. I ask the parliamentarian, is this the technique that we can use to break tie votes in subcommittees?

PARLIAMENTARIAN GRUELL. I think you are right, Mr. Devlin. If I may again call your attention to one of the amendments that was put in where we included a majority of all members of a standing committee, which includes all members of any subcommittee thereof, who

have control and supervision of all proposals referred to it by the president, and may by a vote of the majority of the members of a standing committee consider any proposal referred to it by one of its subcommittees.

It was thought that by putting this provision in here in the event a subcommittee disagreed, the entire standing committee could then take it away from them and consider it. I think that answers your questions.

DELEGATE DEVLIN. May I continue further?

If this would be accepted as a technique of breaking a tie vote in a subcommittee then the amendment, I believe, should be changed, if we need an amendment, to breaking tie votes on standing committees only. This would do two things, I believe.

One, it would save the Lieutenant Governor an awful lot of running around.

Number 2, which I think is important, it would remove the burden or, indeed, prevent the Lieutenant Governor—and I say this in all courtesy to you, sir—from, perhaps, having a persuasive vote in certain areas that perhaps the standing committee or the subcommittee would not want. It would save him a tremendous amount of responsibility. I think it would make it much more easier for us to operate if we would just confine this tie-breaking technique to the standing committees, if you please, sir.

PRESIDENT BRODERICK. Thank you, Delegate Devlin.

The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I agree entirely with what Delegate Devlin has said. I want to point out further that as far as the standing committees themselves are concerned, the control over those committees resides in this body and the Convention as a whole, of course, controls the situation at any time. In addition to that, it was deemed desirable in the Rules Committee to maintain the bipartisan aspect of all of our activities so that there would be a nonpartisan Convention. This is a part of that bipartisan aspect—not breaking these tie-votes except at the will of the entire Convention.

PRESIDENT BRODERICK. Thank you.

The Chair recognizes Delegate Sam Rappaport.

DELEGATE RAPPAPORT. I would like to point out one other thing with respect to an even vote. The legislature can pass a bill by one vote and assuming the Governor signs it it is law. The Supreme Court of Pennsylvania hands down many a four-three decision and the four controls the three. However, gentlemen, we are not in that happy position. We have to go back to the people. I would state that if we can get only a bare majority of one vote on any issue, we are not going to have too much success in the spring primaries.

I would suggest that unless we can get a substantial majority, on every issue, we are going to have very little success in putting our ideas across to the people. I would, therefore, think it is a positive virtue to have an even number on every subcommittee forcing us to compromise with one another and to come out with a sense of a meeting, instead of having it depend on one vote. I do not think we can afford that luxury and I would, therefore, strongly suggest that we have an even number on each subcommittee and committee with appeal up to the major committee and to the Convention.

I would call the question.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. A parliamentary question: It was my understanding of the rules that in the event the Convention as a whole votes on a given issue or subject and comes to an absolutely even arrangement on both sides, that then the President has the opportunity to vote. Is that correct?

PRESIDENT BRODERICK. I will have the parliamentary answer that.

PARLIAMENTARIAN GRUELL. The President, being a member of the body, votes on everything that comes before the body.

DELEGATE SCRANTON. In which case, ladies and gentlemen, you see that, in line with what Delegate Amsterdam has said, at any time the Convention brings anything to the floor that may be stymied in committee there you will not have an even vote. I think putting him on the spot once is enough.

PRESIDENT BRODERICK. The Chair recognizes Delegate Keller.

DELEGATE JOHN W. KELLER. Mr. President, this was the reason for my preliminary question to the parliamentarian because I wondered whether there was a way to resolve a deadlock in committee. Now, am I correct, and I ask the parliamentarian, that a matter can, on a deadlock in committee, be brought to the floor of the Convention as such rather than "someone has to give," which I believe were his words?

PRESIDENT BRODERICK. Would the parliamentarian answer that?

PARLIAMENTARIAN GRUELL. We had thought by putting the amendment in it, we would have this referred to the full committee. If this does not work, we have a provision for a discharge, too, which would bring the question to the floor for the Convention to decide. With the discharge provision in here, the Convention has the last word on almost anything the committee does or does not do.

DELEGATE JOHN W. KELLER. If there is a means of bringing a deadlocked question to the floor, I would be willing to withdraw my motion for amendment.

PARLIAMENTARIAN GRUELL. Under the motion to discharge, I think that could be taken care of.

MOTION WITHDRAWN

PRESIDENT BRODERICK. In view of that statement, does the Chair understand the delegate is now withdrawing his motion?

DELEGATE JOHN W. KELLER. Yes, Mr. President.

PRESIDENT BRODERICK. Will Delegate Barron withdraw his second to the motion?

DELEGATE BARRON. Yes, Mr. President.

PRESIDENT BRODERICK. The motion is withdrawn.

ADOPTION OF RULES

PRESIDENT BRODERICK. I assume there is no further discussion.

The question recurs,

Will the Convention agree to the report of the temporary Committee on Rules. I think the report is on each delegate's desk. It is in a blue cover and the amendments offered are included.

We will now have a roll call unless the Chair hears an objection.

The Delegate from Northampton, Delegate Prendergast moves that we dispense with the roll call and it is seconded by Delegate Cain from Philadelphia.

On the question,
Will the delegates agree to the motion?
It was agreed to.

On the question recurring,
Will the Convention adopt the report of the Committee?

The yeas and nays were taken in accordance with the provisions of the Constitutional Convention and were as follows:

YEAS—150

Aberman	Devlin	Laputka	Reynolds
Allison	Donaldson	Leach	Richter
Amsterdam	Dumbauld	Lee, K	Roberts
Aurentz	Erwin	Lee, L	Rovner
Bagenstose	Fagan	Leimbach	Ruth
Baldrige	Fawcett	Leonard	Sahli
Baldus	Fay	Levin	Scales
Baldwin	Feather	Manderino	Scarlett
Banes	Filson	Mangery	Scott
Barron	Fohl	Markley	Scranton
Barry	Forster	Mattoni	Sebastian
Bashoff	Fortney	McGeary	Sharp
Benedict	Gabreski	McGlynn	Shettig
Benfield	Gehrlein	Meyer	Shively
Bloom	Gerber	Michael	Shoemaker
Braham	Goldman	Michener	Shrager
Brennan	Gouger	Miller, R.	Silverman
Broderick	Gray	Moorhead	Solomon
Brown	Griffith	More	Sprogeil
Buck	Hannum	Morton	Stout
Bunting	Harding	Murray	Strickler
Burkholder	Hatter	Musselman	Stroup
Butera	Henderson	Nelson	Swope
Cain	Heyburn	Orban	Tate
Camardella	Himes	Orbin	Thomson
Caputo	Hocker	Otto	Thornburgh
Caron	Hook	Pasquerilla	Tomascik
Casey	Horne	Pechan	Tully
Clark	Hostetler	Pelletier	Van Sant
Clinger	Huggins	Perrey	Waldron
Corey	Jurkalo	Popl	Warman
Cortese	Johnson	Poit	Welsh
Cosetti	Kauffman	Powell	Westerberg
Croop	Keiler, J.	Prendergast	Whitum
Cunningham	Keiler, M.	Rappaport	Wilcox
Curran	Kelly	Rea	Woodring
Dailey	King	Redick	Woodside
Desmond	Krill		

NAYS—0

NOT VOTING—13

Conley	Goldstein	Lane	Quiles
Donolow	Irwis	Miller, D.	Shapiro
Fineman	Kline	O'Donnell	Wilmarth
Fleming			

The majority having voted in the affirmative, the motion was agreed to and the report of the Rules Committee was adopted.

PRESIDENT BRODERICK. I am informed by the parliamentarian that a voice vote shows that we have 150 ayes and 13 not voting.

Therefore, the report of the temporary Rules Committee giving us a working set of rules has been adopted.

COMMITTEE ON RULES LAUDED

PRESIDENT BRODERICK. The Chair now recognizes the Delegate from Allegheny, Delegate Thornburgh.

DELEGATE THORNBURGH. Mr. President, if it is in order at this time, I would like to offer a resolution complimenting the Rules Committee on its diligence, flexibility and willingness to listen to the entire body of the Convention. And particularly for the job that has been done of bringing together a multitude of viewpoints on procedural and substantive matters to produce what I think appears to be a working body of rules that gives us a good start toward success in this Convention.

If it is in order, I would so move.

PRESIDENT BRODERICK. The Chair rules that it is in order and it has been seconded by the Delegate from Montgomery, Delegate Gerber.

On the question,
Will the Delegates adopt the resolution?
It was unanimously adopted.

PRESIDENT BRODERICK. I think our temporary Rules Committee well deserves the plaudits that Delegate Thornburgh stated. I might add, I do think we have adopted a set of rules which is the best set of rules of any Convention held in recent years. And, I think we can now go to work.

Unless I hear an objection, the Chair would like the temporary Rules Committee to function until we appoint the permanent Rules Committee.

I want to state that we are going to make every effort to make these appointments by tomorrow, but frankly, I fear that we will not be able to complete our discussions. I have had one lengthy meeting with the officers as of last evening; we are going to meet again today. We are going to make an effort to come up with the appointments, but I think you will realize that—I think it was approximately 208 and with the temporary Rules Committee add 24 to that—I think we have a total of 232 appointments to make. I realize the tremendous responsibility that you have placed in the hands of your officers and we are going to sit down in the same atmosphere that has already been created and make those appointments. If they are not completed by tomorrow, I can give you the assurance that they will be ready when we come in on Monday. We are going to make an effort to get them by tomorrow.

The parliamentarian would like to make some announcements.

ANNOUNCEMENTS BY THE PARLIAMENTARIAN

PARLIAMENTARIAN GRUELL. Several delegates inquired this morning regarding a list of lobbyists. Under the Act, all lobbyists are required to register with the Secretary and the staff here. The President assures you that an up-to-date list will be supplied to each delegate as these lobbyists register.

We want to ask again that if you have any proposals you are considering introducing that you contact Frank Garber, Room 641, fifth floor of the Main Capitol building, in the Legislative Reference Bureau. He and his staff will be more than willing to help you get these drafted.

We think if some of these proposals can be started ahead of time, when the committees are appointed we can proceed with their introduction and get down to business.

Thank you.

ANNOUNCEMENT BY THE CLERK

The CLERK. There are approximately 10 or 12 delegates who have not picked up their badges, their permanent badges as delegates. They can be picked up at the chief sergeant at arms' desk immediately outside the rear of the hall of the House.

On the electronic roll call voting machine, at such time as the technicians put it into operation for the delegates, there will be written instructions as to its use by the delegates. It is contemplated by your parliamentarian to have several dry runs with the delegates to acquaint you with the voting apparatus.

Thank you.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair now recognizes the Delegate from Delaware, Delegate Curran.

DELEGATE CURRAN. Mr. President, I move that this Convention do now adjourn until Thursday, December 7, 1967, at 9:30 a.m.

PRESIDENT BRODERICK. It has been moved by the Delegate from Delaware, Delegate Curran, and seconded by the Delegate from Bedford, Delegate Stroup, that the Convention do now adjourn until Thursday, December 7, 1967, at 9:30 a.m.

The motion was agreed to, and (at 12:07 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

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Number 5

EXECUTIVE DAY

The Convention was called to order at 9:30 a.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRESIDENT BRODERICK. The Chair recognizes the sergeant at arms.

The **SERGEANT AT ARMS.** Mr. President, I have the honor to present the participants in the executive day ceremonies.

PRESIDENT BRODERICK. Thank you. The Chair asks the participants if they will please come to the rostrum:

Our chaplain for today, Chaplain Kidd, the Attorney General, William Sennett, Doctor Kurtzman, Doctor Willis, Delegate Heyburn, Delegate Butera and Delegate Prendergast.

Today's meeting, like all our meetings, will be opened with prayer. We are very fortunate to have with us today to offer the prayer, Doctor Samuel D. Kidd, president of the East Pennsylvania Synod of the Lutheran Church in America, from Philadelphia, Pennsylvania.

PRAYER

THE REVEREND DOCTOR SAMUEL D. KIDD, guest chaplain for the day, offered the following prayer:

Let us pray. Almighty God, by Thy works and Thy words we know Thee. In many ways we know Thee better than we know ourselves or each other. In our not always hidden parts lie the dangers of pride and selfishness; in our not always visible parts lie the goals and ambitions of our lives.

Among these gathered here in the name of this Commonwealth of God, make openness to each other the mark of their works and words and honesty the rule. Whatever trust Thou has vested in us, the citizens of this State, we have now in a major way vested in these whom we have selected. Thou hast given to them, through us, a weighty responsibility.

It has been the practice among men not to accept all that Thou dost offer, nor to use all that is accepted. Where, O God, in all the earth, has the fullness of Thy proffered gifts been more unmistakably present than here in Pennsylvania. Take not now Thy gifts from us, O God, but commit these gathered here to confirm Thy wisdom in giving by their use of what Thou hast given. Let the full offer of Thy blessing remain open to these who serve in this Constitutional Convention.

Thou hast offered the insights of divine mercy and ultimate justice. Open the minds here to that kind of mercy and to that kind of justice, lest hardened hearts find their companionship with prejudiced judgments.

In creation and throughout all history, Thou hast

claimed for Thyself but one human family and offered to men the privilege of that oneness. Help, O God, these, Thy servants, to see the oneness of the Pennsylvania family of man that through them the oneness may become visible to others.

If there ever was need for dreaming, that need is here. If ever there was need for living for a vision, that need is now. Father of us all, set the minds here to dreaming and the sights on lofty goals as Thou hast offered to do through Jesus Christ, Our Lord. Amen

MEMBERS OF CABINET SEATED

PRESIDENT BRODERICK. We now come to another one of our special opening event ceremonies. Today we honor the Executive Branch of the State Government of the Commonwealth of Pennsylvania.

I would like at this time to ask our sergeant at arms to bring in the members of the Cabinet of the Commonwealth of Pennsylvania.

(The Cabinet members were escorted to their seats.)

DELEGATE HEYBURN REQUESTED TO PRESIDE

PRESIDENT BRODERICK. The Chair now calls upon one of our fellow delegates from Delaware County, an old and good friend, Delegate Weldon Heyburn, to preside over this portion of our ceremonies.

Will Delegate Heyburn come forward?

DELEGATE HEYBURN PRESIDING

DELEGATE HEYBURN. Thank you very much.

Ladies and gentlemen, honored and distinguished guests, and Fellow Delegates:

Today the Fifth Pennsylvania Constitutional Convention pauses to salute the State's Executive Branch, including our elected officials, cabinet members, and chairmen and executive directors of the various state agencies, authorities, boards and commissions.

The members of the Convention are deeply grateful for this demonstration of support and encouragement. It is most heartening for us who face such a tremendous task to know that all branches of our government champion this worthy cause.

I have been asked what does this all mean, the ceremony which brings us repeated stimulating challenges from past governors, congressmen, members of the General Assembly, and now our state executive officers?

I understand the thrust of the question: are these many stirring words from these many eminent people going to help us do a better job? My answer is an immediate and resounding "yes."

As delegates we came here Friday with the knowledge that we were gathering for Pennsylvania's First Constitutional Convention in nearly a century.

We were able to grasp the magnitude of the task before us, and its importance to our Commonwealth.

We were aware that the groundwork was laid by the legislature and the executive branch of government, civilly-inspired independent agencies, and individuals from all walks of life.

We realized that we owed the voters of Pennsylvania our most earnest efforts to fulfill the trust they placed in us when they elected us to serve here.

Since Friday it has been proclaimed repeatedly that we can be assured of solidarity behind our efforts. I am enthused by these words. I do not think they are ceremonial words or hollow words. I believe the occasion for these words is now, and I welcome every single syllable of encouragement.

I know I speak on behalf of my fellow delegates when I say this. I have been among them long enough now to speak with authority when I say that whatever misgivings some of them may have had Friday are now eliminated.

This has been accomplished by the overwhelming outpouring of good wishes, the firm commitments of help if needed, and the more intimate assurances, handshakes, and pats on the back from members of the executive body of our government and others here in the capitol, right down to the man on the street.

And so I say in all sincerity that I have been deeply moved by these displays of warm friendship and willingness to join hands in an unprecedented bipartisan movement toward a magnificent future for Pennsylvania.

Our past governors, our members of the Congress, and the men and women who serve in the General Assembly preceded these representatives of the executive branch in demonstrating their support and encouragement.

As was done yesterday, I will leave with the Chair a list of all members of the Executive Branch present and ask that their names be spread upon the Journal of the Convention.

ATTORNEY GENERAL SENNETT PRESENTED

Now it gives me great pleasure to introduce to the Constitutional Convention the gentleman who will be the spokesman for the Executive Branch.

He is the Attorney General of the Commonwealth of Pennsylvania, and, if it can be said that one man as much as any other has a particular interest in the outcome of this Convention, it would be the Attorney General.

Whatever changes we may carve out here, once approved by the electorate, will become the law of Pennsylvania. This law may have to endure for 100 years.

The office of the Attorney General must work with the results of this Convention, interpreting new provisions as they apply to events and circumstances now and into the future.

We must remember that long after we leave Harrisburg, what we have written must first pass the test of the electorate and then the infinitely more severe test of time.

The man with a most profound interest in our work here, the man who will have to interpret and apply the provisions of a revised constitution, the man who will be

living with it day after day, is our Attorney General, William C. Sennett.

ADDRESS BY ATTORNEY GENERAL SENNETT

Mr. SENNETT. Mr. President, distinguished delegates, ladies and gentlemen:

By demanding constitutional reform at the polls, the people of Pennsylvania—said Governor Shafer—have demonstrated "a singular act of faith in the future."

You are assembled here for the difficult and delicate task of harnessing and transforming this dynamic opportunity of our citizens' faith in the future into the reality of law.

Few of us in our lifetime have the opportunity to challenge and subdue the unrelenting and often bewildering forces of uncompromising change.

Yours is the onerous burden of translating the pressing need for change into an indelible and visionary blueprint for the future.

At this hour, the awesome responsibility of your individual duty must weigh heavily within each of you.

On behalf of the cabinet, the executive branch of state government, I acknowledge your greetings. We who now serve in state government are fortunate to share a joint responsibility at this particular time and place with you, the very honored and distinguished delegates to this 1967 Pennsylvania Constitutional Convention.

It has been stated with accuracy that "The states are the critical areas of American government today . . . unless the states rehabilitate themselves as effective, functioning governments, there is little doubt about the direction that political development is going to take in this country in the decades ahead."

The Federal Government has expanded dramatically in power and programs. Washington is reaching into the great urban areas—establishing direct ties with the cities, and the cities in turn reach out for federal programs, without stopping at Harrisburg or Albany or Sacramento.

It is our responsibility to make federalism work—to guarantee that all the states—but especially to guarantee that Pennsylvania has a viable, innovative government. The alternative is complete national domination.

Your distinguished delegate from Lackawanna County, Governor Scranton, stated in January of this year: "Now there is a disposition . . . to give the states one last chance . . . I would say that the states have a few years to measure up—probably no more than a decade. If they have not by then set their own houses in order, they will surely be superseded by some form of 'metro-government' or federal administrative units or regional departments . . ."

This is the challenge which you now face in this Constitutional Convention. Pennsylvania must set its house in order—our government must be modernized.

As Governor Shafer has said, "You have been given an overwhelming mandate for change . . . You are not here to maintain the status quo."

Five times in the history of our Commonwealth such conventions have assembled to review and revise the basic law by which we are governed. In 1776, 1789, 1837 and 1872 Pennsylvanians gathered to meet the popular mandate and forge a document which hopefully would chart the course for our citizens to advance from generation to generation, indeed from century to century. However, the efforts of the past were not adequate to meet the needs of the future.

Contrast if you will—and distinguished delegates to this convention—reflect if you will on the events of almost two-hundred years ago in Philadelphia when an assembly such as this, meeting for almost the identical length of time, from June until September 1787, forged the document which has provided the resiliency and strength of a nation.

Constitutional revision was the first ambition of this administration. The concept of a limited Constitutional Convention is the best practical vehicle to resolve the urgent problems of local government, the courts, apportionment, taxation and finance.

All of us, particularly Governor Shafer, with the united leadership of both political parties fought relentlessly against all odds to bring this convention into being. Now yours is the privilege and responsibility of fulfilling the trust and faith of those who elected you. But even though the torch has passed to you, we do not intend to stand aside and abandon the cause. We are anxious to be of help to you at this critical time. We will welcome every opportunity to lighten your heavy burdens.

We in the executive branch of government offer our help, our resources and our assistance. I offer all of the resources of the Department of Justice. Our attorneys have worked with the Preparatory Committee and have conscientiously prepared themselves to work with you. Attorneys from the Department of Justice will be available to all of the committees of this Convention. We will work with you to make your task easier and to help you prepare the finished document by which Pennsylvania will be governed.

While the Department of Justice will work carefully with you in your deliberations, it will have a continuing duty and a serious responsibility even after you adjourn.

I would remind you of the curious historical fact that the language of the fourth amendment to the United States Constitution—relating to search and seizure—was never actually adopted by the Constitutional Convention in 1789.

The legalistic words—"and no warrant shall issue"—were voted down by the convention. But by some unknown twist of fate in clerical recording, these defeated words were reported and in fact became an intricate part of the fourth amendment.

Historians muse that no one at the Convention noticed the change. I assure you that the Department of Justice will protect the finished

product so that it is faithfully and accurately presented to the electorate.

All of us in the Governor's Cabinet deeply appreciate and pay tribute to the dedicated and determined men and women, working alone and in groups, whose sustained efforts made the dream of this Convention a reality.

Former Attorney General William A. Schnader, the Pennsylvania Bar Association, a Modern Constitution for Pennsylvania, Incorporated, The League of Women Voters, and all the others who toiled relentlessly for this convention must receive the warm praise of all Pennsylvanians.

But while I extol the work which has been accomplished, I note a word of caution. No pre-arranged pattern or easy formula is urged for your acceptance. No one is inflexible, especially those who have prepared positions for your evaluation. Yours is the ultimate responsibility and you must make the judgments. You must decide what is best for Pennsylvania.

Each person or group that joins the battle for constitutional reform must now recognize that their responsibilities have irrevocably passed to the delegates to this convention.

No man or group must inflexibly and unyieldingly attempt to force "fixed positions" upon this Convention.

The delegates alone are the masters of their fate and the fate of the constitution.

All of the constructive forces who have worked in the past and who will continue to work in the future in this worthy cause must not solidify their beliefs into uncompromising stone.

We need the matrix of open minds and broad visions to achieve our goals.

To the delegates I also urge that every divisive consideration be eliminated from your review. I sincerely hope that your labors will not be diluted by pursuing issues outside or beyond the four major areas of concern mandated by the people. You must avoid the pitfalls which have appeared in other conventions not so beneficially limited to specific subjects, for the area of your review is so extensive and the issues so complex that your valuable time must be expended profitably.

I applaud the work which you have done thus far in adopting the rules in record time, but only after careful changes. You have already accomplished what required six weeks in New York.

Finally, the threat to our form of government, especially as it affects the delicate balance between federal and states rights, is an intricate part of your deliberation. This indeed may be the last effective opportunity for Pennsylvania to meet the challenge of providing modern enlightened government.

Five times in the last 100 years our people have rejected Constitutional Conventions. Only in 1967 with all the persuasive power of a new governor and with the mustering of statewide leadership of both major political parties has this Convention been assembled.

The time for ceremony grows short; the time for the diligent beginning of your labors has come.

May these words of James Madison, referring to the delegates in Philadelphia in 1787, be appropriately applied to you and your deliberations:

But whatever may be the judgment pronounced on the competency of the architects of the constitution or whatever may be the destiny of the edifice prepared by them, I feel it a duty to express my profound and solemn conviction derived from my intimate opportunity of observing and appreciating the views of the convention, collectively and individually, that there never was an assembly of men charged with a great and arduous trust who were more pure in their motives or more exclusively or anxiously devoted to the object committed to them.

Each of you now serves to rebuild the rule of law in this state. Your best yardstick is your conscience. Your best tool, an open mind.

On the success of your work hangs the destiny of Pennsylvania. Now you must act for Pennsylvania.

PRESIDENT INTRODUCES GUESTS

PRESIDENT BRODERICK. I would like at this time to introduce the members of our cabinet who are with us this morning as well as our elective officers who are sitting here as our honored guests.

I might say, first, that our Governor, Ray Shafer, asked me to personally extend to you his regrets that he could not be here with us again today. Of course, he is out of town on a governmental mission.

Now I would like to present to you the first elective officer who is with us this morning, the Honorable Mrs. Grace Sloan and ask her to stand; she is our Auditor General.

Next to Mrs. Sloan is our Secretary of the Commonwealth, the Honorable Craig Truax. It goes without saying you have already met our Attorney General, who has spoken to you and also, if I might add, our Superintendent of Public Instruction, the Honorable David Kurtzman, who will be speaking to you. He is a man of many talents. He will appear in his hat this morning as the Director of Research in connection with taxation.

Next we have the Honorable Leland Bull, Secretary of Agriculture; the Honorable Perrin Hamilton, our Secretary of Property and Supplies. Next is General Thomas White, our Adjutant General. Next in line is our Secretary of Forests and Waters, Maurice Goddard. The next in line is our Secretary of Highways, the Honorable Robert Bartlett; the next man is the Commissioner of our State Police, Colonel Frank McKetta. Over on this end is our Secretary of Revenue, Warner Depuy; the next man is our Secretary of Community Affairs, Joseph Barr; next is the Secretary to the Governor, the Honorable Joseph Kelley.

We then move to our Chairman of our Public Utility Commission, the Honorable George Bloom. Next we have the Chairman of our Liquor Control Board, the Honorable William Scott. The next man is our Executive Director of the General State Authority, the Honorable Robert Kunzig. Last but not least, the director of our Public School Building Authority, the Honorable Stuart Helm.

DELEGATE BUTERA INTRODUCES DR. KURTZMAN

PRESIDENT BRODERICK We would like to move to the next item of business in our program which you know is the third in our series of informative instructions in connection with the subjects with which we will deal. In order to carry on that part of the program, we have asked one of our delegates, the delegate from Montgomery County, Delegate Robert J. Butera to introduce our distinguished lecturer of the day. Delegate Butera.

DR. DAVID H. KURTZMAN PRESENTED

DELEGATE BUTERA. Thank you, Mr. President.

Ladies and gentlemen of the Convention and our honored guests, this is a hard working administration without time to listen to speeches.

As we strive constantly to make bipartisanship the byword of this Convention, it is, indeed, ironic to me that the only point where we have disagreed thus far is whether we are using the right term to depict this wonderful spirit of cooperation that we are experiencing here.

Some of us have been adamant about denoting it specifically as bipartisanship, while others prefer to call it nonpartisanship. One upstater—as he prefers to call himself—among us, the gentleman from Lackawanna, has suggested unpartisanlike to settle the provoking dispute.

Yesterday our honored guest from the House, Representative Gallagher, offered yet another compromise, what he certainly and some of the rest of us must have felt would be the last word on this matter. He feels it is citizenship.

At the risk of being suspected of a superficial attempt at "one-upmanship," permit me to propose yet another bipartisan word that may suit our definition, at least for today's session.

My word is "Kurtzmanship." Why "Kurtzmanship?" Because the gentleman I am privileged to present to you today epitomizes the spirit we are trying so desperately to capture here with a word that will end this semantic contemplation once and for all.

He is David H. Kurtzman. Doctor Kurtzman, I am certain, will not be offended by this well-meant attempt at symbolism.

Dr. Kurtzman has served in the cabinet of two administrations in Pennsylvania in different capacities. This is highly unusual in our system of government, and I think epitomizes his role in public life and his call to public service. In the current administration, the Republican administration, he serves as the Superintendent of Public Instruction. In the late Governor Lawrence's cabinet, he served as Secretary to the Administration.

In other endeavors, he has served governors of both parties. For 26 years he was Assistant Director of Research for the Pennsylvania Economy League, which is a nonpolitical organization highly esteemed throughout the Commonwealth.

He would prefer that I not list his many accomplishments and memberships, but I must note that this wonderful balance in his life extends even to his offspring—one daughter and one son.

The Constitutional Convention is extremely fortunate that someone so eminently qualified and prominent as Dr. Kurtzman was willing to prepare our reference manual,

which you have each received, on the topic of "Taxation and State Finance."

When the Preparatory Committee sat through its deliberations in choosing distinguished Pennsylvanians to serve in its study, we called upon Dr. Kurtzman, who was then Chancellor Emeritus of Pittsburgh University. He responded at once to our call.

We are deeply appreciative of Dr. Kurtzman's personal contribution of time and capabilities. He was under the press of a tight schedule and he unquestionably completed his task admirably.

In this sense, too, he can inspire us all to complete our task here as a Convention in the short time allotted to us. May I present David H. Kurtzman.

ADDRESS BY DR. DAVID H. KURTZMAN

DR. KURTZMAN. Thank you, Mr. Butera.

Mr. President, ladies and gentlemen of the Convention, you know I am too modest to accept this kind of an introduction, but I am too proud to reject it, so let it stand. I thank you very much, Mr. Butera, for this very nice introduction.

Last Friday, I was privileged to attend the opening session of this Convention, and I was impressed with one event there when the Delegate from Montgomery County, Mr. Gerber, an attorney, got up and said, "Now I am privileged to nominate a nonlawyer as one of the officers, Secretary, of the Convention."

I wondered at the time whether anyone but lawyers were going to be permitted to participate here. Well, you have heard the two previous research directors, and they were both attorneys. Now you are moving into the nonlegal era, and I hope you will not think that we have stepped onto forbidden ground.

I might say that I know for myself and I think Mr. Willis, too, had legal colleagues as our aides. I had a professor of the University of Pittsburgh, who was very helpful to me, a professor of law.

Before getting into the subject matter, even though I am sure you are familiar with it yourself, I thought it was particularly applicable to this section of the constitution that I am about to discuss, and that is, to look at the background under which this particular section, Article IX, was drafted.

I think that we often speak about the intent of the law. I think we should also think of the intent of the framers of the constitution.

The Constitutional Convention of 1873 was framed at a time when government affairs were probably at the lowest ebb of American history. The description of that period as reflected by Professor Commager of Columbia University as the nadir of national disgrace, is very appropriate because this was the lowest point in our American political life. Public affairs were conducted with little regard to public interests. Flagrant violations occurred during that period.

The Pennsylvania Constitutional Convention of 1872-73 was summoned to propose corrective action which would remedy these kinds of abuses. Therefore, the delegates of the Convention and the framers of the constitution met to salvage what

they could of the old constitution and to plan a state government by the introduction of requirements and prohibitions which would frustrate mercenary interests. Their first concern was not with the provision of a positive, new framework for the operations of the government, but instead "the task of guarding the people of Pennsylvania against their own legislature."

It is understandable therefore why this particular article, Article IX, which has, by the way, been renumbered as Article VIII now, but I will keep on referring to it as Article IX, is really written in the negative. It is prohibitory all the way through rather than permissive.

Though Article IX deals with both state and local taxation and finance, my assignment is to deal with state taxation and finance. A section on taxation is applicable to both state and local governments, but the borrowing sections are different for the State than for local governments. They will be covered in the report prepared by Mr. Willis, who will be discussing his report with you this morning as well.

The taxation sections are sections 1, 1B, 2 and 3. There is also one other section dealing with taxation and that is section 18 of this article, but the act in that section, I might say, prohibits the use of motor vehicle revenues for any purposes other than highway construction and so forth.

However, Act 2 of 1967 which established this Constitutional Convention specifically precludes this Convention from considering this section 18 as well as that part of Section 1, dealing with uniformity of taxation. Therefore, in my remarks, I will not cover these particular phases.

Although Section 1 requires that "all taxes shall be uniform, upon the same class of subjects within the territorial limits levying the tax and shall be imposed under general laws," there follows a list of items which the legislature may exempt from taxation. I underscore the word "may."

The original Constitution of 1873 limited such permissive exemptions to public property used for public purposes, actual places of religious worship, nonprofit places of burial, and charitable institutions. Subsequently other exemptions were added by constitutional amendments. I will not burden you with the long list of the various exemptions except that I would like to point out one thing, that all these exemptions with the exception of one, which I will mention shortly, are permissive. They are not mandatory. The legislature may exempt certain items from taxation, except for the amendment of 1961 which mandates the exemption of property owned by certain types of disabled war veterans.

The impact of tax exemption has been felt most heavily and primarily on local real estate taxes, although in recent years the legislature provided for exemption on sales taxes, mercantile and business taxes, gross receipt taxes, and so on.

As far as real property taxes are concerned, in 1957, the latest year for which we were able to find such information, tax exempt property constituted about 19 per cent of total property assessment. The impact has not been uniform. As a mat-

ter of fact, during that year there were 72 communities where tax exemptions were 50 per cent or more of the total assessed valuation, both taxable and exempt.

In the past decade, there have been substantial increases in tax-exempt properties. In the two major cities of this State, for which we were able to get later information, the increase rose from 20 per cent in 1957 to 24.3 per cent in 1967 in the City of Philadelphia, and from 26 per cent to 32.4 per cent in the City of Pittsburgh. This represents an increase in excess of 20 per cent. If that rate should prevail throughout the State, we are reaching closely the 25 per cent mark in the tax-exempt properties as far as the local real estate property assessments are concerned.

I should have said at the outset but I am certain this has been made clear before, we have been asked, and I think properly so, by the Preparatory Committee not to come up with a single answer but to try to set forth the alternatives that are available. What are the alternatives available to this particular section?

The two commissions of 1959 and 1964—both of them by the way were headed by or at least named after member delegates of this Convention—1959 was chaired by Judge Woodside and the 1964 is commonly referred to as the Scranton report which was headed by then Governor, Delegate now, William Scranton. They did not recommend any basic changes in this particular section.

At the hearings held by the Preparatory Committee, local government officials appearing before the Preparatory Committee suggested a prohibition against all property taxes. Other groups recommended less drastic action. Most of them felt that there needs to be a tightening up and one of the prevailing statements was that it ought to be tightened to the extent that religious properties are restricted. As you know, in the case of religious property it says "places of actual worship" and, therefore, the feeling was that perhaps in the case of charitable or other institutions, that the same type of restrictions ought to apply.

The other point that might be mentioned here is that the exemption of public utility properties is not specifically stated in the constitution and this Convention may, if it believes that this exemption should continue, want to express it in more positive terms in the new document.

So much for taxation. Perhaps the most restrictive and most relevant point of this particular section as it relates to state government, is the limitation on borrowing. Section 4 of Article IX is the basic restrictive section. Actually not in specific words but in the same sense, this provision is similar to what is now Section 4 of Article IX which was added to the constitution by an amendment to the constitution of 1838 in the year 1857. About that time several other States adopted similar restrictive provisions to prevent this abuse that I have referred to earlier.

The present Section 4 of Article IX prohibits the legislature from creating any debts on or behalf of the State except to repel invasion, suppress insurrection, defend the State in war, pay existing

debt and supply casual, current deficiencies in revenues not to exceed one million dollars. So that one million dollars really is not intended as a million dollars that can be used for capital improvements, for example. It is really to cover deficiencies that may have occurred.

In effect, the constitutional provision prohibits the legislature from incurring any long-term debt except by constitutional amendment, and this is the process which had been used in the past. This process is slow because it takes approximately three years to amend the constitution.

In Pennsylvania the procedure for amending the constitution requires the approval of the majority vote in two sessions of the General Assembly followed by ratification by the electorate, and this ratification is most uncertain.

Of the seventeen amendments to increase the state debt, which have been submitted to the voters of Pennsylvania in the past 110 years, since this prohibition was adopted in 1857, only ten were approved and of these only six of them were for capital improvements. The amendments rejected included proposals to incur debt for highways, forest lands, mental hospitals and refunding authority bonds.

While a "pay-as-you-go" philosophy may be sensible in handling current expenditures, long-term borrowing to finance the state's urgent needs for capital improvements, such as highways, schools and parks, has come to be accepted as the most practical manner in which to finance currently.

As is the case with many other overly restrictive provisions, a way had to be found to get around this constitutional prohibition. This was particularly difficult during the depression years when public works were being encouraged by the Federal Government through loans and grants and the State was unable to accept them because it was unable to match them with state funds. And so the authority mechanism was developed not only in Pennsylvania but variations of it in other states, but I think Pennsylvania probably led the field in it.

The authority finances projects by issuing bonds which are repayable either from the revenues of the project, if the project is self-supporting, or from rentals from a lease to the governing body if it is not self-supporting. Sometimes there is even a combination of the two. Pennsylvania's courts have held that such authority borrowings are not debts subject to the constitutional limitations. Most of the capital improvements over the past 20 years have been financed by this method. Ninety per cent of the present state debt outstanding and two-thirds of the local borrowing is presently done through the authority mechanism. Between 1945 and 1965, 1,690 municipal authorities were formed to borrow \$3.3 billion.

Since there is no limitation upon the amount that the legislature may borrow for capital improvements via the authority mechanism, authority financing has become the device for financing capital improvements of the State.

As of June 30, 1967, general state obligation

bonds outstanding for capital improvements totaled \$70 million, while state authority bonds outstanding were in excess of one billion dollars.

I included here the two that are the two common state authorities:

(1) The General State Authority which had an outstanding debt as of that date of \$870 million and additional authorization I might say of \$509 million more which have already been approved by the legislature.

(2) The State Highway and Bridge Authority which has \$253 million in outstanding indebtedness and an additional authorization to spend \$870 million more authorized by the legislature.

Rentals for projects of these authorities will be paid from the general revenues of the State.

While the financing of capital improvements through the use of authorities has eliminated the delay and uncertainty encountered under the constitutional prohibitions against borrowing, it has been subject to several criticisms and several drawbacks.

For those who believe that the voters should have some direct control over the commitments in long-term borrowing, the authority method completely bypasses this process. The cost of borrowing in the past has been higher when authority financing has been used. While this difference is difficult to measure precisely, there is evidence that the gap has been narrowing as investors have become familiar with authority financing. There is also financial and administrative duplication as a separate organization must be staffed and maintained.

Lastly, there are administrative hindrances to the sound planning of capital improvements. This is a method for developing a capital budget. This provides for a review by the State Planning Board; recommendations to the Governor and the Governor's recommending to the legislature. But because this is a bill authorizing the incurrence of debt and not an appropriation act, this does not give the Governor the item veto power which he has over general appropriation acts. As a result, "pet" projects normally creep into the bill which have not been recommended by the regular planning agencies and the Governor is presented with a package of "take it or leave it." Since the majority of the projects were recommended by him in the first instance, the history has been that he has usually taken the package.

So much for that problem. What are the possibilities? What is the experience of other States? We have analyzed the status of the 50 states in dealing with the subject. They can generally be classified into three groups.

The first group is the one where the legislature can suggest amendments to the constitution, have them approved by the voters, and this is the method by which debt can be incurred; in other words, the same process as Pennsylvania. Nineteen States, including Pennsylvania, use this method. I should, however, point out that the method for amending the constitution is not similar to Pennsylvania's. In 18 of the States—that is, the other 18

States—it requires only one session of the legislature to amend the constitution. On the other hand, there are other restrictions in some of those constitutions. For example, it takes more than a mere majority vote of the elected legislators to approve a constitutional amendment.

In the second group of States, in which there are 22, the legislature is permitted to pass an act authorizing debt, but that act must be ratified by the voters. These 22 States include some of the States that have just recently adopted their constitutions, such as Alaska, and amended their constitutions, such as Michigan and New Jersey.

States without substantial limitation constitute the third group, and there are eight States that fall into this category. In those States an act creating debt is similar to an act, let us say, imposing taxes; it is enacted by the legislature and can be executed. In addition, Hawaii, the 50th of the States in this order, permits borrowing up to \$60 million by legislative enactment, and any amount beyond that and not to exceed 15 per cent of the assessed valuation of taxable real estate can be incurred by the legislature also when approved by a two-thirds vote of all authorized members of both Houses.

Now what has been the experience of the States? I should warn that the comparable statistics are not too reliable—they are reliable, but they are not too meaningful—because you need to know the background of them. But an examination of the debt records of the three types of States shows that in the States where debt incurrence is more difficult, the per capita debt is lower than it is in the States where it is easier to incur debt, including both general obligation bonds and authority borrowing. As of June 30, 1966, for example, per capita debt records of the various States, broken into these three categories, show that States requiring constitutional amendments had a per capita debt of \$100.94. The group requiring voter approval of acts permitting borrowing—that is the second category—had the slightly higher average per capita debt of \$129.23, while in those States having no restrictions, including Hawaii, the average per capita debt was \$281.23. This is not to argue that low debt is of necessity a virtue, because you have to measure the assets that these debts have created.

Now what are the alternatives for borrowing? It seems to me that in this area, this Convention has an almost full range of choices. The following are some of the principal alternatives, and I will try to list them for you as I see them:

One is to continue the difficult route of constitutional amendment. As I said earlier, 19 States still require this and in the testimony before the Preparatory Committee, there was no group that recommended continuing this course.

The second alternative is to permit borrowing by action of the legislature with voter approval. As I said earlier, 22 States use this method, and it has been frequently recommended by recent study groups in Pennsylvania. When I say recent study groups as I said earlier, I am referring particularly to the 1959 Institution Commission, generally

known as the Woodside Commission, and the 1964 Commission, known as the Scranton Commission. They recommended this approach. This approach would preserve the requirements of voter ratification of all debts but would permit its approval in a much shorter time and would not clog up the constitution itself with a large number of amendments.

The third alternative is to eliminate all constitutional controls over the authorization of debts. People argue that after all, if the legislature is empowered to impose taxes without voter approval, why should they be required to get approval of the voters to incur debt? This, by the way, would be no different than the power that the legislature now possesses to incur debt through the authority mechanism.

As I said earlier, eight state constitutions follow this pattern. I might say the Model State Constitution recommends a similar approach. This, of course, would of itself perhaps eliminate the need for authority borrowing.

The fourth alternative is to provide limited freedom to the legislature. This Convention may decide to give the state legislature similar power that is given under our present constitution to local governments. As you know, local governments under our present constitution may borrow, of their own accord without voter approval, up to five per cent of the assessed valuation of taxable real estate. Beyond that amount but not to exceed 15 per cent in total they need voter approval. It may well be that some similar arrangement can be worked out.

I should point out though that taxable real estate would not be an appropriate measure as far as state borrowing is concerned because real estate is not used as a source of state income in Pennsylvania. But some other method may be devised. Several have been suggested. One would be that it should be measured in relationship to the current budget of each year since the current budget reflects deflationary factors as well as the expansion of state services. Another would be to make the limitation—I hope you will not ask me to explain it because I think those who proposed it could not quite explain it either—an amount which could be financed by ten per cent of the average uncommitted general fund revenues for the past five years. I think I know what it means, but I do not know what uncommitted general fund revenues mean. I did not know we had such revenues. These proposals would permit the legislature to go up to that point without voter approval, but any debt beyond that figure would require approval of the voters.

The fifth alternative is to establish special procedural requirements for approval of debt, such as a two-thirds or three-fifths vote of the legislature. Such a provision, it was argued, would tend to hold the domination of the majority party to a minimum because legislators of both parties would have to support such borrowing. Therefore, if you get that much legislative support, perhaps you would not need confirmation of the voters.

The sixth proposal is to prohibit borrowing for

current expenditures, including debt service covering interest and principal payments on outstanding debts, but to permit unlimited borrowing to finance capital improvements only.

One more possibility is the present solution in Pennsylvania prohibiting borrowing but not extending this prohibition to authority financing.

The merits of these various alternatives depend upon the extent to which it is believed restrictions should be placed on the legislature's legislative power to incur debts for capital improvements.

There is another item that is not specifically included in our constitution at the present time and that is the question of budgeting. It is understandable why it is not included because in 1873 when the constitution was last amended, budgeting was an unknown factor in the United States. Neither state, Federal nor local governments had such things as budgets.

But there is a provision which has really been used; one provision as interpreted by the Supreme Court as a means of retaining the balanced budget, regardless that the word "budget" is not found in our constitution, and that is where the legislature is limited in borrowing the one million dollars to provide for casual deficiencies. In the case of the Commonwealth v. Liveright the Supreme Court of Pennsylvania held that any deficiencies in the budget beyond one million dollars is considered a debt and, therefore, is prohibited.

One million dollars may have been an adequate figure in 1873 when the annual budget at the time was less than \$7 million. It is hardly a meaningful figure now with a budget which is really beginning to reach, both General and Special Funds, the \$3 billion mark.

If this Convention is to repeal or substantially change the present debt section, Section 4, where this prohibition occurs, I believe it would be appropriate for it to consider the effect of this action on this limitation on deficit financing.

Whether or not this Convention believes that we need a limitation on current budgets will be for you to decide. And if you believe in that philosophy, then I think you may have to take further steps, in which case I believe you may want to make some provision for budgeting.

There are several provisions other than this one-million-dollar limitation in the present constitution which are not subject to the purview of this Convention which deal with appropriation acts, setting forth the powers of the legislature—the House must originate revenue bills, the Governor has item veto power in the case of budgets—therefore, you may be encroaching in other areas. I think on this you will have to seek legal advice, and I am not going to practice any law here this morning.

As far as executive budgets, which is what we have in Pennsylvania—and I might say that legislatively we have under our Administrative Code perhaps one of the most modern budgetary systems which was adopted in 1929 by legislation and not by constitutional provision.

There are 42 of the 50 States which have execu-

tive budgets, and only 16 of these States have them incorporated in their constitution. The other 26 which are similar to Pennsylvania were adopted by legislative action.

Whether we need a section on budgeting, I think, will depend largely on what this Convention believes is needed in the way of forcing a balanced operating budget, and what might be done to Section 24 of Article IX.

The questions, therefore, that this Convention, it seems to me, should address itself to are:

1. Should there be any constitutional restrictions upon deficit financing as now imposed by judicial interpretation of the one-million-dollar limit to supply revenue deficiencies?

2. Should such limitations permit deficit financing in any amount, and, if so, to what extent and under what circumstances? Maybe it ought to be expressed in terms of percentages rather than in amounts.

3. Should there be clarification of the present deficit financing limit by incorporating in the constitution pertinent elements of the judicial interpretation of Section 4, Article IX of the present constitution?

4. Should there be added to the present state finance provisions of the Constitution, policies or procedures concerned with executive budgetmaking and controls?

I have touched on the two most pertinent sections. One section on budgeting, as I said earlier, is not included in the constitution but, on the other hand, is very pertinent.

There are many other sections of the constitution—and I will just briefly touch on them here—in addition to Section 4 relating to debt. Sections 18, 17, 21, 22, and 23, as well as 24 and 25, are amendments to the constitution permitting the incurrence of debt. All but the last two have been completed; the financing has been completed and I believe, personally—and this is one time that I am free to express an opinion because it is not too significant—that perhaps they ought to be completely eliminated from the constitution just to make the document clear and not be involved with provisions which no longer have any further application.

There are two provisions, Sections 24 and 25, both dealing with land preservation. One is generally known as Project 70; the other, the most recently adopted amendment at the last primary, authorizes the \$5-million-bond issue for land development.

Unless the constitution is so amended as to give the legislature freedom to incur any debt, it would seem to me that the delegates to this Convention should carefully make sure that in the process we do not lose what has already been approved by the voters and particularly the largest one which was the most recent one.

Another restriction on the power of the legislature to manage the state's finances is imposed by Section 5 of Article IX which requires that legislation authorizing the creation of debt must specify the purpose for which the money is to be used.

This section reads as follows: "All laws, authorizing the borrowing of money by and on behalf of the State, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for the purpose specified and no other."

The Pennsylvania Supreme Court has construed Section 5 as demanding that every act which authorizes the creation of a debt shall state distinctly, without reference to other sources of information, a single purpose for which the money is to be borrowed. And that purpose, when completed, cannot be repeated again.

Today this section really has limited significance. It does not apply to authority financing because the courts have ruled that is not debt. All other borrowing in the State is being done pursuant to constitutional amendments, therefore, really, this section would have more meaning if there were provisions such as the second alternative that I mentioned where the legislature can, by an act of the legislature, create debt subject to the approval of the voters or without the approval of the voters, in which case such provisions would really have more meaning.

This requirement of Section 5 is not unique to Pennsylvania. As a matter of fact, this is found in most constitutions and the Model State Constitution also recommends it.

Section 11 which deals with sinking fund requirements, requires an annual sinking fund which should be no less than \$250,000. I think the \$250,000 was in there because it related to 1873. This was the debt probably at that date.

The purpose of the sinking fund was really to make the bonds more secure and, as a matter of fact, one of the recent recommendations of these commissions that I mentioned earlier was the suggestion to strengthen that provision by a statement that if the legislature fails to approve this money to the sinking fund, that the State Treasurer could automatically take the first revenues received by the State and place them in the sinking fund. This was recommended on the theory that this would strengthen Pennsylvania credit and therefore might result in lower interest rates.

Under other sections dealing with surplus funds which require that the surpluses must be deposited to certain areas, I will not take the time because I have taken too long already. I might say that one of the difficulties of prohibiting a surplus is the fact that it really prohibits the setting up of reserves. For example, during the war it was impossible to build facilities. On the other hand, the economy was bright, plentiful, and it would have been appropriate at that time to set aside some of the moneys that were coming in that could not be spent for capital improvements and use them for capital improvements that everyone knew would be badly needed right after the war. But under this constitutional provision, it is questionable whether such reserves could have been set up.

I will skip the other provisions because I do hope that you do not consider this speech as one that covers all the areas.

Reference Manual No. 7, which you have all received, deals with this subject. I think it is one of the briefer of the four major topics. It is probably the briefest of these topics and I would suggest strongly that you read the manual and do not use these comments as a substitute for it. The intent here was merely to highlight some of the more significant points.

I do want to tell you, Mr. President, if any members of your committees care to discuss these matters with me, I shall be very happy to make myself available at a convenient time mutually agreed to.

Thank you, very much.

DR. KURTZMAN THANKED

PRESIDENT BRODERICK. Thank you, Dave Kurtzman. I think all of the delegates now understand why two Governors of Pennsylvania have been and are happy and proud to have Dave Kurtzman a member of their cabinet. I might add that when Dave started as the Research Director for the Preparatory Committee he was not at that time a member of the present Cabinet, but you can see with talent like that we must use, and thank you, Dave, for making yourself available to each and every delegate and I know Dave, and I know that he means it.

And now I would like to recognize the delegate from Montgomery, Delegate Gerber.

DELEGATE GERBER. I am Richard Gerber, 17th Senatorial District, Montgomery County.

Mr. President, on behalf of the delegates of this Constitutional Convention of the Commonwealth of Pennsylvania, it is indeed for me a singular honor to thank Dr. David Kurtzman, a man who has been a close and dear friend of mine and of my family, for such a splendid selfless effort in preparing what seems to me to be one of the most complex sections of the constitution which we delegates must study. I think it is indeed, also, complimentary to the Preparatory Committee that the Committee turned to Dr. Kurtzman to do this work, because as I recall, when I was a law clerk for the Attorney General some years ago we used to jokingly say, and this was a couple of administrations back—that we used to have the administrations of the Davids—David Lawrence, David Stahl, David Kurtzman and David Baldwin.

I think it is interesting to note that two of the leaders of that group—Dave Kurtzman and Dave Stahl—were selected by the Preparatory Committee to work on behalf of all of Pennsylvania. I must say that it was the University of Pittsburgh's loss and the Commonwealth's gain to have Dave Kurtzman back working for all of us again, and I want to thank him so much for what he has done.

PRESIDENT BRODERICK. Delegate Gerber, I understand that you will place that in the form of a resolution to go on the record. That resolution was seconded by the delegate from Dauphin, Delegate Woodside. We will, therefore, at this time ask the vote of the delegates.

On the question,
Will the delegates adopt the resolution?

PRESIDENT BRODERICK. It is unanimously adopted and it will be placed in the record and a copy sent to you, Dave.

DELEGATE PRENDERGAST PRESENTS WILLIAM G. WILLIS

PRESIDENT BRODERICK. And now it is my pleasure to call on another fellow delegate, and I might add that this man is one of the most popular men in the House of Representatives, Delegate Prendergast from Northampton, who will introduce our next speaker.

DELEGATE PRENDERGAST. Mr. President, fellow delegates, honored guests who have already returned to work, ladies and gentlemen:

Someone once called local government the political equivalent of motherhood. You can touch it, they said, but touch it only with cautious hands. Currently another school of thought has been developing in the direction of substantial and fundamental change, ignoring the strong allegiances and powerful feelings that have held back reform in the past. Today we have in our midst a man who not only touched on the subject of local government, but touched on it in detail, providing for us a 288-page comprehensive reference manual that will go a long way in laying the groundwork for our deliberations here.

William G. Willis, Vice President and Secretary of Temple University, as all of the preconvention task-force chairmen, worked within an extremely limited time schedule to compile this wealth of material that will provide the Convention with a broad base for the discussion of issues and a broad range of alternatives for decision. He and his staff reviewed constitutional development in Pennsylvania beginning with 1790, studied the reports of the constitutional revision commissions appointed by Governor Sproul, Governor Earle, Governor Leader and Governor Scranton, surveyed the literature of local government including recent constitutional developments in other States and the proposals of national municipal organizations and examined pertinent materials on the structure and form of local government in Pennsylvania.

Mr. Willis had as his associates in this effort Lennox Moak, Dr. Edwin Rothman and Mitchell Hunt of the Eastern Division of the Pennsylvania Economy League, Charles Cella, Jr., and Gail Ornstein of the Government Studies Center of the Fols Institute of Local and State Government of the University of Pennsylvania; Dr. Joseph James, Edward Foster and H. Christine Altenburger of the Institute of Local Government of the University of Pittsburgh; Dr. John Ferguson of the Better Government Associates, Incorporated; Dr. Rosalind Branning and William F. Schulz of the University of Pittsburgh, and Harry Begier, Jr., Legal Research Associate of the Preparatory Committee staff. They produced the volume that outlines the structure and organization of local government in Pennsylvania and that discusses such issues as home rule, residual powers, number of local units, annexation and boundary changes, county structure and power, area government and local debt limits and their implications for constitutional revision in Pennsylvania. By this time the success of the work of these people, headed by one of Pennsylvania's outstanding authorities on local government and the author of several articles and pamphlets on the subject, should be evident to most of us.

Mr. Willis was born in Irwin, Pennsylvania, on August 18, 1909. He received his bachelor's degree from Muskingham College in 1930. He also received his master's degree from the University of Pittsburgh in 1938. Performing special graduate study in state and local government at

the University of Pennsylvania from 1946 to 1947, he served on the staff of the University of Pittsburgh as Director of the Institute on Local Government, Director of Governmental Relations, professor of political science and professor of local and state government from 1942 to 1962.

It is certainly a great honor and privilege for me to present to you William G. Willis, distinguished educator, author and director of the Task Force on Local Government for the 1967-1968 Constitutional Convention.

ADDRESS BY WILLIAM G. WILLIS

Mr. WILLIS. Thank you very much, Jim, for that generous introduction.

Mr. President, delegates, ladies and gentlemen, I assure you that it is a great honor to appear before you today; I also assure you that it is a responsibility which I do not take lightly. As Jim said, someone has said that local government may be the political equivalent of motherhood, and in this Constitutional Convention it may be exactly that. I am fully aware that in this Convention the allegiances to the existing form and setup of local government are very, very strong and, also, there are equally strong hopes for change among many of the members of this Convention. I am fully aware, too, as I appear before you today, that in this Convention there are a great many persons whom I have known over a great many years, many of whom incidentally are not here today. I suppose I could interpret that in somewhat of an unflattering way if I would so choose. Many of them are more capable than I to undertake this assignment, but this is my day, so to speak, and those persons will have their days. In fact, as I look at the materials to be covered in the field of local government, I expect that they will have not only their day, but perhaps their days and days and days.

Having had the great good fortune over many years to have rubbed shoulders with scholars and students in the field of local government and with a very broad range of local officials, both elected and appointed, my most difficult task as I address you this morning is to refrain from entering into a discourse on a philosophy of local government in this fast-moving space-age tempo of our times.

I assure you I will refrain, however, for this is neither the time nor the place to do that and I remind myself that I am appearing before you solely in my role as director of research for the local government section for the Preparatory Committee. I will, therefore, refrain from philosophizing, but each of you at some time or other and at some point will have the task of rising to very definite philosophic levels as you proceed toward recommendations that you want to submit to the electorate next April.

As you examine Articles XIII, XIV and XV and those sections of Article IX with reference to local government—and those are the articles which together embrace the “Subject of Local Government” contained in Act 2, which defines the substantive powers of this Convention—you will in-

evitably probe the question of “why” are those provisions in the constitution as they are.

Some of you, the more thoughtful, the more creative and the more imaginative among you, will go much beyond the question of the mere “why.” You will find yourselves asking over and over again what really is the role of local government in our 20th Century society? Have we really ever carved out a constitutional philosophy for it? Does local government today really function within a constitutional theory that fits our times?

In the common struggle of the whole Federal-state-local effort to minister to the spirit and the mind of man as well as just to his physical needs, you will ask yourself, is local government only and simply a purveyor of such services as police, fire, public safety, street, water and sewer services? Is that all it is? Or is it indeed a full-fledged partner in the shaping of a brighter and a more humane society for all of us? It makes a lot of difference which point of view you take.

If you who work on the local government committees of this Convention take your work seriously, you cannot avoid philosophic bouts of some sort with questions like those. You cannot wrestle with constitutional questions like home rule powers, for instance, or local structure and organization, or municipal boundary changes, or the extremely delicate subject of area or regional government, you cannot deal with those without committing yourself in some fashion or another to a philosophy of local government as you see it functioning in the years ahead. Someone has summed that up pretty well when he said, “Before we can effectively analyze things as they are, we will have to define things as they ought to be.”

As I suggest this necessity for a little philosophizing as you go about your work in this Convention, I instantly recognize that with a February 29 adjournment date staring you in the face, many of you will already have concluded that you will be very lucky, indeed, to get your work done, let alone have any time for philosophizing as you go along. But I think you will find it necessary to find the time.

If our Reference Manual No. 4 helps you to conserve your time, all of us who worked on it will feel fully, completely, richly rewarded. It is not that our manual endorses, espouses or advocates any particular philosophy of local government, but it does try to make clear what the alternative approaches are. As fully as possible, it attempts to present for you the pros and cons of all the issues you are really likely to face.

Whether you desire it or not, really, the final product of your deliberations will stamp for the present and future generations of Pennsylvanians an image of what you, as constitutional architects, had in mind as the real business of local government and its place in the Federal, State and local scheme of things.

Inescapably, therefore, whatever you do, even if you should do nothing, will be interpreted as your understanding of what local government is all about in 1967 and as your view as to what it should be in the future.

As an old, political scientist, I hope you will indulge me with the observation that if there were truly a miracle in Philadelphia in 1787, the miracle was not merely that men of such diverse views and often very selfish interests could finally agree; the real miracle was that for the first time a declaration for the purpose of government and the philosophy of the relationships of one level of government to another found themselves reduced in writing into a working arrangement that set this nation on the road to greatness.

Our Reference Manual No. 4 on local government is intended to be precisely that and nothing more, a reference manual. If we had had the time to edit it, to rewrite it, to do the necessary things that ought to have been done, I guarantee you it would not have been so voluminous as it is, and I would not be embarrassed by Jim Prendergast having to refer to a 288-page manual.

Secondly, if we had had the time, we would have edited it; we would have indexed and cross-referenced it so that it could have been more convenient than it is. We fell short on both of those counts, but the manual still should be very useful to you in four important respects.

Number 1, by using it you can acquaint yourselves very readily with the existing constitutional provisions on local government with the history, background and interpretation of every one of those existing provisions.

Secondly, by reference to the manual, you can get as good a bird's-eye view of the overall structure, powers and organization of Pennsylvania local government as you could possibly get from any other source, and you can get it in about half the time you could from any other source.

Thirdly, with much less effort than you would otherwise be put to, you can package your own individual version of what you think the local government constitutional issues are, and you can package them from the cafeteria-style listing of issues which are contained in the manual itself.

Fourth, you can use the manual as a handier reference source than you are likely to find anywhere else, to see what the possibilities are, the alternatives, if you will, for amending or rewriting the existing sections of the present constitution, for either reorganizing the present provisions or for writing some new provisions into the constitution on which the present constitution is either silent or vague.

I think those four purposes add up to a very useful manual for you.

Let me assure you, as I hasten on, that we who collaborated on the local government reference manual never intended our local government manual to be an Encyclopedia Britannica of local government, and we certainly never for once entertained the thought that we were playing a kind of "Dr. Spock" to the parents of a new constitution. Above all, we never conceived our mission to be one in which we would take sides on any issue or any proposal. Granted that we had to pick and choose from a great mass

of material, we tried earnestly and industriously to representatively include all points of view, first, from the stand-patter on the one hand to the complete revisionist on the other, so far as we could find them in the record.

Briefly, may I tell you how we went about putting our local government manual together. It was clear from the beginning that we would have to review the materials that had been written on the history and the background of existing articles and provisions. We did that and condensed them into manageable proportions for inclusion in the manual at the appropriate place.

Second, we thought it necessary to have for the information of the delegates a kind of textbook description of Pennsylvania local government, a matter to which I have already referred. So we took references largely from existing materials and we included it in the manual along with informational charts and tables relating to the governmental structure and powers of the counties, cities and boroughs of Pennsylvania.

Third, we then reviewed the reports of the four major commissions or committees which have wrestled with the matter of constitutional revision over the years. Doctor Kurtzman has already referred to those and so has Mr. Prendergast, as what we call the Sproul Commission, the Earle Commission, the Woodside Commission and the Scranton Commission. I want to make it clear that the full reports of those commissions are not included in our Reference Manual No. 4, but only those recommendations which they had, if any, on local government are included for your reference.

Fourth, the next thing we did was to review the local government provisions of the constitutions of other States and the United States. Where we could, we included in the manual an overall summary statement so that you could get a picture of the 50-state pattern as it compares with that of Pennsylvania. Where we found provisions that seemed to parallel those that we have in Pennsylvania, we inserted them in the manual verbatim. And, where we found provisions of other constitutions which seemed to represent an innovated and different approach, we included them verbatim for your use.

Next, we reviewed the materials and the proposals in the field of local government submitted to recent Constitutional Conventions, particularly those in New York, New Jersey and Maryland. We tried to detect trends and issues where we could and, where we could, we appropriately inserted those for your information. As Mr. Prendergast has already stated, we did the same thing with the materials and the reports for publication by writers and scholars, by national organizations—such as the National Municipal League; the American Municipal Association, now the National League of Cities; the National Association of Counties and a host of others. We distilled those as best we could either at the risk of perhaps you accusing us of being somewhat biased or having made somewhat discriminate efforts. But we had to take that risk. Looking back

now at the manual, as I see it in print, I think we did fairly well.

As you know, the Preparatory Committee held hearings here in July, and our manual includes all of the local government testimony offered by the individuals and organizations who appeared there. We reviewed that material very carefully and drew upon it with the other materials I mentioned earlier in putting together both sections of the manual which provide for you the pro and con views regarding specific proposals for constitutional revision.

After doing all of that work, we put together a kind of annotated list of constitutional issues in local government as they appeared to us to have evolved from our study and research. Within the limits of the time available, we debated whether or not we ought to do this. We wondered whether we could do it. Could we do it in a way which would not open us to criticism for being subjective rather than objective, for being advocates rather than mere recorders or for being criticized for being biased rather than impartial. But we finally decided we had to do it. We poured our utmost energy and our fullest restraint into putting them before you as impartially, as accurately and as objectively as our brain and our heart would permit us to do.

Having said all this as to how we went about preparing our manual—and in the course of having done so, I have given you somewhat of an over-view of what this Reference Manual No. 4 is all about.

I suppose it is still incumbent upon me, however, to be a little bit more specific and explicit as to what you will find between the front and back covers of Reference Manual No. 4. I suppose it is incumbent upon me to do that on the basis of two assumptions, one negative and one positive. The negative assumption is that it seems to me I do not dare to assume that all of you have read the manual or that all of you ever will. The positive assumption I should make, I think, as I proceed, is that perhaps because in my sketch for you of the contents of it perhaps a greater number of you may be tempted to spend a little more time with it than would otherwise be the case.

Therefore, in the remaining minutes of my time, I beseech the patience of those of you who have really read the manual while I briefly go through it in outline fashion, taking time only to present the gist or thrust of the several chapters in the same order in which they appear in Reference Manual No. 4.

To begin with, it is an ancient custom that all nonfiction works have an introduction, and your Reference Manual No. 4 fulfills its obligation in that respect. It is pretty short, however, filling only four pages and essentially what our introduction does is to tell you quickly how the reference, the source materials and the discussion materials are organized throughout the rest of the book.

I am sure you know that the temptation in

many introductory sections is, as the old saying goes, to fill in the background with so many details that the foreground goes underground. I hope we did not do that; I am sure we did not do that in our introductory chapter.

Our chapter two in our manual is but a 40-page treatment of the structure and organization of local government in Pennsylvania today. However, a lot of the material in this chapter will be pretty familiar to many of you, but for those unfamiliar with the Pennsylvania legal theory of local government powers, the various classifications of political subdivisions, their forms of government, the powers, the options open to them, the nature and powers of municipal authorities in special districts and things of that kind, you will find chapter two quite informative.

All of you, both those of you who are really "savvy" in local government and those of you who are somewhat uninformed, will find the comparative data tables and the graphic organization charts interesting. I do not think you will find a comparison of Pennsylvania local government with that of other States more conveniently nut-shelled for you anywhere than you will find here in the last two pages of our chapter two of the Reference Manual No. 4.

Chapter three is the one we debated about whether to include or not. It is titled, "Local Government Issues and Their Implications for Constitutional Revision in Pennsylvania." In this chapter we make it clear that what may be one man's bread may be another man's stone and that what we list as constitutional issues to many of you may not be constitutional issues at all but rather, as you see it, either legislative issues or issues which one ought to sweep under the rug. We list them, however, because they have been advanced as issues at some time or other in other States, by national authorities and organizations in a municipal field, by writers, scholars, by prior Pennsylvania constitutional commissions, or in the Preparatory Committee hearings themselves.

Incidentally, our chapter three on issues is reproduced substantially in the same form as chapter three in Reference Manual No. 1, which is simply entitled, "The Convention." I suppose that may at least double the chances that someone may read it as it appears in two separate manuals.

In this chapter three we list nine separate constitutional issues on local government. We recount the pros and cons for each of them with full recognition of the fact that these issues are not necessarily mutually exclusive. In some cases they actually do spill over into each other so that you cannot separate them and it makes it impossible to deal with one without dealing with the other. Let me hastily review them for you.

Issue number 1 is Home Rule and the points raised in that discussion are such as the following:

1. What does home rule really mean? Should it be self-executing, that is, guaranteed by the

constitution itself, or should home rule be granted only upon legislative authorization and action by the General Assembly? How far should it be extended? Should boroughs, townships and counties, as well as cities, be given the right to frame and adopt their own charters and forms of government? If so, under what conditions? Should home rule charter provisions, as the National League of Cities and other organizations have argued, be superior to legislative statute when it comes to matters like hours, wages, conditions of employment of municipal employees.

The closely related Issue number 2, is the issue called, "Residual Power." It goes to the heart of the question of how the constitution can best assure an effective working relationship between State and local governments. The issue itself arises out of the belief of many people that the older and traditional approach to home rule, as contained in the present constitution of Pennsylvania, will not suffice for 20th century local government.

Instead of the present constitutional theory that incorporates Dillon's Rule to the effect that political subdivisions have only the power expressly granted to them by the General Assembly, the question raised is this: Would it be better in recognition of the complexity of times and recognizing the concurrent interest of all levels of government in matters such as health, safety, urban renewal, transportation and so on, would it be better to reverse that theory and write into the constitution a clear affirmation that local political subdivisions, or at least those choosing to draft home rule charters, may exercise all powers which are residual, that is, all powers which are not denied to them by the constitution or by statutes and general law?

This issue of residual powers is one of the most intriguing questions with which you will have to deal and in less than three pages, I think, our chapter three puts it before you in as successful a way as you can present what is really a pretty technical subject.

Issue number 3 is Local Government Structure and Organization and that can be really nutshellled into the question as to whether the constitution ought to authorize on the one hand or mandate on the other the General Assembly to set standards for local government or organization and forms and structure, and so on.

Those who argue that the constitution should confine itself to such things the legislature is authorized to do thus and so feel that is the way to go about it because that keeps the constitution neat and clean and flexible, open for changing conditions.

On the other hand, those who say that you have to mandate the legislature to do that say that history shows that the legislature will not act unless required to do so. They argue that the present chaotic state of local government should only be corrected through a mandate.

Issue number 4 relates to the number of local units in this issue you may have to face. That

precisely illustrates the question of "shall" and "may" controversy. There is so little as to where the constitution prescribes standards and conditions and general policy for the creation, the merger and the dissolution of the municipalities. How shall they be formed, incorporated? How shall they be dissolved, consolidated with one another? Is that constitutional business, or should that be left to the General Assembly? How about the consent of the local electorate? Could the consent of the local electorate be constitutionally protected in matters relating to consolidation, dissolution and alteration of boundaries, or would it be better to permit the General Assembly to decide how far the consent of the local electorate is necessary?

The basic philosophic question is: Do we have too many units of local government for effective performance of government at the local level? Should the number of local units be reduced? And if so, how would you go about that constitutional provision which would be appropriate to declare a basic policy of the Commonwealth on the one hand, and would avoid getting into the complex, the intricate mechanics of implementation which are properly the business of the General Assembly?

Issue number 5 is the exceedingly controversial and complex one of what should be a constitutional stance on the question of annexation and boundary changes. The constitution of 1874 is silent on that matter. Many argue that that is precisely what it ought to be. Others hold that the State must declare its overall, general interest in the constitution for a policy statement, which manifests the Commonwealth's interest in the local government jurisdictional arrangement which is sufficiently flexible to meet the changing times. Their proposal is that the constitution should mandate, not just permit, but mandate the General Assembly to establish a state administrative agency such as a Municipal Boundary Commission to review and approve local proposals for annexation and alterations of municipal boundaries subject to standards set by the General Assembly.

Issue number 6 deals with county structure and power and you know as well as I do that that really boils down to two basic questions. First, what should be done about the present constitutional provisions which prescribe and protect the "row office" structure of the county? Second, should counties, at least certain counties, be constitutionally endowed with the right to frame and adopt their own home-rule charters? This issue is joined on the question of whether the existing provisions of Article XIII and XIV, whether in fact they do or do not unduly hamper the development of effective county government, and whether the people of the several counties ought constitutionally to be given the right of choice, not only as to the form of government but as to the scope and powers of their county governments.

Issue number 7 is the issue of area government.

It is listed in our manual because we found it kept popping up over and over again in all the materials we reviewed, the most recent of which was in the deliberations of the Maryland Constitutional Convention. The Interim Report of the Maryland Constitutional Convention—I take time to cite just one sentence—it states rather boldly that, “The trend toward the adoption of area-wide governments to cope with problems arising from metropolitan growth suggests that it would be improvident for a new constitution to ignore either the situations where they can be used or restrictions upon them.”

The constitutional question, as we see it, seems to run something like this: Can matters like area transportation, regional airports, water supply, air pollution, health, refuse disposal, open-space requirements, can they be successfully handled in any other way except by a popularly elected, representative, tax-levying governmental unit whose powers and authority extend over a given area and are specifically limited to specific functions? If this is so, then should the constitution of Pennsylvania recognize such a fact of life by authorizing the creation of area or regional governments, either by the General Assembly and/or by the people of the given region whose boundaries have been defined by the General Assembly?

And if the constitution should adopt such an authorization, then would it not be doubly necessary for the constitution to also contain a provision making it clear that local political subdivisions have the power to transfer their functions from one level of government to another? Or maybe all of the constitutional complexities in that respect would be solved if you were to adopt the residual power principle which I earlier raised.

If the residual power principle, as I mentioned, might be the most intriguing with which you will have to deal in this constitution, I suspect that the area of government issue would certainly be the one most challenging from the standpoint of constitutional innovation and boldness which you are likely to face.

Issue number 8 is the one on the limitation on local debt and this revolves around the basic question of whether the present constitution on local government with limitations contained therein should be removed. Those in favor of removing them think that the regulation of local indebtedness is purely a matter for the General Assembly and has no place in the constitution whatever. Those in opposition to removal of them feel that would be unsafe, but there is a division of opinion as to whether or not you ought to have specific limits in the actual ceilings of limitation in the constitution. Some suggest that the limitations could vary by class of municipality, or maybe, better still, in accordance with the capital needs of the various jurisdictions. At any rate, the question of municipal authority indebtedness to which Dr. Kurtzman referred as it relates to general municipal local debt limits is another aspect of the issue on which opinion seems

to be quite divided, and the nub of the matter seems to be there that, depending on which way you write the constitutional provision, you can either encourage or you can discourage the authority's financing device.

Issue number 9 is called the issue of a single local government article. That issue addresses itself merely to the question of whether the Convention—whatever it decides to do about revising local government sections of the existing constitution—whether the Convention should not consolidate all provisions on local government into a single new article. There would seem to be advantages for doing that from the standpoint of clarity and simplicity, but the major issue might simply be whether a constitution, as I indicated before, ought or ought not to reflect a single unified concept of local government. In the larger sense then, the issue of a single local government article achieved through the transfer and consolidation of existing or new provisions is not merely a mechanical job, but adverts rather clearly to that matter of a philosophy of local government with which I opened these remarks.

At this point, I can well imagine that a great many of you may be asking “Doesn't your reference manual get down to the business of providing for us some specifics as to what form the existing provisions can take if we were of a mind to amend, to rewrite or revise them?” And I answer emphatically yes. I have already said that the manual is a handy reference source for the possibilities of a revision. I assure you that Chapter four of our manual gives you a pretty full range of alternatives and proposals for re-writing and revising the existing constitutional sections on local government in the constitution of 1874.

Chapter four begins by taking Article XIII, entitled in the present constitution as “New Counties.” First, the present provision is cited; then an historical note follows; then the provision is interpreted from judicial decisions and the record; then under a section headed “Comment,” the suggestions or criticisms of the Sproul, Earle, Woodside and Scranton Commissions are put before you, the opinion or view of national authorities and organizations on the article or section is recorded, the comparative picture as found in other States is cited, and the gist of the testimony of the Preparatory Committee is summarized for you. To wrap up that discussion in Article XIII, then a listing is made of alternatives and proposals in verbatim form for revising that article. These proposals come from all the sources to which I have already referred.

That is what our chapter four is all about. That same thing is done for every article and every section dealing with local government. It is all there. The same thing is done with Article XV which rather oddly is titled “Cities and City Charters.” In each case, the same format is given and the same treatment as given to Article XIII. So I say, a range of choices as to how you can rewrite the constitution is there, and there for

your choosing. As director of the research effort to the Preparatory Committee, my only worry is not that they are not there; my worry is whether or not, given the time limits within you have to work, whether you realistically can be expected to digest all the ones that are recorded for you.

The last chapter of our manual, chapter five, in the opinion of some of you, has no place in a work that purports to be a reference manual. What we have done in chapter five, is to suggest some considerations in the broad field of local government to which you might direct your attention beyond and above the matters embraced by the existing provisions of the constitution of 1874.

May I hasten to say that we did not dream up these considerations merely on our own initiative or own resolve. We were almost forced into listing them as we reviewed and analyzed the materials we worked with. On all sides, we were faced with such questions as: How should a modern constitution recognize the difference between the governmental responsibilities of an urban county and a rural county? How can a modern constitution afford recognition to the urgent necessity for inter-local and inter-governmental cooperation? What should a modern constitution contain to set the policy guidelines for the rearrangement of local government structure?

Those are the kinds of questions on which the present constitution provides almost no answer whatever. Whether it should or should not, is your business. It is a matter for you to decide. But in making your decision, you can review the alternatives presented to you in Reference Manual No. 4, Chapter 5, and you can choose from among them, as you see fit, or you can reject the whole ball of wax, as you see fit. It is your prerogative, certainly.

To sum it up, therefore, our Reference Manual No. 4 contains:

1. It provides you with an overview of Pennsylvania local government as it exists today.
2. It identifies the constitutional issues that you are likely to face.
3. It reviews the existing constitutional provisions.
4. It inventories the possibilities and the alternatives for revising the existing constitution.
5. It does the same thing regarding possibilities for new provisions not now covered by the constitution.

You will forgive me, I hope, if I conclude on the note of hope that you will find our reference manual not only informative, instructive, but perhaps, even here and there a little stimulating.

As you proceed—and I speak from the experience of a great many years in trying to wrestle with many of the difficult problems in local government—I know, as you proceed to the deliberations of this Convention, some of you will find it impossible to alter the historical facts merely to fit your own current prejudices. And I suspect, on the other hand, to recall the old quip, neither

will many of you be able to coax the coy millennium from the roseate dawn and throw salt on its tail to fit your dreams.

You may perchance, however, be able through your work to give clearer sight to the unclear and now inarticulate forces of public thought regarding local government in Pennsylvania. By your vision and courage and patience you may, in this Constitutional Convention, be able to ennoble the pride of Pennsylvanians for generations to come in their government at the local level in the years ahead.

I sincerely hope you will.

I thank you for the opportunity to speak to you.

WILLIAM G. WILLIS THANKED

PRESIDENT BRODERICK. Thank you, Bill Willis, for one of the most constructive discourses I think anyone has ever heard on a most complex subject.

I now recognize the delegate from Bucks, Delegate Keller.

DELEGATE M. V. KELLER. Mr. President, may I, on behalf of the members of this Convention, thank Dr. Willis for this very fine presentation and tell him how much we appreciate the hard work that he has put into the development of the manual which we have before us. I know it will be of great value to each and every one of us. We want to again thank him for a very fine job.

PRESIDENT BRODERICK. Thank you, and I know you will have that put in the form of a resolution. May I have a second to that resolution? It is seconded by Delegate Benedict from Philadelphia.

On the question,

Will the House adopt the resolution?

PRESIDENT BRODERICK. The resolution is unanimously adopted. We will see that Bill Willis receives a copy of it, and we are very grateful.

May I just state that the Preparatory Committee has been particularly fortunate, and I can tell you that we have been proud of the four research directors from whom you have heard. They are the outstanding men in Pennsylvania in their particular fields, and have done a marvelous job. We hope they will stay on with the committees and act as consultants and be available to each and every delegate.

I want to thank the two of them who came here today, as well as Dean Laub and Dave Stahl. I think I express the feeling of everyone here that these four men have done a wonderful, outstanding job in outlining to us the issues in four difficult fields that we have to deal with.

LADIES PRESENTED

I would like if I may, to present the wonderful ladies our two lecturers brought with them this morning. I would like to present to you Mrs. Kurtzman and Mrs. Willis. Would you stand, please?

I thank both of you on behalf of the delegates for all the hours you have permitted your good husbands to work on our research books.

Now may I ask that our Secretary, Delegate Michener, come forward to the microphone. He has an announcement.

ANNOUNCEMENT BY THE PRESIDENT

PRESIDENT BRODERICK. While our Secretary is approaching the microphone I want to say that we have been working late into the night—and when I say “we,” I am referring to the officers, Bob Casey, Jim Michener and Frank Orban—in selecting the committees. We had hoped that we could announce them today, but I assure you it will be the first announcement that you will receive on Monday. We are going into this with caution, care and deliberation because we recognize that this will be the backbone of our performance, selecting the men and women who will fit best into each of the spots where you will be required to work.

Now may I ask our secretary to take over.

**RESOLUTION FROM
CONSTITUTIONAL CONVENTION OF
MARYLAND**

SECRETARY MICHENER. Mr. President and delegates, you have heard from this rostrum several times in the course of the last week the truism that we are a part of history. But this morning a resolution reached us which most felicitously points up that fact and sort of hammers it home.

It comes from Annapolis, and it reads: Constitutional Convention of the State of Maryland, Resolution No. 23, December 1, 1967.

WHEREAS, Today, December 1, 1967, is the opening day of the Pennsylvania Constitutional Convention; and

WHEREAS, The writing of a constitution is the preparation of the most fundamental statement of the rights of men and is the framing of the basic organization that the people wish to have to represent and to serve them; and

WHEREAS, The experiences of the Constitutional Convention of Maryland, meeting in Annapolis for nearly three months, have shown the delegates the great challenges faced by those chosen to develop fundamental law and of the great opportunity to make a contribution to strengthening their State; and

WHEREAS, The delegates of the Constitutional Convention of Maryland wish the delegates to the Pennsylvania Constitutional Convention the same opportunity that they have had and the same success that they are striving for; now, therefore, be it

RESOLVED, That the Constitutional Convention of Maryland sends its very best wishes for success to the delegates to the Constitutional Convention now beginning in Pennsylvania; and be it further

RESOLVED, That the President of the Maryland Constitutional Convention is instructed to convey this Convention's best wishes and a copy of this resolution to the President of the Pennsylvania Constitutional Convention.

By the Convention, December 1, 1967.

Read and adopted.

By order, Robert J. Martineau, Secretary

H Vernon Eney, President Robert J. Martineau,
Secretary

ANNOUNCEMENTS BY PARLIAMENTARIAN

PRESIDENT BRODERICK We now have a few announcements which I will ask our parliamentarian to make.

PARLIAMENTARIAN GRUELL. The first announcement I have is in reference to your permanent seating. I think you will find on your desks now a seating chart with your seat number and name. On Monday, I am told, there will be a large seating chart in the lobby of the House which might enable you to find your seat a lot faster. You will also notice on this list that you have that some seats are left vacant. I have been informed that the reason for this is the electric roll call voting system is not hooked up to those seats. So if you find a vacant seat next to you this will be the reason.

You will also have a brief description of the roll call, how to summon a page and how to ask recognition of the President. If you will carefully look over that until Monday when we have our dry runs it might make it a little bit easier for us.

I have been asked by the President to announce that starting Monday we will start promptly on time at 1:30 p.m., and we will do our utmost from now on until we adjourn finally to start at the time designated at adjournment.

Thank you.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes the delegate from McKean, Delegate Westerberg.

DELEGATE WESTERBERG. Mr. President, I move that this Convention do now adjourn until Monday, December 11, 1967, at 1:30 p.m.

PRESIDENT BRODERICK. It has been moved by Delegate Westerberg and seconded by Delegate M. V. Keller that the House do now adjourn until Monday, December 11, 1967, at 1:30 p.m.

The motion was agreed to, and (at 11:55 a.m., e.s.t.) the Convention was adjourned.

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DISTINGUISHED PENNSYLVANIANS CITIZENS DAY

The Convention was called to order at 1:30 p.m.

THE FIRST VICE PRESIDENT (Robert P. Casey) IN THE CHAIR

VICE PRESIDENT CASEY. The Chair recognizes the sergeant at arms.

The SERGEANT AT ARMS. Mr. President, I have the honor to present President Broderick and a delegation participating in the honoring of our distinguished citizens.

VICE PRESIDENT CASEY. The Chair thanks the sergeant at arms.

The Chair invites President Broderick, Chaplain Horne, Delegate Michener and Mr. Sinkler to the rostrum.

PRAYER

VICE PRESIDENT CASEY. Today's meeting will be opened with prayer by Doctor Byron K. Horne, President of the Linden Hall School for Girls, Lititz, Pennsylvania, and a Delegate to this Convention.

DOCTOR BYRON K. HORNE offered the following prayer:

Our Father God, we who are Thine by creation, by preservation and by redemption, come to Thee in this hour.

We come to Thee with grateful hearts; grateful for the sacrifices and services of those whom we honor today.

Enable us, as delegates, to lay aside all that may keep us from doing what is best for this Commonwealth and its people.

May we have the courage to do our appointed task, seeking only what is Thy will and thus laying aside all selfish aims and ambitions.

Let Thy blessing rest upon the sons and daughters of this State who are in the armed services of our Country.

Strengthen the hands and hearts of men and women of good will and grant that their earnest desires for peace may soon be realized. Amen.

SECRETARY MICHENER REQUESTED TO PRESIDE

VICE PRESIDENT CASEY. Once again we come to another of the special opening ceremonies, that of honoring the distinguished citizens of the Commonwealth of Pennsylvania.

The Chair at this time calls upon the delegate from Bucks, Delegate Michener, to preside.

ADDRESS BY SECRETARY MICHENER

SECRETARY MICHENER. Mr. President, Mr.

Vice President, distinguished members of the Constitutional Convention.

It is appropriate for this Convention to honor outstanding Pennsylvanians, because you members are, yourselves, a gathering of most distinguished citizens.

For the past week I have had the rewarding duty of studying your histories and I, better than most, know just how distinguished you are. In your group I find a former governor of enormous national reputation; another man who has been termed one of the three outstanding financiers of the world; generals, bright with honor; judges, whose years on the bench have brought them the good report of their fellow citizens; businessmen of great reputation, and others whose histories are recorded in Who's Who.

Your assembly contains not only these men whose reputations are well established, but also a flock of bright young people, often from our finest universities—Harvard, Yale, Penn, Notre Dame, Dickinson Law—whose futures are still to be determined. With what a sense of enchantment we older members look upon the younger and wonder which of you will be the new governors, the new financiers, the new judges? More significantly we ask, which of you will prove to be good citizens for the long haul, men and women of courage and dedication? A great proportion of your character will be determined by your conduct here in the months that lie ahead. What a brilliant beginning you have made by being elected to this assembly.

I use the word assembly intentionally to describe this body, because you are now one of the most powerful social agencies devised by man for the conduct of his political life. You are a legally constituted assembly and much of the best work of the world has been accomplished by assemblies like yours. Meeting in this Commonwealth, one assembly declared that the United States was to be a free nation. A later assembly, also working within our Commonwealth, wrote a beautifully simple constitution by which we still govern ourselves.

A constituent assembly, once it is launched upon its course, has powers that are practically unlimited, except by the wisdom and conscience of its members. It is empowered to act, and act it must. It may probe and search in all areas relevant to its duty, and the courts of the world are replete with instances in which such probing

has been subsequently upheld both by law and by the acceptance of the people. But constituent assemblies can be terrifying when they run wild, as did that famous assembly in France, which ushered in our modern age and then ran wild to produce the French Revolution.

Constituent assemblies operate best when they adhere fairly closely to the intentions of the law which convened them, and you would be well advised to do just that. You are thus faced with a neat moral problem. You must act with the broadest conceivable interpretation of your commission, yet you must confine yourself to the legal limits of that commission.

Well, you have all faced difficult assignments before. If you had not, you would not be here today. In facing these assignments before you, you will be buoyed up by the strange fact that as an assembly you will be mightier than the sum of your parts. Distinguished as you are individually, as an assembly you will be even greater. A mysterious force will be generated within this body which will bear you up. I think you witnessed an evidence of that the other day when you listened to that first solemn calling of the roll on a sustentative question.

The amendment to the rules moved by the distinguished Delegate from Luzerne was a most attractive proposal. It spoke to a real problem and suggested a solution that anyone could have supported, and I must say that it was most ably defended by the speakers who rose to its defense. Since my occupation is working with words, I was especially attracted by the delegate who pointed out that since most of the sub-committees in the section we were talking about dealt with judges, it was implied that there had to be one dealing with squires, who, in our language, are not judges. I hope that in future debates that delegate is arguing on my side.

But it was the sense of this assembly that all problems ought to be considered within the sturdy framework of a logical pattern, with no one element unduly accentuated, and accordingly, when the roll was called, you heard that slow, thunderous flood of the assembly: "Nay, nay, nay." This Constitutional Convention was born in that moment.

One of the reasons why you will find in this body a strength greater than the sum of its parts is that you wisely decided to be seated alphabetically, so that the haphazard chance of your last initial determines who your neighbors are to be and not regional or political interests. You will not be riding back and forth to this assembly in the companionship of those delegates who will later be sitting beside you when the time comes to vote.

I am perhaps the greatest gainer by the seating arrangement you have adopted, for I am now the only delegate in this Convention who sits between two ladies.

ARTHUR B. SINKLER PRESENTED

SECRETARY MICHENER. And so, distinguished Penn-

sylvanians, this afternoon we honor another group of distinguished Pennsylvanians. They come as our guests from all parts of the Commonwealth, having been nominated by various civic organizations as those who epitomize the spirit of public service and interest in good government. To represent them at this podium, they have selected Arthur B. Sinkler, Chairman of the Board, the Hamilton Watch Company, Lancaster.

The choice was a good one. Mr. Sinkler has not only had a distinguished career in business but has also found time to serve his community and his State. He was chosen by Governor Lawrence as a member of the Committee on Education. Later he became co-chairman of the Committee of One Hundred. Most recently he was an active member of the board of directors of "A Modern Constitution for Pennsylvania," so in a very real sense, fellow Delegates, if it had not been for Mr. Sinkler's work, you and I would not be here today.

At this point the notes handed to me about Mr. Sinkler become confused. They say—and I make no mistake about this—that in his business life he started at the bottom, at the University of Pennsylvania. I trust that reporters from Penn State and Pitt, not to mention Dickinson and Temple, will take note of the fact that one who starts from the University of Pennsylvania is starting with this enormous handicap.

This afternoon Mr. Sinkler represents not only his own brilliant accomplishment, but that of those famous Pennsylvanians who accompany him and who are seated to the rear of this auditorium. These people give their time unselfishly to public service. They are the movers and shakers, the voices of their communities, the hard workers whose opinions are valued by their fellow citizens.

At the conclusion of these ceremonies, I will leave with the Chair a list of these distinguished guests present today and ask that their names be spread upon the journal.

And now, through our appreciation of Arthur B. Sinkler, we do honor to the group of which he is an outstanding member. Mr. Sinkler.

ADDRESS BY ARTHUR B. SINKLER

Mr. SINKLER. Thank you very much indeed, Mr. Michener.

Mr. President, members of the Convention, ladies and gentlemen:

The president of A Modern Constitution for Pennsylvania, Inc., Mr. Richard C. Bond of Philadelphia, has asked me to extend to you his deep regret at his inability to be here today, at your invitation, to address you on behalf of all the individual and organized citizens of the Commonwealth who have been so devoted for so long to the cause of constitutional revision.

As one of the board members, I am the lucky one to be here in his place.

When I think of the great number of outstanding Pennsylvanians who might better have been chosen to represent the citizen effort toward modernizing our constitution, I am, indeed, grateful for the opportunity and privilege of standing here before you.

As your minority delegate from the 22nd District pointed out so often while he was Governor

of the Commonwealth, we have been trying to revise our present constitution for three-quarters of a century. The document was only 17 years old when we had our first referendum on the question of holding a constitutional convention. That was in 1891.

The reasons that motivated Pennsylvanians 76 years ago to seek a new constitution continued to motivate them without letup. No day has passed for more than three generations without some kind of meeting, somewhere in this great State, some kind of discussion, some citizen step being taken toward revision.

To stand here now before this Convention in actual being is an honor, indeed. But to speak for all the tens and hundreds of thousands of Pennsylvanians who throughout these years, have made a crusade of constitutional revision is, in a word, overwhelming.

This Convention has already dedicated and pledged itself to the future generations of Pennsylvanians. With this, no one can quarrel.

But I would suggest, if I may, that you also dedicate and pledge yourselves to keep faith with the past, and with passing generations who never had any doubt that, some day, in their time or another, this moment would come.

To review all of the names that might appropriately be recalled here today would take longer than your patience would allow. Most of them would probably be completely unknown and meaningless to all of us anyway. Perhaps it will be best to salute them all anonymously. Just as we pay collective tribute to our soldier dead in the person of the Unknown Soldier. But there are two valiant soldiers who have earned special recognition.

One is Mrs. G. L. McLane—"Ted" McLane has not been gone from us so long that we should neglect to pay our respects and gratitude. For years, even when it seemed that she was almost alone, she kept the cause of the constitutional revision alive in the League of Women Voters and, through the League, in many other corners of the State.

The other is Mr. William A. Schnader, who, unfortunately, cannot be here today. Through his brilliant legal concepts and through his personal leadership of a task force of more than 300 outstanding attorneys, he has already had the satisfaction of seeing his proposals adopted in the form of amendments which have modernized more than half our constitution in the past 19 months. His support of this Convention was, perhaps, decisive.

One aspect of the great strides toward this Convention that marked Mr. Schnader's efforts—and Mrs. McLane's—and, in fact, all other effective leaders' efforts, has been their complete lack of partisanship.

The question of bipartisanship or nonpartisanship has been discussed at some length in the opening days of this Convention, if the reports in the public press are accurate. This is unfortunate, because—like a lady's virtue—freedom from partisanship exists only where it is unquestioned. Challenge it, and it must be explained and de-

fended. Explain and defend it, and it has vanished.

All who have looked forward for so long to this great occasion have done so without any thought of personal or partisan advantage. We expect no less of you, our representatives.

There is, of course, no such thing as a Republican or a Democratic constitution, or constitutional proposal. More pointedly, there is no Republican or Democratic way of arriving at such a proposal.

What we need now is unselfish cooperation—cooperative partisanship. I was talking about this the other day with your very able Executive Director, John Ingram, and he came up with the long forgotten word which may well fill the bill.

It is copartisanship.

We would have it mean, simply, that none of you would be required to yield one slight measure of partisan position. Yet, in the best of Holiday spirit, you would all be copartisans of Good Will, bringing political peace on earth or, at least, to this part of it.

Give us, please, your great copartisan cumulative wisdom.

Give us your copartisan experience and strength.

Give us cooperative partisanship.

We have traveled a long road to find you. Reward us with proposals that will complete the modernization of the constitution which has gone forward so well in these past very few years.

They tell of the young operatic tenor at La Scala on the night of his debut. Nine times, the tumultuous audience demanded "encores," until he finally pleaded that he was tired and wanted to rest. But a voice from the balcony called out, "No." Do it again, and again, and again—until you get it right!"

That's the story of "A Modern Constitution For Pennsylvania." We have been at it for more than 75 years. We are pleased with our progress so far. We are delighted with the reality of this Convention. We are thrilled with the prospect of the successful completion of your mission.

We shall stay in being and keep on working as long as we can be useful to you or to the voters, until the task begun in 1891 is ended, and ended well.

But we would like to rest. And so, we look forward to an early and happy retirement, under the comforting protection of the best and most patiently awaited constitution of all the 50 States, and we wish you well.

Thank you.

VICE PRESIDENT CASEY. Thank you very much, Mr. Sinkler.

PRESIDENT BRODERICK PRESENTED

VICE PRESIDENT CASEY. Honored guests and delegates to this Convention, it is now an honor and my privilege to present our President, the Honorable Raymond J. Broderick, for the purpose of addressing this Convention. President Broderick.

ADDRESS BY PRESIDENT BRODERICK

PRESIDENT BRODERICK It was Mark Twain who said the most horrible death is to be talked to death. I want to say that in order to prevent such a tragedy in this Hall of Delegates, you are going to hear the shortest President's address in the history of conventions in Pennsylvania. I am sure you will be happy for that.

Fellow delegates and fellow Pennsylvanians, it is fitting that the president's address should come on this, the sixth day of our Convention, the day we honor our fellow Pennsylvanians. And to them, my fellow Pennsylvanians. I say thank you for having provided us the greatest opportunity in almost 100 years to make our government better at both the state and local levels. I thank you for that opportunity.

In the course of debate last Wednesday, one of our distinguished delegates took the microphone in this very hall and said with sincerity and conviction "There is an unseen force behind this Convention, and I do not know who or what it is." I agree with those words. There is an unseen force behind this Convention, and I venture to say I think I know what that force is. From the very moment we raised our right hands before the Chief Justice of the Supreme Court of Pennsylvania on December 1, I have felt that unseen force, and I am sure that each and every one of you has felt it likewise.

The unseen force behind this Convention is the determination of each and every delegate to provide Pennsylvania with a framework which will make this State the finest place on earth to work and play, to raise and educate our children and, yes, more important, our children's children. When the time comes to depart this life, that same unseen force shall have recorded for history, they reported for duty on December 1; they had a bipartisan election of officers on December 1; on December 6 they adopted a set of rules which were the most unique and successful experiment ever produced by the two-party system; they discarded their individual prejudices; they ignored their sectional feelings; they forgot their party affiliations; and, in 90 days they did produce recommendations which were heartily embraced by the people of Pennsylvania. They alone are responsible for the framework which enabled Pennsylvania to become the first Commonwealth of excellence.

You know, we are not the first 90-day wonder this world has ever seen. Those of you who remember with me World War II, I am sure you will recall with delight the expression "90-day wonder." But, you know, we won the war with those 90-day wonders and I am convinced that we, too, will win this battle within 90 days.

A local columnist the other day in one of our papers stated that you had elected a rookie as President of your Convention. He was right; you did. Your president recognizes that he is not a Benjamin Franklin, a Thomas Mifflin or a John Sargent. However, let me point out to you the

professionals are here in abundance. Seated here as delegates right before me are men and women of the stature of Benjamin Franklin, Thomas Mifflin, John Sargent, Timothy Pickering, Andrew Curtin, just to name a few of your many illustrious predecessors in prior Pennsylvania conventions.

Yes, our heritage is great, but as Governor Shafer said in this very chamber just 10 days ago, "History will judge us all," believe me, it will. You shall make history for Pennsylvania. The people of Pennsylvania have sent to these halls their best minds, their stoutest hearts and they have provided for you and, yes, for me, too, that unseen force which permeates this Convention, the determination to make Pennsylvania the first Commonwealth of excellence.

It is now almost three centuries since the Admiral's son received the charter for the holy experiment which made Pennsylvania the seed of a nation. The vision of William Penn can be the reality of the new Pennsylvania, but both are dependent upon the responsible efforts of good men and good women.

In the preface to Pennsylvania's first constitution, William Penn said, "Governments, like clocks, go from the motion men give them, and as governments are made and moved by men, so by them they are ruined, too. Wherefore, governments rather depend upon men than men upon governments. Let men be good and the government cannot be bad. If it be ill, they will cure it."

We have gathered here to vindicate Penn's dream; we shall cure the ills of our constitution. I say, let us stand with courage and confidence; pursue the task which lies before us. Yes, and I do not hesitate to tell you, the moment of truth is now upon us. We are here to hold and mold a judicial system which shall produce justice; we are here to make local government more efficient; we are here to provide a tax structure which shall satisfy the needs of all Pennsylvanians, and we are here to make one-man, one-vote a reality. We all know the lessons of Albany, Annapolis and Providence. The job of the Preparatory Committee is now complete; they have ably provided the necessary tools for our task and the unselfish, bipartisan deliberations of the legislative leaders on that committee merit your commendations.

I close by saying with confidence in your wisdom, with the unbounding determination of this assembly, we shall bring forth the best constitution for a better Pennsylvania. Let us pray that the unseen force, that determination to make Pennsylvania the best in the nation, shall be sustained by the divine hand of providence which has ever guided this great Commonwealth and this nation.

God willing, it will again enable us to raise a standard to which the wise and the honest can repair.

Thank you.

GAVEL RETURNED TO PRESIDENT BRODERICK

VICE PRESIDENT CASEY. Mr. President, on behalf of

the entire Convention, I wish to thank you for those words of wisdom.

It is now my pleasure to return the Chair to our President, Delegate Broderick.

PRESIDENT THANKS DISTINGUISHED PENNSYLVANIANS

PRESIDENT BRODERICK. The Chair at this time takes the opportunity to thank our fellow distinguished Pennsylvanians who came here to be with us today. I say to them we are happy to have you remain with us, but if you have any trains or planes to catch, now is the time to depart before we resume the business at hand. Feel free if you would like to leave and feel free if you would care to stay. I want you to know we are happy that you came today.

COMMITTEE APPOINTMENTS ANNOUNCED

PRESIDENT BRODERICK. Fellow delegates, one of the most difficult tasks which you gave the President, with the help of the Vice President, the 2nd Vice President and the Secretary of this Convention, was the selection of committee assignments.

I think you would be happy to know that we were absolutely unanimous in these selections; we think they will make the best Convention. I will now read those assignments for you as they are being distributed.

First of all, let me say that we are going to get down to work immediately.

MEETING OF JUDICIARY COMMITTEE

The Committee on Judiciary will meet in the House Minority Caucus Room, which is located on the third floor, center wing, to the rear of this building, immediately after this session is brought to a close today.

CONSTITUTIONAL CONVENTION COMMITTEE ASSIGNMENTS

JUDICIARY

Co-Chairmen:

William W. Scranton and Gustave G. Amsterdam

A. SELECTION OF JUDGES

Co-Chairmen:

Bruce W. Kauffman and Isadore A. Shrager

- | | |
|--------------------------|---------------------|
| 1. Americo V. Cortese | 4. David V. Shapiro |
| 2. Lewis B. Lee | 5. Gerald E. Ruth |
| 3. Richard L. Thornburgh | 6. Edwin G. Warman |

B. TENURE OF JUDGES

Co-Chairmen:

John B. Hannum and H. Clay Burkholder

- | | |
|-----------------------|----------------------|
| 1. Henry E. Rea, Jr. | 4. David C. Baldus |
| 2. David M. Barron | 5. Richard M. Sharp |
| 3. Hobson R. Reynolds | 6. Martin W. Bashoff |

C. INCOMPATIBLE ACTIVITIES OF JUDGES

Co-Chairmen:

Robert E. J. Curran and Francis A. Barry

- | | |
|----------------------|---------------------|
| 1. John W. Keller | 4. Eugene A. Caputo |
| 2. Robert M. Fortney | 5. Joseph Solomon |
| 3. Joseph M. More | 6. Julian F. King |

D. RETIREMENT AND POST-RETIREMENT SERVICE OF JUDGES

Co-Chairmen:

W. Walter Braham and Robert B. Filson

- | | |
|----------------------------|-----------------------|
| 1. Daniel B. Strickler | 4. John J. Redick |
| 2. William F. Clinger, Jr. | 5. Leon W. Silverman |
| 3. Robert J. Butera | 6. William D. Shettig |

E. JUDICIAL ADMINISTRATION AND ORGANIZATION

Co-Chairmen:

Robert E. Woodside and Barbara S. Spragell

- | | |
|------------------------|----------------------------|
| 1. Robert M. Sebastian | 4. Walter A. Benfield |
| 2. Robert D. Fleming | 5. William B. Stout |
| 3. Theodore R. Laputka | 6. William J. C. O'Donnell |

MEETING OF LEGISLATIVE APPORTIONMENT COMMITTEE

The Committee on Legislative Apportionment will meet in Room 286 immediately after this assembly. This room is located on the second floor of the north wing of this building, which is in back of the Senate Chamber. I might add that I will repeat the place of those committee meetings at the end of the announcements.

LEGISLATIVE APPORTIONMENT

Co-Chairmen:

William J. Devlin and Thomas L. Fagan

A. METHOD OF APPORTIONMENT

Co-Chairmen:

Marvin V. Keller and Joseph G. Tomascik

- | | |
|-------------------------|--------------------------|
| 1. Albert R. Pechan | 7. Herbert Fineman |
| 2. Robert W. Baldridge | 8. James F. Prendergast |
| 3. Edward A. Sahl | 9. Harry T. Kelly |
| 4. John M. Scarlett | 10. H. Richard Hostetler |
| 5. Basil C. Scott | 11. Ralph E. Orbin, Sr. |
| 6. Herbert R. Cain, Jr. | 12. Matthew M. Gouger |

B. COMPOSITION OF LEGISLATURE

Co-Chairmen:

Marian E. Markley and Justin E. Jiolanio

- | | |
|--------------------------|------------------------|
| 1. Lee A. Donaldson, Jr. | 7. Benjamin R. Donolow |
| 2. Henry P. Otto | 8. K. Leroy Irvis |
| 3. Frank D. Croop | 9. Philip H. Feather |
| 4. Floyd W. Musselman | 10. Charles A. McGlynn |
| 5. Joseph Goldstein | 11. Peter D. Dumbauld |
| 6. Leonard H. Hatter | 12. Dante Mattioni |

MEETING OF COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. Now our Committee on Lo-

cal Government. It shall meet in the House Majority Caucus Room. This room is located on the first floor immediately below this chamber.

LOCAL GOVERNMENT

Co-Chairmen:

Frank J. Pasquerilla and Louis L. Manderino

A. STRUCTURE AND ORGANIZATION

Co-Chairmen:

M. Nelson McGeary and Gay B. Banes

- | | |
|----------------------|-----------------------------|
| 1. Kenneth B. Lee | 4. Thomas H. Welsh |
| 2. Stanley G. Stroup | 5. Holbrook M. Bunting, Jr. |
| 3. Byron K. Horne | 6. Alan I. Aberman |

B. ANNEXATION AND BOUNDARY CHANGES

Co-Chairmen:

Victor J. Westerberg and Frank E. Cunningham

- | | |
|-----------------------|--------------------|
| 1. A. Hugh Forster | 4. William J. Lane |
| 2. F. Garrett Richter | 5. Frank M. Fay |
| 3. James L. Desmond | 6. Dante Mattioni |

C. LOCAL FINANCE

Co-Chairmen:

Douglas M. Moorhead and John N. Scales

- | | |
|----------------------|----------------------|
| 1. J. Edward Waldron | 4. A. J. Gehrlein |
| 2. Beulah J. Brown | 5. Joseph L. Cosetti |
| 3. Samuel C. Corey | 6. Julian F. King |

D. HOME RULE

Co-Chairmen:

James D. Morton and Samuel Rappaport

- | | |
|-----------------------|--------------------------|
| 1. Harold A. Thomson | 4. Ernest P. Kline |
| 2. Rachel P. Benedict | 5. Marie C. Aurentz |
| 3. Lewis B. Lee | 6. Edward M. Dailey, Jr. |

E. COUNTY GOVERNMENT

Co-Chairmen:

John T. Van Sant and Mercer D. Tate

- | | |
|-------------------------|--------------------|
| 1. Robert P. Fohl | 4. John A. Conley |
| 2. John F. Baldwin | 5. John N. Roberts |
| 3. Edward H. Meyer, Jr. | 6. Dorothy Miller |

F. APPORTIONMENT

Co-Chairmen:

Daniel W. Shoemaker and James Hook

- | | |
|----------------------|---------------------------|
| 1. Howard R. Erwin | 4. T. Robert Brennan |
| 2. Harold H. Goldman | 5. Charles E. Murray, Jr. |
| 3. Leonard H. Hatter | 6. Richard M. Sharp |

MEETING OF COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Committee on Taxation and State Finance will meet in the Senate Majority Caucus Room. This room is located on the first floor north corridor of this building, or immediately back of the Senate Chamber.

TAXATION AND STATE FINANCE

Co-Chairmen:

Robert L. Leonard and Carleton T. Woodring

A. TAXATION

Co-Chairmen:

George F. Pott and Richard Gerber

- | | |
|------------------------|-------------------------|
| 1. Weldon B. Heyburn | 6. Samuel Camardella |
| 2. Thomas K. Leinbach | 7. Roy W. Miller |
| 3. Howard A. Krill | 8. Benjamin R. Donolow |
| 4. Franklin A. Mangery | 9. Charles P. Henderson |
| 5. Jerry Powell | 10. David C. Baldus |

B. STATE DEBT

Co-Chairmen:

Blaine C. Hocker and Edward Popil

- | | |
|----------------------------|---------------------------|
| 1. Ralph A. Clark | 6. Joseph L. Cosetti |
| 2. Charlotte M. Fawcett | 7. Charles E. Murray, Jr. |
| 3. Thelma D. Himes | 8. Philip L. Harding |
| 4. George W. Shively | 9. T. Robert Brennan |
| 5. Charles H. Whittum, Jr. | 10. William D. Shettig |

C. SINKING FUND

Co-Chairmen:

Thomas E. Wilcox and James W. Percey

- | | |
|--------------------------|-------------------------|
| 1. Harold A. Thomson | 6. German Quiles |
| 2. Richard J. Caron | 7. Eugene A. Caputo |
| 3. Edward H. Rovner | 8. Donald W. Bagenstose |
| 4. Walter F. Wilmarth | 9. John A. Conley |
| 5. Georgette G. Griffith | 10. Gilbert J. Allison |

MEETING OF COMMITTEE ON ADMINISTRATION AND FINANCE

PRESIDENT BRODERICK. The Committee on Administration and Finance will meet in the Convention Conference room, which is in the North Office Building on the fifth floor, immediately after this meeting.

ADMINISTRATION AND FINANCE

Co-Chairmen:

Israel C. Bloom and Guy J. Swope

- | | |
|--------------------------|-------------------------|
| 1. Kenneth B. Lee | 9. Ernest P. Kline |
| 2. Robert D. Fleming | 10. Herbert Fineman |
| 3. Stanley G. Stroup | 11. Isadore A. Shrager |
| 4. Lee A. Donaldson, Jr. | 12. K. Leroy Irvis |
| 5. J. Edward Waldron | 13. Philip L. Harding |
| 6. Samuel C. Corey | 14. Roy W. Miller |
| 7. Herbert R. Cain, Jr. | 15. Ralph E. Orbin, Sr. |
| 8. Robert P. Fohl | 16. William J. Lane |

PRESIDENT BRODERICK. The remaining committees, the Committees on Rules, Style and Drafting, and Arrangement, Submission and Address to the People, will meet at a time and place to be announced tomorrow. Frankly, we have a shortage of meeting rooms and, as soon as we can cure this, we will announce the time and place of the meetings of those committees.

Following are the appointments to the Committees on

Rules, Style and Drafting, and Arrangement, Submission and Address to the People:

RULES

Co-Chairmen:

Charles P. Leach and Max P. Gabreski

- | | |
|-------------------------|--------------------------|
| 1. Robert E. J. Curran | 9. Thomas L. Fagan |
| 2. Albert R. Pechan | 10. Carleton T. Woodring |
| 3. William W. Scranton | 11. Gustave G. Amsterdam |
| 4. Frank J. Pasquerilla | 12. Edward Popil |
| 5. William J. Devlin | 13. James F. Prendergast |
| 6. Robert E. Woodside | 14. Gay B. Baner |
| 7. Basil C. Scott | 15. Louis L. Manderino |
| 8. Richard L. Huggins | 16. William H. Gray, Jr. |

STYLE AND DRAFTING

Co-Chairmen:

Lawrence L. Pelletier and Roy H. Johnson

- | | |
|--------------------------|------------------------------|
| 1. Herman M. Buck | 9. Alan I. Aberman |
| 2. Richard L. Huggins | 10. Philip H. Feather |
| 3. Richard L. Thornburgh | 11. Martin W. Bashoff |
| 4. Mildred D. Michael | 12. William J. C. O'Donnell |
| 5. Floyd W. Musselman | 13. Gerald E. Ruth |
| 6. Robert M. Sebastian | 14. David V. Shapiro |
| 7. Dorothy K. Tully | 15. Holbrook M. Bunting, Jr. |
| 8. Theodore R. Laputka | 16. H. Richard Hostetler |

ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE

Co-Chairmen:

James W. Nelson and William H. Gray, Jr.

- | | |
|----------------------------|--------------------------|
| 1. Mildred D. Michael | 9. John N. Roberts |
| 2. A. Hugh Forster | 10. Donald W. Bagenstose |
| 3. Benjamin J. Levin | 11. Matthew M. Gouger |
| 4. Charles H. Whittum, Jr. | 12. Charles P. Henderson |
| 5. Herman M. Buck | 13. A. J. Gehrlein |
| 6. Weldon B. Heyburn | 14. Leon W. Silverman |
| 7. Daniel B. Strickler | 15. Edwin G. Warman |
| 8. Robert J. Butera | 16. Harry T. Kelly |

ANNOUNCEMENT OF COMMITTEE MEETINGS

PRESIDENT BRODERICK. I want to announce once again the meeting rooms that we have obtained for the committees:

The **COMMITTEE ON JUDICIARY** will meet in the House of Representatives Minority Caucus Room, which is located on the third floor, center wing rear, of this building.

The **COMMITTEE ON LEGISLATIVE APPORTIONMENT** will meet in Room 286. This room is located on the second floor of the north wing of this building, which is in back of the Senate chamber.

The **COMMITTEE ON LOCAL GOVERNMENT** will meet in the House of Representatives Majority Caucus Room. This room is located on the first floor immediately below this chamber.

The **COMMITTEE ON TAXATION AND STATE FINANCE** will meet in the Senate Majority Caucus Room. This room is located on the first floor, north corridor of this building, or immediately below the Senate chamber.

The **COMMITTEE ON ADMINISTRATION AND FINANCE** will meet in the Convention Conference Room, which is in the North Office Building on the fifth floor.

I have been asked to announce that the co-chairmen of the eight standing committees will please report to the Governor's Reception Room immediately after today's session. Someone wants to take your picture.

DELEGATE PECHAN PRESENTS PROPOSAL

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Armstrong, Delegate Pechan.

DELEGATE PECHAN. Mr. President, on behalf of my colleague, Senator Stroup, and myself, I read in place and present to the Chair this proposal.

PRESIDENT BRODERICK. The delegate from Armstrong, Delegate Pechan, reads in place and presents a proposal, the title to which we shall have the clerk read.

The **CLERK.** A Proposal amending Article II of the Constitution of Pennsylvania, providing for apportionment of legislative districts and limiting length of sessions.

PRESIDENT BRODERICK. The Chair is going to withhold the committee assignment of this temporarily until we have had an opportunity to read it. There has been some questions presented that it may be a matter to be paneled by two different committees. It will be announced as soon as this matter is studied and approved.

Are there any other proposals to be introduced?

Ladies and gentlemen, I just want to urge you to expedite as quickly as you can the introduction of proposals, because the sooner we receive them, the sooner we will be able to get our job under way. Our committee is functioning with your proposals. Now, I want to repeat that if you have a proposal, for the purpose of its preparation under the rules, it should be taken to Mr. Frank Garber, who is with the Legislative Reference Bureau. It is on the fifth floor of the north wing of the Capitol building. They will be happy to put your proposal in standard form for introduction. I urge each and every one of you who have proposals to proceed as quickly as possible with them so that we can get them in committees and get right down to the meat of the Convention.

Are there any other proposals to be introduced? The Chair hears none. The next order of business will be resolutions.

RESOLUTION

EXTENDING BEST WISHES FOR RAPID RECOVERY TO DELEGATE BRENNAN

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton.

DELEGATE MORTON. Mr. President, James Morton, 44th Senatorial District.

T. Robert Brennan, one of our delegates, entered the hospital yesterday and from my information he was to be operated on today for a throat condition. I would like to introduce this resolution, that this Constitutional Convention extend its best wishes to T. Robert Brennan for a rapid and healthy recovery. I trust a copy thereof will be signed by the President and the Secretary and sent to Mr. Brennan.

PRESIDENT BRODERICK. It has been moved and seconded that the Delegates adopt the resolution.

On the question,
Will the Delegates adopt the resolution?

PRESIDENT BRODERICK. The resolution is unanimously adopted. It will be signed and a copy delivered to our delegate with the good wishes of each and every delegate for a rapid recovery.

The Chair now recognizes Delegate Clinger, who I understand has a resolution.

RESOLUTION

EXTENDING BEST WISHES TO THE MARYLAND CONSTITUTIONAL CONVENTION

DELEGATE CLINGER. William Clinger, from the 25th Senatorial District.

Mr. President, I present the following resolution and request unanimous consent for its immediate consideration.

The following resolution was read by the clerk:

In the Constitutional Convention,
December 11, 1967.

The 1967-68 Pennsylvania Constitutional Convention, although just beginning its efforts towards revising certain provisions of the Pennsylvania Constitution, has viewed with admiration the labor and dedication of the Maryland Constitutional Convention, which has been in session since September 12, 1967, and which will conclude its work by January 12, 1968.

The Pennsylvania Constitutional Convention is most appreciative of the best wishes received from the Maryland Constitutional Convention in the form of a Resolution on December 7, 1967; therefore be it

RESOLVED, That the Pennsylvania Constitutional Convention hereby sets forth its appreciation for the expression of good will from the Maryland Constitutional Convention; and be it further

RESOLVED, That the Pennsylvania Constitutional Convention wish the Maryland Constitutional Convention continued success and Godspeed in the remaining days of its most eventful session; and be it further

RESOLVED, That a copy of this Resolution be

transmitted to the President of the Maryland Constitutional Convention.

WILLIAM F. CLINGER, JR.

The adoption has been moved by the delegate from Warren, Delegate Clinger and seconded by Delegate Benedict.

On the question,
Will the delegates adopt the resolution?

PRESIDENT BRODERICK. The resolution is unanimously adopted and a copy of it will be sent as requested.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. Fellow delegates, I want to say that beginning tomorrow, we would like to have the requests for leaves of absence handled in the manner prescribed in our rules, which means that any delegate desiring a leave of absence should report this desire to the secretary of the Convention, Delegate Michener. Under the order of business of leaves of absence, the secretary will read the request for leave which has been submitted by the particular delegate and at that time the entire Convention will act on the request.

It almost goes without saying, with the short period of time we have remaining, 80 days, with the tremendous job we have facing us, I feel absolutely certain that no delegate will ask for a leave except in case of matters of emergency. We do want to get down to work and the sooner we get our job done, I am sure the better we will all feel. So starting tomorrow, leaves of absence under the rules will be handled by our Secretary, Delegate Michener.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Allison from Schuylkill for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE ALLISON. Mr. President, I move that this Convention do now adjourn until Tuesday, December 12, 1967, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Allison and seconded by Delegate Amsterdam that this Convention do now adjourn until Tuesday, December 12, 1967, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 2:33 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Tuesday, December 12, 1967

Number 7

JUDICIARY DAY

The Convention was called to order at 9:30 a.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRESIDENT BRODERICK. The Chair recognizes the sergeant at arms.

The **SERGEANT AT ARMS.** Mr. President, I have the honor to present Chief Justice John C. Bell, Jr., of the State Supreme Court, and a delegation participating in the honoring of Judiciary Day.

PRESIDENT BRODERICK. Thank you, sergeant at arms.

DISTINGUISHED JURISTS INVITED TO ROSTRUM

PRESIDENT BRODERICK. The Chair invites to the rostrum the Chief Justice of Pennsylvania, Chief Justice Bell; our delegate who will act as Chaplain for the day, Delegate Huggins; Delegate Woodside who will act as our master of ceremonies for Judiciary Day; Judge Campbell, Delegate Braham, Delegate Kauffman and Senator Johnson.

Will you please come to the rostrum?

The other distinguished jurists will please take seats here in the section reserved for them.

PRAYER

PRESIDENT BRODERICK. Today's meeting, as all of our sessions, will be opened with prayer. The prayer today will be offered by the Reverend Richard L. Huggins from Allegheny County, a delegate to this Convention.

REVEREND RICHARD L. HUGGINS offered the following prayer:

Let us pray together.

Almighty God, we are not sure at all times that we need the strength which You give so freely, but as in times past we call upon You to bless this Convention and to bless the strength that has made our Country great through law. Help us in our deliberation, guide us in debate, weaken us to be strong. Amen.

JUDGE WOODSIDE REQUESTED TO PRESIDE

PRESIDENT BRODERICK. We now come to another special event in our getting under way ceremonies. Today we honor the Judiciary of our great Commonwealth and I feel certain that today's program will prove to be as interesting and as informative as those which have been offered during the past six sessions.

The Chair at this time takes great pleasure in calling upon one of our distinguished delegates, former Judge Robert E. Woodside, who will preside during these special ceremonies.

Judge Woodside.

ADDRESS BY THE HONORABLE ROBERT E. WOODSIDE

JUDGE WOODSIDE. Mr. President, Mr. Chief Justice, Your Honors of the Judiciary and Fellow Delegates:

The delegates to this Convention feel that they have a rendezvous with history. They would like the members of the Judiciary of this Commonwealth to share in that rendezvous and to become a recognized part of this Convention. We pause in our deliberation to pay tribute and respect to you, the representatives of our judicial branch of the government.

The Fifth Article, under which you operate, will receive our most serious consideration. We shall try to improve the judicial system. It can be done. We recognize, however, that government branches and agencies are administered by men, and that the integrity, the ability, the energy and the judgment of the men and women who compose the judiciary will determine to an extent greater than we, how well it will serve the people.

We have good judges in Pennsylvania. It is unfortunate that they have fallen under the criticism of prominent citizens who, in their sincere effort to promote certain changes in the constitution, have downgraded the judges and their services.

Although these attacks are unfortunate, they are not surprising, for Americans always have whipping boys. Who is to be relegated to the woodshed changes from generation to generation and even from year to year. The older victims—the railroads, oil companies and Wall Street—have given way to the more recent victims—the drug manufacturers, automobile makers and insurance companies. Lawyers, doctors and legislators have been on the list.

High on the list today in Pennsylvania are the judges. They do not deserve this attack. As a class they are as able and conscientious as the judges of any judicial system in this country including the Federal system.

In Pennsylvania, under the leadership of our

Chief Justice and through the efforts of our two appellate courts, appeals are disposed of with greater dispatch than under the Federal judiciary and, I believe, that of any other large State.

In many Pennsylvania districts, trials can be held within six months of the filing of suit. Only a very few districts have the backlogs that plague the other judicial systems of this country.

The public expects much of its judges. It rejects the thought that any human frailty should be tolerated under judicial robes. It demands too much. The tides and currents which engulf other men do not pass judges by. Judges, too, acquire instincts, habits, emotions and experiences. There is imposed upon them, as upon all men, the traditions of the groups to which birth, geography, education, occupation and fellowship have exposed them. No effort can overthrow utterly and at all times these subconscious predilections and loyalties. Only conscience, self-discipline and judicial temperament can help to emancipate the judge from the suggestive power of these likes, dislikes and prepossessions.

Generally, if the judges of this Commonwealth fall short of required standards, it is because humans cannot obtain the perfection that we seek in the law and those who administer it.

A judge is expected to have the morality of a priest, the reasoning powers of a Plato, the legal knowledge of a Blackstone, the judgment of a Solomon and the patience of a Job. None has quite made it, but there are few who do not try.

This Convention needs the thinking of the judges of the courts of records and the members of the minor judiciary concerning judicial administration and constitutional revision. We appreciate the help and the cooperation you gave to the Preparatory Committee. We trust that you will continue your interest in our problems, and that you will give the delegates of this Convention the benefit of your extensive knowledge and experience in both law and government.

And, now, before introducing the next speaker, may I briefly refer to two thoughts which come from my long association with state government and constitutional revision.

First, we must remember throughout our deliberations that we are not a General Assembly met to enact statutes. We are not here to impose upon the people of this Commonwealth legislation which we may think the legislatures should have enacted in the past or which we fear future legislatures will not enact according to our liking. We are here to write constitutional provisions and the less legislation we write into the constitution the better constitution it will be. Because of basic differences in our Federal and state governments, our constitution should be longer than the Federal constitution, but the details should be kept at an absolute minimum.

Second, there can be no progress without change. But not all change is progress. We must not fear change; but we must not change for the sake of changing. Let us retain in the constitution that which works well; let us discard that

which has failed; and let us improve that which stands between the other two.

May God give to each of us the wisdom to know the right and the strength and courage to do it.

JUDGE CARLETON T. WOODRING PRESENTED

There are two delegates in this Convention who are seeking the truth in the Biblical statement that the last shall be first. Their names both start with "Wood," Woodring and the last of all of you, Woodside.

Judge Carleton T. Woodring will voluntarily retire from the Northampton County bench on the first Monday of January, after completing a distinguished career as one of the outstanding trial judges of this Commonwealth for 20 years.

I had the privilege of serving with him in this very hall as a member of the House of Representatives in 1941. Thereafter, he passed under the dome of the capitol to the other side where he was twice elected Senator from his county. And from there he was elevated to the bench.

I present to you, our fellow delegates, an able and outstanding public servant of this Commonwealth and a fine gentleman, the Honorable Carleton T. Woodring, who will introduce the Chief Justice of Pennsylvania.

CHIEF JUSTICE JOHN C. BELL PRESENTED

DELEGATE WOODRING. Thank you, Mr. Chairman. I trust that the Chief Justice was not listening to the last part of your remarks, but I appreciated them. I know that they were technically correct because I wrote them myself.

President Broderick, honored and distinguished colleagues of the judiciary, my fellow delegates, ladies and gentlemen, I deem it a most happy privilege to introduce a man whom I have known for many years during which this gentleman has had the distinction of wearing a great many hats.

It has been my pleasure to have known him as Mr. Secretary, Mr. President, His Excellency the Governor, Mr. Justice and Mr. Chief Justice. It occurs to me that if an introduction were to be given which was commensurate with his many titles, his allotted time might be entirely consumed in exercising these delightful amenities.

John Cromwell Bell, Jr., affectionately known as "Jack," was born in Philadelphia; graduated from the Episcopal Academy and from the University of Pennsylvania and the Law School of the University of Pennsylvania. He was a member and captain of the soccer team at the University. He was selected on the all inter-collegiate soccer team of the United States. He was a member of the University's tennis team and ranked among the top ten in American lawn tennis. He was a finalist in the United States doubles championships in 1926, 1929, 1931, 1932, 1934 and 1936, a tennis career almost as long as his career in government.

Mr. Bell is a member of a very prominent and successful Philadelphia law firm. He served as Assistant City Solicitor and as Assistant District Attorney of Philadelphia. He was Secretary of Banking for the Commonwealth of Pennsylvania from 1939 to 1943 and served as Lieutenant Governor from 1943 to 1947, during which

time he also served as Chairman of the Board of Pardons and as President of the Senate.

In 1947 he became Governor of the Commonwealth. And, on March 18, 1950 he was commissioned as a Justice of the Supreme Court of Pennsylvania. On August 1, 1961 he was elevated to the high and distinguished office of Chief Justice of the Supreme Court. Needless to say, in all of these offices, Mr. Bell served with fidelity, ability, unusual industry and distinction.

In his earlier career he was a champion of athletics. In my opinion he has never ceased to be a champion—a champion of exemplary citizenship, of a gracious and winning smile, of warm friendship, of good government and a dynamic leader for an improved and efficient judicial system. For many years, through the Chief Justice Judicial Conferences and otherwise, he has fought and studied and worked for judicial reform and the adoption of "Project Constitution."

I might say parenthetically that when Mr. Bell was elevated to the Supreme Court he was rather universally known as a conservative. At the Chief Justice Judicial Conferences, he recommended 30 major reforms. I believe, although I am poor in mathematics, I believe that 22 of those reforms have been enacted and are now part of our judicial system.

It is especially appropriate that Mr. Bell should address this Constitutional Convention with his rich background of knowledge and experience.

Ladies and gentlemen, it is with real pleasure that I give you the Chief Justice of the Pennsylvania Supreme Court, the Honorable John C. Bell, Jr.

ADDRESS BY CHIEF JUSTICE BELL

CHIEF JUSTICE BELL. Judge Woodside, I agree with everything you said in your short address. Judge Woodring, may I thank you for that undeserved presentation.

Ladies and gentlemen, it is a pleasure to be here and to tell you a little about our courts and about the judges of Pennsylvania, even though I may be "carrying coals to New Castle."

I believe there are 234 state judges in Pennsylvania. Although the legislature increased its number, but not frequently enough or large enough, I am not positive about the 234.

The administration of justice is, as you all know, one of the three most important functions in government. The rights, the safety and the welfare of every individual, and the preservation of law and order—which, sad to say, is so lacking today—depends to a large extent upon the courts and each individual judge.

We often forget that the Judicial Department comes home in its effects to every man's fireside; it passes on his property, his business, his family, his life, his all. Is it not therefore tremendously important that our judges should be men of ability, honesty and integrity, men who are absolutely and completely independent, with nothing to influence or control them except the law, their conscience, and their God?

As Judge Woodside said, the vast majority of judges in Pennsylvania are able, conscientious and industrious, and Pennsylvania can be justly proud of them. However, we all know that we

are living in an age of change, and both our courts and our judicial system can and should be changed and modernized and improved.

I will start with the Supreme Court which, as you all know, is composed of a Chief Justice and six other Justices. The Supreme Court of Pennsylvania, with Massachusetts dissenting, is the oldest appellate court in the United States. It was created on May 22, 1722 by the Provincial Assembly, and for over 200 years it had a nationwide reputation as one of the two or three best courts in the United States. It was created, as you all remember, 67 years before the Supreme Court of the United States.

The original Judiciary Act of 1722 provided that the court should consist of a Chief Justice and two Associate Justices, and it was to hold sessions in Philadelphia twice a year and was then to go on circuit. Some 50 years later, the three justices were increased to four. About 50 years after that, the number was reduced to three. About 15 years later, it was increased to five. Finally, in 1874 it was increased to seven which, as you know, is the present number.

Originally there was no elective system for the judges of the Supreme Court from 1722, when it was created, to 1850 and the Judiciary was appointed. In 1850 there was a constitutional amendment which provided that they should be elected.

The term of office of the Supreme Court has varied considerably over the years. At first it was seven years; then it was extended to life, then it was reduced to 15 years and, commencing in 1874, it was fixed, as you all know, at the present limit of 21 years.

Our court has heard, during the last year, over 400 appeals. The Supreme Court, your court, writes three times as many Opinions as the Supreme Court of the United States, although unfortunately, theirs are much more important. We also write more Opinions than any Supreme Court in America, usually two and three times more than any other Supreme Court in the United States, except Colorado. I do not know what is the matter with Colorado. In spite of the voluminous work which we have, our court, by the middle of October every year, is up-to-date and has no backlog.

In this highly controversial age in which we are living, there is considerable difference of opinion about nearly everything in life. I was not surprised, therefore, when I went out to dinner and met a lawyer friend of mine. He had just lost a case a few weeks before, and unfortunately, I had written the Opinion. After he had a few drinks, he said to me what a terrible Opinion it was, and he wanted to know whether I knew how our court was considered up in Heaven. I said I was naturally ignorant on that subject, but at least I knew more about it than he knew about the rule against perpetuities.

He then said, "That will not stop me. Do you realize what happened to the most recent Justice of the Supreme Court when he went to Heaven?"

So I was polite and truthful and said, "No, I

did not." "Well," he said, "St. Peter admitted him immediately and kept doctors, legislators and lawyers waiting because it had been such a long time since any Justice of the Supreme Court had ever been admitted to Heaven."

I am a football "bug." Recently I went to see two 100-pound teams play because my grandson played on one of them. The quarterback called play No. 11. This sprang the halfback loose, and just before the game ended, he scored the winning touchdown from beyond mid-field. After the game was over, the exuberant coach ran up to him and hugged him and said, "That was the greatest call I have ever known. How did you come to think of it? We haven't tried that play since the last part of September." The kid said to him, "Why, coach, that was easy. When we got in a huddle, on my left was Bill Smith, number six, and on my right was Stanley Jones, number seven, so I naturally called for play 11." The coach said, "Don't you know that six and seven are 13 and not 11?" The kid replied, "Coach, if I was as smart as you, we would have lost that game."

I sometimes wonder how often trial judges and lawyers have the same feeling about our court as that young quarterback had about his coach.

That brings me to the question of the Constitutional Convention and the Constitutional Judiciary Article.

You all know that Burton Laub addressed you and gave you some idea of the tremendous number of problems, questions and issues that confront you. Parenthetically, Burton Laub is not only presently a dean but formerly he was a great judge in the Commonwealth of Pennsylvania.

The article which we are all seeking will make our courts much better; they will streamline court functions and procedures; they will improve and modernize the machinery of court administration; they will help to divorce the judiciary from politics and will undoubtedly make the justice speedier and even more certain.

This is the most important question that has come before us in 90 years. I know that all of you and all of us have the same common objective and goal, and the only question is how we can and should achieve it.

There are, as you know, three major judicial systems in our country. The first is, of course, the Federal system which, as you all know, is by Presidential appointment and by confirmation by the Senate. The second is Pennsylvania's present appointive system with senatorial approval and then elective system. The third is the so-called Missouri Plan.

Each and every one of these has its strength and its weaknesses and its advantages and its disadvantages. The Bar Association and I have attempted to take the best from each in order to achieve our common goal of getting better judges and quicker, surer justice. An outstanding committee of lawyers, judges and laymen, known as the Woodside Commission, was con-

vened in January, 1958. It presented a plan to the legislature which proposed changes in our present Judiciary Article. It was ignored by the legislature. So, the Pennsylvania Bar Association, under the very able leadership of William A. Schnader and other members of the bar, studied this question for several years, indeed they studied it since 1962. They formulated the present Bar Association Plan.

A year or so ago, after I had studied every judicial system, major and minor in our country, and after talking on or off the record to nearly 100 lawyers and judges and after many discussions with the committee of the Pennsylvania Bar Association with whom I frequently met for that purpose and who, incidentally, adopted at least half a dozen of my suggestions, the Pennsylvania Bar Association Committee and I agreed, with one important exception, on their proposed Judiciary Article, which I join with them in hoping you will accept. We certainly all agree that our new judiciary provisions must modernize and streamline the judiciary of Pennsylvania.

That one exception that I am interested in, and I do not need to tell you in advance how highly controversial it would be, is the composition of the judicial nomination commission. I assume you know about the bar's plan. If the bar's plan is adopted as proposed this commission, the judicial nominating commission, will be composed of seven persons, one of whom must be a judge, three of whom are to be elected members of the bar. There will be two committees, one for statewide and one for local; and three of the committee are to be laymen. I am convinced that this is a mistake. I am convinced that this commission should be composed of judges and lawyers with possibly one layman represented.

The reason for my conviction should be obvious. The new Judiciary Article as drawn by the Pennsylvania Bar Association amounts to a major surgical operation. If any of you had to have a major surgical operation, would you go into the highways and byways and ask laymen who the best surgeon would be for you, or would you not go to experts for expert advice as to the best possible surgeon for you? Such an expert judicial commission is exactly what I recommend to you, ladies and gentlemen.

May I once more repeat that our present judicial system and its administration, in spite of our wonderful judges, need improvement, streamlining and modernization so that justice will be speedier and ever more certain.

It is nice to be with you today.

CHIEF JUSTICE BELL THANKED

JUDGE WOODSIDE. Thank you, Mr. Chief Justice Bell. I am sure we all appreciate your very interesting and challenging address.

GREETINGS TO HONORED GUESTS

JUDGE WOODSIDE. We are fortunate to have here another member of the Supreme Court of Pennsylvania,

Mr. Justice Samuel Roberts, who has been over here in the corner. I was looking for him awhile ago and could not find him. Mr. Justice Roberts.

If you will excuse a little prejudice, there is no representative here for the greatest court in Pennsylvania, the Superior Court of Pennsylvania. The remark is facetious, but it is a great court.

At the present time the former President Judge of that court, Harold Ervin, has resigned and is out of the State. The next President Judge of that court, Justice J. Colvin Wright of Bedford, is recuperating from an operation which he recently underwent, and is also out of the State. Both of them were unable to be here.

This week has been set by the calendar of the Superior Court for a session in Philadelphia, one of its four sessions there. It is at the present time meeting there with five judges. Judge Watkins, the acting President Judge of the court, called me and asked me to express the regrets to this Convention that they could not be represented here today. Having been an ex-member of the court, he asked me to represent them. Judge Watkins said that he was sure that you felt, and I am sure we all do, that their responsibility is in Philadelphia at the present time, since they are in session and since there are only five of them available to sit. If there had been seven judges available to sit, I am sure that one of them would have been here to represent that court at this meeting. I am sure that all of them regret that none was able to be here.

THE HONORABLE WALTER BRAHAM PRESENTED

JUDGE WOODSIDE. Two of the greatest legal minds of this Commonwealth who have given a great deal of time and energy to constitutional revision are Bill Schnader, at one end of the Commonwealth in Philadelphia, and our own fellow delegate, Walter Braham, at the other end of the Commonwealth in New Castle, Pennsylvania. He served with distinction as a judge for a period of 20 years. He has been President of the Pennsylvania Bar Association. He has contributed much over many years—I guess since 1941, Judge, was it not—as a member of the Procedural Rules Committee. That is a very important agency of this Commonwealth in working out the rules of procedure which are to be followed in the courts of this Commonwealth. We are fortunate to have among the delegates of this Convention a man of his ability.

I present him to you at this time to introduce the next speaker, the Honorable Walter Braham.

JUDGE R. PAUL CAMPBELL PRESENTED

DELEGATE BRAHAM. Mr. Chairman, fellow delegates and guests, I fear there has been, at this point, a case of mistaken identity. I cannot somehow seem to recognize the person introduced. If I were to characterize myself, it would be in the words of a story I heard about a man who said, "I have to confess. I am not the man I used to be, in fact, I don't believe I ever was."

Now, I am to introduce a person who will represent the Common Pleas Judges of the State. When the committee undertook to find a Common Pleas Judge to represent all of the trial judges of the State, they naturally wanted to do the best they could under the circumstances. For this

reason, they have selected not one, but a composite judge. Perhaps Judge Laub would call him a "congerie of judges."

They have selected a judge of the Court of Common Pleas, a judge of the Court of Quarter Sessions of the Peace, a judge of the Court of Oyer and Terminer and General Jail Delivery and a judge of the Juvenile Court. They have added to that the circumstance that he is a President Judge and they have come up with their selection, Judge R. Paul Campbell, the President Judge of all the courts of Centre County, Pennsylvania.

It is a well-known fact, among country judges at least, that the judges who are nourished on the intellectual fodder of all these courts, civil and criminal, particularly in the bracing air of the mountains, are better and stronger judges than those who, crowded into the big cities made by the needs of specialization, are on a starchy diet of contingent remainders or compound comminuted fractures. Now if you doubt the superiority of country judges, all I suggest is you ask any country judge.

The judge who has been chosen to represent all the judges, as I have said, is Judge Campbell of the 49th Judicial District of Pennsylvania. He was admitted to the Bar in 1935; he was elected judge in 1957; he was reelected on both tickets in 1967. He is at the present time President of the Conference of Trial Judges of Pennsylvania. He is married and the father of three children, one of whom serves at his Bar.

It is with great pleasure that I introduce Judge R. Paul Campbell.

ADDRESS BY JUDGE R. PAUL CAMPBELL

JUDGE CAMPBELL. Mr. Chairman, President, Chief Justice, distinguished delegates of the Constitutional Convention and fellow members of the Bench and other distinguished guests, I have such profound respect and admiration for Judge Braham that I would not want to contradict a word he said.

There was a young married couple who found their way to the layette counter in the department store and the clerk, in order to be hospitable, walked up to the young lady and said, "Oh, are you expecting?" And she said, "Oh, no, we are sure." Some people are expecting great things to come from this Constitutional Convention, but I happen to be one of that group who is sure that you will do a great job in revising our basic law governing the Judiciary.

I know this will be true because I am exceedingly proud of the caliber of men which my district sent to this Convention; others I know personally and I am well pleased that a good end result will emerge from your deliberations.

At the risk of incurring contempt proceedings by our appellate courts and impeachment proceedings by my fellow trial judges, I am going to state a position here now that I think might be rather novel in view of what I have read in the newspapers about what you have been digesting the last week or so. My thought I would like to leave with you is this: When you revise the Judiciary Article and when that is the subject of your discussions, the best source of information might not be the Judiciary. I would say that every one of

us would start out with the premise that we want the best possible system that will put in office the best talented and most capable judge to adorn the Bench.

We judges are a peculiar lot, because we now believe that we are the best people and most qualified individuals who have ever been on the bench. So you can understand quite readily that many of us are against any changes because we are in favor of the system that puts the best judge on the bench. Impartiality, that great asset of a good judge is hard to come by when we discuss the system that placed us in office. Historically, many of the great reforms, with respect to the judiciary, took place not with the consent of the judiciary, but in spite of it.

We might better listen to the members of the Bar or the laity who have occasion to observe first hand the type of judicial system that serves our State.

When we try a case of "driving under the influence," we generally have four different types of opinion evidence, because the decision of that case rests a great deal on a man's opinion.

First of all, we have the breathalyzer; that is a scientific test. I would say that the nearest thing this Convention could come up with insofar as examining our judicial system would be to check other systems in our country, the type and caliber of judges that they produce and the effectiveness under which they operate. A study of that would be quite factual and more nearly scientific.

Then we have another type of opinion evidence, and that is given by a doctor who gives certain specific tests. Quite frankly, that is very reliable because he has one thought in mind and his attention is given to that particular thing. After he makes an investigation, he is more reliable in giving an opinion.

Then we have another group of witnesses who give their opinion in such a case and that is friends and people in the community who testify as to what a wonderful fellow this man was and how he is respected in the community.

Now I dare say that representatives who would qualify or be similar to the doctor in this case, would be the members of the Bar. They are better able, I think, in many respects to judge the effectiveness of a judge and to pick out the faults in the system with greater impartiality than we judges ourselves.

With respect to these character witnesses, these friends, the third classification, let us liken that to the laity because there are a number of people in Pennsylvania, whether we like it or not, who are going to have to vote on any change in the judiciary in that article. They have a right to be heard and have a right to express their opinion about what they like and what they dislike about our present judicial system.

Finally the last group of witnesses is the defendant himself. The defendant himself can testify as to, in his opinion, what the situation was at the time and place in question. I rather think that maybe some of us in the judiciary are quite prej-

udiced and sometimes it is hard for us to view the whole picture of the Judiciary Article with the impartiality that it should have.

Therefore, I would say to you that you should examine the best system that you know how. Sure, consult with and deliberate with those, but consider the type of information you get and, too, consider its source and its reliability when you revise the Judiciary Article.

In closing, I would like to make this brief statement of a position that I think a great many trial judges would subscribe to in Pennsylvania.

First of all, let me say to you that the Pennsylvania Conference of State Trial Judges has never taken any official position with respect to any proposals or revision of the Judiciary Article of the constitution.

Secondly, we believe that the question confronting you is not whether to improve our court system, but how to do it effectively and appropriately.

Third, we admit that our present judiciary system has faults and weaknesses and the assistance of the laity is welcomed and desired to pinpoint these faults and to make suggestions for their correction.

Fourth, in the absence of any discussion and authorized expression by the members of our conference, it would be inappropriate for us, as a group, to preliminarily take a position on any proposal for judicial reform.

Fifth, we do consider it important, however, that you understand clearly that reform of our court system and revision of the Judiciary Article has been mandated upon this Convention and that whatever voices you may hear from the Judiciary thus far in support of or in opposition to any proposal have been personal expressions, which are the prerogative of any citizen.

Lastly, we stand ready any time to discuss with you and to make suggestions regarding judicial changes in the hope that the best possible Judiciary Article may ultimately be adopted in this State.

Thank you.

JUDGE WOODSIDE. Thank you, Judge Campbell, for your remarks.

DELEGATE KAUFFMAN PRESENTED

JUDGE WOODSIDE. We have many very talented and able young men as delegates, and one of those is a lawyer, a Yale man with a Phi Beta Kappa key. I always wanted one, but was never smart enough to get one. I had to marry a girl with one in order to get one in the house.

I want to present at this time a man who has earned one himself, a good lawyer, and one of the fine young men of this Convention, Bruce W. Kauffman, to introduce our next speaker

HONORABLE ROBERT P. JOHNSON PRESENTED

DELEGATE KAUFFMAN. Thank you Judge Woodside. Mr. President, Mr. Chief Justice, Honorable Judges, Fellow Delegates and guests, it is rare indeed that a person has the opportunity to present to a body such as

this someone who not only is a distinguished and outstanding Pennsylvanian, but someone who also is a close personal friend. I am sincerely grateful to have that privilege this morning.

Robert Johnson, who is here with us to represent the minor judiciary of Pennsylvania, has served both his Commonwealth and his country well for his entire adult life. After completing his service in the United States Navy during the second World War, he graduated from St. Joseph's College, in Philadelphia. In 1954, he commenced his career as a member of the minor judiciary and has served as a member of the minor judiciary with distinction from that time to the present. He also has been President of the Montgomery County Magistrates Association and has been an officer of the State Magistrates Association.

However, that is not the extent of Bob Johnson's service to this Commonwealth. He has served with distinction for three terms in the body that meets regularly in this very chamber. Bob Johnson served for six years in the Pennsylvania House of Representatives. Thereafter, he also served with great distinction as a member of the Senate of Pennsylvania. Therefore, I am sure that you will agree that there is no one in this Commonwealth who knows more thoroughly and completely the complex problems which this Convention is going to be considering with regard to the judiciary in the next several weeks. I consider it a great honor and a personal privilege to present to you, Robert P. Johnson.

ADDRESS BY THE HONORABLE ROBERT P. JOHNSON

DELEGATE JOHNSON. President Broderick, Senator Casey, distinguished honored gentlemen of the Judiciary of Pennsylvania, Delegates of this great Convention and the honored guests, I am very flattered about the remarks of my good friend, Bruce Kauffman, from the 17th Senatorial district.

This is indeed an honor to have been asked to speak to the 163 delegates of this great Convention and to return to Harrisburg and speak in the chambers of the House of Representatives. It is a very warm and comfortable feeling having spent six years here under two great Governors.

On behalf of the members of the minor judiciary of the Commonwealth of Pennsylvania, I offer to all of you our very sincere congratulations and best wishes for a successful Convention. It has taken 100 years to get to this point and now you have 90 days to complete your task and satisfy the needs of 12 million people in our Commonwealth, truly a very difficult task.

Anyone attempting to cover this complex subject adequately in the brief time at my command is either an incurable optimist or a dreamer. My license to speak on this subject derives from the fact that I have labored in this specific vineyard for 13 years. Of the four subjects that you are to consider, the Judiciary Article, Article V, is probably the most important of the subject matters, not only sections 11 and 12, dealing with the minor judiciary, but every section of Article V. Having served eight straight years in both

Houses of the General Assembly, I am well aware of some of the inequities in the minor judiciary system. I also believe, the members of the General Assembly have tried to correct some of these inequities and, in particular, the mandatory educational requirement of every member before taking his office. This resolution was adopted by the voters at the general election last year and now should be implemented by an act of the Assembly.

The Pennsylvania minor judiciary shares with all Pennsylvanians, an interest in improving judicial administration, organization, selection and tenure. Certainly it is no secret that the electorate expects recommendations to improve the operation of the minor judiciary to come out of this Constitutional Convention.

What is really needed here is a highly defined yet uncomplicated set of standards, standards which must be met without exception, uncomplicated to a degree that permits no temporizing or tampering. The reason the Ten Commandments are so clear and short is because they were handed down direct, not through a dozen committees.

I tire of hearing statistics that support the theory that the duties of the minor judiciary can be performed by so many people. I remind you, ladies and gentlemen, statistics can be used to support anything especially statisticians. No one seeks an upgrading of personnel and standards more than the vast majority of the justices of the peace who join with you in your efforts to weed out those who are inefficient or worse. I believe the members of the minor judiciary are aware of the areas where the system needs serious review. Their jurisdiction should be increased in criminal matters as well as civil matters to help lighten the case loads of the county courts.

To quickly summarize, we respectfully submit that the present justice of the peace system should not be discarded, but rather a definite change should take place. The number, educational qualifications and remuneration of the minor judiciary be revised, and any other steps to increase its prestige.

I hear much talk about the less need for lawyers in the minor judiciary. I have nothing against lawyers per se. Like the man says, some of my best friends are lawyers. Yet, there is one quality needed in this grass roots area of the law that transcends all the law books in the land in importance, that quality is the ability to know one's fellowman. The ability to recognize what must be done to achieve substantial justice.

For those in the minor judiciary who have tried so diligently to perform their assigned duties, and there are many of them, there is comfort and hope in the words of Benjamin Franklin, "Let us persevere; through abuse and even injury the internal satisfaction of a good conscience is there always and time will do us justice in the minds of the people even of those most prejudiced against us."

Again I appreciate with all sincerity this invitation to address you and wish you success in behalf of all Pennsylvanians.

PRESENTATION OF DISTINGUISHED JURISTS

JUDGE WOODSIDE. Senator, we thank you for those remarks.

We have a number of judges who have honored us by their presence here today. We know that they could all add a great deal to our thoughts if they were called upon, but I am sure that the delegation has heard as much as they can digest at this time. I am sure that the judges who have not added to our record are not anxious to do so at the present time.

I have a special feeling toward one of those courts naturally, not only because it is the court that is in the district in which I live, but because I had the privilege of serving on it myself and because of my knowledge of the individual members of the court. I should, therefore, take the prerogative of introducing them.

First, President Judge Homer Kreider of the Dauphin County Court, Judge R. Dixon Herman of the Dauphin County Court, Judge James S. Bowman and Judge William W. Lipsitt, all from the Dauphin County Court.

I wish I could call them all by name just by looking down there, and I really should be able to do it. I am pretty much like the judge who went to the psychiatrist and said, "Doctor I am in deep trouble. I cannot remember anything any more. I cannot remember the law; I cannot remember the evidence; I cannot remember what to say to the jury. I am just in terrible shape." The doctor said, "How long has this been going on?" The judge said, "How long has what been going on?"

I have a list here of the other judges in addition to Mr. Justice Roberts, whom we introduced previously:

The Honorable Glenn Toothman of Greene County;
 The Honorable Glenn E. Mercer of McKean County;
 The Honorable Walter P. Wells of Potter County;
 The Honorable Guy A. Bowe, Jr. of Schuylkill County;
 The Honorable Hugh C. Boyle of Allegheny County;
 The Honorable William S. Rahauser;
 The Honorable Kenneth H. Koch, the President Judge of Lehigh County;
 The Honorable Martin J. Coyne, President Judge of the Orphans Court of Lehigh County;
 The Honorable Henry V. Scheire of Lehigh County;
 The Honorable Benjamin W. Schwartz of Philadelphia County;
 The Honorable Charles D. McCarthy of Allegheny County;
 The Honorable James M. Guffey of Allegheny County;
 The Honorable Samuel Strauss of Allegheny County;
 The Honorable James H. Rich of Allegheny County;
 The Honorable Leo H. McKay of Mercer County;
 The Honorable Frank J. Montemuro of Philadelphia County;
 The Honorable George W. Atkins of York County and
 The Honorable Richard E. Kohler, President Judge of the Orphans Court of York County.

GAVEL RETURNED TO PRESIDENT

JUDGE WOODSIDE. Mr. President, I return to you the gavel. Thank you very much.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRESIDENT BRODERICK. Thank you, Delegate Woodside, for your usual fine, efficient job of presiding.

I think I express the feelings of my fellow delegates when I say to the Chief Justice and the judges of all the courts, including our good friend, Bob Johnson, we appreciate your having come here today to be our guests, to give us your views, and we want to thank you. We hope you will follow our deliberations carefully, and we also hope for that miracle that when we conclude our deliberations and recommendations all of you will be happy, but we know that is next to impossible.

Thank you very much for being with us today.

I might add that if the justices, the judges and our guests would like to leave at this time, they may, but we are happy to invite them to remain while we conclude our business session.

CIVICS TEACHERS WELCOMED

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Lancaster, Delegate Forster, who would like to introduce for our members the visitors in the gallery. Proceed.

DELEGATE FORSTER. Mr. President, in the gallery today are 39 secondary school civics teachers, 37 from Lancaster County and two from York County.

PRESIDENT BRODERICK. On behalf of my fellow delegates, I want to say welcome. We are happy to have you with us today and on any future day that you may care to visit with us.

JOURNAL APPROVAL POSTPONED

PRESIDENT BRODERICK. We are still in the process of waiting for our Journals to return from the printers. Unless the chair hears an objection, I will dispense with the approval of the Journal until it arrives.

We hear no objection.

QUORUM PRESENT

PRESIDENT BRODERICK. It is apparent that a quorum is present. If there is no objection, we will dispense with the calling of the roll, we are placing the names of our delegates on the electric roll call board which is now in process.

The Chair hears no objection; therefore, we dispense with the roll call as well as the reading of the Journals.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The next order of business is leaves of absence:

The Chair now recognizes the Secretary of our Convention, Delegate Michener.

SECRETARY MICHENER. Mr. President, I want to submit the following requests for leaves of absence.

The delegate from the 5th District, **DELEGATE CAMARDELLA**, asks to be absent for three days on account of business.

The delegate from the 37th District **DELEGATE REDICK**, asks to be excused for one day on account of business.

The delegate from the 1st District, **DELEGATE RAPAPORT**, asks for leave for one-half day. He will be back this afternoon. He must appear in court.

The delegate from the 12th district, **DELEGATE SHAPIRO**, requests leave for one day.

The delegate from the 44th District, **DELEGATE MORTON**, has passed me a note asking that the Convention extend indefinitely the leave of absence of **DELEGATE BRENNAN** who is, as you know, in the hospital and may be there for some few days.

It is a very generous move on the part of Mr. Morton, and I recommend the Convention accept that.

That is the list sir.

PRESIDENT BRODERICK. Thank you.

As we have announced previously, we would appreciate it very much if all the delegates would consult the rules, because we do want to have one hundred per cent attendance and any absences should be strictly in accordance with the rules.

Are there any objections to those requests for leaves of absence? The Chair hears none, and the leaves are granted.

The Chair recognizes Delegate John Redick.

DELEGATE REDICK. Mr. President, John Redick, the 37th District. Due to conditions beyond my control, I am glad to say that I am present here this morning. Thank you.

PRESIDENT BRODERICK. In the future it will be appreciated if you will communicate with our secretary, Secretary Michener, any dates for which you request leave of absence so that we can proceed with the leaves in accordance with the rules.

COMMITTEE REPORT

PRESIDENT BRODERICK. The Committee on Administration and Finance which is chaired by Delegate Bloom and Delegate Swope met yesterday afternoon and again last night and will meet again in the same place, which is the Conference Room at the Convention headquarters on the fifth floor, Room 500, North Office Building, immediately after this session.

HOLIDAY RECESS

PRESIDENT BRODERICK. I understand from the chairmen, Chairman Bloom and Chairman Swope, that they had prepared a resolution in connection with the sessions over the Christmas holidays. A copy of that resolution, I believe, was distributed—I do not have one up here unfortunately—at the desks of each of the delegates and it has been requested by the committee chairmen to hear your reactions to that suggested resolution before it is introduced, because they are going to take the resolution back and reconsider it at the committee meeting here today. Do not hesitate to write down your suggestions and have them passed over by the page boys either to Delegate Bloom or to Delegate Swope and I think it is very important. As you know, we have much to accomplish in a short period of time, yet we want to do it with the least inconvenience to every delegate and we recognize the necessity of taking some time off at Christmas and New Year's. Would you kindly convey your reactions to this resolution to either one of the chairmen and they will then come out with either this or an amended resolution.

The members of that committee will meet in a very important meeting immediately after this session in the

Conference Room of the Convention on the fifth floor of the North Office Building.

ANNOUNCEMENT OF COMMITTEE MEETING ROOMS

PRESIDENT BRODERICK. We have finally, I will say, obtained meeting rooms which we hope will be permanent meeting rooms for each of the subcommittees.

The Chair announces the following committee meetings and their respective room numbers:

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Messrs. Bloom and Swope, Co-Chairmen, Room 500, North Office Building, Tuesday, December 12, 1967, immediately following today's session.

ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE, Messrs. Nelson and Gray, Co-Chairmen, PUC Hearing Room No. 2, Tuesday, December 12, 1967, at 3 p.m.

JUDICIARY, Messrs. Scranton and Amsterdam, Co-Chairmen, House Minority Caucus Room, Tuesday, December 12, 1967, immediately after today's session.

LEGISLATIVE APPORTIONMENT, SUBCOMMITTEE ON COMPOSITION OF LEGISLATURE, Mrs. Markley and Mr. Jirolanio Co-Chairmen, Room 609, North Office Building, Tuesday, December 12, 1967, at 3 p.m.

LEGISLATIVE APPORTIONMENT, SUBCOMMITTEE ON METHOD OF APPORTIONMENT, Messrs. Keller and Tomascik, Co-Chairmen, Room 608, North Office Building, Tuesday, December 12, 1967, at 3 p.m.

LOCAL GOVERNMENT, SUBCOMMITTEE ON ANNEXATION AND BOUNDARY CHANGES, Messrs. Westerberg and Cunningham, Co-Chairmen, Room 517 A and Room 524, North Office Building, Tuesday, December 12, 1967, at 1:30 p.m.

LOCAL GOVERNMENT, SUBCOMMITTEE ON APPORTIONMENT, Messrs. Shoemaker and Hook, Co-Chairmen, Room 509 (temporary) and Room 520, North Office Building, Tuesday, December 12, 1967, at 1:30 p.m.

LOCAL GOVERNMENT, SUBCOMMITTEE ON COUNTY GOVERNMENT, Messrs. Van Sant and Tate, Co-Chairmen, Room 523, North Office Building, Tuesday, December 12, 1967, at 1:30 p.m.

LOCAL GOVERNMENT, SUBCOMMITTEE ON HOME RULE, Messrs. Morton and Rappaport, Co-Chairmen, Room 518, North Office Building, Tuesday, December 12, 1967, at 1:30 p.m.

LOCAL GOVERNMENT, SUBCOMMITTEE ON LOCAL FINANCE, Messrs. Moorhead and Scales, Co-Chairmen, Room 517 B, North Office Building, Tuesday, December 12, 1967, at 1:30 p.m.

LOCAL GOVERNMENT, SUBCOMMITTEE ON STRUCTURE AND ORGANIZATION, Messrs. McGeary and Banes, Co-Chairmen, Room 516, North Office Building, Tuesday, December 12, 1967, at 1:30 p.m.

STYLE AND DRAFTING, Messrs. Pelletier and Johnson, Co-Chairmen, PUC Hearing Room No. 1, Tuesday, December 12, 1967, at 3:30 p.m.

TAXATION AND STATE FINANCE, SUBCOMMITTEE ON SINKING FUND, Messrs. Wilcox and Percy, Co-Chairmen, Room 610 E, North Office Building, Tuesday, December 12, 1967, at 2 p.m.

TAXATION AND STATE FINANCE, SUBCOMMITTEE ON STATE DEBT, Messrs. Hocker and Popli, Co-Chairmen, Room 610 D, North Office Building, Tuesday, December 12, 1967, at 2 p.m.

TAXATION AND STATE FINANCE, SUBCOMMITTEE ON TAXATION, Messrs. Pott and Gerber, Co-Chairmen, Room 610 C, North Office Building, Tuesday, December 12, 1967, at 2 p.m.

EVENING ENTRANCE TO NORTH OFFICE BUILDING

PRESIDENT BRODERICK. The Chair recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, I would just like to say for the benefit of those who will possibly have evening meetings in the North Office Building, Secretary Michener and I had considerable difficulty breaking into the building last night. We tried the main entrance on the south; we tried the entrance off Commonwealth Avenue and we were finally somewhat reluctantly admitted by one of the guards. Now I discover that the entrance doors on the North Street side, which is the first cross street north of this building, are kept open and there is an officer there and a book to sign. So, if there is again another rainy night, this might be useful to the delegates.

Thank you, Sir.

PRESIDENT BRODERICK. Thank you, Delegate Swope. I am now asking our executive director, John Ingram, if he will kindly make arrangements. I want you to know that you are not the only one who had trouble. When I appeared at the door, fortunately I had a state policeman with me and the man said, "Oh, you are all right; you have a state policeman with you." I recognize that you will not all have that advantage, but we will make arrangements so that you are recognized and admitted without difficulty and with expedition.

OPERATION OF COMMITTEES

PRESIDENT BRODERICK. The Chair now recognizes Delegate Gabreski.

DELEGATE GABRESKI. After consultation with the co-chairman, Mr. Leach, we determined to postpone any meeting to a later date for the reason that no matters are coming up for determination by the Rules Committee. So, with the permission of the President, we will have no meeting today.

PRESIDENT BRODERICK. If everyone is clear on the times of meetings, the President just wants to urge that we meet as frequently as possible in committees and as often as proves convenient to you with the idea in mind that we get right down to the grass roots of our problems and that we proceed as quickly as we possibly can.

Before we move to the next item of business, I would like to make a suggestion, and please consider this as just a suggestion from the Chair.

You will find in your rules on page 34 a statement in regard to the operation of committees. Subsection 8, under Committee Procedures, provides that "Not later than December 21, 1967, each committee shall file with the President, in writing, proposed dates for the completion by such committee of the steps described in Sections 1, 2 and 3 above." I will not bore you with the contents of those sections, 1, 2 and 3, but I would now like to request our

committee chairmen and urge them to make those reports as soon as you can because I think this will expedite the work of our Convention. I would like you to feel that that date, December 21, is a date that we are all anxious to meet. In other words, the sooner we get our plans in from the committees, I think the faster we can proceed. So with the cooperation of the committee chairmen, I would like you to take that up with your committees and get a report to your President as soon as possible so that we may make the announcements.

PROPOSAL RETURNED

PRESIDENT BRODERICK. The next important item of business on our agenda is the introduction of proposals.

Before the Chair recognizes Delegate Thornburgh, I would like to make an announcement in connection with the proposal which was submitted yesterday, sponsored by Delegates Stroup and Pechan.

The Chair regrets that under the rules on page 38, under "Introduction of Proposals, subsection 7," the rules provide:

"No proposal shall be accepted for introduction by the President unless:

"a. Said proposal is in accordance with the limitations set forth in Act No. 2, Session of 1967; . . ."

The Chair has obtained two legal opinions and, pursuant to those legal opinions, this proposal is being returned to the sponsors because it contains therein a provision regulating sessions of the General Assembly, providing they shall not be in excess of 150 calendar days. Pursuant to the legal opinions obtained by the Chair, and after review by the parliamentarian and pursuant to that rule, the proposal is being returned for the reason that legal opinions advise that Article II, Section 4, of the Constitution deals specifically with legislative sessions and that section of that article does not come within our authorization. Pursuant to the rules, therefore, I am returning the proposal to the delegates for resubmission at their discretion after correction in accordance with the opinions of counsel obtained. I might add that the opinions of counsel are here for review at any time by the delegates—those two in particular or any of the delegates or any of the chairmen.

PROPOSALS INTRODUCED

PRESIDENT BRODERICK. The Chair now recognizes Delegate Thornburgh.

DELEGATE THORNBURGH. Mr. President, I read in place and present to the Chair the following proposal:

No. 1000

By Delegate THORNBURGH

A PROPOSAL

Repealing article five of the Constitution of the Commonwealth of Pennsylvania relating to the Judiciary and adding new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of the Commonwealth of Pennsylvania is amended by adding after article four, a new article to read:

ARTICLE THE JUDICIARY

Section 1. Courts.—The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Superior Court, District Courts, Estates Courts, and Community Courts. Other courts may be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall consist of seven justices, one of whom shall be Chief Justice of Pennsylvania. In the absence of the Chief Justice, the members of the court senior in length of service on the court shall serve in his place.

(b) The Supreme Court shall be the highest court of the Commonwealth and shall have final appellate jurisdiction. It shall have no original jurisdiction except as may be expressly provided in this Constitution. It may assume jurisdiction of actions pending in any other court at any stage of the proceedings. It shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction. Appeals from final judgments of the District Court shall lie as of right directly to the Supreme Court only in cases of judgments imposing sentences of death or life imprisonment. In all other cases, appeals permitted by law shall be assigned by the Supreme Court to such court, including the Superior Court, as the Supreme Court shall by rule prescribe.

Section 3. Superior Court.—(a) The Superior Court shall consist of nine judges, except that the Supreme Court may from time to time assign additional judges from among the judges of the District Court or the Estates Court to temporary service upon the Superior Court as the business of the Superior Court may require. The number of judges of the Superior Court may be changed by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court. The court may act in panels of three or more judges, and shall sit at such places and times as the Supreme Court shall by rule prescribe.

(b) The Superior Court shall have no original jurisdiction. It shall exercise such appellate jurisdiction, including such review of the actions of executive or administrative offices or agencies, as may be assigned to it by rule of the Supreme Court. When no other court has been designated by rule of the Supreme Court, appeals permitted by law shall be taken to the Superior Court.

(c) One of the judges of the Superior Court shall serve as its President Judge. In the absence of the President Judge the member of the Superior Court senior in length of service on the court shall act in his place.

Section 4. District and Estates Courts.—(a) There shall be one District Court for each judicial district. Initially, the number and boundaries of the judicial districts, and the number of judges to be selected from each district, shall be as at present, but the Supreme Court shall recommend from time to time to the General Assembly, such changes in the foregoing as the Supreme Court may deem advisable. The President Judge of the District Court of each judicial district shall, under the direction of the Chief Justice or such associate justice as shall be deputized by him, supervise the court's judicial business, including the assignment of the court's judges within the district.

(b) In any district in which a separate Orphans' Court

presently exists there shall be a separate Estates Court which initially shall consist of the number of judges authorized to sit on the Orphans' Court of the district when this section becomes effective. The jurisdiction of the court shall continue to be the jurisdiction now exercised by the Orphans' Court of the district, unless modified by rule of the Supreme Court. In any other district there may be a separate Estates Court as the General Assembly may determine upon recommendation of the Supreme Court.

(c) In all districts except those containing Estates Courts, the District Courts shall have unlimited original jurisdiction in all cases except such as may be assigned exclusively to the Community Courts by rule of the Supreme Court; and in districts containing separate Estates Courts the District Courts shall have the same original jurisdiction as in other districts, except that they shall not have jurisdiction in cases over which the Estates Courts of their respective districts shall have jurisdiction.

(d) The District Courts shall have such powers of review of the actions of the Community Courts and of executive or administrative offices or agencies as may be provided by rule of the Supreme Court.

(e) The District Courts may exercise their jurisdiction through such appropriate divisions, including civil, criminal, and, except in districts in which there are separate Estates Courts, estates divisions, as the Supreme Court shall by rule prescribe. There shall be a Presiding Judge for each division which may be created in any district.

Section 5. Community Courts.—(a) All existing courts not of record are abolished and shall be superseded by Community Courts which shall be courts of such limited jurisdiction and shall exercise their jurisdiction through such appropriate divisions as the Supreme Court shall by rule prescribe.

(b) The number of judges constituting the Community Courts shall be determined for each judicial district by rule of the Supreme Court. Judges of the Community Court for each judicial district shall be selected in the same manner as the judges of the District Court of such district. The President Judge of the District Court for each judicial district shall designate the places within the district where the Community Court for that district shall sit, subject to review by the Supreme Court.

(c) The President Judge of the District Court of each judicial district shall, in accordance with rules prescribed by the Supreme Court appoint commissioners for the district to accept bail, issue warrants, or otherwise assist the judges of the Community Court of the district in the performance of their judicial duties within the district as the Supreme Court may by rule prescribe.

Section 6. Qualifications of Judges and Commissioners.—(a) Justices and judges shall be citizens of the Commonwealth. Unless in any judicial district, there are less than six qualified lawyers willing to accept appointment to fill a vacancy, judges of the District Courts, Estates Courts and Community Courts shall be residents of the judicial districts for which they shall be selected and shall reside in the districts in which they serve. All justices and judges shall be members of the bar of the Supreme Court.

(b) Commissioners shall be citizens of the Commonwealth and residents of the judicial districts for which they shall be appointed. They shall possess such additional qualifications and shall be subject to such restrictions as to activities outside their official duties, as the Supreme Court shall by rule prescribe.

Section 7. Method of Selection of Judges.—(a) Whenever a vacancy occurs by death, resignation, removal from office, expiration of a term of office, or creation of an additional judgeship, in the office of justice of the Supreme Court or of judge of the Superior Court, judge of the District Court, judge of the Estates Court, or judge of the Community Court, the Governor shall fill the vacancy by appointment from a panel of persons qualified for the office, nominated to him by a Judicial Nominating Commission established and organized as hereinafter provided.

(b) In the case of a justice of the Supreme Court or a judge of the Superior Court, the State-wide Judicial Nominating Commission shall nominate to the Governor six names. If the Governor fails within sixty days to make an appointment from the panel submitted to him, the Judicial Nominating Commission shall certify the same six names to the Chief Justice who shall promptly appoint one of the six nominees.

(c) In all other cases the appropriate Judicial Nominating Commission shall nominate to the Governor the names of three persons qualified for the office and residing within the judicial district in which the vacancy exists unless there are within the district less than six lawyers qualified for the office who are willing to accept appointment in which case the Judicial Nominating Commission shall nominate to the Governor three lawyers qualified for the office regardless of their residence. If none of the persons so nominated is acceptable to the Governor, he shall so notify the Judicial Nominating Commission within sixty days of his receipt of the nominations. Upon receipt of such notification, or upon expiration of such sixty-day period without such notification if no appointment has been made, the Judicial Nominating Commission shall nominate a second panel of three other persons. If none of the persons nominated in either panel is appointed by the Governor within thirty days of his receipt of the nominations in the second panel, the appointment shall be made by the Chief Justice from among the persons nominated in either panel as certified to him by the Judicial Nominating Commission.

(d) Each justice or judge appointed in the manner prescribed by subsection (a) of this section shall hold office for a term ending the first Monday of January following the next municipal election day more than twenty-four months following his appointment. Not less than one hundred twenty days before the expiration of the term of office of a justice or a judge appointed by the Governor or by the Chief Justice or not less than one hundred twenty days before the expiration of the term of office of an elected justice or judge entitled to succeed himself, the justice or judge may file in the office of the official in charge of State-wide elections, a declaration of candidacy for retention to succeed himself. If he does not file such declaration, a vacancy shall exist at the end of his term to be filled by appointment by the Governor or the Chief Justice as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on separate judicial ballots or in a separate column on voting machines, in either case without party designation, at the municipal election immediately preceding the expiration of his term of office, to determine only the question whether he shall be retained in office. If a majority of the votes cast are against retaining the justice or judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment by the Governor or the Chief Justice

as herein provided. If a majority of the votes cast are in favor of retaining a justice or a judge, he shall serve for the full term of office provided herein, unless sooner removed. At the expiration of each term any justice or judge shall be eligible for retention in office in the manner provided herein, subject only to the retirement laws then in force.

Section 8. Judicial Nominating Commissions.—(a) There shall be a single State-wide Judicial Nominating Commission for the Supreme and the Superior Courts, and separate Judicial Nominating Commissions for each judicial district. Each such commission shall be composed of one justice or judge, three members of the bar selected by the members of the bar and three lay citizens. The justice or judge and the members of the bar on each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens on each Judicial Nominating Commission shall be appointed by the Governor. Members of the Judicial Nominating Commission for the Supreme and the Superior Courts shall be chosen from the Commonwealth at large, and members of the Judicial Nominating Commission for a judicial district shall be chosen from that district except that the justice or judge may be chosen from outside the district.

(b) The members of each Judicial Nominating Commission shall serve for terms of three years, staggered except in the case of the justice or judge on the commission, so that two members, one selected by the bar and the other appointed by the Governor, shall be selected each year. Of the first members selected following the effective date of this section, two members, one selected by the bar and one appointed by the Governor, shall be selected for one-year terms and two other members selected by the bar and by the Governor respectively, shall be selected for two-year terms. Vacancies in the membership of any Judicial Nominating Commission shall be filled for the balance of the term by the same appointing power as appointed the member whose place has become vacant. No member of a Judicial Nominating Commission shall serve for more than two successive three-year terms on that commission, but he may be reappointed or re-elected after a lapse of one year. The members of each commission shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. Each commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization, nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Section 9. Appointments by the Governor and by the Chief Justice.—The Governor and the Chief Justice shall have full responsibility for all appointments made by them, respectively under this article. They shall make appointments solely on the basis of merit regardless of the political affiliations of the appointees. The Governor's and Chief Justice's appointments under this article shall not require the consent of the Senate.

Section 10. Tenure of Judges; Method of Selection of Chief Justices, President Judges and Presiding Judges.—

(a) When the qualified electors of the State-at-large or of the appropriate judicial district have voted to retain them, justices of the Supreme Court, and judges of the Superior Court, of the District Courts and of the Estates Courts shall serve for terms of ten years, and judges of the Community Courts shall serve for terms of not more than ten years as the General Assembly shall from time to time prescribe. The tenure of any judge shall not be affected by changes in judicial districts or by the reduction of the number of judges.

(b) The Chief Justice of Pennsylvania shall be elected for a term of five years by the State-wide Judicial Nominating Commission and shall always be eligible for re-election. A member of the court may resign the office of Chief Justice without resigning from the court.

(c) The President Judge of the Superior Court, and the President Judge of the District Court, and the President Judge of the Estates Court, if any, for each judicial district, shall be appointed by the Chief Justice of Pennsylvania and shall serve in such capacity at his pleasure.

(d) The President Judge of the Community Court for each judicial district and the Presiding Judge of any divisions of the District Court shall be appointed by the President Judge of the District Court for the district and shall serve at his pleasure.

Section 11. Compensation and Retirement of Judges.—

(a) Justices and judges shall receive compensation paid by the Commonwealth as prescribed by law, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of this Commonwealth.

(b) Justices and judges shall be retired at such age, not less than seventy-two years for justices of the Supreme Court and judges of the Superior Court, and not less than seventy years for all other judges, as shall be provided by the General Assembly. Notwithstanding the expiration of the term for which a justice or a judge was last elected, his retirement, resignation or removal from office for physical or mental disability, he shall receive such compensation as shall be prescribed by the General Assembly. A former judge may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

Section 12. Removal, Discipline and Compulsory Retirement of Judges.—(a) There shall be a Judicial Qualifications Commission to be composed of two judges of the Superior Court, and three judges of the District Courts from different Judicial Districts, to be selected by the Supreme Court; two members of the bar to be selected by the members of the bar; and two lay citizens to be selected by the Governor. The judges and the members of the bar shall be selected in the manner and in accordance with rules prescribed by the Supreme Court.

The members of the Judicial Qualifications Commission shall serve for terms of four years, the selection of the first members following the effective date of this section to be staggered as follows: one judge of the Superior Court, one member of the bar, and one lay member shall be selected for two-year terms, and one judge of the Superior Court, one member of the bar, and one lay member shall be selected for four-year terms; one judge of the District Court shall be selected for a term of two years, one for a term of three years, and one for a term of four years. A vacancy in the membership of the Commission shall be filled for the balance of the term by the same appointing power

as selected the member whose place has become vacant. No member of the Commission shall serve for more than one full four-year term on the Commission, but he may be reappointed or re-elected after a lapse of one year. The members of the Commission shall elect one member to serve as Chairman for a term of one year. The Commission shall act only with the concurrence of a majority of all its members.

During the terms of office for which members of the Judicial Qualifications Commission have been chosen, they shall not hold any office in a political party or organization nor, except for the members who are judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the Commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In accordance with the procedure prescribed in subsection (c) of this section, any justice or judge may be removed from office or otherwise disciplined for misconduct in office, neglect of duty, failure to perform his duties, violation of any canon of legal or judicial ethics adopted by the Supreme Court, or other conduct which prejudices the proper administration of justice; and any justice or judge may be retired for disability seriously interfering with the performance of his duties, which is, or is likely.

(c) The Judicial Qualifications Commission shall keep itself as fully informed as may be of facts and circumstances relating to justices or judges, insofar as the same may bear upon any of the grounds, for removal, discipline, or compulsory retirement; shall receive complaints or reports, formal or informal, from any source pertaining to such matters and shall make such preliminary investigations as it may determine.

The Judicial Qualifications Commission may, after such investigation as it deems necessary, order a hearing to be held before it concerning the removal, discipline or compulsory retirement of a justice or a judge, or the Commission may in its discretion request the Supreme Court to appoint three special masters, who shall be justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the Commission. The Commission's orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court of Dauphin County.

If, after hearing or after considering the record and report of the masters, the Commission finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline, or compulsory retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline, or compulsory retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for compulsory retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired under section 11 (b) of this article. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the Judicial Qualifications Commission or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of

papers with and the giving of testimony before the Commission or the masters shall be privileged; provided that, upon being filed by the Commission in the Supreme Court, the record loses its confidential character.

The Supreme Court shall by rule provide for procedure under this section before the Judicial Qualifications Commission, the masters, and the Supreme Court.

No justice or judge shall sit as a member of the Commission or the Supreme Court in any proceedings involving his own removal, discipline, or compulsory retirement.

(d) Any justice or judge who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the bar of the Supreme Court, shall automatically forfeit his judicial office.

(e) This section is alternative to and cumulative with the provisions for impeachment for misbehavior in office contained in Article VI, sections 4, 5 and 6. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

Section 13 Nonjudicial Duties and Prohibited Activities.—(a) No duties, other than judicial duties, shall be imposed by law upon any court or upon any of the justices or judges thereof, nor shall any power of appointment be conferred upon any court or upon any justice or judge thereof except such as relates to the exercise of the judicial power of this Commonwealth or the administration of the courts as provided in this article.

(b) No justice or judge shall directly or indirectly make any contribution to or hold any office in a political party or organization, nor while retaining judicial office shall he become a candidate at either a primary or general election for any office other than a judicial office, except that any justice or judge may contribute to the political campaign of a member of his family.

(c) No justice or judge shall practice law or engage in any other employment for compensation, except that he may receive compensation as a lecturer, teacher or author, as an officer of a nonprofit professional organization, as a fiduciary of the estate of a member of his family, and as a member of the National Guard or a reserve component of the Armed Forces of the United States while on inactive duty.

Section 14. Administration of Courts.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts of this Commonwealth, including the temporary assignment of judges from one court or district to another, but in judicial districts containing populations in excess of five hundred thousand a judge of the District Court or of the Estates Court or of the Community Court shall not be assigned to a district other than his own without the consent of the President Judge of his court. The powers of administration vested in the Supreme Court shall be exercised by the Chief Justice, or by an associate justice deputized by him, in accordance with rules prescribed by the Supreme Court. The Chief Justice shall appoint an administrative director and staff, who shall assist the Chief Justice or the associate justice deputized by him, in supervising the administrative operations of the judicial system and shall serve at his pleasure.

(b) The Supreme Court shall have power to prescribe rules in all civil and criminal actions and proceedings for all courts, governing administration, practice and procedure, including rules of evidence, appeals, appellate juris-

diction including time for appeals, and the issuance of all writs necessary or appropriate in aid of the jurisdiction of the respective courts. These rules shall have the force and effect of law and shall suspend all statutes inconsistent therewith.

Section 15. Clerks of Court, Court Personnel.—(a) There shall be such Clerks of Court and such other nonjudicial personnel as shall be necessary for the effective performance of the judicial work of the Commonwealth. The clerks of the District Courts, of the Estates Courts, and of the Community Courts, their assistants and other nonjudicial court officers within each judicial district shall be appointed by the judges of the respective courts of that district, until such time as the Supreme Court shall otherwise provide in accordance with rules prescribed by it.

(b) The Supreme Court may prescribe a merit system for appointment, promotion, removal, discipline, and suspension of nonjudicial personnel in the judicial system and may provide for exempt categories. The Supreme Court may administer the merit system through an administrative director, or may provide for its administration by other appropriate agencies of the Commonwealth or its political subdivisions, who shall be required to render necessary assistance to the court.

Section 16 Judicial Council.—(a) The Supreme Court shall establish a Judicial Council consisting of such number of members and selected in such manner as the Supreme Court may by rule prescribe.

(b) The Judicial Council shall conduct studies for improvement of the administration of justice and for law reform, and shall make reports and recommendations to the Supreme Court and to the General Assembly at intervals of not more than two years. The Judicial Council shall perform such other duties as may be prescribed in this article or assigned to it by rule of the Supreme Court.

Section 17. Implementation of this Article.—The General Assembly shall enact all laws which may be necessary to implement the provisions of this article.

SCHEDULE

That no inconvenience may arise from changes in the Judiciary article of the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared that:

1. This Judiciary article, except as otherwise provided herein, shall become effective on the thirty-first day of July of the year next succeeding its adoption; and the tenure of the Chief Justice and of justices of the Supreme Court and of judges of the Superior Court then in office shall not be affected by this article. Subject to the provisions of the retirement acts then in effect, judges of both courts shall be eligible for re-election in the manner provided in section 7 (d).

2. The provisions of section 10, subsection (b) relating to the election of the Chief Justice by the State-wide Judicial Nominating Commission shall become effective upon the expiration of the term, or the death, resignation or removal of the last justice of the Supreme Court in office on July 31, 1968.

3. The Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, the County Court of Philadelphia, the County Court of Allegheny County, the Juvenile Court of Allegheny County, the Court of Common Pleas of every judicial district are abolished, and their

jurisdiction and powers shall be exercised by the District Courts provided by this article. The tenure of judges of the abolished courts shall not be affected by the abolition of the same, and the judges thereof are hereby constituted for the remainder of their respective terms as judges of the District Court or in counties having separate Orphans' Courts, judges of the Estates Court, as the case may be, in their present respective judicial districts and shall be eligible for re-election as judges thereof in the manner provided by section 7 (d) or section 7 (e) as may be appropriate.

4 The Magistrates' Courts in Philadelphia County and the Aldermen's and Justices of the Peace Courts in other counties, the Traffic Court of the City of Pittsburgh, the Police Magistrates of the City of Pittsburgh, and the Traffic Court of the City of Philadelphia are abolished on the effective date of this article and the terms of office of the incumbent judges thereof shall then terminate. Subsequently the jurisdiction and powers of the aforesaid courts shall be exercised by the Community Courts until otherwise provided by rule of the Supreme Court of Pennsylvania.

5. The Board of Claims and the Board of Arbitration of Claims shall continue to exercise the jurisdiction now provided by law until otherwise provided by the General Assembly but shall not be deemed courts forming part of the judicial system created by this article.

6. (a) The offices of Clerk of the Court of Quarter Sessions of the Peace, of Oyer and Terminer, and of Clerk of the Orphans' Court, and the office of Prothonotary are abolished.

(b) The present Prothonotaries of the Common Pleas Court shall become clerks of the District Court within their respective districts for the balance of their terms, subject to the provisions of this article.

(c) The presently elected Clerks of the Courts of Quarter Sessions and of Oyer and Terminer shall become deputy clerks of the District Courts within their respective districts for the balance of their terms, subject to the provisions of this article.

7. (a) All causes and proceedings pending in the courts of record not continued by this article, except those pending before the Board of Claims and the Board of Arbitration of Claims, shall be transferred to the District Court, or, when appropriate, to the Estates Court, which shall have authority to dispose of all actions so transferred or to enforce any judgment, order, sentence, or decree henceforth or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdiction of the transferee court and been commenced herein. All dockets, books, records, documents, or other papers in the possession of the clerks of the courts of record whose existence is not continued shall be transferred to the clerks of the District Courts or, when appropriate, of the Estates Court.

(b) All matters pending before the Courts of Justices of the Peace, Aldermen and Magistrates, the Traffic Courts of the Cities of Philadelphia and Pittsburgh and the Police Court of the City of Pittsburgh shall be transferred to the Community Courts, which shall have the authority to dispose of all transferred actions or to enforce any judgment, order or sentence heretofore entered or imposed.

All books, records, documents and papers in the possession of any of those courts shall also be transferred to the Community Court of the appropriate judicial district.

Section 2. Article five of the Constitution of the Commonwealth of Pennsylvania is hereby repealed effective the thirty-first day of July of the year next succeeding the adoption of the foregoing article, except that as much of section 2 as provides for the succession of chief justices according to the priority of their commissioners shall not be repealed until the expiration of the term or the death, resignation, retirement or removal of the last justice of the Supreme Court in office on July 31, 1968

Referred to Committee on Judiciary.

PRESIDENT BRODERICK The Chair recognizes Delegate Thornburgh.

DELEGATE THORNBURGH. Mr. President, I think the proposal which I have submitted is particularly appropriate for this day when we have heard from members of the Judiciary at all levels of the need for reform in our judiciary system. The proposal embodies the recommendations of the Pennsylvania Bar Association, which has been working on the problem of reform of the Judiciary for a great many years and has directed its efforts toward producing for Pennsylvania an efficient and modern judicial system.

I think one word of explanation is in order with respect to the proposal which has been submitted this morning and that is this: It is evident from my conversations with various delegates as well as the speeches and addresses we heard from the platform this morning that this is going to be a very controversial area, that persons will disagree with some of the proposals made by the Bar Association. I am frank to say that I have some misgivings myself about some of the material contained in this proposal which I myself have submitted this morning. On the other hand, I think it is vitally important that this Convention have the advantage of the time and energy, as well as the wisdom, that have gone into the preparation of these proposals over a period of time by the Bar Association. By this I do not mean to apologize in any way for the work product which has resulted from the efforts of the various Bar Association committees.

I have been privileged to serve on the Board of Governors of the Bar Association; I am a present member of the House of Delegates of the Bar Association; I myself have been involved in its Project Constitution since its inception, and I am very proud to be associated with a venture that has produced what I think is certainly a workable system for the reform of the Judiciary in our Commonwealth. I might say the only misgiving I have is that, as a member of the Judiciary Committee of this Convention, the introduction of this proposal means that this committee must get down to work and have some grist for its mill right away.

I think that the proposal introduced will provide a sound basis for consideration by this entire Convention of the problems of providing this Commonwealth with a modern and efficient judicial system.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Thornburgh.

The Chair recognizes the delegate from the 23rd Senatorial District, Delegate Wilcox.

DELEGATE WILCOX Mr. President, I read in place

and present to the Chair the following proposal sponsored by myself and Mrs. Himes.

A written statement will be submitted to support this later.

No. 1001

By Delegates WILCOX and HIMES

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania providing for advisory referenda in local governmental units.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE LOCAL REFERENDA

Section 1. Local Referenda. The General Assembly shall by general law provide a system for taking advisory referenda in local governmental units.

Referred to Committee on Local Government.

DELEGATE WILCOX presented the following statement for the Convention Journal:

This is a statement on Proposal No. 1001 to the Local Government Committee from Delegates Wilcox and Himes.

The purpose of this proposal is two-fold. First it is intended to remove any question as to the constitutionality of submitting certain desired referenda to the voters. Secondly it is intended to assure, not only that the legislature is authorized to provide a local government referendum but also that the legislature shall provide the machinery necessary to accomplish this.

Many local government units including boroughs, townships and cities have, from time to time, desired to obtain the voice of the voting public on certain issues but there has been no formal authority for this to be done. Therefore, when a question such as fluoridation, or the question of construction of a municipal hall or the city parking building, et cetera, has arisen, there is legally no way in which a city council or township supervisors or borough councilmen can obtain an expression from the public by vote. A vocal minority, militant in its opposition or support of a certain proposal, usually makes itself heard before local governing bodies. Frequently the great majority of the public remains unheard.

This proposal is in no way intended to require a local governing unit to seek a referendum but instead it is designed to guarantee that such a question may be put to the people if its representatives so desire.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from the 44th Senatorial District, Delegate Otto.

DELEGATE OTTO. Mr. President, I read in place and present to the Chair the following proposal:

No. 1002

By Delegates OTTO, THOMSON and DUMBAULD

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania providing for the incorporation of cities, boroughs, towns and townships and optional plans and home rule.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS.

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE CITIES, BOROUGH, TOWNS AND TOWNSHIPS

Section 1. Incorporation, Optional Plans; Home Rule.—(a) The General Assembly shall provide by general law for the incorporation and government of cities, boroughs, towns and townships and the methods by which, with the consent of the electors of the political subdivisions involved, municipal boundaries may be altered and municipalities may be consolidated or dissolved.

(b) It may provide optional plans of municipal organization and government which may be adopted or repealed by majority vote of the qualified electors of the city, borough, town or township voting thereon.

(c) Cities or cities of any class and boroughs, towns and townships may be given the right and power to adopt, amend or repeal their own home rule charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations and regulations as may be imposed by the General Assembly.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 44th Senatorial District, Delegate Otto.

DELEGATE OTTO. The proposal has been signed by myself, Delegate Thomson and Delegate Dumbauld.

It deals with broadening the Constitution so that all forms of government, cities, boroughs, towns and townships should have available to them a charter form of government if they so desire.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 44th Senatorial District, Delegate Morton.

DELEGATE MORTON. I read in place and present to the Chair the following proposal:

No. 1003

By Delegate MORTON

A PROPOSAL

Making changes relating to Legislative Apportionment.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen, seventeen and eighteen of article two of the Constitution of the Commonwealth of Pennsylvania are amended to read:

Section 16. Senatorial Districts; Ratio.—The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as [may

be] practical, and each district shall be entitled to elect one Senator [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No] Unless division shall be absolutely necessary, no ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number of fifty.

Section 17. [The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] Representative Districts; Ratio.—Each senatorial district shall be divided into four representative districts of compact and contiguous territory as nearly equal in population as practical, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no ward, borough or township shall be divided in the formation of a representative district. The representative ratio shall be ascertained by dividing the whole population of the State by the number two hundred.

Section 18. [The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.] Legislative Apportionment. — (a) Immediately following each decennial United States census, a commission, consisting of the Lieutenant Governor, who shall be chairman, and the Majority and Minority Leader of the Senate and of the House of Representatives, shall prepare a report for redistricting the State and submit it to the General Assembly within ninety days after certification of the United States decennial census. Within six months of said certification, the General Assembly shall reapportion itself or accept the report of the commission, and if it fails to do either, the report of the commission shall have the force of law.

(b) If the commission or General Assembly fail to reapportion as provided herein, the Supreme Court shall apportion the Commonwealth into senatorial and repre-

sentative districts and for that purpose the Supreme Court shall have original jurisdiction. To assist the court in performing this extraordinary task, the court shall appoint and fix the compensation of the master or a board of masters for the purpose of taking testimony and making recommendations to the court. The court shall conclude its work as expeditiously as possible and shall file the reapportionments in the office of the Secretary of the Commonwealth. The reapportionments made by the court shall have the force of law.

(c) Any apportionment made by the General Assembly under section 18, clause (a) shall be reviewable on appeal exclusively by the Supreme Court of Pennsylvania. Any such apportionment shall become effective when the Supreme Court has finally decided the appeal or when the last day for taking an appeal has passed and no appeal has been taken.

(d) Any apportionment made by the Supreme Court under section 18, clause (b) shall become effective immediately.

Referred to Committee on Legislative Apportionment

PRESIDENT BRODERICK The Chair recognizes Delegate Otto from Allegheny.

Mr. OTTO. Mr. President, I read in place and present to the Chair the following proposals:

No. 1004

By Delegates OTTO and DUMBAULD

A PROPOSAL

Amending article two of the Constitution of Pennsylvania providing for apportionment of legislative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen and seventeen of article two of the Constitution of Pennsylvania, are amended to read:

Section 16. The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.] Each senatorial district shall be coterminous with two House of Representative districts.

Section 17. [The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by

two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] The State shall be divided into one hundred House of Representative districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one representative. No district shall include the territory of more than one senatorial district.

Referred to Committee on Legislative Apportionment.

No. 1005

By Delegates DUMBAULD, OTTO and HUGGINS

A PROPOSAL

Amending article two of the Constitution of Pennsylvania providing for apportionment of legislative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen and seventeen of article two of the Constitution of Pennsylvania, are amended to read:

Section 16. The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.] Each senatorial district

shall be coterminous with three House of Representative districts.

Section 17. [The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] The State shall be divided into one hundred fifty House of Representative districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one representative. No district shall include the territory of more than one senatorial district.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, the two proposals deal with reapportionment and contain provisions that the Senate would remain at 50 and the other proposal calls for reorganization of the House down to 100 members.

The second proposal is 50 in the Senate and 150 in the House.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Otto.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate King for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE KING. Mr. President, I move that this Convention do now adjourn until Wednesday, December 13, 1967, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate King and seconded by Delegate Amsterdam that this Convention do now adjourn until Wednesday, December 13, 1967, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 11:38 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Wednesday, December 13, 1967

Number 8

The Convention was called to order at 9:30 a.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

PRESIDENT BRODERICK. Today's meeting will be opened with prayer by the Reverend Robert Hostetter, Pastor of Covenant Presbyterian Church, Harrisburg, Pennsylvania.

THE REVEREND ROBERT HOSTETTER offered the following prayer:

Let us pray.

O God of endless wisdom and constant love, prevent this prayer from becoming a mere ritual that means nothing to us and thereby means nothing to You, either.

As we gather together again to perform this great task before us, help us to realize that Your work must surely be our own. Help, O wonderful God, the ladies and gentlemen of this Convention to catch a glimpse of genuine opportunity, a sense of vision and a spirit of creativity that will enable them to use the law and structure which they write to provide and sustain the freedom and dignity of every man, woman and child of this Commonwealth. Help these elected ones, O God, to create a document that reaffirms the inalienable right of every citizen to the pursuit of life, liberty and individual happiness.

If there be a lack of understanding which would cause a limitation of freedom, move to prevent this, O God. If there be a lack of commitment which would cause a limitation of creative spirit, move to prevent such an untimely shortcoming.

We ask You to lead this Convention, Our Heavenly Father, toward a participation in greatness, thereby granting unto all those people whose lives it will affect a renewed measure of trust and respect for their government, their leaders and those elected into positions of decision.

On this day, O God of Love, draw near to all of the families and loved ones who are serving here, sustain them throughout this important period. May all that is done here, O God, be in some small but yet most significant way a real participation on the part of human endeavor in the fulfillment of Your loving Will.

Hear us as we pray this day, dear God, and grant unto us trust, trust that You will not only hear our prayer but answer it. Amen.

PRESIDENT BRODERICK. Thank you, Reverend Hostetter.

APPROVAL OF JOURNAL POSTPONED

PRESIDENT BRODERICK. If there are no objections, the Chair will dispense with the approval of the Journal until it is printed.

The Chair hears none.

QUORUM PRESENT

PRESIDENT BRODERICK. It is apparent that a quorum is present this morning. If there is no objection, we will dispense with the calling of the roll pending the completion of the hook-up of the electric roll call board.

The Chair hears no objection.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair now recognizes the Secretary of the Convention for the purpose of leaves of absence.

SECRETARY MICHENER. Mr. President, I submit the following requests for leaves of absence:

From the 32nd District, DELEGATE WARMAN, one day because of a briefing at the State Department in Washington;

From the 33rd District, DELEGATE GOUGER, one day for the same reason;

From the 3rd District, DELEGATE HOCKER, one day to attend a meeting of government officials in Cleveland;

From the 17th District, DELEGATE GERBER, one day because he is required to be in court;

From the 3rd District, DELEGATE QUILES, one day for business reasons.

Mr. President, it is my pleasure to point out that DELEGATE BRENNAN, of the 44th District, whom we excused indefinitely has received good news and is now back in his seat.

PRESIDENT BRODERICK. Is there any objection to the requests for leaves of absence just announced?

The Chair hears none and the leaves are granted.

The Chair asks that delegates requesting leaves of absence give the dates requested to the Secretary so that, instead of requesting "one day," we will know which day it is and it can be so noted in the Journal.

COMMITTEE REPORTS

PRESIDENT BRODERICK. Our next order of business is reports from committees.

COMMITTEE ON ADMINISTRATION AND FINANCE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Dauphin, Delegate Swope, who will give

a report from the Committee on Administration and Finance.

DELEGATE SWOPE. I am going to report upon the preparation of the budget and present it. My question is being answered now. I see the budget is being distributed to the delegates.

PRESIDENT BRODERICK. Would you like to withhold the presentation of your report until we complete the distribution of that budget? We were a little slow getting started on that.

DELEGATE SWOPE. Mr. President, if that could be done while you proceed with something else, I think it would be extremely useful to the delegates.

PRESIDENT BRODERICK. Thank you, sir. If you will yield, we will now recognize Delegate Bloom, who is co-chairman of the Committee on Administration and Finance, and I think he has a report.

DELEGATE BLOOM. Mr. President, I would like to report what we have done in connection with the rooms and also stenographers and researchers. You will find on your desks, if they have already distributed the same, a list of the rooms in which you are to meet. You will note by the memorandum distributed that there are certain rooms we are not sure you will be able to occupy. I wish you would keep in touch with John W. Ingram, our director, Mr. Swope and myself. We both have desks in Room No. 500 in the North Office Building. We will be more than glad to help you in the event you have trouble in getting the rooms we have designated on this memorandum.

We are doing everything we can to give you the machinery so that you can operate and get down to real business in order to meet the timetable set for us in the rules. We are willing to cooperate in every respect. If you call upon us or Mr. Ingram, we will be more than glad to help you so that you get down to real work.

That is my report.

PRESIDENT BRODERICK. Thank you for that report, Delegate Bloom.

The Chair is pleased to state that this committee has done an excellent job in assigning space. We have worked under a difficulty that was not exactly foreseen and that is the fact that the legislature is now in session, but we intend to overcome all the difficulties as we encounter them, and I think we have overcome that one. Of course, when the legislature is not in session we shall have additional space available to us.

PRESIDENT BRODERICK. In accordance with our procedure we will ask the chairmen of the various committees to advise the body and the Chair of their assignments of proposals to subcommittees.

Proposal No. 1000, which was introduced by Delegate Thornburgh, was referred yesterday to the Judiciary Committee.

The Chair asks if the chairmen of the Judiciary Committee have assigned the proposal to a subcommittee, and, if so, will they kindly report on it to the body.

DELEGATE SCRANTON. Mr. President, the Judiciary Committee, since this particular proposal goes across all of our subcommittees, is having copies made of it and referring it to every one of the subcommittees—all five of them, sir.

PRESIDENT BRODERICK. For action on the sections of it that pertain to each of the subcommittees?

DELEGATE SCRANTON. That is correct.

PRESIDENT BRODERICK. For the information of the Judiciary Committee, that proposal is in print and should be on your desks. I might add that I am advised the other proposals are in print and have been distributed, so that you should have those on your desks.

REPORT ON BUDGET

PRESIDENT BRODERICK. The Chair now recognizes Delegate Swope, Co-Chairman of the Committee on Administration and Finance, for his report.

DELEGATE SWOPE. Mr. President and fellow delegates, my Co-Chairman, Delegate Bloom, asked me to present the proposed budget, I think, because of the fact that I have made my living part of the time at least by being a pencil pusher.

I take great pleasure at this time, Mr. President, in presenting to the Constitutional Convention a recommended budget prepared by the Preparatory Committee, scrutinized and financed by the State Legislature and studied and approved by your Administration and Finance Committee.

You delegates have before you a copy of the budget, which has reached you only after the greatest consideration and attention by many persons. It reflects considerable deliberation. In the beginning, the Preparatory Committee relied heavily on the experience of other States which have had Constitutional Conventions or are now having Constitutional Conventions.

It also called upon the State Legislature for advice and guidance in establishing the operations which are necessary to conduct a Constitutional Convention. We are engaged in what might be considered a relatively unique enterprise. This kind of deliberative body is not called very often. In fact, as you all know, it is the first time in 94 years in our Commonwealth that such a body has been called into being. Thus there is little precedent to simplify the task. Yet the membership of our committee feels, after close examination of the budget which it received, that it is the budget necessary to conduct this Convention effectively and efficiently.

The budget is thoughtfully and carefully conceived, and I believe I can say in all candor that it reflects the dedicated work on the part of the Preparatory Committee. It is yet another of the noteworthy contributions of that dedicated body of men and women.

When it reached the Administration and Finance Committee, it was ably presented and explained by our President, who served as Chairman of the Preparatory Committee, the Honorable Raymond J. Broderick, and by the Executive Director, Mr. John W. Ingram.

We believe it is as sound a budget as can be developed by the Constitutional Convention. The manner in which it was devised is certainly sound, blending experience, concern and foresight. The care with which it was nurtured and shepherded through the Preparatory Committee and the legislature, then through the Administration and Finance Committee, reflects a continued sound approach.

As you open the budget and study it, you will find a breakdown of the major accounts, then a detailed outline explaining what is involved in each account.

Tables are included showing the funds which will be appropriated for various purposes. An organizational chart illustrates the general alignment of the administration.

tive staff of the Convention, under the overall direction of our President.

You will find a complete listing of the positions to be utilized in the administration and operation of the Convention, their rates of compensation and the number of months for which their services will be required.

I particularly call your attention to the proposal that more than half of the administrative staff of 237 people would be drawn from the legislature if approved as proposed. The Finance and Administration Committee strongly recommends it be approved for three main reasons.

First, it would make immediately available to the Convention an adequate number of skilled persons in the positions it is necessary for the Convention to fill. It would be extremely difficult to recruit such people with specialized skills, for a temporary period, from an extremely tight labor market.

Second, highly experienced staff people can fill positions for the Convention without going through the normally lengthy training period. These persons already are prepared to handle duties and responsibilities very similar to the legislative posts they now hold.

Third, and not least, it would result in very considerable savings, as the budget summary shows. These savings would amount to \$118,000, or roughly 25 per cent of the entire budget for the staff. Except for a small number of executive positions, these legislative employees will be working for the Convention at the rate of one-half of their normal legislative pay for the same period, permitting these significant savings.

The Preparatory Committee and the Convention's Committee on Administration and Finance agree that these legislative employees should be utilized as recommended.

The total amount of the budget is not the major area of decision, since the legislature already has appropriated the total figure. Your decision should be based upon a judgment of the facts as I have related to you, and the additional facts available in the document before you.

It is the carefully considered opinion of the Administration and Finance Committee, unanimously arrived at, that these facts call for adoption of this budget as submitted to you.

Therefore, Mr. President, I move for the adoption of this budget.

DELEGATE BRODERICK. The motion has been seconded by Delegate Cain.

It has been moved by Delegate Swope and seconded by Delegate Cain that the report of the Committee on Administration and Finance in connection with the budget be adopted.

On the question,

Will the delegates adopt the report?

It was unanimously adopted.

PROPOSALS PRESENTED

PRESIDENT BRODERICK. The next order of business is the introduction of proposals. Any delegate who has a proposal, please state his name when presenting his proposal.

DELEGATE BUCK. Herman Buck, 32nd District.

Mr. President, I read in place and present to the Chair the following proposal:

No. 1006

By Delegate BUCK

A PROPOSAL

Making changes relating to Legislative Apportionment.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen, seventeen and eighteen of article two of the Constitution of the Commonwealth of Pennsylvania are amended to read:

Section 16 **Senatorial Districts; Ratio.**—The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No] Unless division shall be absolutely necessary, no ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

Section 17 [The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] **Representative Districts; Ratio.**—The State shall be divided into two hundred ten representative districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no ward, borough or township shall be divided in the formation of a representative district. The representative ratio shall be ascertained by dividing the whole population of the State by the number two hundred ten.

Section 18. [The General Assembly at its first session

after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.] Legislative Apportionment.—(a) Before the close of each regular session of the General Assembly of which the officially certified figures of the United States census first are available, the General Assembly shall apportion the Commonwealth into senatorial and representative districts. If the General Assembly fails to do so, the Governor shall immediately after final adjournment call the General Assembly into special session for the sole purpose of making the apportionments.

(b) If the special session fails within one hundred twenty days to complete its work, upon petition of the Attorney General, the Supreme Court shall apportion the Commonwealth into senatorial and representative districts and for that purpose the Supreme Court shall have original jurisdiction. To assist the court in performing this extraordinary task, the court shall appoint and fix the compensation of a master or a board of masters for the purpose of taking testimony and making recommendations to the court. The court shall conclude its work as expeditiously as possible and shall file the reapportionments in the same office in which acts of the General Assembly are filed. The reapportionments made by the court shall have the force of law.

(c) Any apportionment made by the General Assembly under section 18, clause (a) shall be reviewable on appeal exclusively by the Supreme Court of Pennsylvania. Any such apportionment shall become effective when the Supreme Court has finally decided the appeal or when the last day for taking an appeal has passed and no appeal has been taken.

(d) Any apportionment made by the Supreme Court under section 18, clause (b) shall become effective immediately.

(e) At the first primary election occurring sixty days or more after a new apportionment has become effective, Senators and Representatives shall be nominated and, notwithstanding the provisions of section 2 of this article, they shall be elected at the following municipal or general election.

(f) Notwithstanding the provisions of section 3 of this article, the terms of any Representatives elected at a municipal election shall be three years, the terms of Senators elected at such election from odd-numbered districts shall be three years, and the terms of Senators elected at such election from even-numbered districts shall be five years. At the expiration of these terms all Senators and Representatives shall be elected at general elections, Representatives for two years, and Senators for four years.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. Are there any further proposals?

The Chair recognizes the delegate from the 21st District, Delegate Braham.

DELEGATE BRAHAM. Mr. President, I read in place and present to the chairman the following proposal:

No. 1007

By Delegate BRAHAM

A PROPOSAL

Consolidating and amending into a single article, articles thirteen, fourteen, fifteen and sections seven, eight and ten of article eight of the Constitution of the Commonwealth of Pennsylvania relating to local government.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Articles thirteen, fourteen and fifteen and sections seven, eight and ten of article eight of the Constitution of the Commonwealth of Pennsylvania are consolidated and amended to read:

ARTICLE LOCAL GOVERNMENT A. Counties

Section 1. New Counties.—No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than twenty thousand inhabitants; nor shall any county be formed of less area, or containing a less population; nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided.

Section 2. Optional Plans of County Government.—The General Assembly shall provide by general law for the government of counties. It may provide by law applicable to all classes of counties or to a particular class optional plans of county organization and government which may be adopted by a majority of the qualified electors of a county voting thereon, and also, if the plan involves the elimination of existing political subdivisions, by a majority of the qualified electors voting thereon in each of a majority of the political subdivisions which would be eliminated. One option shall be the form of county government in effect when this section becomes effective, which option may be amended by the General Assembly from time to time except that the county officers named in Article XIV, section 1 of the Constitution of 1873 shall always be retained in this option. Under any plan, the governing body shall be elective.

Section 3. Elective County Officers.—Elective county officers shall be chosen at municipal elections and shall take office on the first Monday of January next after their election. They shall hold office until their successors have qualified. Elective county officers shall be citizens of the Commonwealth and qualified electors of the county.

Section 4. County Government Abolished in Philadelphia.—[(1)] (a) In Philadelphia all county offices are [hereby] abolished. [, and the] The city shall [henceforth] perform all functions of county government within its area. [through officers selected in such manner as may be provided by law]

[(2)] (b) Local and special laws [, regulating the affairs of] with respect to powers granted to the city of Philadelphia [and creating offices or prescribing the powers and duties of officers of the city of Philadelphia,] shall be valid notwithstanding the provisions of [section seven of article three of] this Constitution relating to local and special legislation.

[(3)] (c) All laws applicable to the county of Philadelphia shall apply to the city of Philadelphia.

[(4)] (d) The city of Philadelphia shall have, assume

and take over all powers, property, obligations and indebtedness of the county of Philadelphia.

[(5) The provisions of article fifteen, section one of the Constitution shall apply with full force and effect to the functions of the county government hereafter to be performed by the city government.

(6) This amendment shall become effective immediately upon its adoption

(7) Upon adoption of this amendment all county]

(e) All officers performing functions of county government shall [become] be officers of the city of Philadelphia, [and, until the General Assembly shall otherwise provide,] until otherwise provided by the city of Philadelphia through amendment to the Philadelphia Home Rule Charter, shall continue to perform their duties and be elected, appointed, compensated and organized in [such] the manner [as may be provided by the provisions of the Constitution and the laws of the Commonwealth in effect at the time this amendment becomes effective, but such officers serving when this amendment becomes effective shall be permitted to complete their terms] now in effect.

B. Cities and Boroughs

Section 5. Incorporation, Optional Plans, Home Rule.—

(a) The General Assembly shall provide by general law for the incorporation and government of cities and boroughs and the methods by which municipal boundaries may be altered and municipalities may be consolidated or dissolved

(b) It may provide optional plans of municipal organization and government which may be adopted or repealed by majority vote of the qualified electors of the city or borough voting thereon.

(c) Cities or cities of any class and boroughs may be given the right and power to adopt, amend or repeal their own home rule charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations and regulations as may be imposed by the General Assembly.

C. Municipal Finance

Section 6. Municipalities Not to Become Stockholders in Corporations.—[The General Assembly shall not authorize any] No county, city, borough, [township or incorporated district to] incorporated town, township, school district or other political subdivision shall become a stockholder in any company, association or corporation, or [to] obtain or appropriate money for, or [to] loan its credit to, any corporation, association, institution or individual.

Section 7. Municipal Debt.—(a) The debt of any county, city, borough, township, school district, or other municipality or incorporated district, shall never exceed fifteen per cent upon the assessed value of the taxable property therein, nor shall any such county, municipality or district incur any debt, or increase its indebtedness to an amount exceeding five per cent upon such assessed valuation of property without the consent of the electors thereof at a public election in such manner as shall be provided by law.

(b) The General Assembly may impose additional restrictions and limitations uniform on each type or class of political subdivision on the amount of debt that may

be created, either with or without the consent of the electors, and may prescribe the manner in which debt may be created. The General Assembly may provide for the apportionment among political subdivisions of borrowing power within general limitations.

(c) In ascertaining the aggregate indebtedness at any one time of any political subdivision, there shall be deducted obligations payable solely from the net operating revenues from designated projects and also obligations incurred for the acquisition of revenue producing public works or public utilities which may reasonably be expected to yield revenue in excess of operating expenses sufficient to pay the interest and sinking fund charges thereon.

Section 8. Tax to Liquidate Municipal Debts.—[Any county, township, school district or other municipality] Unless otherwise provided by law, any county, city, borough, incorporated town, township, school district or other political subdivision incurring any indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years

Section 2 The existing section eight of article eight, the article headings of articles eight and thirteen; article fourteen, except section eight thereof, and article fifteen of the Constitution of the Commonwealth of Pennsylvania, which read as hereinafter set forth are hereby repealed:

[ARTICLE VIII TAXATION AND FINANCE]

* * *

[Section 8. The debt of any county, city borough, township, school district, or other municipality or incorporated district, except as provided herein, and in section fifteen of this article, shall never exceed seven (7) per centum upon the assessed value of the taxable property therein, nor shall any such county, municipality or district incur any debt, or increase its indebtedness to an amount exceeding two (2) per centum upon such assessed valuation of property, without the consent of the electors thereof at a public election in such manner as shall be provided by law. The debt of the city of Philadelphia may be increased in such amount that the total debt of said city shall not exceed thirteen and one-half (13½) per centum of the average of the annual assessed valuations of the taxable realty therein during the ten years immediately preceding the year in which such increase is made, but said city shall not increase its indebtedness to an amount exceeding three (3) per centum upon such average assessed valuation of realty, without the consent of the electors thereof at a public election held in such manner as shall be provided by law. No debt shall be incurred by, or on behalf of, the county of Philadelphia.

In ascertaining the debt-incurring capacity of the city of Philadelphia, at any time, there shall be deducted from the debt of said city so much of such debt as shall have been incurred, or is about to be incurred, and the proceeds thereof expended, or about to be expended, upon any public improvement, or in construction, purchase, or condemnation of any public utility, or part thereof, or facility therefor, if such public improvement or public utility, or part thereof, or facility therefor, whether separately, or in connection with any other

public improvement or public utility, or part thereof, or facility therefor, may reasonably be expected to yield revenue in excess of operating expenses sufficient to pay the interest and sinking fund charges thereon. The method of determining such amount, so to be deducted, shall be as now prescribed, or which may hereafter be prescribed by the General Assembly.

In incurring indebtedness for any purpose the city of Philadelphia may issue its obligations maturing not later than fifty (50) years from the date thereof with provision for a sinking fund to be in equal or graded annual or other periodical installments. Where any indebtedness shall be or shall have been incurred by said city of Philadelphia for the purpose of the construction or improvement of public works or utilities of any character, from which income or revenue is to be derived by said city, or for the reclamation of land to be used in the construction of wharves or docks owned or to be owned by said city, such obligations may be in an amount sufficient to provide for, and may include the amount of, the interest and sinking fund charges accruing and which may accrue thereon throughout the period of construction, and until the expiration of one year after the completion of the work for which said indebtedness shall have been incurred; and said city shall not be required to levy a tax to pay said interest and sinking fund charges as required by section ten of this article until the expiration of said period of one year after the completion of said work.]

[ARTICLE XIII
NEW COUNTIES]

[ARTICLE XIV
COUNTY OFFICERS]

Section 1. County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Section 2. County officers shall be elected at the municipal elections and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors shall be duly qualified; all vacancies not otherwise provided for, shall be filled in such manner as may be provided by law.

Section 3. No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

Section 4. Prothonotaries, clerks of the courts, recorders of deeds, registers of wills, county surveyors and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers.

Section 5. The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all

county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees shall not exceed the aggregate amount of fees earned during his term and collected by or for him.

Section 6. The General Assembly shall provide by law for the strict accountability of all county, township and borough officers, as well as for the fees which may be collected by them, as for all public or municipal moneys which may be paid to them.

Section 7. Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; and in the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected; any casual vacancy in the office of county commissioners or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.]

[ARTICLE XV
CITIES AND CITY CHARTERS]

Section 1. Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general or municipal election in favor of the same. Cities, or cities of any particular class, may be given the right and power to frame and adopt their own charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the Legislature. Laws also may be enacted affecting the organization and government of cities and boroughs, which shall become effective in any city or borough only when submitted to the electors thereof, and approved by a majority of those voting thereon.

Section 2. No debt shall be contracted or liability incurred by any municipal commission, except in pursuance of an appropriation previously made therefor by the municipal government.

Section 3. Every city shall create a sinking fund, which shall be inviolably pledged for the payment of its funded debt.

Section 4. The General Assembly is hereby authorized to provide for the consolidation of the county, poor districts, cities, boroughs and townships of the county of Allegheny, and the offices thereof, into a consolidated city and county, with the constitutional and legal capacity of a municipal corporation, to be known either as "Greater Pittsburgh" or "Metropolitan Pittsburgh" or "City of Pittsburgh (Metropolitan)," and to provide for a charter for its government, and to fix the name thereof in the charter. The said charter shall be submitted to the electors of said county, at a special or general election to be provided for therein. If the majority of the electors voting thereon in the county as a whole, and at least a majority of the electors voting thereon in each of a majority of the cities, boroughs and townships thereof, vote in the affirmative, the act shall take effect for the whole county.

If rejected, the said charter may be resubmitted by the county commissioners to the electors from time to time, but not oftener than once in two years, until adopted. Until

a charter shall have been adopted as aforesaid, the General Assembly shall have the power to amend or modify the said charter, in which event the charter as amended or modified shall be submitted and resubmitted as aforesaid.

It shall be competent, subject to the police power of the State, for the Legislature to provide in said charter:

I. For the exercise by the consolidated city of all the powers and duties vested in the county of Allegheny, and the poor districts thereof, and such other powers appropriate to a municipality as may be specified therein, except such powers as are specifically reserved by this section to the municipal divisions herein provided for.

II. For the election of a board of commissioners, by districts and/or at large, by the electors of the consolidated city, the number to be fixed by the charter, in lieu of present county commissioners, in which board shall be vested all the powers of the consolidated city, except as otherwise provided in the charter.

III. For the organization of a government for the consolidated city, and for the appointment and/or election of any officers thereof, created by the Constitution, or otherwise, and to provide for their powers and duties.

IV. For the organization and reorganization of all courts, other than those of record, in the consolidated city, and for the appointment and/or election of the judges and officers thereof, and for the procedure thereof, including the right to provide that said court or courts be courts of record, which courts may exercise the jurisdiction, powers and rights of the magistrates, aldermen and justices of the peace, and such other jurisdiction and powers as may be conferred by law.

V. For the transfer to, and the assumption by, the consolidated city of the property and indebtedness of the county of Allegheny, and the poor districts thereof, and of such property and indebtedness of the cities, boroughs and townships thereof as relate to the powers and duties of said consolidated city, and to provide for an equitable adjustment and arrangement with respect thereto and for the payment of such indebtedness, and, for this purpose, any taxation therein, arising thereby, shall be uniform taxation within the meaning and intent of other provisions of the Constitution.

VI. For the assessment of property for taxation, the levying and collecting of taxes, and the payment of the cost of any public or municipal improvement, in whole or in part, by special assessment upon abutting and non-abutting property specially benefited thereby.

VII. For the creation, by the board of commissioners, of districts for the purpose of regulating the location, height, area, bulk and use of building and premises.

VIII. For the creation of indebtedness by the consolidated city within the limits now or hereafter imposed upon cities by other provisions of the Constitution. Such power to create indebtedness shall not impair the power of the municipal divisions, within the consolidated city, to create indebtedness within the limits now or hereafter imposed upon such municipalities by other provisions of the Constitution.

IX. For the creation, by the board of commissioners, of special districts for the purpose of carrying on or carrying out any public or municipal improvement, not for the exclusive benefit of any one municipal division; and for the payment of the cost and maintenance of such property or improvement, or any part thereof, special taxes may be levied throughout such special districts, respectively, sep-

arate and apart from the general consolidated city tax.

X. For the exercise of such powers by the consolidated city as may be necessary to enable it to carry on and carry out such municipal and metropolitan powers and functions as the General Assembly may deem advisable and expedient and for the general welfare of the said city and its inhabitants:

Provided, however, That it is the intent of this section that substantial powers be reserved to the cities, boroughs and townships situated in Allegheny County. To this end the charter shall provide for the continued existence of the said cities, boroughs and townships, as municipal divisions of the consolidated city, under their present names and forms of government, subject to the laws now or hereafter provided for government of municipalities of their respective forms and classes and to the powers conferred upon the consolidated city by the charter, and with their present boundaries. Any two or more of said municipal divisions, or portions thereof, may, with the consent of a majority of the electors voting thereon in each of such divisions at any special or general election, be united to form a single municipal division. Wherever a portion of a municipal division is involved, the election shall be held in the entire municipal division of which the said portion is a part.

The said municipal divisions shall have and continue to have the following powers:

I. The constitutional and legal capacity of municipal corporations.

II. The power to levy and collect taxes and to incur indebtedness, subject to the limitations which are or may be imposed by law upon cities, boroughs or townships of corresponding classification, for the purpose of carrying out any lawful power of said divisions.

III. The power to acquire, own, construct, maintain, operate or contract for all kinds of public property, works, improvements, utilities or services, which shall be within the municipal division and, where authorized by law, without the limits of the municipal division. Subject, however, to the right and power of the consolidated city to construct, acquire, maintain and/or operate public works, improvements, utilities and services of all kinds, including through streets, highways and/or bridges, for the use and benefit of the consolidated city and its inhabitants.

IV. The power to maintain a local police force and local fire department, either paid or volunteer, with the necessary buildings, appurtenances and equipment therefor, which may be independent of or supplemental to the police force and fire department of the consolidated city.

V. All other powers not specifically granted by the charter to the consolidated city: Provided, however, That a municipal division may surrender, by a majority vote of the electors voting thereon at any general or special election, any of its powers to the consolidated city, subject to the acceptance thereof by the board of commissioners.

After a charter has been adopted as aforesaid, it may be amended as follows:

I. In matters which relate only to the powers of the consolidated city and which do not reduce the powers of any one or more of the municipal divisions thereof by the General Assembly: Provided, however, That any amendment which changes or modifies the form of government of the consolidated city, or the number of or manner of election of the commissioners thereof, shall not be effective

until such amendment shall have been ratified by a majority of the electors of the consolidated city voting thereon at a general or special election, to be provided for in said amendment.

II. In matters which reduce the powers of any one or more of the municipal divisions of the consolidated city, such amendment, enacted by the General Assembly, shall not be effective until it shall have been ratified at a general or special election, to be provided for in said amendment, by a majority of the electors voting thereon in all of the municipal divisions affected thereby, and by a majority of the electors voting thereon in each of a majority of said municipal divisions so affected.

Section 5. The General Assembly may authorize cities to take more land and property than is needed for actual construction in the laying out, widening, extending or relocating highways or streets connecting with bridges crossing streams or tunnels under streams which form boundaries between this and any other State, but the additional land and property, so authorized to be taken, shall not be more than sufficient to form suitable building sites on such highways or streets. Nor shall the authority hereby conferred be exercised in connection with the laying out, widening, extending or relocating of any highway or street at a point more than three miles distant from the approach to any such bridge or tunnel. After so much of the land and property has been appropriated for such highways or streets as is needed therefor, the remainder may be sold or leased and any restrictions imposed thereupon which will preserve or enhance the benefit to the public of the property actually needed for the aforesaid public use.]

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 4th Senatorial District, Delegate McGlynn.

DELEGATE MCGLYNN. Mr. Speaker, I read in place and present to the chairman the following proposal:

No. 1008

By Delegate MCGLYNN

A PROPOSAL

Amending Article V of the Constitution of Pennsylvania providing for the composition of the Judicial Nominating Commission in so far as it relates to the Supreme and Superior Courts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article V of the Constitution of the Commonwealth of Pennsylvania is amended by adding at the end thereof a new section to read:

ARTICLE V THE JUDICIARY

Section 29. Judicial Nominating Commission. (a) There shall be a Judicial Nominating Commission for the Supreme and Superior Courts. The commission shall consist of one judge of a court of common pleas who shall be elected by the judges of the courts of common pleas; three

members of the bar who shall be elected by the members of the bar and three deans from law schools located within the Commonwealth, who shall be selected in alphabetical order according to the name of the law school.

(b) With the exception of the first selected deans, the members of the commission shall serve for a term of three years. Of the deans selected following the effective date of this section, the dean from the law school highest in alphabetical order shall be selected for a term of one year, the next in order for a term of two years and the following one for a term of three years. Thereafter the appointment shall be for a three year term. Vacancies in the membership with reference to the judge and the members of the bar shall be filled for the balance of the term by the same persons who elected the member whose place has become vacant. Vacancies in the membership with reference to the deans shall be filled for the balance of the term from the same law school. The members of the commission shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. The commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization, nor except for the members who are judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Section 2. Sections 15, 16, 17, and 25 of Article V are repealed.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Northampton, Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President, I read in place and offer the following proposal, sponsored by Delegate Prendergast and myself:

No. 1009

By Delegates JIROLANIO and PRENDERGAST

A PROPOSAL

Amending article five, section one, and adding a new section to article five of the Constitution of Pennsylvania providing for a Commonwealth court.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one, article five of the Constitution of Pennsylvania is amended to read:

Section 1. Judicial Power.—The judicial power of this Commonwealth shall be vested in a Supreme Court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, a Commonwealth court, magistrates' courts, and in such other courts as the General Assembly may from time to time establish.

Section 2. Article five of the Constitution of Pennsyl-

vania is amended by adding after section three thereof, a new section to read:

Section 3.1. Commonwealth Court.—(a) The court to be known as the Commonwealth court shall be composed of five judges learned in the law and its jurisdiction shall extend throughout the Commonwealth.

(b) (1) The first judges of the Commonwealth court shall be appointed by the Governor and shall hold office until the first Monday of January, 1969. The Governor shall designate the member who shall act as president judge until the first Monday of January, 1969. No more than three of the judges first appointed shall be of the same political party or body.

(2) The first elected judges of the court shall be chosen at the general election in November, 1968, and the five candidates who receive the highest vote shall be declared elected but no elector shall vote for more than three upon one ballot for said office.

(3) The term of office of elected judges of the court shall be ten years, to begin on the first Monday of January following their election.

(4) Succeeding elections for the office shall be held at the proper election preceding the expiration of the term of any judge, or at the proper election following a vacancy by death or otherwise.

(5) Whenever two judges of Commonwealth court are to be elected for the same term of service, each voter shall vote for one only, and when three are to be elected each voter shall vote for no more than two; candidates highest in vote shall be declared elected.

(6) At no time shall the court be composed of more than three judges from any one political party or body.

(7) Whenever a vacancy occurs by death or otherwise in the office, the Governor may appoint a person to fill the vacancy in the manner and for the period fixed by this Constitution, and the person elected thereafter to the vacant seat shall hold his office for the term of ten years, beginning on the first Monday of January following his election.

(8) As soon as convenient after the first election, the successful candidate shall cast lots for priority of commission and certify the result to the Governor, who shall issue their commissions in accordance therewith, and except as hereinafter provided, the same procedure shall be followed whenever thereafter two or more judges are elected at the same time. Whenever a judge is reelected, he shall not cast lots for priority of commission but his rank, priority and seniority shall be determined by his continuous length of service as a member of the court.

(9) The rank, title and position of the president judge of the Commonwealth court shall be held by that member of the court whose commission shall have priority either in time or as a result of the lot. If such president judge shall be reelected or if any succeeding president judge shall be reelected, he shall continue to hold the rank and position.

(c) (1) The court shall have the power to appoint such personnel as may be necessary to exercise its powers and perform its functions and duties and fix their compensation which shall be paid by the State.

(2) The court shall have the power to promulgate rules of practice and procedures. Such rules shall not be inconsistent with the Constitution of the Commonwealth of Pennsylvania and rules of practice and procedure promul-

gated by the Supreme Court of Pennsylvania or the Superior Court of Pennsylvania.

(d) (1) The Commonwealth court shall meet at least once a year and as its business requires in the cities of Philadelphia, Pittsburgh, Harrisburg, Scranton and Williamsport. The court in such cities shall use accommodations furnished for the Superior Court.

(2) The prothonotary and officers of the Superior Court shall be the prothonotary and officers for the Commonwealth court.

(e) (1) The Commonwealth court shall have jurisdiction throughout the State for the purpose of hearing and determining all suits, claims and demands whatever, in law and in equity, in which the Commonwealth may be the party plaintiff for accounts, unpaid balances, unpaid liens, taxes, penalties and all other causes of action, real, personal and mixed.

(2) The Commonwealth court shall also have jurisdiction throughout the State in those cases in which the Commonwealth or its officers or agencies are involved as may be prescribed by the General Assembly.

(f) When the judges of the Commonwealth court are not occupied with the business of their court, they may be assigned by the Chief Justice of the Supreme Court to assist in the work of any of the various common pleas courts in the Commonwealth.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. With your permission and the permission of the Convention, I would like to say a few words on behalf of the proposal that I have just presented with the signature of Delegate Prendergast.

PRESIDENT BRODERICK. You may proceed.

DELEGATE JIROLANIO. Members of the Convention, this is a new proposal and, unfortunately, I have studied the reports of various commissions that have taken up the question of the judiciary, and nowhere in their reports have I been able to find the words "Commonwealth Court."

Today what we call the Commonwealth problems are handled by the Court of Common Pleas of Dauphin County. All of you know that the Court of Common Pleas, of course, is a very, very busy one. The problems that affect the Commonwealth are at times of extreme importance with the result that the expediency which they should have is not there.

Bills have been introduced time and time again, but, unfortunately, they have not been able to be enacted into law. The proposal which was just introduced would set up a Commonwealth Court, an additional court which we do not have today, composed of five judges. The initial operation, of course, would be the selection of the judges by the Governor, no more than two from one particular party. The judges in question would have the jurisdiction that now is had by them in matters of similar nature.

They would sit in the same areas and the same places the Superior Court of Pennsylvania does today. That would be the cities of Philadelphia, Pittsburgh, Williamsport and, I believe, Scranton.

The need for that particular court is unquestioned and I doubt if you can find anyone who will say on the floor of this Convention or anywhere in the Commonwealth of

Pennsylvania that the need is not there. This is a much needed amendment to our Constitution, and I am quite sure that the Judiciary Committee will look at it with a great deal of interest and pay a lot of attention to it. This is one of the reforms and, unfortunately—and I say “unfortunately”—I did not hear many judges talk about something like this. Being a delegate, I was just wondering why.

If we need something, we should have it. This is a proposal that would give to the people of the Commonwealth the kind of a court that is needed today to expedite the kind of things that are important to all of us.

PRESIDENT BRODERICK. Thank you, Delegate Jironio.

RESOLUTIONS

PRESIDENT BRODERICK. The next order of business is resolutions.

The Chair recognizes the Co-Chairman of the Committee on Administration and Finance, Delegate Bloom.

DELEGATE BLOOM. Before I present my resolution, I would like to make a few remarks concerning it and also another matter that I think is of interest to all the delegates.

PAYMENT TO DELEGATES

PRESIDENT BRODERICK. The Chair hears no objection. Please proceed.

DELEGATE BLOOM. I want to call to the attention of the delegates the fact that the appointment of committees was just made last Monday. This is only Wednesday and we in our committee have already set up the machinery so that you might be paid. I said “might” be paid, on the 15th day in accordance with the Act of Assembly. We have done our part within the short time that we had to do it and it will be up to the machinery that we have set up to produce your checks so that you shall have them for Christmas.

PRESIDENT BRODERICK. I would say that was in the real spirit of Christmas.

HOLIDAY RECESS RESOLUTION

DELEGATE BLOOM. Another matter that I think is in the real spirit of Christmas is that our committee has performed a service in accordance with the new resolution that we have placed upon your desks which I will present in a few minutes.

Before doing so I would like to say that the first resolution that we had met with very much disfavor and there were many written as well as oral protests received by our committee. At our meeting yesterday we gave it a lot of consideration and in doing so we carried out one theme of our committee, that is, we do not desire to do anything in any way to limit the time that might be consumed by the committees or subcommittees in the performance of their duties so that they may meet the deadline.

If you will note in the rules that were adopted here, the time was specified when these committees were to meet. We in our committee have disregarded that particular section of the rules and have given the co-chairmen the right to call meetings as many times as desired during the day and the length of the meetings are to be determined by the co-chairmen as well.

In that spirit we have written a new resolution which I am going to ask the Convention to unanimously adopt, giving us the week between Christmas and New Year's Day off, with the proviso that the co-chairmen of any committee have the right to call us back during that week to perform such duties as they deem necessary during that time. We are not telling them to do so, but they know the progress that they are making, they know the deadline, and they are solely responsible for the committees' action in meeting that deadline.

Therefore, Mr. President, I desire to present this resolution and ask unanimous consent for its immediate adoption.

PRESIDENT BRODERICK. The delegate from Washington, Delegate Bloom, has introduced a resolution which the clerk will read and, of course, he has asked for unanimous consent for its immediate adoption.

The clerk shall now read the resolution.

RESOLUTION

THE CLERK. BE IT RESOLVED, That when this Convention adjourns Friday, December 22, 1967, it reconvene Tuesday, January 2, 1968, at 3 p.m., with the right of any co-chairman of any committee to call a meeting of that committee during the week of adjournment.

PRESIDENT BRODERICK. First of all, is there any objection to the immediate consideration of that resolution?

The Chair recognizes the delegate from Delaware, Delegate Desmond.

AMENDMENTS PROPOSED TO HOLIDAY RESOLUTION

DELEGATE DESMOND. Mr. President and fellow Delegates, I call your attention to the fact that Tuesday, January 2, is reorganization day for all boroughs throughout the State. That means anyone connected with this body who is also connected with borough management in any way will have to be present on the reorganization date in the various boroughs. I therefore suggest, Mr. President, that Tuesday, January 2, be amended to read “Wednesday, January 3.”

PRESIDENT BRODERICK. Before the body acts on that amendment, the Chair points out that for official business as mentioned by Delegate Desmond, there is no question that this body would consent to leaves of absence, but I am not passing on that.

Is there a second to Delegate Desmond's proposed amendment?

It has been moved by Delegate Desmond and seconded by Delegate Clinger that the amendment to the resolution be adopted.

Is there any discussion on the amendment? The Chair hears none.

The clerk will call the roll.

The roll was called and the delegates voted as follows:

YEAS—59

Aurentz	Filson	Mangery	Prendergast
Baldrige	Gehrlein	Markley	Rappaport
Baldwin	Goldstein	McGeary	Rea
Banes	Griffith	McGlynn	Reynolds
Barron	Hannum	Michael	Sahl
Barry	Harding	Miller, D.	Scales
Bashoff	Hostetler	Moorhead	Scarlett
Clinger	Huggins	More	Scott

Croop	Jirolanio	Murray	Sebastian
Curran	Johnson	Nelson	Solomon
Dailey	Keller, M.	O'Donnell	Thomson
Desmond	King	Orbin	Van Sant
Devlin	Kline	Pelletier	Welsh
Erwin	Krull	Pott	Wilmarth
Fay	Levin	Powell	

NAYS—84

Aberman	Cortese	Laputka	Scranton
Allison	Cosetti	Leach	Sharp
Amsterdam	Cunningham	Lee, L.	Shetig
Bagenstose	Dumbauld	Lembach	Shively
Baldus	Fawcett	Leonard	Shoemaker
Benedict	Feather	Manderino	Shrager
Benfield	Fineman	Mattioni	Silverman
Bloom	Fohl	Michener	Sprogel
Braham	Forster	Miller, R.	Stout
Brennan	Fortney	Morton	Strickler
Broderick	Gabreski	Musselman	Stroup
Brown	Hatter	Orban	Swope
Buck	Henderson	Otto	Tate
Bunting	Heyburn	Pasquerilla	Thornburgh
Burkholder	Himes	Percey	Tully
Butera	Hocker	Popil	Waldron
Caron	Hook	Redick	Westerberg
Casey	Horne	Richter	Whittum
Clark	Kauffman	Roberts	Wilcox
Conley	Keller, J.	Rovner	Woodring
Corey	Kelly	Ruth	Woodside

NOT VOTING—20

Cain	Fagan	Gray	Pechan
Camardella	Fleming	Irviss	Quiles
Caputo	Gerber	Lane	Shapiro
Donaldson	Goldman	Lee, K.	Tomasick
Donolow	Gouger	Meyer	Warman

Less than the majority of the delegates having voted for the amendment, the amendment is not agreed to.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Allegheny, Delegate Huggins.

DELEGATE HUGGINS. Mr. President, I would like to make an amendment to the resolution under consideration, that this Convention adjourn on "Wednesday, December 20, 1967" instead of Thursday, December 21.

PRESIDENT BRODERICK Would you mind, Delegate Huggins, putting that amendment in writing for the Chair?

If there are other amendments to be considered, the Chair would appreciate it if you would please send them to the desk.

Would you please restate your amendment so that we understand it now?

DELEGATE HUGGINS. The amendment to the resolution would read:

And be it resolved that when this Convention adjourns Wednesday, December 20, 1967, it reconvene on Tuesday, January 2, 1968, and so on.

The reason for this, Mr. President, is that Friday the 22nd would be getting our delegates home over a very busy weekend. I feel that much that is going on would certainly be taken care of by Wednesday.

PRESIDENT BRODERICK. Is there a second to Delegate Huggins' amendment?

It has been seconded by Delegate Jirolanio.

PRESIDENT BRODERICK. The Chair recognizes Delegate Markley.

DELEGATE MARKLEY. Mr. President, since I am the Chairman of the Committee on Motor Vehicles and Highway Safety in the House of Representatives, I think that we should not be here on Friday because so many people are traveling and it is a matter of highway safety.

PRESIDENT BRODERICK. I want to state before I

recognize Delegate Scranton that it has been moved and seconded that the adjournment resolution be amended by striking out the words "Friday, December 22, 1967," and inserting in their place the words "Wednesday, December 20, 1967."

On the discussion of that amendment, the Chair now recognizes the delegate from Lackawanna, Delegate Scranton.

DELEGATE SCRANTON. I am very happy that Mrs. Markley made the comment she did because I did not plan to put in any amendment, but as former Governor, ladies and gentlemen, let me tell you that in Pennsylvania we take pride in conforming to regulations set forth by the National Safety Council on holiday weekends. The Safety Council has stated that this forthcoming holiday the greatest accident rate will occur late in the afternoon and early in the evening of Friday, the 22nd, of the Christmas weekend.

If it is in order—and I have not read the rules this morning so I do not know whether it is or not—I would like to make an amendment to the amendment.

PRESIDENT BRODERICK The gentleman is in order and may proceed.

DELEGATE SCRANTON I would like to make an amendment which would change the reading from "Wednesday, December 20," to "Thursday, December 21."

PRESIDENT BRODERICK Is there a second to that? It has been seconded.

QUESTION OF PARLIAMENTARY PROCEDURE

PRESIDENT BRODERICK The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. I, unfortunately, believe that you cannot amend an amendment after it has been properly moved and seconded, and I think that the amendment by the learned gentleman from Lackawanna is out of order. I ask for a ruling.

PRESIDENT BRODERICK We will give you a ruling immediately.

The parliamentarian has advised the Chair, and the Chair so rules, that the amendment to the amendment is in order.

The Chair recognizes Delegate Caron.

DELEGATE CARON. Mr. President, I presume it is not legal, but may I suggest that we have a show of hands and if there is enough sentiment, you will not have to call the roll.

PRESIDENT BRODERICK I think we could certainly do that in the interest of time.

Delegate Baldrige has seconded the amendment offered by Delegate Scranton which, as I understand it, changes "Wednesday, December 20, 1967," to "Thursday, December 21, 1967."

All those in favor of the amendment changing "Wednesday" to "Thursday," will please raise one hand.

Will those opposed, please raise one hand?

The Chair would say that the "ayes" clearly have it. Therefore, the resolution on which we will vote now reads:

BE IT RESOLVED: That when this Convention adjourns Thursday, December 21, 1967, it reconvene Tuesday, January 2, 1968 at 3:00 p.m., with the right of any Co-Chairman of any Committee

to call a meeting of that committee during the week of adjournment.

The question recurs,

Will the Convention adopt the resolution as amended?

It was adopted.

COMMITTEE MEETINGS

PRESIDENT BRODERICK. The Chair now calls on the chairmen of the various committees for announcements of their meeting schedules.

JUDICIARY, Co-Chairmen Scranton and Amsterdam, entire committee will meet following adjournment of today's session in Room 610-B, North Office Building. Subcommittee on Judicial Administration will meet in Room 610, North Office Building, after adjournment of today's session.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, Subcommittee on Method of Apportionment will meet today in Room 608, North Office Building, at 1:30 p.m. Subcommittee on Composition of Legislature will meet immediately on adjournment in Room 609, North Office Building.

LOCAL GOVERNMENT, Co-Chairmen Pasquerilla and Manderino, Co-Chairmen will meet immediately following today's session in Room 606, North Office Building. All subcommittees will meet in their respective rooms at 2:00 p.m. today.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, Co-Chairmen of all subcommittees will meet fifteen minutes after adjournment of today's session in Room 611, North Office Building. Members of entire committee will meet in PUC Hearing Room No. 3, at 11:30 a.m. today.

RULING OF CHAIR REQUESTED

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. I seek a ruling on behalf of a handful of delegates who are members of the fifth, sixth, seventh and eighth committees, namely, Style and Drafting, Arrangement, Submission and Address to the People, Rules, and Administration and Finance, who are not members of any of the substantive committees of the first four. They have asked me, when they are free at a time when committees are meeting, if they are entitled to attend meetings of committees other than their own.

I gave a "horseback" opinion that they are not, that the committees of the substantive group are meeting with their restricted membership and those who are not members of those committees are not free to join them at will.

On behalf of the delegates involved, I would request a ruling of the Chair on this, please.

PRESIDENT BRODERICK. Do I understand here the question to be whether delegates can attend other than their own committee meetings?

SECRETARY MICHENER. It comes down to that, yes.

PRESIDENT BRODERICK. In the opinion of the Chair, there is no question about it because our committee meetings, except when we go into executive session, are open to the public.

I would just urge the members who wish to attend any

meeting of any committee to do so as long as it does not conflict with their own committee meetings.

Is that a satisfactory response to your question?

SECRETARY MICHENER. Thank you, Mr. President.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. For what purpose does the delegate from Dauphin rise?

DELEGATE WOODSIDE. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The delegate will state it.

DELEGATE WOODSIDE. Mr. President, yesterday I told about a judge who had a very poor memory. I want to say I am that judge. I meant yesterday to call this body's attention to two former judges who were sitting among the delegation in addition to those who participated in the program yesterday, and I forgot.

Judge Robert M. Fortney, who spent years on the bench in Northumberland County, is a delegate of this Convention and should have been recognized yesterday.

The Honorable H. Clay Burkholder, who was a judge of Lancaster County, should also have been recognized yesterday and I apologize to them and to the delegation for not mentioning them. If there are any other judges in the Convention here, it is not that I forgot them, but that I didn't hear or know about them.

Someone just told me, and I overlooked the fact, that William B. Shettig, a delegate from Cambria County is here. He is also a former judge and served on the bench for some time.

PRESIDENT BRODERICK. Thank you.

PAGE BOYS

PRESIDENT BRODERICK. The Chair recognizes the delegate from Dauphin.

DELEGATE WOODSIDE. One other thing: I was a page boy and, having been a page boy, I was interested in the row of pages up here. When I looked at the budget I did not find anything there for the pay of those pages. I was very much concerned about that, so I checked with the Office of Administration, our Executive Administrator, and he tells me that they are receiving expense money of \$7 a day. I think this Convention ought to know that at least they are receiving something for their services, because everybody else who has worked for the Convention here has, and I certainly think that this delegation ought to be concerned about whether they are, too. I know, as an old page boy, I am concerned.

ANNOUNCEMENTS BY THE CLERK

THE CLERK. It is suggested that the delegates clear their desk tops, inasmuch as the legislature will convene this afternoon.

Delegates are requested henceforth to please leave their wraps during the Convention sessions in offices or meeting rooms to which they are assigned in the North Office Building, rather than in the House Caucus Room.

COMMITTEE MEETING ROOMS CLARIFIED

PRESIDENT BRODERICK. Our Executive Director, John Ingram, would like to call attention to the assignment of meeting spaces today.

EXECUTIVE DIRECTOR INGRAM. I believe that several of the major standing committees, with the announcements that were made, might find themselves meeting with 30 or 40 people in a room built for five. This is because our list of committee room assignments is somewhat unclear in this respect.

Immediately following the name of each of the four major standing committees, which are Apportionment, Judiciary, Local Government, and Taxation and Finance, is assignment of a room number, such as 612 for Legislative Apportionment, 613 for Judiciary, 606 for Local Government, and 611 for Taxation and Finance. These are—and it should have been stipulated on this list or designated—the offices of the co-chairmen; they are not the meeting rooms for those committees.

Meetings of the Committee on Judiciary will be held in the House Minority Caucus Room, or, if that room is not available, in the Pennsylvania Liquor Control Board Hearing Room, which is in the Commonwealth Building at Forster and Third Streets.

The Minority Caucus Room, I assume, will not be available this morning, and I would suggest that the second alternative then be used. It is available.

The Committee on Local Government would use Room 132 in the Finance Building, which is the hearing room of the Board of Finance and Revenue, because the Majority Caucus Room of the House will not be available.

The Senate Majority Caucus Room will not be available today to the Committee on Taxation and Finance. It will meet in PUC Hearing Room No. 3, which is in the North Office Building, on the first floor. You should go to the Public Utility Commission office, which is at the end of the hall of the first floor of the North Office Building, and you will be shown that room.

The Committee on Legislative Apportionment would ordinarily meet in the Senate Caucus Room, but because that room is not available today, it will meet in Room 286 of the Main Capitol Building, which is on the second floor, in the north end of the Capitol Building.

PRESIDENT BRODERICK. I hope that is clear, and I would like very much if the chairmen of the standing committees would re-announce the places of their meetings.

COMMITTEE MEETING CHANGES

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. The Judiciary Committee will continue to meet in Room 610-B as initially announced because it is a room that is very close to all the subcommittee rooms and it is large enough for the entire Judiciary Committee to meet.

Therefore, we will meet immediately following the adjournment of this session in Room 610-B of the North Office Building.

PRESIDENT BRODERICK. Thank you.

The Chair recognizes the chairman of the Local Government Committee, Chairman Pasquerilla, to restate his announcement.

DELEGATE PASQUERILLA. Mr. President, there are no changes in our scheduled meetings because we do not plan a meeting of the entire committee. We will continue to meet in Room 606, with the co-chairmen of all the sub-

committees, immediately following this session. The subcommittees will meet in their respective rooms at 2 p.m. today.

PRESIDENT BRODERICK. Thank you.

May I ask Chairman Leonard to restate his announcement so we have no confusion?

DELEGATE LEONARD. Mr. President, the total committee on Taxation and State Finance will continue to meet in PUC Hearing Room No. 3, on the first floor of the North Office Building.

PRESIDENT BRODERICK. I would like to ask Chairman Devlin if he thinks the announcement in connection with his subcommittees is now clear to all the members of his committee as to where they shall meet.

DELEGATE DEVLIN. Yes.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lehigh, Delegate Van Sant.

DELEGATE VAN SANT. Mr. President, I have a point of inquiry, and that is as to how the Chair would like to handle the recognition of visitors from the various schools which will be attending our Convention from time to time. The gentleman is familiar with the procedure in the Senate. I was wondering if the Rules Committee had established a precedent as to how we would handle it here in the Convention.

PRESIDENT BRODERICK. I would say that the Chair knows of no provision in our rules and the Chair is happy to announce that he would like the delegates, when they have guests, to advise the Chair and the Chair will recognize the delegate. In this instance we would be very happy to hear who the guests are and give them our usual cordial welcome.

You may proceed.

DELEGATE VAN SANT. Thank you, Mr. President.

Members of the Convention, fellow delegates, I think it is most important that we encourage the visiting to the Convention of our school children because what we do here will undoubtedly have an important part to play in their future lives. Today I am happy to have as my guests and guests of the lady from Lehigh, Delegate Markley, the fifth grade students from the Wescosville Elementary School of Wescosville in Lehigh County. Miss Dorothy Robohm is in charge of the group and it would be my request to the President that he welcome them to the Convention in his usual efficient manner.

WESCOSVILLE ELEMENTARY SCHOOL WELCOMED

PRESIDENT BRODERICK. Delegate Van Sant, I think you know that we are happy to have with us today the children from the Wescosville Elementary School and I would request my fellow delegates to demonstrate to them that we are happy to have them by giving them a round of applause.

DR. KURTZMAN REQUESTED TO SEND SOCIAL SCIENCE DEPARTMENT REPRESENTATIVES TO CONVENTION

PRESIDENT BRODERICK. The Chair recognizes Delegate Henderson.

DELEGATE HENDERSON. I am Superintendent of Schools of Midland Borough School District.

History is being made!

On behalf of this Convention, I respectfully request that the Convention consider requesting the good offices of Dr. Kurtzman to send representatives from the Social Science Department to be witnesses to our proceedings so that information can be filtered back to our high school students, both public and private, and also to the students in our colleges and universities so that they can be witnesses to history.

By making such a request, we will be wearing the mantle of our responsibility and walking with the dignity of the call.

Thank you.

PRESIDENT BRODERICK. Delegate Henderson, the Chair would like to request you to contact the Superintendent of Public Instruction and I am sure, unless we hear objection from some delegate, that we all appreciate

your doing that and ask the Superintendent of Public Instruction, Dave Kurtzman, to make those arrangements, because I am sure we will all be happy to have the children visit us.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Hocker for the adjournment motion, pursuant to the resolution which was adopted.

Mr. HOCKER. Mr. President, I move that this Convention do now adjourn until Thursday, December 14, 1967, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Hocker and seconded by Delegate Pott that this Convention do now adjourn until Thursday, December 14, 1967, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 11.05 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Thursday, December 14, 1967

Number 9

The Convention was called to order at 9.30 a.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

PRESIDENT BRODERICK. Today's meeting will be opened with prayer by Rabbi Gerald I. Wolpe, Bethel Temple, Harrisburg, Pennsylvania.

RABBI GERALD I. WOLPE offered the following prayer:

Almighty God, we invoke Thy blessing upon those who have assumed the awesome task of establishing a law that will recognize the strength of the individual and the need of society.

In an age when man's power over nature has meant the decline in his power over himself, we ask for the wisdom to hew new cogs of wisdom for corporate living.

May we design standards of moral behavior that will banish apathy, anarchy, crime and inequality from our midst.

Above all, may we reflect the dignity of the law that Thou didst reveal unto Thy children, justice. Justice shall ye pursue, that thou and thy children may live and deserve the land which the Lord thy God hast given thee. Amen.

PRESIDENT BRODERICK. Thank you, Rabbi Wolpe.

JOURNAL APPROVAL POSTPONED

PRESIDENT BRODERICK. Again, if there is no objection, the Chair will dispense with the approval of the Journal until it is printed.

The Chair hears no objection.

QUORUM PRESENT

PRESIDENT BRODERICK. It is apparent that we have a quorum present and unless the Chair hears an objection, we will dispense with the calling of the roll. The Chair hears no objection.

I have been assured that our roll-call board will be ready when we come back for our next session.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The next order of business is leaves of absence.

The Chair now recognizes the secretary of the Convention, Secretary Michener.

SECRETARY MICHENER. Mr. President, I submit the following requests for leaves of absence:

The delegate from the 48th district, **DELEGATE CARON**,

for December 20 and 21, because of a meeting of a board of which he is a member.

The delegate from the 29th district, **DELEGATE KRILL**, for December 14 and 18, on account of business.

The delegate from the 50th district, **DELEGATE SCOTT**, for December 14, on account of business.

The delegate from the 28th district, **DELEGATE MICH-AEL**, ex post facto excuse for her absence two days ago. She was ill with the virus.

The delegate from the 42nd district, **DELEGATE FAG-AN**, for December 14 because he had to report for a meeting in Washington.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baner.

DELEGATE BANES. May I ask the secretary if he has my request there, Delegate Baner from the 45th district, for Monday, December 18? I must be in court that day.

SECRETARY MICHENER. Delegate Baner, I customarily do not enter into the ledger requests in advance, but I pick them up on the morning of the absence. Mr. President, do you prefer that it be done that way or should I enter them as they come in?

PRESIDENT BRODERICK. I would suggest that we state the request as received, so that the delegate can make plans for whatever event it is that he desires to leave.

SECRETARY MICHENER. I will do that, sir.

PRESIDENT BRODERICK. Are there any objections to the requests which we have read?

The Chair hears no objection, and the leaves are granted.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. The next order of business is reports of committees.

Before we have the committee reports, the Chair would like to remind the chairmen of the standing committees of the report required to be presented on or before December 21. As soon as you have that report ready, the Convention will be happy to receive it. There is no necessity to wait for the last day.

The Chair requests at this time that one of the Co-Chairmen of the Committee on Legislative Apportionment, the Committee on Local Government and the Committee on Judiciary report their referrals of proposals to subcommittees.

REPORT OF COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, Proposal

No. 1001 has been referred to the Subcommittee on Structure and Organization and also to the Subcommittee on County Government.

Proposal No. 1002 has been referred to the Subcommittee on Annexation and Boundary Changes and to the Subcommittee on Home Rule.

Proposal No. 1007 appears to cross over all the subcommittees under Local Government and it, therefore, has been referred to all the subcommittees for study and will be considered by the entire Committee on Local Government.

PRESIDENT BRODERICK The Chair thanks the Co-Chairman of the Committee on Local Government.

REPORT OF COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK The Chair recognizes the Co-Chairman of the Committee on Judiciary, Delegate Amsterdam.

DELEGATE AMSTERDAM Mr. President, the Committee on Judiciary reports that Proposal No. 1008 has been referred to the Subcommittee on Selection of Judges.

Proposal No. 1009 has been referred to three subcommittees: Selection of Judges, Tenure of Judges and Judicial Administration and Organization.

PRESIDENT BRODERICK The Chair thanks the Co-Chairman of the Committee on Judiciary, Delegate Amsterdam.

REPORT OF COMMITTEE ON LEGISLATIVE APPORTIONMENT

PRESIDENT BRODERICK The Chair recognizes the Co-Chairman of the Committee on Legislative Apportionment, Delegate Devlin.

DELEGATE DEVLIN Mr. President, the proposals which had been referred by the Chair yesterday dealt entirely with legislative apportionment and have, therefore, been referred to that committee.

PRESIDENT BRODERICK Thank you, Delegate Devlin.

PROPOSAL REFERRED

PRESIDENT BRODERICK The next order of business is the introduction of proposals. Do we have any proposals?

Delegates, I want to state again that under the rules, January 5 has been set up as the last day for delegates to introduce proposals from the floor. Of course, after that date, the matters can all be discussed with committees, but I would urge you, and strongly urge you, again, to get your proposals in as quickly as possible so our committees can get down to the work of discussing them and evaluating them.

The Chair recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER Mr. President, I read in place and present to the Chair the following proposal:

No. 1010

By Delegates SHOEMAKER and HOOK

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania providing for apportionment of political subdivisions

of the Commonwealth and establishing the time and method therefor.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE XVI

APPORTIONMENT OF POLITICAL SUBDIVISIONS

Section 1. When Apportionment Applicable.—In the event that any political subdivision of this Commonwealth shall have a multiple member elected governing body the members thereof, if not elected at large, shall be apportioned on the basis of the total population of the combined jurisdiction.

Section 2. Time for Apportionment—(a) Governing bodies presently existing and affected hereby shall apportion themselves within five years of the effective date hereof.

(b) In the event of the enlargement or diminishment of the geographic boundaries of an affected political subdivision changing the ratio by greater than ten per cent, the entire subdivision shall be reapportioned within one year after the effective date thereof.

(c) Whenever by whatever reason political subdivisions newly fall within section one of this article they shall be apportioned at inception or shall elect their governing body at large until this provision be complied with.

(d) Reapportionment of affected political subdivisions shall be conducted at least each ten years within one year after the report of the Federal census.

Section 3 Method of Apportionment.—(a) In so far as possible precinct and ward boundaries together with boundaries of natural geographic communities shall be followed in establishing each election district.

(b) Apportionment shall be conducted by the members of the governing body affected who shall hold public hearings on petition of one per cent of the registered voters of the subdivision.

(c) The highest court of the county shall have jurisdiction to determine compliance with these provisions but shall not have jurisdiction to apportion. It shall, however, have power to certify the failure to comply with these provisions and compel the election of the governing body at large until compliance.

Referred to Committee on Local Government.

RESOLUTIONS

PRESIDENT BRODERICK. Fellow Delegates, the next order of business is resolutions.

The Chair recognizes the delegate from the 28th Senatorial District, Delegate Shoemaker.

DELEGATE SHOEMAKER. Mr. President, on Thursday of this week there appeared on our desks a resolution concerning adjournment for Christmas and New Year's holidays which was prepared by the Committee on Administration and Finance.

We were told that this would be reconsidered after the sentiment of the Convention was found on this subject. At that time, many of us were concerned by the fact that a three-day work schedule was contemplated, cutting into the usual holiday season.

Yesterday we adopted a resolution more in line with our selfish interests which pays lip service to the great need to be about our elected business.

I confess to you, Mr. President, that I, too, suffered from the fear of losing a chance to be with my family whose usual plans take them to New Orleans and family ties at this festive time. I did, Mr. President, go so far as to prepare my own resolution to present to this august body and was somewhat pleasantly surprised to find that the feeling I had was embodied in the text of the resolution which we so promptly adopted yesterday.

Mr. President, in the last few days, I have learned that we do not have the staff we thought we would have, that we will probably share with the tardy legislature the facilities that were so carefully planned to expedite our work. I have learned that many staff are so-called three-day weekers and if we work a full measure ourselves, we may go unattended.

Mr. President, I have listened with concern to the comment of several respected delegates as they mentioned the dangers of Friday travel and a need to ease this problem. We should, of course, concern ourselves with this situation.

Mr. President, as of this moment, we have spent, and can never recover, 14 of our 91 days. If we follow the resolution as adopted yesterday, we have 48 days to complete our task and that presumes that we work a full five-day week with no further adjournment for holidays.

Mr. President, are we so far along in our tasks that we may lightly cast aside the vote and mandate of the people given to us on the 7th of November just past? Have we forgotten and wasted all the words of challenge, of advice, of encouragement and of prayer which we drank so freely of these first two weeks?

Mr. President, if we complete our task in time, if we can see our names attested to a finished product and be ready to say that it is the answer that the people asked for, that we proudly present our product in April on the ballot then, Mr. President, my words are wasted now.

But, Mr. President, are we ready now to give away a substantial portion of our time and run the risk that you and I must stand in fear and trepidation of our return to our home districts to answer in shame that we have not completed our task, not because we did not have the challenge, not because we had not the talents, not because we found the task too great; but, oh, shame of shame, because we wanted to take a long Christmas-New Year holiday, because we really did not see the enormity of the task or worse than this, because we thought first of ourselves and put our dedication to our State in second place.

Mr. President, we do not want to fail. May we now, therefore, reconsider. I, for one, am willing. I pray you all may be. I, therefore, at the risk of being the unpopular conscience of this Convention, present the following resolution and request unanimous consent for its immediate adoption:

RESOLUTION

BE IT RESOLVED, That when this Convention adjourns Thursday, December 21, 1967, it reconvene Tuesday, December 26, 1967, at 1:30 p.m., and

BE IT FURTHER RESOLVED, That when this Convention adjourns on Friday, December 29, 1967, it reconvene on Tuesday, January 2, 1968, at 1:30 p.m.

PRESIDENT BRODERICK. Is there a second to that resolution?

The Chair recognizes Delegate Bloom.

DELEGATE BLOOM. I do not think the delegate clearly understands the resolution that we passed. We passed a resolution only to postpone the assemblage here. It is up to the co-chairmen of each committee, if they desire, to call a meeting. If they feel that they should, in good conscience, call a meeting during this holiday, they are free to do so and they can continue their work. I do not see any reason why we cannot postpone the assemblage for one week, meeting here together as we do. The responsibility and the conscience lie with the co-chairmen of each committee and subcommittee to perform their work and see that they meet the deadline.

PRESIDENT BRODERICK. Thank you, Delegate Bloom. Delegate Tully seconds Delegate Shoemaker's resolution. Is there any objection to the immediate consideration of that resolution?

The Chair hears none.

Is there any discussion on the resolution?

The Chair recognizes the delegate from Dauphin, Delegate Swope.

DELEGATE SWOPE. Mr. President, my colleague and co-chairman of the committee has stated the technical aspects of our recess over the holidays, which I will not repeat. It would be very easy for me to favor this resolution because I live in Harrisburg and I am home every evening. But I want to say to you, Mr. President, that of all the written observations that we have before us, many of them came from delegates from distant points, as distant as Erie, Pennsylvania—which is still in Pennsylvania, but it is distant—and other areas of Pennsylvania, pleading with us for this holiday recess and the adoption of the resolution which provides that committee chairmen may call their committees for consideration of the work before them. I think that very well takes care of the time lapse.

I, therefore, oppose the resolution, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Swope. The Chair recognizes the delegate from Lackawanna, Delegate Scranton.

DELEGATE SCRANTON. Mr. President, I just wanted to assure the assemblage that this waylaying of our joint activity does not mean in any respect that members of the Judiciary Committee will be loafing. Already three of the five subcommittees have charted activities for that period of time.

PRESIDENT BRODERICK. Thank you, Delegate Scranton.

Is there any further discussion? If not, we will put the question.

On the question.

Will the Convention agree to the resolution presented by Delegate Shoemaker?

It was not agreed to.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Van Sant from Lehigh.

DELEGATE VAN SANT. Mr. President, I rise to a point of personal privilege and ask unanimous consent to make a brief statement.

PRESIDENT BRODERICK. The delegate may proceed.
DELEGATE VAN SANT. Mr. President, I do not think that what I had to say was relevant to the resolution that was introduced, but I would hasten to point out and sincerely hope that during the Convention there will be no derogatory remarks to the legislature that might create animosity.

I sympathize very much with the delegate from the 28th Senatorial District, knowing that he is confronted not only with the belated operation of the Convention and the legislature, but in his own Senatorial District they have not decided who is the Senator there, and they have been at it for over a year.

COMMITTEE MEETING SCHEDULES

PRESIDENT BRODERICK. The next order of business is the announcement of times and places of committee meetings for today.

ADMINISTRATIVE AND FINANCE, Co-Chairmen Bloom and Swope, will meet immediately following this meeting in Room 500, North Office Building. This is a very important meeting and we are inviting the Co-Chairmen of the Standing Committees on Judiciary, Local Government, Legislative Apportionment, Taxation and Finance.

We also extend an invitation to the delegate who presented the resolution to come back here the day after Christmas, Delegate Shoemaker. I am sure Mr. Ingram and our committee will cooperate with him to see that his committee is properly staffed so that they can perform their duties during that particular period, if they see fit to do so.

JUDICIARY, Co-Chairmen Scranton and Amsterdam,

will meet with the co-chairmen of all subcommittees at 12 noon in Room 610-B, North Office Building.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, Standing Committee will meet in Room 708 at 11 a.m. today.

LOCAL GOVERNMENT, Co-Chairmen Pasquerilla and Manderino, all subcommittees will meet in their respective rooms on the fifth floor of the North Office Building immediately following this session.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, the Standing Committee will meet in PUC Hearing Room No. 3 at 10:45 a.m. today.

ANNOUNCEMENT

The **CLERK** Delegates will please leave their wraps in their respective offices in the North Office Building. Racks are also available on the first floor of the Capitol Building, adjacent to the rear elevator.

ADJOURNMENT

PRESIDENT BRODERICK The Chair recognizes Delegate Leach for the adjournment motion, pursuant to the resolution which was adopted.

Mr. LEACH. Mr. President, I move that this Convention do now adjourn until Monday, December 18, 1967, at 1:30 p.m., e.s.t.

PRESIDENT BRODERICK It has been moved by Delegate Leach and seconded by Delegate Gabreski that this Convention do now adjourn until Monday, December 18, 1967, at 1:30 p.m., e.s.t.

The motion was agreed to and (at 10:06 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Monday, December 18, 1967

Number 10

The Convention was called to order at 1:30 p.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

PRESIDENT BRODERICK. Today's meeting will be opened with prayer by the Reverend Theodore Clements, pastor of the Bethel A.M.E. Church of Harrisburg, Pennsylvania.

THE REVEREND THEODORE CLEMENTS offered the following prayer:

The Divine Creator has decreed that man, regardless of his ethnic origin, should stand in awe and wonder as he beholds the never ceaseless wonders of beauty and splendor found in His universe. The magnificence of His handiwork ever unfolds before us. Strange as may seem the things we cannot understand; stranger yet those things that are suggested, that are kept from us, that make man a creature of endless curiosity. It is stranger still that trees empty of their leaves still standing majestically against an unadulterated skyline, wild geese sailing high along uncharted pathways should disclose in simple language that God is in His holy temple.

May each of you this day give reverence to Whom reverence is due and, though some may feel that the tradition of prayer that opens this day's session is merely a format, I would suggest that you re-evaluate your opinions about that which has stood throughout the ages as a stimulus for peace and tranquility. May your deliberations be set with wisdom; your reasoning sharpened on the anvil of patience; your decisions rendered with understanding; and may each of you accept the divine right to differ and yet not be made smaller by your differences. No man is so great as to be master of all knowledge; no man is an island; no man stands alone.

May this Commonwealth of Pennsylvania continue to expand in all areas of human endeavor. May our nation forever stand as a symbol of peace to a disturbed world, a haven for the hungry and a land where all may enjoy the blessings of God. Amen.

JOURNAL APPROVAL POSTPONED

PRESIDENT BRODERICK. Unless there is an objection, the Chair will again dispense with the approval of the Journal until it has returned from the printers.

The Chair hears no objection.

QUORUM PRESENT

PRESIDENT BRODERICK. It is apparent that a quor-

um is present and again, unless the Chair hears objection, we will dispense with the calling of the roll.

Unfortunately, although we expected the electric roll-call board to be in operation, it is not as yet. We are trying to expedite its being made ready for our voting.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes our Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following delegates have requested leaves of absence for the dates indicated:

The delegate from the 48th District, **DELEGATE FEATHER**, for December 18 and 19, because of appearing in court;

The delegate from the 37th District, **DELEGATE REA**, for December 18, because of appearing in court;

The delegate from the 35th District, **DELEGATE SHETTIG**, for December 18, because of a funeral;

The delegate from the 2nd District, **DELEGATE KING**, for December 19, because of illness;

The delegate from the 14th District, **DELEGATE LAPUTKA**, for December 19, because of business.

The Secretary is pleased to point out that two previous leaves that were granted were not needed because the delegates made special efforts to get back, Delegates Gray and Bancs.

PRESIDENT BRODERICK. The Chair asks if there is any objection to the leaves requested by the Secretary.

The Chair hears no objection and the leaves are granted.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. The next order of business is reports of committees.

PUBLIC HEARINGS SCHEDULED

PRESIDENT BRODERICK. The Chair recognizes Delegate Swope, Co-Chairman of the Committee on Administration and Finance.

DELEGATE SWOPE. Mr. President, the Committee on Administration and Finance met last Thursday following the session in this chamber and it was decided by the committee—and we had the benefit of the standing committees' co-chairmen almost 100 per cent with us at the time—to hold public hearings in Harrisburg, Pennsylvania. I think the delegates have a schedule of that set of hearings on their desks, but I will repeat them:

The Judiciary Committee on December 27, 1967, at 9:30 a.m.

The Local Government Committee on December 28, 1967, at 9:30 a.m.

The Legislative Apportionment Committee on December 29, 1967, at 9:30 a.m.

The State Taxation and Finance Committee on December 29, 1967, at 1:30 p.m.

It was felt that the time between Christmas and New Year's seemed to be quite appropriate to hold this kind of committee hearings, and this would also enable the proposals which might come out of these hearings to be properly presented according to the schedule that has been set for the Convention.

Anyone who has an organization or an individual who might like to appear at any of these hearings, please have them contact the Secretary of the Convention, the Honorable James Michener of Bucks County, who has taken an apartment in Harrisburg and is in residence here during the Convention.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Chairman Swope

I think it is appropriate at this time for the Chair to make a formal announcement of the committee hearings. These hearings will be conducted by the four committees, the Committee on Judiciary, the Committee on Local Government, the Committee on Taxation and Finance and the Committee on Legislative Apportionment.

The call for public hearings is in accordance with the rules adopted by the Convention. I will read the provision relating to public hearings: "Standing committees and subcommittees may hold public hearings, subject to the approval of the Committee on Administration and Finance, on subject matters lying within the jurisdiction of each of the committees."

The Chair joins the Committee on Administration and Finance in stressing the importance of attendance by every delegate at these hearings, especially when the hearing pertains to your particular subject. The hearings will be conducted by the chairman of the committees or whomsoever they should designate.

The Chair will repeat the timetables of these hearings in the event you do not have them before you:

The Committee on Judiciary hearing will be held on Wednesday, December 27, at 9:30 a.m.

The Committee on Local Government on Thursday, December 28, at 9:30 a.m.

The Committee on Legislative Apportionment, on Thursday, December 28, at 9:30 a.m.

The Committee on Taxation and Finance will be held on Friday, December 29, at 1:30 p.m.

All four of these hearings will be held in Room 132 of the Finance Building. The Finance Building faces north, opposite the North Office Building where the Convention has its offices. It is directly across Commonwealth Avenue from the North Office Building.

PROPOSALS REFERRED

PRESIDENT BRODERICK. We now move to the next, and I think, the most important order of business at this time in our Convention, the introduction of proposals.

The Chair recognizes the delegate from Philadelphia, Delegate Tate.

DELEGATE TATE. Mr. President, I read in place and present to the Chair the following proposal and request,

after it is read by the clerk, an opportunity to make a brief statement.

PRESIDENT BRODERICK. That opportunity will be given.

No. 1011

By DELEGATE TATE

A PROPOSAL

Repealing article five of the Constitution of the Commonwealth of Pennsylvania relating to the Judiciary and adding new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of the Commonwealth of Pennsylvania is amended by adding after article four, a new article to read:

ARTICLE THE JUDICIARY

Section 1. Courts.—The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Superior Court, District Courts, Estates Courts, and Community Courts. Other courts may be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall consist of seven justices, one of whom shall be Chief Justice of Pennsylvania. In the absence of the Chief Justice, the member of the court senior in length of service on the court shall serve in his place.

(b) The Supreme Court shall be the highest court of the Commonwealth and shall have final appellate jurisdiction. It shall have no original jurisdiction except as may be expressly provided in this Constitution. It may assume jurisdiction of actions pending in any other court at any stage of the proceedings. It shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction. Appeals from final judgments of the District Court shall lie as of right directly to the Supreme Court only in cases of judgments imposing sentences of death or life imprisonment. In all other cases, appeals permitted by law shall be assigned by the Supreme Court to such court, including the Superior Court, as the Supreme Court shall by rule prescribe.

Section 3. Superior Court.—(a) The Superior Court shall consist of nine judges, except that the Supreme Court may from time to time assign additional judges from among the judges of the District Court or the Estates Court to temporary service upon the Superior Court as the business of the Superior Court may require. The number of judges of the Superior Court may be changed by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court. The court may act in panels of three or more judges, and shall sit at such places and times as the Supreme Court shall by rule prescribe.

(b) The Superior Court shall have no original jurisdiction. It shall exercise such appellate jurisdiction, including such review of the actions of executive or administrative offices or agencies, as may be assigned to it by

rule of the Supreme Court. When no other court has been designated by rule of the Supreme Court, appeals permitted by law shall be taken to the Superior Court.

(c) One of the judges of the Superior Court shall serve as its President Judge. In the absence of the President Judge the member of the Superior Court senior in length of service on the court shall act in his place.

Section 4. District and Estates Courts.—(a) There shall be one District Court for each judicial district. Initially, the number and boundaries of the judicial districts, and the number of judges to be selected from each district, shall be as at present, but the Supreme Court shall recommend from time to time to the General Assembly, such changes in the foregoing as the Supreme Court may deem advisable. The President Judge of the District Court of each judicial district shall, under the direction of the Chief Justice or such associate justice as shall be deputized by him, supervise the court's judicial business, including the assignment of the court's judges within the district.

(b) In any district in which a separate Orphans' Court presently exists there shall be a separate Estates Court which initially shall consist of the number of judges authorized to sit on the Orphans' Court of the district when this section becomes effective. The jurisdiction of the court shall continue to be the jurisdiction now exercised by the Orphans' Court of the district, unless modified by rule of the Supreme Court. In any other district there may be a separate Estates Court as the General Assembly may determine upon recommendation of the Supreme Court.

(c) In all districts except those containing separate Estates Courts, the District Courts shall have unlimited original jurisdiction in all cases except such as may be assigned exclusively to the Community Courts by rule of the Supreme Court; and in districts containing separate Estates Courts the District Courts shall have the same original jurisdiction as in other districts, except that they shall not have jurisdiction in cases over which the Estates Courts of their respective districts shall have jurisdiction.

(d) The District Courts shall have such powers of review of the actions of the Community Courts and of executive or administrative offices or agencies as may be provided by rule of the Supreme Court.

(e) The District Courts may exercise their jurisdiction through such appropriate divisions, including civil, criminal, and, except in districts in which there are separate Estates Courts, estates divisions, as the Supreme Court shall by rule prescribe. There shall be a Presiding Judge for each division which may be created in any district.

Section 5. Community Courts.—(a) All existing courts not of record are abolished and shall be superseded by Community Courts which shall be courts of such limited jurisdiction and shall exercise their jurisdiction through such appropriate divisions as the Supreme Court shall by rule prescribe.

(b) The number of judges constituting the Community Courts shall be determined for each judicial district by rule of the Supreme Court. Judges of the Community Court for each judicial district shall be selected in the same manner as the judges of the District Court of such district. The President Judge of the District Court for each judicial district shall designate the places within the district where the Community Court for that district shall sit, subject to review by the Supreme Court.

(c) The President Judge of the District Court of each judicial district shall, in accordance with rules prescribed by the Supreme Court appoint commissioners for the district to accept bail, issue warrants, or otherwise assist the judges of the Community Court of the district in the performance of their judicial duties within the district as the Supreme Court may by rule prescribe.

Section 6. Qualifications of Judges and Commissioners.—(a) Justices and judges shall be citizens of the Commonwealth. Unless in any judicial district, there are less than six qualified lawyers willing to accept appointment to fill a vacancy, judges of the District Courts, Estates Courts and Community Courts shall be residents of the judicial districts for which they shall be selected and shall reside in the districts in which they serve. All justices and judges shall meet such standards as to qualifications, training, education and otherwise, both at the time of appointment as well as thereafter, as the Supreme Court shall by rule prescribe.

(b) Commissioners shall be citizens of the Commonwealth and residents of the judicial districts for which they shall be appointed. They shall possess such additional qualifications and shall be subject to such restrictions as to activities outside their official duties, as the Supreme Court shall by rule prescribe.

Section 7. Method of Selection of Judges.—(a) Whenever a vacancy occurs by death, resignation, removal from office, expiration of a term of office, or creation of an additional judgeship, in the office of justice of the Supreme Court or of judge of the Superior Court, judge of the District Court, judge of the Estates Court, or judge of the Community Court, the Governor shall fill the vacancy by appointment from a panel of persons qualified for the office, nominated to him by a Judicial Nominating Commission established and organized as hereinafter provided.

(b) In the case of a justice of the Supreme Court or a judge of the Superior Court, the State-wide Judicial Nominating Commission shall nominate to the Governor six names. If the Governor fails within sixty days to make an appointment from the panel submitted to him, the Judicial Nominating Commission shall certify the same six names to the Chief Justice who shall promptly appoint one of the six nominees.

(c) In all other cases the appropriate Judicial Nominating Commission shall nominate to the Governor the names of three persons qualified for the office and residing within the judicial district in which the vacancy exists unless there are within the district less than six lawyers qualified for the office who are willing to accept appointment in which case the Judicial Nominating Commission shall nominate to the Governor three lawyers qualified for the office regardless of their residence. If none of the persons so nominated is acceptable to the Governor, he shall so notify the Judicial Nominating Commission within sixty days of his receipt of the nominations. Upon receipt of such notification, or upon expiration of such sixty-day period without such notification if no appointment has been made, the Judicial Nominating Commission shall nominate a second panel of three other persons. If none of the persons nominated in either panel is appointed by the Governor within thirty days of his receipt of the nominations in the second panel, the appointment shall be made by the Chief Justice from among the

persons nominated in either panel as certified to him by the Judicial Nominating Commission.

(d) Each justice or judge appointed in the manner prescribed by subsection (a) of this section shall hold office for a term ending the first Monday of January following the next municipal election day more than twenty-four months following his appointment. Not less than one hundred twenty days before the expiration of the term of office of a justice or a judge appointed by the Governor or by the Chief Justice or not less than one hundred twenty days before the expiration of the term of office of an elected justice or judge entitled to succeed himself, the justice or judge may file in the office of the official in charge of State-wide elections, a declaration of candidacy for retention to succeed himself. If he does not file such declaration, a vacancy shall exist at the end of his term to be filled by appointment by the Governor or the Chief Justice as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on separate judicial ballots or in a separate column on voting machines, in either case without party designation, at the municipal election immediately preceding the expiration of his term of office, to determine only the question whether he shall be retained in office. If a majority of the votes cast are against retaining the justice or judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment by the Governor or the Chief Justice as herein provided. If a majority of the votes cast are in favor of retaining a justice or a judge, he shall serve for the full term of office provided herein, unless sooner removed. At the expiration of each term any justice or judge shall be eligible for retention in office in the manner provided herein, subject only to the retirement laws then in force.

Section 8 Judicial Nominating Commissions.—(a) There shall be a single State-wide Judicial Nominating Commission for the Supreme and the Superior Courts, and separate Judicial Nominating Commissions for each judicial district. Each such commission shall be composed of one justice or judge, three members of the bar selected by the members of the bar and three lay citizens. The justice or judge and the members of the bar on each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens on each Judicial Nominating Commission shall be appointed by the Governor. Members of the Judicial Nominating Commission for the Supreme and the Superior Courts shall be chosen from the Commonwealth at large, and members of the Judicial Nominating Commission for a judicial district shall be chosen from that district except that the justice or judge may be chosen from outside the district.

(b) The members of each Judicial Nominating Commission shall serve for terms of three years, staggered except in the case of the justice or judge on the commission, so that two members, one selected by the bar and the other appointed by the Governor, shall be selected each year. Of the first members selected following the effective date of this section, two members, one selected by the bar and one appointed by the Governor, shall be selected for one-year terms and two other members selected by the bar and by the Governor respectively, shall be selected for two-year terms. Vacancies in the membership of any Judicial Nominating Commission shall be filled for the balance of the term by the same appointing power as appoint-

ed the member whose place has become vacant. No member of a Judicial Nominating Commission shall serve for more than two successive three-year terms on that commission, but he may be reappointed or re-elected after a lapse of one year. The members of each commission shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. Each commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization, nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Section 9. Appointments by the Governor and by the Chief Justice.—The Governor and the Chief Justice shall have full responsibility for all appointments made by them, respectively under this article. They shall make such appointments solely on the basis of merit regardless of the political affiliations of the appointees. The Governor's and Chief Justice's appointments under this article shall not require the consent of the Senate.

Section 10. Tenure of Judges; Method of Selection of Chief Justices, President Judges and Presiding Judges.—(a) When the qualified electors of the State-at-large or of the appropriate judicial district have voted to retain them, justices of the Supreme Court, and judges of the Superior Court, of the District Courts and of the Estates Courts shall serve for terms of ten years, and judges of the Community Courts shall serve for terms of not more than ten years as the General Assembly shall from time to time prescribe. The tenure of any judge shall not be affected by changes in judicial districts or by the reduction of the number of judges.

(b) The Chief Justice of Pennsylvania shall be elected for a term of five years by the State-wide Judicial Nominating Commission and shall always be eligible for re-election. A member of the court may resign the office of Chief Justice without resigning from the court.

(c) The President Judge of the Superior Court, and the President Judge of the District Court, and the President Judge of the Estates Court, if any, for each judicial district, shall be appointed by the Chief Justice of Pennsylvania and shall serve in such capacity at his pleasure.

(d) The President Judge of the Community Court for each judicial district and the Presiding Judge of any divisions of the District Court shall be appointed by the President Judge of the District Court for the district and shall serve at his pleasure.

Section 11. Compensation and Retirement of Judges.—(a) Justices and judges shall receive compensation paid by the Commonwealth as prescribed by law, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth.

(b) Justices and judges shall be retired at such age, not less than seventy-two years for justices of the Supreme Court and judges of the Superior Court, and not less than seventy years for all other judges, as shall be provided by the General Assembly. Notwithstanding the expiration

of the term for which a justice or a judge was last elected, his retirement, resignation or removal from office for physical or mental disability, he shall receive such compensation as shall be prescribed by the General Assembly. A former judge may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

Section 12. Removal, Discipline and Compulsory Retirement of Judges.—(a) There shall be a Judicial Qualifications Commission to be composed of two judges of the Superior Court, and three judges of the District Courts from different Judicial Districts, to be selected by the Supreme Court; two members of the bar to be selected by the members of the bar; and two lay citizens to be selected by the Governor. The judges and the members of the bar shall be selected in the manner and in accordance with rules prescribed by the Supreme Court.

The members of the Judicial Qualifications Commission shall serve for terms of four years, the selection of the first members following the effective date of this section to be staggered as follows: one judge of the Superior Court, one member of the bar, and one lay member shall be selected for two-year terms, and one judge of the Superior Court, one member of the bar, and one lay member shall be selected for four-year terms; one judge of the District Court shall be selected for a term of two years, one for a term of three years, and one for a term of four years. A vacancy in the membership of the Commission shall be filled for the balance of the term by the same appointing power as selected the member whose place has become vacant. No member of the Commission shall serve for more than one full four-year term on the Commission, but he may be reappointed or re-elected after a lapse of one year. The members of the Commission shall elect one member to serve as Chairman for a term of one year. The Commission shall act only with the concurrence of a majority of all its members.

During the terms of office for which members of the Judicial Qualifications Commission have been chosen, they shall not hold any office in a political party or organization nor, except for the members who are judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the Commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In accordance with the procedure prescribed in subsection (c) of this section, any justice or judge may be removed from office or otherwise disciplined for misconduct in office, neglect of duty, failure to perform his duties, violation of any canon of legal or judicial ethics adopted by the Supreme Court, or other conduct which prejudices the proper administration of justice; and any justice or judge may be retired for disability seriously interfering with the performance of his duties, which is, or is likely.

(c) The Judicial Qualifications Commission shall keep itself as fully informed as may be of facts and circumstances relating to justices or judges, insofar as the same may bear upon any of the grounds for removal, discipline, or compulsory retirement; shall receive complaints or reports, formal or informal, from any source pertaining to such matters and shall make such preliminary investigations as it may determine.

The Judicial Qualifications Commission may, after such

investigation as it deems necessary, order a hearing to be held before it concerning the removal, discipline or compulsory retirement of a justice or a judge, or the Commission may in its discretion request the Supreme Court to appoint three special masters, who shall be justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the Commission. The Commission's orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court of Dauphin County.

If, after hearing or after considering the record and report of the masters, the Commission finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline, or compulsory retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline, or compulsory retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for compulsory retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired under section 11 (b) of this article. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the Judicial Qualifications Commission or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the Commission or the masters shall be privileged; provided that, upon being filed by the Commission in the Supreme Court, the record loses its confidential character.

The Supreme Court shall by rule provide for procedure under this section before the Judicial Qualifications Commission, the masters, and the Supreme Court.

No justice or judge shall sit as a member of the Commission or the Supreme Court in any proceedings involving his own removal, discipline, or compulsory retirement.

(d) Any justice or judge who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the bar of the Supreme Court, shall automatically forfeit his judicial office.

(e) This section is alternative to and cumulative with the provisions for impeachment for misbehavior in office contained in Article VI, sections 4, 5 and 6. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

Section 13. Nonjudicial Duties and Prohibited Activities.—(a) No duties, other than judicial duties, shall be imposed by law upon any court or upon any of the justices or judges thereof, nor shall any power of appointment be conferred upon any court or upon any justice or judge thereof except such as relates to the exercise of the judicial power of this Commonwealth or the administration of the courts as provided in this article.

(b) No justice or judge shall directly or indirectly make any contribution to or hold any office in a political party or organization, nor while retaining judicial office shall he become a candidate at either a primary or general election for any office other than a judicial office, except that

any justice or judge may contribute to the political campaign of a member of his family.

(c) No justice or judge shall practice law or engage in any other employment for compensation, except that he may receive compensation as a lecturer, teacher or author, as an officer of a nonprofit professional organization, as a fiduciary of the estate of a member of his family, and as a member of the National Guard or a reserve component of the Armed Forces of the United States while on inactive duty.

Section 14. Administration of Courts.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts of this Commonwealth, including the temporary assignment of judges from one court or district to another, but in judicial districts containing populations in excess of five hundred thousand a judge of the District Court or of the Estates Court or of the Community Court shall not be assigned to a district other than his own without the consent of the President Judge of his court. The powers of administration vested in the Supreme Court shall be exercised by the Chief Justice, or by an associate justice deputized by him, in accordance with rules prescribed by the Supreme Court. The Chief Justice shall appoint an administrative director and staff, who shall assist the Chief Justice or the associate justice deputized by him, in supervising the administrative operations of the judicial system and shall serve at his pleasure.

(b) The Supreme Court shall have power to prescribe rules in all civil and criminal actions and proceedings for all courts, governing administration, practice and procedure, including rules of evidence, appeals, appellate jurisdiction including time for appeals, and the issuance of all writs necessary or appropriate in aid of the jurisdiction of the respective courts. These rules shall have the force and effect of law and shall suspend all statutes inconsistent therewith.

Section 15. Clerks of Court, Court Personnel.—(a) There shall be such Clerks of Court and such other nonjudicial personnel as shall be necessary for the effective performance of the judicial work of the Commonwealth. The clerks of the District Courts, of the Estates Courts, and of the Community Courts, their assistants and other nonjudicial court officers within each judicial district shall be appointed by the judges of the respective courts of that district, until such time as the Supreme Court shall otherwise provide in accordance with rules prescribed by it.

(b) The Supreme Court may prescribe a merit system for appointment, promotion, removal, discipline, and suspension of nonjudicial personnel in the judicial system and may provide for exempt categories. The Supreme Court may administer the merit system through an administrative director, or may provide for its administration by other appropriate agencies of the Commonwealth or its political subdivisions, who shall be required to render necessary assistance to the court.

Section 16. Judicial Council.—(a) The Supreme Court shall establish a Judicial Council consisting of such number of members and selected in such manner as the Supreme Court may by rule prescribe.

(b) The Judicial Council shall conduct studies for improvement of the administration of justice and for law reform, and shall make reports and recommendations to the Supreme Court and to the General Assembly at inter-

vals of not more than two years. The Judicial Council shall perform such other duties as may be prescribed in this article or assigned to it by rule of the Supreme Court.

Section 17. Implementation of this Article.—The General Assembly shall enact all laws which may be necessary to implement the provisions of this article.

SCHEDULE

That no inconvenience may arise from changes in the Judiciary article of the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared that:

1. This Judiciary article, except as otherwise provided herein, shall become effective on the thirty-first day of July of the year next succeeding its adoption; and the tenure of the Chief Justice and of justices of the Supreme Court and of judges of the Superior Court then in office shall not be affected by this article. Subject to the provisions of the retirement acts then in effect, judges of both courts shall be eligible for re-election in the manner provided in section 7 (d).

2. The provisions of section 10, subsection (b) relating to the election of the Chief Justice by the State-wide Judicial Nominating Commission shall become effective upon the expiration of the term, or the death, resignation or removal of the last justice of the Supreme Court in office on July 31, 1968.

3. The Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, the County Court of Philadelphia, the County Court of Allegheny County, the Juvenile Court of Allegheny County, the Court of Common Pleas of every judicial district are abolished, and their jurisdiction and powers shall be exercised by the District Courts provided by this article. The tenure of judges of the abolished courts shall not be affected by the abolition of the same, and the judges thereof are hereby constituted for the remainder of their respective terms as judges of the District Court or in counties having separate Orphans' Courts, judges of the Estates Court, as the case may be, in their present respective judicial districts and shall be eligible for re-election as judges thereof in the manner provided by section 7 (d) or section 7 (e) as may be appropriate.

4. The Magistrates' Courts in Philadelphia County and the Aldermen's and Justices of the Peace Courts in other counties, the Traffic Court of the City of Pittsburgh, the Police Magistrates of the City of Pittsburgh, and the Traffic Court of the City of Philadelphia are abolished on the effective date of this article and the terms of office of the incumbent judges thereof shall then terminate. Subsequently the jurisdiction and powers of the aforesaid courts shall be exercised by the Community Courts until otherwise provided by rule of the Supreme Court of Pennsylvania.

5. The Board of Claims and the Board of Arbitration of Claims shall continue to exercise the jurisdiction now provided by law until otherwise provided by the General Assembly but shall not be deemed courts forming part of the judicial system created by this article.

6. (a) The offices of Clerk of the Court of Quarter Sessions of the Peace, of Oyer and Terminer, and of Clerk of Orphans' Court, and the office of Prothonotary are abolished.

(b) The present Prothonotaries of the Common Pleas

Court shall become clerks of the District Court within their respective districts for the balance of their terms, subject to the provisions of this article.

(c) The presently elected Clerks of the Courts of Quarter Sessions and of Oyer and Terminer shall become deputy clerks of the District Courts within their respective districts for the balance of their terms, subject to the provisions of this article.

7. (a) All causes and proceedings pending in the courts of record not continued by this article, except those pending before the Board of Claims and the Board of Arbitration of Claims, shall be transferred to the District Court, or, when appropriate, to the Estates Court, which shall have authority to dispose of all actions so transferred or to enforce any judgment, order, sentence, or decree henceforth or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdiction of the transferee court and been commenced herein. All dockets, books, records, documents, or other papers in the possession of the clerks of the courts of record whose existence is not continued shall be transferred to the clerks of the District Courts or, when appropriate, of the Estates Court.

(b) All matters pending before the Courts of Justices of the Peace, Aldermen and Magistrates, the Traffic Courts of the Cities of Philadelphia and Pittsburgh and the Police Court of the City of Pittsburgh shall be transferred to the Community Courts, which shall have the authority to dispose of all transferred actions or to enforce any judgment, order or sentence heretofore entered or imposed.

All books, records, documents and papers in the possession of any of those courts shall also be transferred to the Community Court of the appropriate judicial district.

Section 2. Article five of the Constitution of the Commonwealth of Pennsylvania is hereby repealed effective the thirty-first day of July of the year next succeeding the adoption of the foregoing article, except that as much of section 2 as provides for the succession of chief justices according to the priority of their commissions shall not be repealed until the expiration of the term or the death, resignation, retirement or removal of the last justice of the Supreme Court in office on July 31, 1968.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Tate for a statement.

DELEGATE TATE. Mr. President, this proposal relates to a single sentence in the Judiciary Article. For reasons best known to the Drafting Bureau, the entire Judiciary Article is presented herewith; but I would like to explain what the sentence involved is so that it may be placed in the proper context by the Convention.

The sentence to which I refer is in Section 6, "Qualifications of Judges and Commissioners." I will read it and then explain its meaning. It says, "All justices and judges shall meet such standards as to qualifications, training, education and otherwise, both at the time of appointment as well as thereafter, as the Supreme Court shall by rule prescribe."

The rest of this proposal is identical to Proposal No. 1000 introduced last week by Delegate Thornburgh, being the Pennsylvania Bar Association's proposal. The change relates to the requirement in Proposal No. 1000, that all

judges and justices be members of the Bar of the Supreme Court of Pennsylvania.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Aberman.

DELEGATE ABERMAN. Mr. President, I read in place and offer the following proposal. I also request time to make a few remarks.

No. 1012

By DELEGATES ABERMAN and RAPPAPORT

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania relating to local government.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE LOCAL GOVERNMENT

A. General

Section 1. Units of Local Government.—For the purposes of this Constitution, Philadelphia shall be considered a county; "municipal corporation" shall mean any incorporated city, town, township or borough but shall not include Philadelphia or any county; "region" shall mean an area comprising all or parts of two or more counties.

Section 2. Establishment of Counties and Multi-County Governmental Units.—The General Assembly may provide by law for the establishment, incorporation, change, merger, dissolution and alteration of boundaries of counties and multi-county governmental units, including intergovernmental authorities and popularly elected regional representative governments, but excluding municipal corporations. A law altering the boundaries of a county shall be enacted only by the affirmative vote of at least three-fifths of all the members of each House.

B. Counties

Section 11. Powers of Counties.—A county may exercise any power, other than judicial power, or perform any function which is not denied to it by this Constitution, by its charter or by a public general law which in its terms and in its effects is applicable to all counties or to all counties of the county's class, and which has not been transferred exclusively to another governmental unit.

Section 12. Classification of Counties.—Counties may be classified as provided by section twenty of article three of this Constitution.

Section 13. General Application of Laws.—Except as otherwise specifically provided in this Constitution, the General Assembly may not enact any public local laws and, except with respect to appropriations, may enact only public general laws which in their terms and in their effects apply without exception to all counties or to all counties in a class. No county shall be exempt from any public general law applicable to counties in its class.

Section 14. Structure of County Governments.—Within one year following adoption of this Constitution, the General Assembly shall provide by law alternative procedures

by which an instrument of government of a county may be proposed: by enactment of the local governing body, by petition of ten per cent of the qualified voters of the county, by board created by enactment of the local governing body or created by the voters of the county approving a voters' petition for such a board, or by such other methods as may be prescribed. An instrument of government shall be submitted for adoption by the affirmative vote of a majority of the voters of the county voting thereon. The General Assembly shall provide by law an instrument of government which shall become effective on the first day of January of the fourth year following the effective date of this Constitution for those counties which have not previously adopted an instrument of government as provided in this section.

Section 15. Continuance of Existing County Governments.—County governments existing at the effective date of this Constitution shall continue unless changed pursuant to this Constitution.

Section 16. Change of Structure of County Government.—An instrument of government of a county may be amended by the affirmative vote of a majority of the voters of the county voting on an amendment submitted by the governing body or submitted upon petition of voters in accordance with the provisions of the instrument of government.

C. Municipalities

Section 21. Municipal Corporations.—A county may provide by law for the incorporation, change, merger, dissolution and alteration of boundaries of municipal corporations located in the county, and may delegate powers of the county to any municipal corporation. No existing municipal corporation may be dissolved or have withdrawn any existing powers set forth in its charter without either the consent of its governing body or the consent of the General Assembly by law.

D. Cooperative Agreements

Section 31. Intrastate Intergovernmental Agreements.—A county, municipal corporation or other governmental unit may, except to the extent prohibited by law, agree with the State or with any other county, municipal corporation or governmental unit for the joint administration of any functions and powers and the sharing of the costs thereof.

E. Regional Governments and Intergovernmental Authorities

Section 41. Establishment of Regional Governments.—Upon the establishment by the General Assembly by law of the boundaries of a region, a popularly elected representative government for the region, and the instrument of government therefor, may be created by the General Assembly by law, or by the counties within or partly within the region acting concurrently by law, or by affirmative action of a majority of the registered voters of the region voting upon a plan proposed by a petition signed by a number of registered voters of the region equal to at least five per cent of the vote cast in the region for Governor in the most recent gubernatorial election.

Section 42. Change of Structure of Regional Government.—The instrument of government for a region shall provide for amendment of the instrument by the affirmative vote of a majority of the voters of the region voting on an amendment submitted by the governing body or by

petition of the voters in accordance with the provisions of the instrument.

Section 43. Powers of Regional Governments.—Powers may be vested in a regional government either by all counties within or partly within a region relinquishing powers to the regional government by law, by the General Assembly by law withdrawing specified powers from all counties within or partly within a region and conferring the powers upon the regional government, or by the General Assembly by law delegating powers of the State to the regional government. A power conferred upon a regional government may thereafter by law be relinquished by the regional government or be withdrawn by the General Assembly. In either event the power relinquished by or withdrawn from the regional government shall revert only to the respective counties or to the State, from which it originated.

Section 44. Powers of Intergovernmental Authorities.—The General Assembly or a popularly elected representative local government may by law grant to intergovernmental authorities the power to impose and collect service charges, to borrow money and to collect taxes imposed by the General Assembly or by the popularly elected representative local government, but may not grant the power to impose taxes.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Aberman to proceed with his statement.

DELEGATE ABERMAN. Mr. President, the purpose and intent of this proposal presented today by myself and Delegate Rappaport of Philadelphia is an attempt to meet what we feel is probably the most critical problem we face in this Constitutional Convention.

The most important prospective legislation and proposal that should come out of this Convention should relate to the problem of local government. I think, more than anything else, we will be judged on its success or failure by our ability to meet this problem. I think that every expert we have heard testify in the past and who will testify in the future will state that the future of the United States will depend on our ability to successfully create between the individual and the Federal Government a viable and flexible means of translating the many problems of urban government and also the many problems of suburban government into a meaningful relationship.

The thrust of this proposal very simply is to reverse the time-worn and time-misused tradition known as "Dillon's Rule." The purpose of this proposal is to vest in the county government—which Mr. Rappaport and I feel is the best and most viable means of treating the problem—that power which, except for that denied to it by the legislature, will be all encompassing. We feel that by using this traditional form of local government, we can better strengthen the Commonwealth and hopefully, as a result of our deliberations here, have a more meaningful form of government.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Huggins for the introduction of a proposal.

DELEGATE HUGGINS. Mr. President, I read in place and present to the Chair the following proposal, and I would like a few moments to speak on it.

No. 1013

By **DELEGATES HUGGINS and REDICK**

A PROPOSAL

Adding a new section to article five of the Constitution of Pennsylvania providing for the retirement of judges.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding after section 15 thereof a new section to read:

**ARTICLE V
THE JUDICIARY**

* * *

Section 15.1 Retirement of Judges.—No person sixty-seven years of age or older shall serve as judge of any court other than the Supreme Court, except for a judge elected to office prior to the time of adoption of this section and then only for the balance of his current term. The General Assembly, by general law, shall provide for the retirement of judges in conformity with the requirements of this section.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. You may proceed with your statement now, Delegate Huggins.

DELEGATE HUGGINS. Thank you, Mr. Speaker.

One of the great problems, I think, facing our day is the increasing problem within the courts of law to create a freshness, or at least a newness in the awareness of what is going to be deliberated for the good of the people. I maintain that Pennsylvania can afford in the years beyond this Convention to be chained by a particular mandatory age in courts beyond something that is not mandatory beyond the courts for those who are in gainful employment. This is merely an introduction for the Judiciary Committee to seriously consider what would be a mandatory age for judges, excluding those of the Supreme Court, which of course, could bear discussion at some future time. But I think to at least break the ice and to pause in our thinking is the reason this proposal was introduced.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Bucks, Delegate Powell.

DELEGATE POWELL. Mr. President, I stand in place and present the following proposal to the Chair:

No. 1014

By **DELEGATES POWELL, MEYER and BALDWIN**

A PROPOSAL

Amending article fourteen, sections one and four of the Constitution of Pennsylvania eliminating surveyors as county officers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections one and four of article fourteen of the Constitution of Pennsylvania are amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers [surveyors,] auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Section 4. Where Offices Shall Be Kept.—Prothonotaries, clerks of the courts, recorders of deeds, registers of wills [county surveyors] and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers

Referred to Committee on Local Government

PRESIDENT BRODERICK. The Chair recognizes the delegate from York, Delegate Shoemaker.

DELEGATE SHOEMAKER. Mr. President, I read in place and present to the Chair the following proposal. I do not care to make comment except to call to the Convention's attention that this proposal is sponsored by all three of the delegates from the 28th District, that district without a State Senator.

No. 1015

By **DELEGATES SHOEMAKER, MICHAEL and RUTH**

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania enabling contiguous political subdivisions to form commissions for the joint furnishing of services.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the constitution of Pennsylvania to read:

**ARTICLE
JOINT FURNISHING OF SERVICES BY POLITICAL
SUBDIVISIONS**

Section 1. Agreements Delegating Powers to Commissions.—Contiguous political subdivisions within this Commonwealth are hereby empowered to enter into agreements mutually delegating their powers to a joint commission or commissions which shall thereupon have all the powers previously delegated to the separate subdivisions which shall be equal exclusive and concurrent within the said subdivisions.

Section 2. Additional Political Subdivisions Joining Commissions.—Existing commissions under section 1 above may enter into agreements with additional contiguous political subdivisions with the same force and effect as if the added subdivision or divisions had been part of the original commissions.

Section 3. Membership of Commissions.—Commissions created under this article shall be composed of not less than five nor more than thirty-one appointed members; each subdivision appointing one member for each ten thousand population but in no event shall any subdivision be entitled to less than one or more than five members.

Section 4. Commission Administration.—Commissions created under this article shall hire one head of each department delegated to them who shall be answerable only to the commission and who shall administer the service delegated to the commission.

Section 5. Standards for Commissions.—The General Assembly may by specific legislation set standards under which such commissions shall operate.

Section 6. Assessments for Cost of Services Furnished.—Commissions created under this article shall have the power to assess to each participating subdivision on an equal basis, as the General Assembly shall from time to time provide, the cost of providing the specified service and the participating subdivision shall include the said assessment in its annual budget.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 46th Senatorial District, Delegate Hook.

DELEGATE HOOK. Mr. President, I read in place and present to the Chair a proposal relating to taxation and state finance. I would like to speak on this.

No. 1016

By DELEGATE HOOK

A PROPOSAL

Amending article eight of the Constitution of the Commonwealth of Pennsylvania relating to taxation and State finance.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The article heading of article eight and sections 1, 1B, 2, 3, 6, 9, 11, 12, 14 and 18 thereof are amended and the article is amended by adding a new section to read:

ARTICLE TAXATION AND STATE FINANCE

Section 1. Uniform Taxation; Exemption from Taxation.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

Section [1B] 2. Exemptions to Residents of Other States.—Taxation laws may grant exemptions or rebates to residents, or estates of residents, of other States which grant similar exemptions or rebates to residents, or estates of residents, of Pennsylvania.

Section [2] 3. Exemption from Taxation Limited.—All laws exempting property from taxation, other than the property above enumerated, shall be void.

Section [3] 4. Taxation of Corporations.—The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

Section 5. State Debt.—(a) Except as hereinafter in this article provided, no debt shall be created by this Commonwealth unless:

(1) The debt has been authorized by statute, and

(2) It is incurred to suppress insurrection, to rehabilitate areas affected by disaster, by the issuance of tax anticipation notes payable in the fiscal period in which they are issued, or to implement authority voted by the electors prior to the adoption of this article for the acquisition of land for State parks, reservoirs, and other conservation and recreational and historical preservation purposes, or

(3) The debt is for other purposes separately specified in the statute and the question whether the debt shall be incurred has been submitted to the electors after such advertising as the General Assembly shall require and a majority of those voting on the question shall have voted in the affirmative.

(b) The General Assembly may authorize by statute the issuance of general obligation bonds or notes for the purpose of assuming or refunding any debt issued by any Commonwealth authority and which is payable or may hereafter become payable from Commonwealth revenues under leases to this Commonwealth, and it may from time to time authorize by law the issuance of refunding bonds or notes to pay any direct debt of the Commonwealth.

(c) All debt of the Commonwealth shall be evidenced by its general obligation bonds or notes which, except for tax anticipation notes, shall be bonds with serial maturities or notes repayable in installments over a period of time which shall be provided by law. The first serial maturity of bonds or the first payment of principal of notes of each issue of bonds or notes shall be not more than two years after the date of issue.

(d) All bonds or notes issued by the Commonwealth for capital improvements shall mature within a period not to exceed the estimated usefulness of the property or improvement for which they are issued and revenue shall be provided to pay the interest and retire the principal of such bonds or notes within this period. The estimated period of usefulness shall be stated in the statute authorizing the project, and when so stated shall be conclusive.

Section 6. State Credit Not to be Pledged.—The credit of the Commonwealth shall not be pledged or loaned to any individual, company, corporation or association, nor shall the Commonwealth become a joint owner or stockholder in any company, association or corporation.

Section [9] 7. Municipal or Private Debt Not to be Assumed by State.—The Commonwealth shall not assume the debt, or any part thereof, of any city, county, borough, [or] township, or other political subdivision, or of any individual, association, or corporation, unless such debt shall have been contracted to enable the State to [repel invasion, suppress domestic insurrection] suppress insurrection or de-

fend itself in time of war [, or to assist the State in the discharge of any portion of its present indebtedness].

Section [11] 8. State Sinking Fund.—(a) To provide for the payment of the present [State] Commonwealth debt, and any additional debt contracted [as aforesaid], the General Assembly shall continue [and] to maintain [the] a sinking fund, sufficient to pay the [accruing interest on such] principal of and interest on the debt [, and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; the said sinking fund shall consist of the proceeds of the sales of the public works or any part thereof, and of the income or proceeds of the sale of any stocks owned by the Commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the State not required for the ordinary and current expenses of government; and unless in case of war, invasion or insurrection, no part of the said sinking fund shall be used or applied otherwise than in the extinguishment of the public debt]. If at any time the General Assembly fails to make an appropriation for this purpose, the State Treasurer, any other provision of this Constitution notwithstanding, shall set apart from the first revenues thereafter received applicable to the appropriate fund a sum sufficient to pay the interest installments of principal or contributions to the sinking fund and shall so apply the moneys so set apart. The State Treasurer may be required to set aside and apply such revenues at the suit of any holder of Commonwealth bonds.

(b) No part of the sinking fund shall be used or applied otherwise than in the extinguishment of the public debt until all bonded debt of the Commonwealth has been completely repaid. Any money remaining in the sinking fund at such time shall be transferred to the appropriate fund and may be appropriated by the General Assembly

Section [12] 9. Surplus Funds.—The moneys of the State, over and above the necessary reserve, shall be used in the payment of the debt of the State, either directly or through the sinking fund, and the moneys of the sinking fund shall never be invested in or loaned upon the security of anything, except the [bonds] obligations of the United States or of this State.

Section [14] 10. Punishment for Misuse of State Moneys.—The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the State, or member or officer of the General Assembly, shall be a misdemeanor and shall be punished as may be provided by law, but part of such punishment shall be disqualification to hold office for a period of not less than five years.

Section [18] 11. Gasoline, Motor Fuel Excise, Motor Vehicle Registration, etc., Taxes; Appropriation and Use.—All proceeds from gasoline and other motor fuel excise taxes, motor vehicle registration fees and license taxes, operators' license fees and other excise taxes imposed on products used in motor transportation after providing therefrom for (a) cost of administration and collection, (b) payment of obligations incurred in the construction and reconstruction of public highways and bridges, shall be appropriated by the General Assembly to agencies of the State or political subdivisions thereof; and used solely for construction, reconstruction, maintenance and repair of and safety on public highways and bridges and air naviga-

tion facilities and costs and expenses incident thereto, and for the payment of obligations incurred for such purposes, and shall not be diverted by transfer or otherwise to any other purpose, except that loans may be made by the State from the proceeds of such taxes and fees for a single period not exceeding eight months, but no such loan shall be made within the period of one year from any preceding loan, and every loan made in any fiscal year shall be repayable within one month after the beginning of the next fiscal year.

Section 2. The existing sections four, five, thirteen, fifteen, sixteen, seventeen, nineteen, twenty-one, twenty-two and twenty-three of article eight of the Constitution of the Commonwealth of Pennsylvania, which read as herein-after set forth, are hereby repealed:

[Section 4. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.

Section 5. All laws, authorizing the borrowing of money by and on behalf of the State, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for the purpose specified and no other.

Section 13. The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured.

Section 15. No obligations which have been heretofore issued, or which may hereafter be issued, by any county or municipality, other than Philadelphia, to provide for the construction or acquisition of waterworks, subways, underground railways or street railways, or the appurtenances thereof, shall be considered as a debt of a municipality, within the meaning of section eight of article nine of the Constitution of Pennsylvania or of this amendment, if the net revenue derived from said property for a period of five years, either before or after the acquisition thereof, or, where the same is constructed by the county or municipality, after the completion thereof, shall have been sufficient to pay interest and sinking-fund charges during said period upon said obligations, or if the said obligations shall be secured by liens upon the respective properties, and shall impose no municipal liability. Where municipalities or counties shall issue obligations to provide for the construction of property, as herein provided, said municipalities or counties may also issue obligations to provide for the interest and sinking-fund charges accruing thereon until said properties shall have been completed and in operation for a period of one year; and said municipalities and counties shall not be required to levy a tax to pay said interest and sinking-fund charges, as required by section ten of article nine of the Constitution of Pennsylvania, until after said properties shall have been operated by said counties or municipalities during said period of one year. Any of the said municipalities or counties

may incur indebtedness in excess of seven per centum, and not exceeding ten per centum, of the assessed valuation of the taxable property therein, if said increase of indebtedness shall have been assented to by three-fifths of the electors voting at a public election, in such manner as shall be provided by law.

Section 16. In addition to the purposes stated in article nine, section four of this Constitution, the State may be authorized by law to create debt and to issue bonds, to the amount of fifty millions of dollars, for the payment of compensation to certain persons from this State who served in the Army, Navy, or Marine Corps of the United States during the war between the United States and Spain, between the twenty-first day of April, one thousand eight hundred and ninety-eight and the thirteenth day of August, one thousand eight hundred and ninety-eight, or who served in the China Relief Expedition in the Philippines or Guam, between the twenty-first day of April, one thousand eight hundred and ninety-eight and the fourth day of July, one thousand nine hundred and two, or who served in the Army, Navy, or Marine Corps of the United States during the World War, between the sixth day of April, one thousand nine hundred and seventeen and the eleventh day of November, one thousand nine hundred and eighteen.

Section 16. In addition to the purposes stated in article nine, section four, of this Constitution, the General Assembly may provide, by law, for the issue of bonds, to the amount of ten millions of dollars, for the purpose of acquiring toll bridges, and may, by law, provide that, upon the acquisition of any such bridge, tolls may be charged for the use thereof, sufficient to pay the interest and sinking fund charges on such bonds and the cost of the maintenance of such bridges, until the bonds issued have been retired and such bridges are freed of tolls.

Section 17. The Governor, the Auditor General, and the State Treasurer, immediately upon the adoption of this amendment by the electors, may borrow an amount not exceeding twenty-five million dollars to defray the expenses of the State government for the biennium beginning June first, one thousand nine hundred thirty-three; provided the General Assembly, at its regular session of one thousand nine hundred thirty-three, has authorized the borrowing of money for this purpose.

Section 19. The city of Philadelphia, in constructing, for the benefit of the inhabitants thereof, transit subways, rapid transit railways, or other local transit facilities for the transportation of persons or property, shall have the power, in order the more justly to distribute the benefits and costs of such transit facilities, to levy special assessments against such properties, whether abutting or not abutting upon said transit facilities, as are or will be specially and particularly benefited by the construction or operation of such transit facilities; such power to be exercised in accordance with existing or with future laws or pursuant to statutes enacted prior to the adoption of this amendment but made effective by it. Such special assessments, when so levied, may be made payable presently when levied or in installments over a period of years, with or without interest, and shall immediately, when so levied, be deducted from any indebtedness incurred for such purposes in calculating the debt of such city. Such city may acquire by eminent domain either the fee or less estate or easements in land necessary for the construction or operation of such transit facilities or for the disposal of earth or material excavated in the construction thereof or for other incidental purposes; but this provision shall not create any additional

powers for the condemnation of any railroad or street railway in operation.

Section 21. In addition to the purposes stated in article nine, section four of this Constitution, the Commonwealth may be authorized by law to create debt and to issue bonds to the amount of fifty million dollars (\$50,000,000) for the construction of public buildings, highways, drainage and sanitary systems, anti-stream pollution and flood control projects for purposes of reforestation, and for the rehabilitation and hospitalization of war veterans.

Section 22. In addition to the purposes stated in article nine, section four of this Constitution, the Commonwealth may be authorized by law to create debt and to issue bonds to the amount of \$500,000,000 for the payment of compensation to certain persons from this Commonwealth who shall have served in the armed forces of the United States or of any of her allies during World War II, between the seventh day of December, one thousand nine hundred forty-one and the second day of September, one thousand nine hundred forty-five, for the service of such persons to their country, whether or not they be living when distribution shall be made, and if such persons shall be deceased when distribution shall be made, such deceased person's compensation shall be paid to his spouse, child, children or parents.

Section 23. In addition to the purposes stated in article nine, section four of this Constitution, the Commonwealth may be authorized, by law, to create debt and to issue bonds to the amount of one hundred fifty million dollars (\$150,000,000) for the payment of compensation to certain persons from this Commonwealth, who served in the armed forces of the United States or any of her allies during the Korean Conflict, between June twenty-fifth, one thousand nine hundred fifty and July twenty-seventh, one thousand nine hundred fifty-three, for the service of such persons to their country, whether or not they are living when distribution is made, and, if the person is deceased when distribution is made, the deceased person's compensation shall be paid to his spouse, child, children or parents.

The law authorizing the creation of the debt and the issuance of the bonds shall not take effect until revenue-raising measures are enacted, which the Senate and House of Representatives, by concurrent resolution, declare and deem sufficient to amortize the amount to be borrowed and paid. The revenue derived from such revenue-raising measures shall be used only for the payment of the debt created, as herein provided, and the measures shall provide for their termination when sufficient funds are accumulated to pay the debt.]

Section 3. Effective when the last bonds have been issued under their authority, sections 24 and 25 of article eight of the Constitution of 1874 are hereby repealed. Those sections read as follows:

[Section 24. In addition to the purposes stated in article nine, section four of this Constitution, the Commonwealth may be authorized by law to create debt and to issue bonds to the amount of seventy million dollars (\$70,000,000) for the acquisition of land for State parks, reservoirs and other conservation and recreation and historical preservation purposes, and for participation by the Commonwealth with political subdivisions in the acquisition of land for parks, reservoirs and other conservation and recreation and historical preservation purposes, subject to such conditions and limitations as the General Assembly may prescribe.

Section 25. In addition to the purposes stated in article nine, section four of this Constitution, the Commonwealth may be authorized by law to create a debt and issue bonds

in the amount of five hundred million dollars (\$500,000,000) for a Land and Water Conservation and Reclamation Fund to be used for the conservation and reclamation of land and water resources of the Commonwealth, including the elimination of acid mine drainage, sewage, and other pollution from the streams of the Commonwealth, the provision of State financial assistance to political subdivisions and municipal authorities of the Commonwealth of Pennsylvania for the construction of sewage treatment plants, the restoration of abandoned strip-mined areas, the control and extinguishment of surface underground mine fires, the alleviation and prevention of subsidence resulting from mining operations, and the acquisition of additional lands and the reclamation and development of park and recreational lands acquired pursuant to the authority of article nine, section twenty-four of this Constitution, subject to such conditions and liabilities as the General Assembly may prescribe.]

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Otto.

DELEGATE OTTO. Mr. President, during the last month we have seen a number of unusual events take place in the General Assembly with respect to taxation. I would like to say that I am disturbed as to the results in procedure. Therefore I would like to read in place and present to the Chair the following proposal with additional comments.

PRESIDENT BRODERICK. The Clerk will read the title of the proposal.

The **CLERK.** A proposal amending Article VIII of the Constitution of the Commonwealth of Pennsylvania, further regulating the adoption of new and revised forms of taxation.

PRESIDENT BRODERICK. You may now proceed, Delegate Otto.

DELEGATE OTTO. Mr. President, I think there are two areas of our constitution that need to be fortified, especially with respect to this particular amendment which deals with taxation and finance, Article VIII.

First, I think it behooves us to have an amendment prepared and presented to the people of the Commonwealth giving them the opportunity of determining how a majority exists in the House and Senate.

Secondly, there should be provisions for taxation measures being voted upon by only members of the General Assembly who are present and in their seats. This proposal embodies those two conditions as well as calling for holding in escrow any funds collected in the event these two items are challenged in the courts.

I would also like to take this opportunity of thanking the delegates and this Convention for upholding the rule last week in which a member was voted who was not in his seat and the vote was stricken from the record. I think this was very commendatory and I hope it continues.

Thank you very much.

PRESIDENT BRODERICK. Thank you, Delegate Otto.

The Chair will refrain from assigning your proposal to committee until it has had an opportunity to read it.

RESOLUTIONS

PRESIDENT BRODERICK. We shall now move to the

next order of business which is the introduction of resolutions.

The Chair recognizes the delegate from Columbia County, Delegate Percey.

DELEGATE PERCEY. Mr. President, I rise to support the introduction of the schedule for public hearings proposed by my distinguished colleague, Delegate Swope. As you know, in a large measure we must depend upon the general press to make our views and wishes known to the public. Therefore, I offer the following resolution:

RESOLUTION

BE IT RESOLVED, That since the Committee on Administration and Finance is empowered by our rules to approve the holding of public hearings by committees and subcommittees, and,

Since the Committee on Administration and Finance has announced a schedule for such hearings; and,

Since we, as Delegates to this Constitutional Convention, agree with the principle so aptly stated by the League of Women Voters of Pennsylvania, to wit:

... that the more citizen involvement there is in the deliberations of the Convention the more the voters of the Commonwealth will feel that the Constitution is truly their document and one deserving their close attention and support.

NOW THEREFORE WE, the Delegates to the Constitutional Convention, do urge and encourage the citizens of this Commonwealth, individually or through their representatives, to appear at the hearings soon to be held and to make their views known on all matters germane to the areas of jurisdiction of this Convention.

JAMES V. PERCEY,
27th Senatorial District

PRESIDENT BRODERICK. Thank you, Delegate Percey.

Is there a second to that resolution?

The resolution is seconded by the delegate from Lackawanna, Delegate Scranton.

Is there any objection to the immediate consideration of the resolution?

The Chair hears none.

On the question,

Will the delegates agree to the resolution offered by Delegate Percey?

The resolution was unanimously adopted --

ANNOUNCEMENT OF COMMITTEE MEETINGS

PRESIDENT BRODERICK. The Chair will ask the chairmen of the various committees to please announce their committee and subcommittee meetings at this time.

JUDICIARY COMMITTEE, Co-Chairmen Scranton and Amsterdam all subcommittees will meet immediately following adjournment of the Convention in their respective rooms. All subcommittee co-chairmen will meet with the standing committee co-chairmen at 4:30 p.m., in Room 610, North Office Building.

DELEGATE SCRANTON. May I make one felicitous comment? I am overcome with the amount of work that has been done over the weekend by the people who are responsible for the administration of the staff. Every subcommittee of the Judiciary Committee, as well as the committee as a whole, will have at these meetings this afternoon a member of the research staff and, likewise, a court reporter.

LOCAL GOVERNMENT, Co-Chairmen Pasquerilla and Manderino, all subcommittees of Local Government will meet immediately following this session in their respective rooms. Co-Chairmen of all subcommittees on Local Government will meet at 6:30 p.m., in the American Room at the Penn Harris Hotel.

The entire Committee on Local Government will meet tomorrow at a time and place to be announced at tomorrow's session.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Wooding, immediately following adjournment of this session co-chairmen of all subcommittees will meet in Room 611, North Office Building. One hour following conclusion of this session, all subcommittees will meet in their respective committee rooms.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, the Committee on Legislative Apportionment will meet with their subcommittees in their respective quarters immediately after adjournment of this session.

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, the Committee on Administration and Finance will meet immediately on adjournment of this Convention in Room 500, North Office Building.

DELEGATE BLOOM. It is very important that we have a quorum present because there is very important business before this meeting.

I also want to supplement the remarks of Delegate Scranton. Just as soon as all committees are properly staffed, we are going to prepare a schedule so that everyone will know the staffs with each of the committees.

RULES, Co-Chairmen Leach and Gabreski, the Committee on Rules will meet tomorrow for lunch at the Penn Harris Motor Inn at the special request and invitation of the two co-chairmen as their special guests.

OFFICE ASSIGNMENTS TO DELEGATES

PRESIDENT BRODERICK. The Chair would like to call on our Executive Director, John Ingram, to announce the office assignments made so that our delegates will know where the offices of the committee chairmen and officers of the Convention are located.

EXECUTIVE DIRECTOR INGRAM. The office of the First Vice President, Mr. Casey, is now in Room 249 here in the Capitol.

The office of the Second Vice President, Mr. Orban, is in Room 251 in the Capitol.

The Secretary is in a room immediately adjacent to Room 500 in the North Office Building, just outside the hallway and beyond the exit door, on the same side. I have forgotten the number of the room at the moment.

The offices of the various committees are as follows:

Judiciary, Room 613;

Local Government, Room 606;

Taxation and State Finance, Room 611;

Legislative Apportionment, Room 612;

Style and Drafting, Room 519;

Rules, Room 520;

Arrangement, Submission and Address to the People, Room 517-A;

Administration and Finance, Room 522.

All of these rooms are in the North Office Building

UPPER ALLEN ELEMENTARY SCHOOL WELCOMED

PRESIDENT BRODERICK. The Chair would ask the delegates to extend their usual cordial welcome to the guests in the gallery today. They are students from the Upper Allen Elementary School in Shepherdstown, Pennsylvania. They are here today as the guests of the delegates from Cumberland. Delegates Musselman, Tully and Hostetler.

CONVENTION JOURNAL ANNOUNCEMENT

PRESIDENT BRODERICK. I understand our secretary has an announcement that he would like to make.

The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, the rules of our Convention require that a journal be kept and that as soon as it is typed up in rough form it be kept on the desk in my office where each delegate shall have the right to edit his remarks if done within two succeeding days. This is an unusual rule which permits you the right to smooth out any grammatical inaccuracies or anything you wish to reconsider.

These journals will be kept on my desk in Room 509. The desk is very spacious and it will be easy to work there. Thank you.

ANNOUNCEMENT OF DELEGATE DIRECTORY

PRESIDENT BRODERICK. The Chair recognizes the Parliamentarian, Mr. Gruell, for an announcement.

PARLIAMENTARIAN GRUELL. You have had on your desks or in your possession now for about a week the preliminary copy of the directory with your pictures and biographies. If there are any changes or additions you desire in the biography, will you please put it in writing and let me have it so when we print the permanent directory, it is the way you want it.

Thank you.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Mrs. Himes, the delegate from Lycoming, for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE HIMES. Mr. President, I move that this Convention do now adjourn until Tuesday, December 19, 1967, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Himes and seconded by Delegate Heyburn that this Convention do now adjourn until Tuesday, December 19, 1967, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 2:18 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Tuesday, December 19, 1967

Number 11

The Convention was called to order at 9:30 a.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

PRESIDENT BRODERICK. Today's meeting will be opened with prayer by the Reverend Paul Gehris, pastor of the Colonial Park Community Baptist Church, Harrisburg, Pennsylvania

THE REVEREND PAUL GEHRIS offered the following prayer:

Eternal God, Our Father, Spirit of the universe and Maker of our spirit as well, we acknowledge our relationship with You and affirm our desire to live as nobly as our humanity affords. We are thankful for the open hand of Your providence which supplies us with the gifts of life, for the moral persuasion of Your spirit that helps us be aware of the presence and the need of others, for the memory and intelligence and hope by which we move from day to day and generation to generation in our attempt to make a way of life. In this gathering, bearing the hope of our Commonwealth for our future, we humbly confess that we cannot go it alone, but sometimes fear working together. Help us to put our confidence in You and open our hearts to have trust in the efforts of one another. So guide this Constitutional Convention that our best ideas will be put into the legal form which will help life yield the best that it has to offer in the days ahead, both for our benefit and Your glory. Amen.

JOURNAL APPROVAL POSTPONED

PRESIDENT BRODERICK. Unless there is an objection, the Chair will dispense with the approval of the Journal until it has been printed.

The Chair hears no objection.

QUORUM PRESENT

PRESIDENT BRODERICK. It is apparent that a quorum is present today, and unless the Chair hears objection, we will dispense with the calling of the roll.

The Chair hears no objection.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary of the Convention, Secretary Michener.

SECRETARY MICHENER. Mr. President, I request leaves of absence for the following delegates:

The delegate from the 20th District, **DELEGATE WILMARTH**, on December 21, because of business;

The delegate from the 45th District, **DELEGATE HUGGINS**, for December 21, because of community service;

The delegate from the 20th District, **DELEGATE ROBERTS**, for December 20, because of business;

The delegate from the 44th District, **DELEGATE BRENNAN**, for December 20 and December 21, because of business;

The delegate from the 28th District, **DELEGATE SHOE-MAKER**, for one-half day on December 21, for appearance in court;

The delegate from the 3rd District, **DELEGATE QUILES**, for December 20 and December 21, because of business.

Mr. President, some time ago I referred to the fact that we had a pretty distinguished group in this Convention, and I anticipated then that we would have some pretty fancy requests for absences which would reflect the position of these men, but I think that this morning I have one that tops them all. I challenge any of the other delegates to equal this. It brings great distinction upon us. The Delegate from the 3rd District, Mr. Reynolds, asks to be absent on January 3 and 4 because he has to fly to Monrovia, Liberia, to represent our government at the inauguration of the President of Liberia. I recommend that he be excused for that purpose.

PRESIDENT BRODERICK. The Chair asks the Convention if there is any objection to granting the leaves of absence requested. In the words of our Secretary, we have six plain requests and one fancy one.

Without objection, the leaves of absence are granted.

The Chair hears no objection.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. The Chair asks the chairmen of the committees if they have any reports at this time.

The Chair recognizes the Co-Chairman of our Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, I am not certain that this is appropriate at this time, but the Co-Chairmen of the Committee on Taxation and State Finance have referred Proposal No. 1016 to the Subcommittees on State Debt and Sinking Fund.

PRESIDENT BRODERICK. Yes, it is in order, and I thank you. May I ask if there are any other assignments by the committee chairmen to subcommittees? It would be very nice if we could get those in the next immediate session. I think the rules so provide.

The Chair now recognizes the Co-Chairman of the Judiciary Committee, Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, the Judiciary Committee has referred Proposal No. 1011 to the Subcommittee on Selection of Judges, and Proposal No. 1013 to the

Subcommittee on Retirement and Post-Retirement Service of Judges.

PRESIDENT BRODERICK. Thank you.

The Chair recognizes the Co-Chairman of the Local Government Committee, Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, Proposal No. 1010 has been referred to the Subcommittee on Apportionment.

Proposal No. 1012 has been referred to the Subcommittee on Structure and Organization, Annexation and Boundary Changes, Local Finance, Home Rule and County Government.

Proposal No. 1014 has been referred to County Government.

Proposal No. 1015 has been referred to the Subcommittee on Structure and Organization.

PRESIDENT BRODERICK. We had a proposal yesterday, introduced by the delegate from Allegheny, Delegate Otto, which was not referred. This proposal does not have a number. The title of the proposal is:

"A Proposal amending article eight of the Constitution of the Commonwealth of Pennsylvania, further regulating the adoption of new and revised forms of taxation."

Pursuant to the Rules on page 38, Subsection 7, under "Introduction of Proposals," the rules provide:

"No proposal shall be accepted for introduction by the President unless:

"a. Said proposal is in accordance with the limitations set forth in Act No. 2, Session of 1967."

As a result of legal opinion obtained, the Chair rules that this proposal must be returned to Delegate Otto for the reason that it does not come within the authorization of the authority of this Convention. This amendment appears to deal clearly with the subject of legislation and the manner of its enactment. This subject seems to be dealt with extensively and almost exclusively in Article III of the Constitution and is not within the purview of our authorization. This proposal therefore is being returned. Of course, it may be reintroduced if amendments are made to put it within our authorization.

Now we come to what we think of these days as the most important business of our Convention, and that is the introduction of proposals. The delegates will be recognized to present proposals.

PROPOSALS REFERRED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Delaware, Delegate Bunting.

DELEGATE BUNTING. Mr. President, I read in place and present to the Chair the following proposal and ask permission to make a few comments.

No. 1017

By DELEGATE BUNTING

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania, providing for the creation, organization, administration, consolidation, division and dissolution of local governmental units; providing for the level of services to be provided and maintained by them and for changes

in their boundaries, and repealing certain existing provisions relating to powers and duties of local government.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 A new article is added to the Constitution of Pennsylvania to read:

ARTICLE LOCAL GOVERNMENT

Section 1. It is the intention of this article to affirm the customary and traditional rights and duties of the people with respect to the conduct of their local government, in harmony with State and Federal governments, and to grant and confirm to the people the opportunity for self-government in local matters, subject to the provisions of this article and to such standards and requirements as may be established by law, so as to provide for the health, safety and welfare of the people.

Section 2 The General Assembly shall, within one year from the date of the adoption hereof, provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units, including but not limited to counties, cities, boroughs, incorporated towns and townships. The governing body of a county shall be the council which shall be composed of no less than five persons, and members of council shall not be elected at large. Officers serving in any county office or other local government unit when this article becomes effective shall be permitted to complete their term.

Section 3. The General Assembly shall establish from time to time minimum levels of services to be provided and maintained by each county as may be necessary and proper to assure the health, safety and welfare of the people.

Section 4. Each county which provides and maintains the minimum services shall have the right, through referendum to form or frame a charter for its own government, and to amend the same, provided that such charter incorporates the principles of an elected chief executive and council and shall have the right to exercise any appropriate power or function except as expressly limited by its charter or as the General Assembly shall provide by law.

Section 5. Any county which does not provide and maintain the minimum services to assure the health, safety and welfare of the people, shall be merged or consolidated with one or more other counties so that the resulting county or counties shall be able to provide the minimum services.

Section 6. Each county shall establish from time to time minimum services to be maintained by the local government units within its boundaries so as to provide for the health, safety and welfare of the people. Each such local government unit which maintains the minimum level of services shall have the right, through referendum, to form or frame a charter for its own government, and to amend the same, and shall have the right to exercise any appropriate power or function except as expressly limited by its charter or by law. Any local government unit which does not maintain the minimum services for the health, safety and welfare of the people, shall be merged or consolidated with one or more other local government units.

Section 7. The General Assembly shall provide for the creation, organization and administration of a local government commission. The purpose of the commission shall be to make continuing examinations of conditions in all areas

where minimum services are not provided and maintained by counties and/or local governmental units within the counties, and to propose to the General Assembly changes in county boundaries, and to propose to the county changes in local government unit boundaries within the county, as it deems necessary to assure minimum services for the health, safety and welfare of the people. Any change proposed by the commission shall become effective within sixty days after presentation to the General Assembly or county council, as the case may be, unless disapproved by a majority vote of both Houses of the General Assembly or a majority vote of the county council.

Section 8. The General Assembly shall provide for the formation of governmental units with jurisdiction over areas larger than an individual county when services that are necessary and proper for the health, safety and welfare of the people in the area involve matters that are beyond the ability and scope of responsibility of individual counties.

Section 9. The City of Philadelphia shall perform the functions of county government within its boundaries.

Section 10. Nothing in this article shall be deemed to grant to any local unit of government the power to define and provide for the punishment of a felony or to impose imprisonment as a punishment for any violation of law.

Section 2. Sections seven, eight, nine, ten, fifteen and nineteen of article nine and articles thirteen, fourteen and fifteen of the Constitution of the Commonwealth of Pennsylvania are repealed.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Bunting.

DELEGATE BUNTING. Thank you, Mr. President.

I would not presume to suppose that this proposal in its present form is satisfactory for adoption. However, I think it does reflect a philosophy that I hope will be of use to this delegation in forming a comprehensive article on local government.

The theory is that we should be more concerned with substance than with form, to enable our local units to have all the tools necessary to really render the services necessary to the health, welfare and safety of our people. And to the extent that the units are not able or willing to do so, then we should have the flexibility to enable the other areas to provide such services.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Bunting.

The Chair now recognizes Delegate Tate.

DELEGATE TATE. Mr. President, I read in place and present to the Chair the following proposal, with the request that I be given the opportunity to make a brief statement.

No. 1018

By **DELEGATE TATE**

A PROPOSAL

Amending article eight, section one of the Constitution of Pennsylvania by further providing for the uniformity of taxation and limiting exemptions.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section one, article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; [but] there shall be no exemptions from taxation except that the General Assembly may, by general laws, exempt from taxation [public property used for public purposes,] actual places of religious worship [, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation].

Section 2. Sections 1B, two and three of article eight of the Constitution of Pennsylvania are repealed.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Tate.

DELEGATE TATE. Mr. President, this proposal relates only to the question of exemptions. It proposes a change in the constitutional provision relating to tax exemptions by eliminating from the constitutional provision all tax exemptions except the one relating to actual places of religious worship.

The reason for my introduction of this proposal is that we have experienced at the local level of government increasing exemptions to the point where there are now some local units of government in the Commonwealth that have more than 50 per cent of their real estate exempt from taxation. The City of Philadelphia has over 25 per cent of its real estate exempt from taxation. The City of Pittsburgh has over 30 per cent exempt from taxation. If we are to proceed from 1967 forward for the next half century or century, it is my feeling that this should be changed so that exemptions are severely limited in contrast to what presently exists in the Constitution.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, I read in place and present to the Chair the following proposal and request leave to make a brief statement:

No. 1019

By DELEGATE SHAPIRO

A PROPOSAL

Amending article two, section eighteen of the Constitution of Pennsylvania providing penalties for legislative non-compliance with apportionment duties.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eighteen of article two of the Constitution of Pennsylvania is amended to read:

Section 18. Legislative Apportionment. The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections. If any General Assembly fails to comply with the foregoing provisions of this section eighteen by February 15 of the year in which such session is held, or by February 15 of any succeeding year, the terms of all the members thereof shall terminate on December 31 of every year of such noncompliance and at the election in November of every year of such noncompliance, an entire General Assembly shall be elected.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro, of Montgomery County.

DELEGATE SHAPIRO. Mr. President, I represent a portion of Bucks County as well as Montgomery County.

Mr. President, my proposal is intended to provide the legislature with both an incentive and a penalty if it should fail to reapportion in the manner required by the Constitution.

Our present Constitution for 90 years has required reapportionment after every decennial census. This provision has been more honored in the breach than in performance. I believe that on one occasion we had a gap of over 40 years in the reapportionment of the Senate.

My proposal provides in effect that if the legislature fails to reapportion as required by the Constitution, the terms of all members will terminate and they will be re-elected from year to year for one-year terms until there is proper reapportionment.

PRESIDENT BRODERICK. The Chair recognizes the Delegate from Indiana, Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, I read in place and present a proposal on which I would like to make a brief statement after it is introduced:

No. 1020

By DELEGATES BALDRIDGE and LEACH

A PROPOSAL

Amending article eight of the Constitution of Pennsylvania providing for the inclusion of certain provisions in laws requiring future expenditure of funds or making appropriations.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding at the end thereof, a new section to read:

ARTICLE VIII
TAXATION AND FINANCE

* * *

Section 26. Laws Requiring Future Expenditures or Making Appropriations. No law heretofore or hereafter adopted requiring the future expenditure of funds or making an appropriation, except for the ordinary expenses of the government, shall be considered as conforming to this Constitution unless, as part of the law requiring the future expenditure or making the appropriation, there is included a statement as to the source of the funds, if existing revenue measures are to be used. If existing revenue measures are not to be used a specific revenue raising measure shall be a part of the law requiring the future expenditure or making the appropriation. In the event that the funds necessary to pay for the future expenditure or to make the appropriation are not available from the existing revenue measures or the specific revenue raising measure as the case may be, the expenditure or the appropriation shall be abated to the extent that the funds are not available.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. You may now proceed, Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President and fellow delegates, this is a proposal more or less amending the finance and taxation section of the Constitution. I hope that it will be one that, if adopted, will add a little order and not so much confusion to our future legislatures and future expenditures. In general it requires, before any appropriation may be made, that the appropriation bill points out and assesses if necessary the taxes to pay for the appropriation.

PRESIDENT BRODERICK. Thank you, Delegate Baldrige.

The Chair now recognizes the delegate from Chester, Delegate Thomson.

DELEGATE THOMSON. Mr. President, I read in place and present to the Chair the following proposal:

No. 1021

By DELEGATE THOMSON

A PROPOSAL

Amending article fifteen, section one of the Constitution of the Commonwealth of Pennsylvania, authorizing the granting to boroughs, incorporated towns and townships, the right and power to frame and adopt their own charters and to exercise the powers and duties of local self-government and authorizing the enactment of laws affecting organization and government of townships which shall become effective only when submitted to the township electors and approved by the majority thereof.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one, article fifteen of the Constitution of the Commonwealth of Pennsylvania be amended to read:

**ARTICLE XV
CITIES AND CITY CHARTERS**

Section 1. Home Rule—Cities may be chartered whenever a majority of electors of any town or borough having a population of at least ten thousand shall vote at any general or municipal election in favor of the same. Cities, or cities of any particular class, boroughs, incorporated towns and townships may be given the right and power to frame and adopt their own charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the Legislature. Laws also may be enacted affecting the organization and government of cities [and] boroughs and townships, which shall become effective in any city [or] borough or township only when submitted to the electors thereof, and approved by a majority of those voting thereon.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Franklin, Delegate Keller.

DELEGATE J. W. KELLER. I read in place and present the following proposal:

No. 1022

By DELEGATE J. W. KELLER

A PROPOSAL

Amending article two, sections sixteen, seventeen and eighteen of the Constitution of Pennsylvania providing for apportionment of legislative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen, seventeen and eighteen of article two of the Constitution of Pennsylvania, are amended to read:

Section 16. The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio [except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio]; and no county shall be divided unless entitled to two or more Senators. [No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators] No ward, borough or township shall be divided in the formation of a district. The sen-

atorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

Section 17. The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county [containing less than five ratios] shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio [but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio]. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every county and every city entitled to more than [four representatives, and every county having over one hundred thousand inhabitants] one representative shall be divided into districts of compact and contiguous territory, each district to elect [its proportion of representatives] one representative according to its population [but no district shall elect more than four representatives]. No ward, borough or township may be divided in the formation of a district.

Section 18. [The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.] Legislative Apportionment.—(a) Immediately following each decennial United States census, a commission, consisting of the Lieutenant Governor, who shall be chairman, and the Majority and Minority Leader of the Senate and of the House of Representatives, shall prepare a report for redistricting the State and submit it to the General Assembly within ninety days after certification of the United States decennial census. Within six months of said certification, the General Assembly shall reapportion itself or accept the report of the commission, and if it fails to do either, the report of the commission shall have the force of law.

(b) If the commission or General Assembly fail to reapportion as provided herein, the Supreme Court shall apportion the Commonwealth into senatorial and representative districts and for that purpose the Supreme Court shall have original jurisdiction. To assist the court in performing this extraordinary task, the court shall appoint and fix the compensation of the master or a board of masters for the purpose of taking testimony and making recommendations to the court. The court shall conclude its work as expeditiously as possible and shall file the reapportionments in the office of the Secretary of the Commonwealth. The reapportionments made by the court shall have the force of law.

(c) Any apportionment made by the General Assembly under section 18, clause (a) shall be reviewable on appeal exclusively by the Supreme Court of Pennsylvania. Any such apportionment shall become effective when the Supreme Court has finally decided the appeal or when the last day for taking an appeal has passed and no appeal has been taken.

(d) Any apportionment made by the Supreme Court under section 18, clause (b) shall become effective immediately.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. You may proceed with your statement now, Delegate Keller.

DELEGATE J. W. KELLER. Mr. President and fellow delegates, this is an amendment to the Constitution having to do with legislative apportionment. Primarily, it establishes a commission which will act in the absence of the legislature, acting to reapportion itself after each census and providing further for the action by the Supreme Court in the event that neither the legislature nor the commission should act. It further prohibits the division of wards, townships and counties.

Thank you.

PRESIDENT BRODERICK. The Chair urges the delegates of the Convention to get their proposals in, remembering that under the rules the last day provided for introduction of proposals from the floor is January 5. I sincerely hope that we do not wait until the last day. It would be nice if we could get them all in before the Christmas holidays so the committees can be working on them, particularly in connection with the hearings that will be held over the holiday period.

RESOLUTIONS

GET-WELL WISHES TO DELEGATE BUTERA

PRESIDENT BRODERICK. The Chair now recognizes Delegate Kauffman, from Montgomery County.

DELEGATE KAUFFMAN. Mr. President, my name is Bruce Kauffman, from the 17th Senatorial District.

Delegate Robert J. Butera, who also is Majority Whip of the House of Representatives, is in the hospital and, therefore, I would like to offer a resolution that this Constitutional Convention send its best wishes for a speedy recovery and return, to Delegate Robert J. Butera, from Montgomery County.

PRESIDENT BRODERICK. I am sure that we have many seconds to that resolution.

Delegate Gerber from Montgomery County has seconded the resolution.

I am sure that we have no objection to the immediate consideration of the resolution.

The Chair hears none.

On the question,

Will the Convention adopt the resolution?

It was unanimously adopted.

PRESIDENT BRODERICK. The Chair will direct that a copy of the resolution be sent to Delegate Butera, with our wishes for a speedy and complete recovery, which I understand he is now having.

CONGRATULATIONS TO PRESIDENT OF LIBERIA

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Gray.

DELEGATE GRAY. Mr. President, first of all, I am a little jealous and resentful; this is a better sound system than I have in my church and I wanted to hear my voice.

Secondly, I am also resentful and jealous of the distinguished Secretary of this Convention for all the nice things he said about Mr. Reynolds this morning on the gentleman's absence.

I would like to propose for the Secretary's composi-

tion, since he is the greatest writer in our midst—he is proven to be that, he makes a living at it—that Secretary Michener provide a resolution from this Constitutional Convention to the President of Liberia and send it by Delegate Reynolds on our behalf.

PRESIDENT BRODERICK. I understand that you are suggesting that our Secretary, Delegate Michener, prepare a resolution. Is that the import of your request?

DELEGATE GRAY. Yes, sir.

PRESIDENT BRODERICK. I am sure that Delegate Michener will be happy to oblige. He is indicating he will. We will have that resolution presented to us tomorrow. Even a writer of his talent requires at least one minute to write up a resolution.

COMMITTEE MEETINGS

PRESIDENT BRODERICK. We will now move to committee meetings for the day.

The Committee Chairmen announced the following meetings:

JUDICIARY. Co-Chairmen Scranton and Amsterdam, all subcommittees will meet in their respective rooms immediately following today's session, with one exception, the Subcommittee on Selection of Judges. That subcommittee will meet at 2 p.m. this afternoon in Room 605-A. All Subcommittee Chairmen of the Judiciary Committee will meet in Room 610-B at 4:30 p.m. this afternoon.

LOCAL GOVERNMENT. Co-Chairmen Pasquerilla and Manderino, all committees will meet in PUC Hearing Room No. 2 immediately after this session. Subcommittee meetings for this afternoon will be announced at the general meeting immediately after this session.

TAXATION AND STATE FINANCE. Co-Chairmen Leonard and Woodring, all subcommittees will meet in their respective rooms one-half hour after adjournment of today's session.

LEGISLATIVE APPORTIONMENT. Co-Chairmen Devlin and Fagan, entire Committee on Legislative Apportionment will meet at 11 a.m. in Room 608.

STYLE AND DRAFTING. Co-Chairmen Pelletier and Johnson, entire committee will meet at 1:30 this afternoon in PUC Hearing Room No. 3. It is located just across the hall from number 1.

RULES. Co-Chairmen Leach and Gabreski, entire committee will be guests of the co-chairmen at a noon luncheon today at the Penn Harris Motor Inn.

ADMINISTRATION AND FINANCE. Co-Chairmen Bloom and Swope, entire committee to meet in Room 500, North Office Building, immediately following adjournment of this session. This is a very important meeting and all members are urged to attend.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate King, for the adjournment motion.

DELEGATE KING. Mr. President, I move that this Convention do now adjourn until Wednesday, December 20, 1967, at 9:30 a.m.

PRESIDENT BRODERICK. It has been moved by Delegate King and seconded by Delegate Pott that this Convention do now adjourn.

The motion was agreed to, and (at 10:13 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Wednesday, December 20, 1967

Number 12

The Convention was called to order at 9:30 a.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

PRESIDENT BRODERICK. The Convention will be opened today with prayer by The Reverend Bernard V. Mattern of Saint Margaret Mary Church, Harrisburg, Pennsylvania.

THE REVEREND BERNARD V. MATTERN offered the following prayer:

Almighty and eternal God, in Whom we live and move and have our being, we acknowledge You as our beginning and final end, and that all lawful authority proceeds from You.

We raise our hearts in gratitude for our America and for our beloved Commonwealth of Pennsylvania, whose sons and daughters, in peace and in war, have given so unselfishly to our nation.

We are grateful, too, O God, that ours is a people governed by law, not by men. And, as our representatives meet here to set the basic legal structure of our Commonwealth, make them ever mindful that "unless the Lord build the house, they labor in vain who build it; unless the Lord guard the city, in vain does the sentry watch over it." Enlighten their minds to know what is good for our people and move their wills to pursue that good. Let them be ever mindful that You are the Infinite Designer and that You have placed in their hands the fulfillment of Your designs and plans. Let narrow partisanship take a holiday, that our delegates may be of one mind in essential things and work with true statesmanship and charity in all things.

We beg You to turn compassionate eyes upon our sons in the jungles and rice paddies of Vietnam, where they struggle to protect the self-determinism of a weaker neighbor. Protect them in soul and body and bring them home to us in honor.

In a special way, we place in Your divine love and mercy the welfare of our brother Delegate Robert Brennan, upon whose shoulders, in Your infinite wisdom, You have permitted to lay a cross of illness. We beg You to grant him all that is necessary to bear this cross courageously, to see in it Your love for him, and, submitting himself to Your Will, benefit in both soul and body.

God bless our democracy, but make us aware that democracy itself is not our goal, but the effective means to our goal—to a nobler race of men and women, free to work out their eternal destiny in freedom, dignity and peace.

We ask Your guidance and direction in all our deliberations this day, that they may be pleasing and acceptable to

You and thus fulfill our dedicated commitment to You and our fellowmen. Amen.

JOURNAL APPROVAL POSTPONED

PRESIDENT BRODERICK. Without objection, approval of the Journal will be postponed until printed.

The Chair hears no objection.

QUORUM PRESENT

PRESIDENT BRODERICK. The Chair sees a quorum present and unless there is objection, we will dispense with the calling of the roll.

The Chair hears no objection.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener for leaves of absence.

SECRETARY MICHENER. Mr. President, January 2 being the day when many communities start their new administrations, certain members of our Convention have requested leaves for that day.

They are: The delegate from the 41st District, **DELEGATE FILSON**;

The delegate from the 43rd District, **DELEGATE AURENTZ**;

The delegate from the 43rd District, **DELEGATE DOROTHY MILLER**;

The delegate from the 49th District, **DELEGATE GEHRLEIN**;

The delegate from the 9th District, **DELEGATE DESMOND**;

In addition, I have the following requests:

The delegate from the 38th District, **DELEGATE BALDUS**, December 21, because of an adoption hearing in which he must participate;

The delegate from the 45th District, **DELEGATE BANES**, December 21, because of a funeral;

The delegate from the 45th District, **DELEGATE BARRY**, December 21, for a court hearing;

The delegate from the 2nd District, **DELEGATE ABERMAN**, will be absent for a few hours today but will return before the end of this meeting;

The delegate from the 40th District, **DELEGATE WELSH**, December 21, because of an appearance in Court;

The delegate from the 50th District, **DELEGATE PELLETIER**, December 21, because of business;

The delegate from the 50th District, **DELEGATE JOHNSON**, December 21, because of a prior commitment.

Now we have an unusual request, the delegate of the 8th District, **DELEGATE KELLY**, December 25, because he is expecting a visitor from the far North.

PRESIDENT BRODERICK. Are there any objections to the requests made by Secretary Michener?

The Chair hears no objection, and the leaves are granted as requested.

COMMITTEE REPORTS

PRESIDENT BRODERICK. The next order of business is committee reports.

The Chair at this time would like the co-chairmen of our committees to announce the rereferral of proposals to subcommittees, if they are ready.

The Chair recognizes the co-chairman of the Local Government Committee, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, reporting for the Committee on Local Government, Proposal No. 1017 has been referred to all subcommittees of Local Government.

Proposal No. 1021 has been referred to the Subcommittee on Home Rule.

Continuing further, Mr. President, if I may, the chairman of the Local Government Committee should like to submit to the President, in accordance with the rules of the Convention, namely, line 25, item 8, page 34, the proposed adopted schedule by the committee for work completion. The schedule has been prepared and approved by the entire Committee on Local Government. We should like to now submit it to the President.

PRESIDENT BRODERICK. The Chair thanks the chairman, and the Chair would also request the other committee chairmen to kindly submit their reports on or before December 21. This is the report required by the rules, where each committee shall file with the President in writing the proposed dates for the completion by their respective committees of the steps prescribed in Sections 1, 2 and 3 of the rules just enunciated.

The Chair recognizes the co-chairman of the Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD. Mr. President, as co-chairman of the Committee on Taxation and State Finance, I wish to announce the rereferral of the following proposals:

No. 1018—Referred to the Subcommittee on Taxation.

No. 1020—Referred to the total standing committee on a temporary basis until we make a decision as to which subcommittee will deal with state budget and financing matters.

PRESIDENT BRODERICK. Thank you, Delegate Leonard.

The Chair would like to request the chairmen of the committees to which proposals have been referred during the proceedings to come up to the clerk on adjournment and obtain those proposals. Sometimes it is done at the end and we have difficulty getting them into your hands, and we want to expedite it.

INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. We now move to our important item of business, the introduction of proposals. At this time before any proposals are introduced, again the staff has asked me if you would please put your seat number after your name and print your name. They are having a little difficulty with some of the signatures. Also on the new proposal forms you will find a place on the back

that is already printed where your name should be inserted. This is a request of the committee in order to eliminate error in interpretation of signatures.

We are now ready for introduction of proposals.

The Chair recognizes the delegate from Allegheny, Delegate Fohl.

DELEGATE FOHL. I read in place and present to the Chair the following proposal:

No. 1023

By DELEGATES FOHL, POTT, WELSH, FAWCETT, BALDUS and POWELL

A PROPOSAL

Amending article fourteen, section one of the Constitution of Pennsylvania eliminating coroners as county officers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Section one of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, [coroners,] prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fohl.

DELEGATE FOHL. This proposal has been cosponsored by Delegates Pott, Welsh, Fawcett, Baldus and Powell.

Mr. President, while the initial practical effect of our proposal would be to merely eliminate as a constitutionally mandated elected county office the office of coroner, it is our hope and belief that this proposal is the first necessary step toward the establishment of what is popularly known as the "Medical Examiner System" in counties where such a system shall be determined to be necessary and/or desirable and/or practical. This determination can be effected through subsequent action of the legislature or by a county home rule plan which may be an ultimate product of this Convention.

This proposal is in general if not specific accord with the recommendations of the Allegheny County Medical Society, the Pennsylvania Medical Society and others who have long advocated the upgrading of the technical qualifications in this highly specialized field of public service.

PRESIDENT BRODERICK. Thank you, Delegate Fohl.

The Chair recognizes the delegate from Warren, Delegate Clinger.

DELEGATE CLINGER. Mr. President, on behalf of myself and Delegate Gabreski, I read in place and submit the following proposals to the Chair and request permission to make a brief statement.

No. 1024

By DELEGATES CLINGER and GABRESKI

A PROPOSAL

Amending article five of the Constitution of Pennsylvania providing for Judicial Nominating Commissions and for the removal, discipline and compulsory retirement of judges.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding at the end thereof two new sections to read:

ARTICLE V
THE JUDICIARY

* * *

Section 29. Judicial Nominating Commissions.—(a) There shall be a single Statewide Judicial Nominating Commission for the Supreme and the Superior Courts, and separate Judicial Nominating Commissions for each judicial district. Each such commission shall be composed of one justice or judge, three members of the bar selected by the members of the bar and three lay citizens. The justice or judge and the members of the bar on each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens on each Judicial Nominating Commission shall be appointed by the Governor. Members of the Judicial Nominating Commission for the Supreme and the Superior Courts shall be chosen from the Commonwealth at large, and members of the Judicial Nominating Commission for a judicial district shall be chosen from that district except that the justice or judge may be chosen from outside the district.

(b) The members of each Judicial Nominating Commission shall serve for terms of three years, staggered except in the case of the justice or judge on the commission, so that two members, one selected by the bar and the other appointed by the Governor, shall be selected each year. Of the first members selected following the effective date of this section, two members, one selected by the bar and one appointed by the Governor, shall be selected for one-year terms and two other members selected by the bar and by the Governor respectively, shall be selected for two-year terms. Vacancies in the membership of any Judicial Nominating Commission shall be filled for the balance of the term by the same appointing power as appointed the member whose place has become vacant. No member of a Judicial Nominating Commission shall serve for more than two successive three-year terms on that commission, but he may be reappointed or re-elected after a lapse of one year. The members of each commission shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. Each commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization, nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Section 30. Removal, Discipline and Compulsory Retirement

of Judges.—(a) There shall be Judicial Qualification Commissions empowered to make recommendations to the Supreme Court for the removal, discipline, or compulsory retirement, as the case may be, of justices or judges. The Judicial Nominating Commissions provided by section 29 shall also serve as such Judicial Qualification Commissions and shall follow such procedures as the Supreme Court may by rule prescribe.

(b) The Supreme Court shall as to any such case before the Judicial Qualifications Commission review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline, or compulsory retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for compulsory retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired for superannuation as may be prescribed by the General Assembly. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the Judicial Qualifications Commission or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the commission or the masters shall be privileged; provided that, upon being filed by the commission in the Supreme Court, the record loses its confidential character.

The Supreme Court shall by rule provide for procedure under this section before the Judicial Qualifications Commission, the masters, and the Supreme Court.

No justice or judge shall sit as a member of the commission or the Supreme Court in any proceedings involving his own removal, discipline, or compulsory retirement.

(c) Any justice or judge who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the bar of the Supreme Court, shall automatically forfeit his judicial office.

(d) This section is alternative to and cumulative with the provisions for impeachment for misbehavior in office contained in Article VI, sections 4, 5 and 6. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

Referred to Committee on Judiciary.

No. 1025

By DELEGATES CLINGER and GABRESKI

A PROPOSAL

Amending article five of the Constitution of Pennsylvania providing for the removal, discipline and compulsory retirement of judges.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding at the end thereof, a new section to read:

ARTICLE V THE JUDICIARY

* * *

Section 29 Removal, Discipline and Compulsory Retirement of Judges.—(a) There shall be a Judicial Qualifications Commission empowered to make recommendations to the Supreme Court for the removal, discipline, or compulsory retirement, as the case may be, of justices or judges. The procedures to be followed by such Judicial Qualifications Commission and the composition, selection, and terms of office of the members thereof shall be in accordance with rules prescribed by the Supreme Court.

(b) The Supreme Court shall as to any such case before the Judicial Qualifications Commission review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline, or compulsory retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for compulsory retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired for superannuation as may be prescribed by the General Assembly. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the Judicial Qualifications Commission or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the Commission or the masters shall be privileged; provided that, upon being filed by the Commission in the Supreme Court, the record loses its confidential character.

The Supreme Court shall by rule provide for procedure under this section before the Judicial Qualifications Commission, the masters, and the Supreme Court.

No justice or judge shall sit as a member of the Commission or the Supreme Court in any proceedings involving his own removal, discipline, or compulsory retirement.

(c) Any justice or judge who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the bar of the Supreme Court, shall automatically forfeit his judicial office.

(d) This section is alternative to and cumulative with the provisions for impeachment for misbehavior in office contained in Article VI, sections 4, 5 and 6. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK The Chair recognizes Delegate Clinger for a statement.

DELEGATE CLINGER Mr. President, both of the proposals that Mr. Gabreski and I are introducing concern the discipline, removal and compulsory retirement of judges. Both incorporate the Judicial Qualifications Commission, which is contained in the proposal submitted by Delegate Thornburgh and endorsed by the Pennsylvania Bar Association as a means of coping with the very real and serious problems in this area. However, they do vary in several respects from the Pennsylvania Bar Association's proposal.

The first provides for a Judicial Qualifications Commission, but in much broader and more generalized language and terms than that contained in the proposal of the Pennsylvania Bar Association.

The second combines the Judicial Nominating Commission for the Supreme and Superior Courts with the Judicial Qualifications Commission into one body on the theory that there is no demonstrable need for two constitutional commissions, and, in fact, the problems of selection and removal of judges and justices can be more effectively handled by one commission.

Both of the proposals are in effect simplifications of a previously introduced proposal. They affect only one relatively small section of this proposal, but, in a larger sense, I think they point to one of the more serious and perhaps the most important issue which this Convention will have to face.

Like many of my fellow delegates on the Judiciary Committee, I have been somewhat concerned with the extremely detailed and specific proposals which have been submitted to us for consideration. Undoubtedly we will be wrestling with this problem of how specific or how general to be from now until the end of the Convention, but I would like to suggest here at the outset of our deliberations that we are not here to write statutes but rather to shape policies and to hopefully write history. If we are going to content ourselves with trying to solve the problems of the oversights, omissions and mistakes that we feel the legislatures have made in recent years, we are not going to write a meaningful document and, in fact, we may frustrate the legislatures and executives of 25, 50 or 100 years hence.

In my view, the more complex, the more detailed and specific we make our constitutional amendments, the less chance we have of writing a flexible Constitution which will be of value in years to come. It is for this reason that we are submitting these proposals.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Monroe, Delegate Roberts.

DELEGATE ROBERTS Mr. President, I read in place and present to the Chair the following proposal and respectfully request permission of the Chair to make a brief statement regarding this proposal:

No. 1026

By DELEGATE ROBERTS

A PROPOSAL

Amending article fourteen of the Constitution of Pennsylvania, abolishing coroners and establishing medical examiners as county officers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, [coroners] medical examiners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from

time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Roberts.

DELEGATE ROBERTS. Thank you, Mr. President.

The purpose and intent of this proposal is to remove an archaic office from the list of offices that are required in counties in Article XIV, Section 1, the office of coroner which no longer complies with the demands of our present day society. In its place it would establish the office of the medical examiner as an elective, mandatory office, an office concerned not only with foul play, but with the general health and welfare of the community.

The Pennsylvania Medical Society has advised that 39 counties in the Commonwealth already have physicians in the coroner's chair, and this is good. One county, the County of Philadelphia, with its unique governmental structure already has the medical examiner system as an appointive office. But the tragedy is that 27 counties have as coroners men who, though dedicated and faithful to their tasks, seriously lack the proper medical background and all lack the equipment and the proper staffs to meet the needs of the community.

It seems to me then, Mr. President, that a new office with a physician preferably a pathologist where possible, is what is needed today.

It is my prayer, Mr. President, that the appropriate committee and this body itself will amend Section 1 of Article XIV to establish the medical examiner system in every county grouped regionally and allow the legislature to set in motion the machinery which will make this a reality.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Allegheny, Delegate Rea.

DELEGATE REA. Mr. President, I read in place and submit to the Chair the following proposal and would request a few moments' time to speak thereon:

No. 1027

By **DELEGATE REA**

A PROPOSAL

Amending the Constitution of Pennsylvania repealing the provisions relating to consolidation in Allegheny County.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four of article fifteen of the Constitution of Pennsylvania which reads as hereinafter set forth, is repealed:

[Section 4. The General Assembly is hereby authorized to provide for the consolidation of the county, poor districts, cities, boroughs and townships of the county of Allegheny, and the offices thereof, into a consolidated city and county, with the constitutional and legal capacity of a municipal corporation, to be known either as "Greater

Pittsburgh" or "Metropolitan Pittsburgh" or "City of Pittsburgh (Metropolitan)," and to provide for a charter for its government, and to fix the name thereof in the charter. The said charter shall be submitted to the electors of said county at a special or general election to be provided for therein. If the majority of the electors voting thereon in the county as a whole, and at least a majority of the electors voting thereon in each of a majority of the cities, boroughs and townships thereof, vote in the affirmative the act shall take effect for the whole county.

If rejected, the said charter may be resubmitted by the county commissioners to the electors from time to time, but not oftener than once in two years, until adopted. Until a charter shall have been adopted as aforesaid, the General Assembly shall have the power to amend or modify the said charter, in which event the charter as amended or modified shall be submitted and resubmitted as aforesaid.

It shall be competent, subject to the police power of the State, for the Legislature to provide in said charter:

I. For the exercise by the consolidated city of all the powers and duties vested in the county of Allegheny, and the poor districts thereof, and such other powers appropriate to a municipality as may be specified therein, except such powers as are specifically reserved by this section to the municipal divisions herein provided for.

II. For the election of a board of commissioners, by districts and/or at large, by the electors of the consolidated city, the number to be fixed by the charter, in lieu of present county commissioners, in which board shall be vested all the powers of the consolidated city except as otherwise provided in the charter.

III. For the organization of a government for the consolidated city, and for the appointment and/or election of any officers thereof, created by the Constitution, or otherwise, and to provide for their powers and duties.

IV. For the organization and reorganization of all courts, other than those of record, in the consolidated city, and for the appointment and/or election of the judges and officers thereof, and for the procedure thereof, including the right to provide that said court or courts be courts of record, which courts may exercise the jurisdiction, powers and rights of the magistrates, aldermen and justices of the peace, and such other jurisdiction and powers as may be conferred by law.

V. For the transfer to, and the assumption by, the consolidated city of the property and indebtedness of the county of Allegheny, and the poor districts thereof, and of such property and indebtedness of the cities, boroughs and townships thereof as relate to the powers and duties of said consolidated city, and to provide for an equitable adjustment and arrangement with respect thereto and for the payment of such indebtedness, and, for this purpose, any taxation therein, arising thereby, shall be uniform taxation within the meaning and intent of other provisions of the Constitution.

VI. For the assessment of property for taxation, the levying and collecting of taxes, and the payment of the cost of any public or municipal improvement, in whole or in part, by special assessment upon abutting and non-abutting property specially benefited thereby.

VII. For the creation, by the board of commissioners, of districts for the purpose of regulating the location, height, area, bulk and use of building and premises.

VIII. For the creation of indebtedness by the consolidated city within the limits now or hereafter imposed upon cities by other provisions of the Constitution. Such power to create indebtedness shall not impair the power of the municipal divisions, within the consolidated city, to create indebtedness within the limits now or hereafter imposed upon such municipalities by other provisions of the Constitution.

IX. For the creation, by the board of commissioners, of special districts for the purpose of carrying on or carrying out any public or municipal improvement, not for the exclusive benefit of any one municipal division; and for the payment of the cost and maintenance of such property or improvement, or any part thereof, special taxes may be levied throughout such special districts, respectively, separate and apart from the general consolidated city tax.

X. For the exercise of such powers by the consolidated city as may be necessary to enable it to carry on and carry out such municipal and metropolitan powers and functions as the General Assembly may deem advisable and expedient and for the general welfare of the said city and its inhabitants:

Provided, however, That it is the intent of this section that substantial powers be reserved to the cities, boroughs and townships situated in Allegheny County. To this end the charter shall provide for the continued existence of the said cities, boroughs and townships, as municipal divisions of the consolidated city, under their present names and forms of government, subject to the laws now or hereafter provided for government of municipalities of their respective forms and classes and to the powers conferred upon the consolidated city by the charter, and with their present boundaries. Any two or more of said municipal divisions, or portions thereof, may, with the consent of a majority of the electors voting thereon in each of such divisions at any special or general election, be united to form a single municipal division. Wherever a portion of a municipal division is involved, the election shall be held in the entire municipal division of which the said portion is a part.

The said municipal divisions shall have and continue to have the following powers:

I. The constitutional and legal capacity of municipal corporations.

II. The power to levy and collect taxes and to incur indebtedness, subject to the limitations which are or may be imposed by law upon cities, boroughs or townships of corresponding classification, for the purpose of carrying out any lawful power of said divisions.

III. The power to acquire, own, construct, maintain, operate or contract for all kinds of public property, works, improvements, utilities or services, which shall be within the municipal division and, where authorized by law, without the limits of the municipal division. Subject, however, to the right and power of the consolidated city to construct, acquire, maintain and/or operate public works, improvements, utilities and services of all kinds, including through streets, highways and/or bridges, for the use and benefit of the consolidated city and its inhabitants.

IV. The power to maintain a local police force and local fire department, either paid or volunteer, with the necessary buildings, appurtenances and equipment therefor, which may be independent of or supplemental to the police force and fire department of the consolidated city.

V. All other powers not specifically granted by the charter to the consolidated city: Provided, however, That a municipal division may surrender, by a majority vote of the electors voting thereon at any general or special election, any of its powers to the consolidated city, subject to the acceptance thereof by the board of commissioners.

After a charter has been adopted as aforesaid, it may be amended as follows:

I. In matters which relate only to the powers of the consolidated city and which do not reduce the powers of any one or more of the municipal divisions thereof by the General Assembly. Provided, however, That any amendment which changes or modifies the form of government of the consolidated city, or the number of or manner of election of the commissioners thereof, shall not be effective until such amendment shall have been ratified by a majority of the electors of the consolidated city voting thereon at a general or special election, to be provided for in said amendment.

II. In matters which reduce the powers of any one or more of the municipal divisions of the consolidated city, such amendment, enacted by the General Assembly, shall not be effective until it shall have been ratified at a general or special election, to be provided for in said amendment, by a majority of the electors voting thereon in all of the municipal divisions affected thereby, and by a majority of the electors voting thereon in each of a majority of said municipal divisions so affected.]

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Rea.

DELEGATE REA. Mr. President, in the 1920s, the Constitution of Pennsylvania was amended to provide for the creation of a greater Pittsburgh or a metropolitan Pittsburgh. At the present time there are 129 boroughs and townships in Allegheny County surrounding the City of Pittsburgh that contain approximately one million persons. These persons are now subject to a consolidation or a metropolitanism from Allegheny County, and it is the purpose of this proposal to remove from the Constitution the right of the City of Pittsburgh or the County of Allegheny to consolidate into one large metropolitan community.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Mercer, Delegate Johnson.

DELEGATE JOHNSON. Mr. President, I read in place and present a proposal and wish to comment:

No. 1028

By DELEGATES JOHNSON, SOLOMON and SAHLI

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania providing for a local boundary commission or board.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE XV-A MUNICIPAL BOUNDARY COMMISSION

Section 1.—The General Assembly shall provide for a local boundary commission or board to be established in the executive branch of the State government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the General Assembly during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each House. The commission or board may establish procedures whereby boundaries may be adjusted by action of local governments.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Johnson for a statement

DELEGATE JOHNSON. Mr. President, this proposal would establish in the executive department a boundary commission and it would report to the General Assembly proposals, but its chief purpose would be to clarify the procedures and, of course, the local units concerned would still have the opportunity to express their will through this new proposal.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Johnson.

The Chair recognizes Delegate Powell.

DELEGATE POWELL. Delegate Powell from Bucks County, 10th Senatorial District.

I read in place and present to the Chair the following proposal:

No. 1029

By DELEGATES POWELL and ROY MILLER

A PROPOSAL

Amending the Constitution of Pennsylvania changing the provisions relating to compensation of county officers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section five of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 5. Compensation of County Officers.—[The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him.] County officers shall be paid only by salary for services performed for the State government or for the county or for any other official service. Except as otherwise provided

in this Constitution, such salaries shall be prescribed by law. Fees received by county officers shall be paid into the treasury of the county or into the State treasury as prescribed by law.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. Do you wish to make a statement, Delegate Powell?

DELEGATE POWELL. No statement.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Chester, Delegate Thomson

DELEGATE THOMSON. Mr. President, I read in place and present to the Chair the following proposal upon which I wish to make a few brief remarks.

No. 1030

By DELEGATE THOMSON

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania providing for powers, functions and duties which may be exercised by cities, boroughs, incorporated towns and townships.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE

POWER OF LOCAL GOVERNMENTS

Section 1. Power Granted.—Cities, boroughs, incorporated towns and townships may exercise all powers, functions and duties not prohibited by this Constitution or by law.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Thomson.

DELEGATE THOMSON. Mr. President, my proposal is aimed at a proposition that has plagued the Legislature of Pennsylvania for many years. In Pennsylvania the legislation has been largely guided by what has been known as the "Dillon Rule," that is, that the local governments of this State can function only in those fields and in those particular issues that are authorized by the legislature.

My proposal just presented to this Convention reverses that process and gives to the local governments the right to govern themselves in all fields except where the Constitution or the legislature itself may bar that proposal.

PRESIDENT BRODERICK. Thank you, Delegate Thomson.

The Chair recognizes the delegate from Lancaster, Delegate Burkholder.

DELEGATE BURKHOLDER. Mr. President, I read in place and present to the Chair the following proposal:

No. 1031

By DELEGATES BURKHOLDER and FEATHER

A PROPOSAL

Repealing article five of the Constitution of the Commonwealth of Pennsylvania relating to the Judiciary and adding new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of the Commonwealth of Pennsylvania is amended by adding after article four, a new article to read:

**ARTICLE
THE JUDICIARY**

Section 1. Courts.—The judicial power of the Commonwealth shall be vested in a unified system consisting of a Supreme Court, a Superior Court, Trial Courts, Estates Courts, and Community Courts. Other courts may be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall consist of seven justices, one of whom shall be Chief Justice of Pennsylvania. In the absence of the Chief Justice, the member of the court senior in length of service on the court shall serve in his place.

(b) The Supreme Court shall be the highest court of the Commonwealth and shall have final appellate jurisdiction. It shall have no original jurisdiction except as may be expressly provided in this Constitution. It may assume jurisdiction of actions pending in any other court at any stage of the proceedings. It shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction. Appeals from final judgments of the Trial Court shall lie as of right directly to the Supreme Court only in cases of judgments imposing sentences of death or life imprisonment. In all other cases, appeals permitted by law be assigned by the Supreme Court to such court, including the Superior Court, as the Supreme Court shall by rule prescribe.

Section 3. Superior Court.—(a) The Superior Court shall consist of nine judges, except that the Supreme Court may from time to time assign additional judges from among the judges of the Trial Court or the Estates Court to temporary service upon the Superior Court as the business of the Superior Court may require. The number of judges of the Superior Court may be changed by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court. The court may act in panels of three or more judges, and shall sit at such places and times as the Supreme Court shall by rule prescribe.

(b) The Superior Court shall have no original jurisdiction. It shall exercise such appellate jurisdiction, including such review of the actions of executive or administrative offices or agencies, as may be assigned to it by rule of the Supreme Court. When no other court has been designated by rule of the Supreme Court, appeals permitted by law shall be taken to the Superior Court.

(c) One of the judges of the Superior Court shall serve as its President Judge. In the absence of the President Judge the member of the Superior Court senior in length of service on the court shall act in his place.

Section 4. Trial and Estates Courts.—(a) There shall be one Trial Court for each judicial district. Initially, the

number and boundaries of the judicial districts, and the number of judges to be selected from each district, shall be as at present, but the Supreme Court shall recommend from time to time to the General Assembly, such changes in the foregoing as the Supreme Court may deem advisable. The President Judge of the Trial Court of each judicial district shall, under the direction of the Chief Justice or such associate justice as shall be deputized by him, supervise the court's judicial business, including the assignment of the court's judges within the district.

(b) In any district in which a separate Orphans' Court presently exists there shall be a separate Estates Court which initially shall consist of the number of judges authorized to sit on the Orphans' Court of the district when this section becomes effective. The jurisdiction of the court shall continue to be the jurisdiction now exercised by the Orphans' Court of the district, unless modified by rule of the Supreme Court. In any other district there may be a separate Estates Court as the General Assembly may determine upon recommendation of the Supreme Court.

(c) In all districts except those containing separate Estates Courts, the Trial Courts shall have unlimited original jurisdiction in all cases except such as may be assigned exclusively to the Community Courts by rule of the Supreme Court; and in districts containing separate Estates Courts and Trial Courts shall have the same original jurisdiction as in other districts, except that they shall not have jurisdiction in cases over which the Estates Courts of their respective districts shall have jurisdiction.

(d) The Trial Courts shall have such powers of review of the actions of the Community Courts and of executive or administrative offices or agencies as may be provided by rule of the Supreme Court.

(e) The Trial Courts may exercise their jurisdiction through such appropriate divisions, including civil, criminal, and, except in districts in which there are separate Estates Courts, estates divisions, as the Supreme Court shall by rule prescribe. There shall be a Presiding Judge for each division which may be created in any district.

Section 5. Community Courts.—(a) All existing courts not of record shall be superseded as hereinafter provided by Community Courts which shall be courts of such limited jurisdiction and shall exercise their jurisdiction through such appropriate divisions as the Supreme Court shall by rule prescribe.

(b) The number of judges constituting the Community Courts shall be determined for each judicial district by rule of the Supreme Court. Judges of the Community Court for each judicial district shall be selected in the same manner as the judges of the Trial Court of such district. The President Judge of the Trial Court for each judicial district shall designate the places within the district where the Community Court for that district shall sit, subject to review by the Supreme Court.

(c) The President Judge of the Trial Court of each judicial district shall, in accordance with rules prescribed by the Supreme Court appoint commissioners for the district to accept bail, issue warrants, or otherwise assist the judges of the Community Court of the district in the performance of their judicial duties within the district as the Supreme Court may by rule prescribe.

Section 6. Qualifications of Judges and Commissioners.—

(a) Justices and judges shall be citizens of the Commonwealth. Unless in any judicial district, there are less than

six qualified lawyers willing to accept appointment to fill a vacancy, judges of the Trial Courts, Estates Courts and Community Courts shall be residents of the judicial districts for which they shall be selected and shall reside in the districts in which they serve. All justices and judges, except judges of Community Courts, shall be members of the bar of the Supreme Court. Judges of the Community Courts shall have not less than a high school education and in addition shall either have served for not less than eight consecutive years as a justice of the peace, alderman or similar judicial officer in Pennsylvania, or have successfully completed a special training course not exceeding six months prescribed by the Supreme Court.

(b) Commissioners shall be citizens of the Commonwealth and residents of the judicial districts for which they shall be appointed. They shall possess such additional qualifications and shall be subject to such restrictions as to activities outside their official duties, as the Supreme Court shall by rule prescribe.

Section 7. Method of Selection of Judges.—(a) Whenever a vacancy occurs by death, resignation, removal from office, expiration of a term of office, or creation of an additional judgeship, in the office of justice of the Supreme Court or of judge of the Superior Court, judge of the Trial Court, judge of the Estates Court, or judge of the Community Court, the Governor shall fill the vacancy by appointment from a panel of persons qualified for the office, nominated to him by a Judicial Nominating Commission established and organized as hereinafter provided.

(b) In the case of a justice of the Supreme Court or a judge of the Superior Court, the State-wide Judicial Nominating Commission shall nominate to the Governor six names. If the Governor fails within sixty days to make an appointment from the panel submitted to him, the Judicial Nominating Commission shall certify the same six names to the Chief Justice who shall promptly appoint one of the six nominees.

(c) In all other cases the appropriate Judicial Nominating Commission shall nominate to the Governor the names of three persons qualified for the office and residing within the judicial district in which the vacancy exists unless there are within the district less than six persons qualified for the office who are willing to accept appointment in which case the Judicial Nominating Commission shall nominate to the Governor three persons qualified for the office regardless of their residence. If none of the persons so nominated is acceptable to the Governor, he shall so notify the Judicial Nominating Commission within sixty days of his receipt of the nominations. Upon receipt of such notification, or upon expiration of such sixty-day period without such notification if no appointment has been made, the Judicial Nominating Commission shall nominate a second panel of three other persons. If none of the persons nominated in either panel is appointed by the Governor within thirty days of his receipt of the nominations in the second panel, the appointment shall be made by the Chief Justice from among the persons nominated in either panel as certified to him by the Judicial Nominating Commission.

(d) Each justice or judge appointed in the manner prescribed by subsection (a) of this section shall hold office for a term ending the first Monday of January following the next municipal election day more than twenty-four months following his appointment. Not less than one hundred twenty days before the expiration of the term of of-

fice of a justice or a judge appointed by the Governor or by the Chief Justice or not less than one hundred twenty days before the expiration of the term of office of an elected justice or judge entitled to succeed himself, the justice or judge may file in the office of the official in charge of State-wide elections, a declaration of candidacy for retention to succeed himself. If he does not file such declaration a vacancy shall exist at the end of his term to be filled by appointment by the Governor or the Chief Justice as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on separate judicial ballots or in a separate column on voting machines, in either case without party designation, at the municipal election immediately preceding the expiration of his term of office to determine only the question whether he shall be retained in office. If a majority of the votes cast are against retaining the justice or judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment by the Governor or the Chief Justice as herein provided. If a majority of the votes cast are in favor of retaining a justice or a judge, he shall serve for the full term of office provided herein, unless sooner removed. At the expiration of each term any justice or judge shall be eligible for retention in office in the manner provided herein, subject only to the retirement laws then in force.

Section 8 Judicial Nominating Commissions.—(a) There shall be as single State-wide Judicial Nominating Commission for the Supreme and the Superior Courts, and separate Judicial Nominating Commissions for each judicial district. Each such commission shall be composed of one justice or judge, three members of the bar selected by the members of the bar and three lay citizens. The justice or judge and the members of the bar on each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens on each Judicial Nominating Commission shall be appointed by the Governor. Members of the Judicial Nominating Commission for the Supreme and the Superior Courts shall be chosen from the Commonwealth at large, and members of the Judicial Nominating Commission for a judicial district shall be chosen from that district except that the justice or judge may be chosen from outside the district.

(b) The members of each Judicial Nominating Commission shall serve for terms of three years, staggered except in the case of the justice or judge on the commission, so that two members, one selected by the bar and the other appointed by the Governor, shall be selected each year. Of the first members selected following the effective date of this section, two members, one selected by the bar and one appointed by the Governor, shall be selected for one-year terms and two other members selected by the bar and by the Governor respectively, shall be selected for two-year terms. Vacancies in the membership of any Judicial Nominating Commission shall be filled for the balance of the term by the same appointing power as appointed the member whose place has become vacant. No member of a Judicial Nominating Commission shall serve for more than two successive three-year terms on that commission, but he may be reappointed or re-elected after a lapse of one year. The members of each commission shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. Each commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization, nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Section 9. Appointments by the Governor and by the Chief Justice.—The Governor and the Chief Justice shall have full responsibility for all appointments made by them, respectively under this article. They shall make such appointments solely on the basis of merit regardless of the political affiliations of the appointees. The Governor's and Chief Justice's appointments under this article shall not require the consent of the Senate.

Section 10. Tenure of Judges; Method of Selection of Chief Justices, President Judges and Presiding Judges.—(a) When the qualified electors of the State-at-large or of the appropriate judicial district have voted to retain them, justices of the Supreme Court, and judges of the Superior Court, of the Trial Courts and of the Estates Courts shall serve for terms of ten years, and judges of the Community Courts shall serve for terms of not more than ten years as the General Assembly shall from time to time prescribe. The tenure of any judge shall not be affected by changes in judicial districts or by the reduction of the number of judges.

(b) The Chief Justice of Pennsylvania shall be elected for a term of five years by the State-wide Judicial Nominating Commission and shall always be eligible for re-election. A member of the court may resign the office of Chief Justice without resigning from the court.

(c) The President Judge of the Superior Court, and the President Judge of the Trial Court, and the President Judge of the Estates Court, if any, for each judicial district, shall be appointed by the Chief Justice of Pennsylvania and shall serve in such capacity at his pleasure.

(d) The President Judge of the Community Court for each judicial district and the Presiding Judge of any divisions of the Trial Court shall be appointed by the President Judge of the Trial Court for the district and shall serve at his pleasure.

Section 11. Compensation and Retirement of Judges.—(a) Justices and judges shall receive for their services only the compensation paid by the Commonwealth as prescribed by law, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth.

(b) Justices and judges shall be retired at such age, not less than seventy-two years for justices of the Supreme Court and judges of the Superior Court, and not less than seventy years for all other judges, as shall be provided by the General Assembly. Notwithstanding the expiration of the term for which a justice or a judge was last elected, his retirement, resignation or removal from office for physical or mental disability, he shall receive such compensation as shall be prescribed, for similar judges upon retirement, by the General Assembly. A former judge may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

Section 12. Removal, Discipline and Compulsory Retirement of Judges.—(a) There shall be a Judicial Qualifica-

tions Commission to be composed of two judges of the Superior Court, and three judges of the Trial Courts or Estates Courts from different Judicial Districts, to be selected by the Supreme Court; two members of the bar to be selected by the members of the bar; and two lay citizens to be selected by the Governor. The judges and the members of the bar shall be selected in the manner and in accordance with rules prescribed by the Supreme Court.

The members of the Judicial Qualifications Commission shall serve for terms of four years, the selection of the first members following the effective date of this section to be staggered as follows: one judge of the Superior Court, one member of the bar, and one lay member shall be selected for two-year terms, and one judge of the Superior Court, one member of the bar, and one lay member shall be selected for four-year terms; one judge of the Trial Court or Estates Court shall be selected for a term of two years, one for a term of three years, and one for a term of four years. A vacancy in the membership of the Commission shall be filled for the balance of the term by the same appointing power as selected the member whose place has become vacant. No member of the Commission shall serve for more than one full four-year term on the Commission, but he may be reappointed or re-elected after a lapse of one year. The members of the Commission shall elect one member to serve as Chairman for a term of one year. The Commission shall act only with the concurrence of a majority of all its members.

During the terms of office for which members of the Judicial Qualifications Commission have been chosen, they shall not hold any office in a political party or organization nor, except for the members who are judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the Commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In accordance with the procedure prescribed in subsection (c) of this section, any justice or judge may be removed from office or otherwise disciplined for misconduct in office, neglect of duty, failure to perform his duties, violation of any canon of legal or judicial ethics adopted by the Supreme Court, or other conduct which prejudices the proper administration of justice; and any justice or judge may be retired for any disability which is seriously interfering or is likely to interfere seriously with the performance of his duties.

(c) The Judicial Qualifications Commission shall keep itself as fully informed as may be of facts and circumstances relating to justices or judges, insofar as the same may bear upon any of the grounds for removal, discipline, or compulsory retirement; shall receive complaints or reports, formal or informal, from any source pertaining to such matters and shall make such preliminary investigations as it may determine.

The Judicial Qualifications Commission may, after such investigation as it deems necessary, order a hearing to be held before it concerning the removal, discipline or compulsory retirement of a justice or a judge, or the Commission may in its discretion request the Supreme Court to appoint three special masters, who shall be justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the Commission. The Commission's orders for the attendance or testimony of witnesses or for the production of documents at any hear-

ing or investigation shall be enforceable by contempt proceedings in the Trial Court of Dauphin County.

If, after hearing or after considering the record and report of the masters, the Commission finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline, or compulsory retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline, or compulsory retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for compulsory retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired under section 11 (b) of this article. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the Judicial Qualifications Commission or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the Commission or the masters shall be privileged; provided that, upon being filed by the Commission in the Supreme Court, the record loses its confidential character.

The Supreme Court shall by rule provide for procedure under this section before the Judicial Qualifications Commission, the masters, and the Supreme Court.

No justice or judge shall sit as a member of the Commission or the Supreme Court in any proceedings involving his own removal, discipline, or compulsory retirement.

(d) Any justice or judge who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the bar of the Supreme Court, shall automatically forfeit his judicial office.

(e) This section is alternative to and cumulative with the provisions for impeachment for misbehavior in office contained in Article VI, sections 4, 5 and 6. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

Section 13. Nonjudicial Duties and Prohibited Activities.—(a) No duties, other than judicial duties, shall be imposed by law upon any court or upon any of the justices or judges thereof, nor shall any power of appointment be conferred upon any court or upon any justice or judge thereof except such as relates to the exercise of the judicial power of this Commonwealth or the administration of the courts as provided in this article.

(b) No justice or judge shall directly or indirectly make any contribution to or hold any office in a political party or organization, nor while retaining judicial office shall he become a candidate at either a primary or general election for any office other than a judicial office, except that any justice or judge may contribute to the political campaign of a member of his family.

(c) No justice or judge shall practice law or engage in any other employment for compensation, except that he may receive compensation as a lecturer, teacher or author, as an officer of a nonprofit professional organization, as a fiduciary of the estate of a member of his family, and as a member of the National Guard or a reserve component of the Armed Forces of the United States while on inactive duty; and except that a judge of a Community Court may

engage in any other employment not prohibited by a rule of the Supreme Court provided it does not interfere with his duties as judge.

Section 14. Administration of Courts.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts of this Commonwealth, including the temporary assignment of judges from one court or district to another, but in judicial districts containing populations in excess of five hundred thousand a judge of the Trial Court or of the Estates Court or of the Community Court shall not be assigned to a district other than his own without the consent of the President Judge of his court. The powers of administration vested in the Supreme Court shall be exercised by the Chief Justice, or by an associate justice deputized by him, in accordance with rules prescribed by the Supreme Court. The Chief Justice shall appoint an administrative director and staff, who shall assist the Chief Justice or the associate justice deputized by him, in supervising the administrative operations of the judicial system and shall serve at his pleasure.

(b) The Supreme Court shall have power to prescribe rules in all civil and criminal actions and proceedings for all courts, governing administration, practice and procedure, including rules of evidence, appeals, appellate jurisdiction including time for appeals, and the issuance of all writs necessary or appropriate in aid of the jurisdiction of the respective courts. These rules shall have the force and effect of law and shall suspend all statutes or other rules inconsistent therewith.

(c) Subject to the provisions of subsection (b) of this section, each Trial Court and each Estates Court shall have power to prescribe similar rules for their particular courts.

Section 15. Clerks of Court, Court Personnel.—(a) There shall be such Clerks of Court and such other nonjudicial personnel as shall be necessary for the effective performance of the judicial work of the Commonwealth. The clerks of the Trial Courts, of the Estates Courts, and of the Community Courts, their assistants and other nonjudicial court officers within each judicial district shall be appointed by the judges of the respective courts of that district, until such time as the Supreme Court shall otherwise provide in appropriate rules promulgated by it.

(b) The Supreme Court may prescribe a merit system for appointment, promotion, removal, discipline, and suspension of nonjudicial personnel in the judicial system and may provide for exempt categories. The Supreme Court may administer the merit system through an administrative director, or may provide for its administration by other appropriate agencies of the Commonwealth or its political subdivisions, who shall be required to render necessary assistance to the court.

Section 16. Judicial Council.—(a) The Supreme Court shall establish a Judicial Council consisting of such number of members and selected in such manner as the Supreme Court may by rule prescribe.

(b) The Judicial Council shall conduct studies for improvement of the administration of justice and for law reform, and shall make reports and recommendations to the Supreme Court and to the General Assembly at intervals of not more than two years. The Judicial Council shall perform such other duties as may be prescribed in this article or assigned to it by rule of the Supreme Court.

Section 17. Implementation of this Article.—The General Assembly shall enact all laws which may be necessary to implement the provisions of this article.

SCHEDULE

That no inconvenience may arise from changes in the Judiciary article of the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared that:

1. This Judiciary article, except as otherwise provided herein, shall become effective on the thirty-first day of July of the year next succeeding its adoption; and the tenure of the Chief Justice and of justices of the Supreme Court and of judges of the Superior Court then in office shall not be affected by this article. Subject to the provisions of the retirement acts then in effect, judges of both courts shall be eligible for re-election in the manner provided in section 7 (d).

2. The provisions of section 10, subsection (b) relating to the election of the Chief Justice by the State-wide Judicial Nominating Commission shall become effective upon the expiration of the term, or the death, resignation or removal of the last justice of the Supreme Court in office on July 31, 1968.

3. The Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, the County Court of Philadelphia, the County Court of Allegheny County, the Juvenile Court of Allegheny County, the Court of Common Pleas of every judicial district are abolished, and their jurisdiction and powers shall be exercised by the Trial Courts provided by this article. The tenure of judges of the abolished courts shall not be affected by the abolition of the same, and the judges thereof are hereby constituted for the remainder of their respective terms as judges of the Trial Court or in counties having separate Orphans' Courts, judges of the Estates Court, as the case may be, in their present respective judicial districts and shall be eligible for re-election as judges thereof in the manner provided by section 7 (d) or section 7 (e) as may be appropriate.

4. Each person holding a judicial office with Magistrates' Courts in Philadelphia County, in the Aldermen's and Justices of the Peace Courts in other counties, in the Traffic Court of the City of Pittsburgh, in the Police Court of the City of Pittsburgh, and in the Traffic Court of the City of Philadelphia shall continue in office until the expiration of their respective terms of office. At that time, or prior thereto upon a vacancy occurring because of death, resignation or removal their particular offices are abolished. The jurisdiction and powers of the abolished courts shall be exercised by the Community Courts until otherwise provided by rule of the Supreme Court of Pennsylvania.

5. The Board of Claims and the Board of Arbitration of Claims shall continue to exercise the jurisdiction now provided by law until otherwise provided by the General Assembly but shall not be deemed courts forming part of the judicial system created by this article.

6. (a) The offices of Clerk of the Court of Quarter Sessions of the Peace, of Oyer and Terminer, and of Clerk of the Orphans' Court, and the office of Prothonotary are abolished.

(b) The present Prothonotaries of the Common Pleas Court shall become clerks of the Trial Court within their respective districts for the balance of their terms, subject to the provisions of this article.

(c) The presently elected Clerks of the Courts of Quart-

er Sessions and of Oyer and Terminer shall become deputy clerks of the Trial Courts within their respective districts for the balance of their terms, subject to the provisions of this article.

7. (a) All causes and proceedings pending in the courts of record not continued by this article, except those pending before the Board of Claims and the Board of Arbitration of Claims, shall be transferred to the Trial Court, or, when appropriate, to the Estates Court, which shall have authority to dispose of all actions so transferred or to enforce any judgment, order, sentence, or decree henceforth or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdiction of the transferee court and been commenced therein. All dockets, books, records, documents, or other papers in the possession of the clerks of the courts of record whose existence is not continued shall be transferred to the clerks of the Trial Courts or, when appropriate, of the Estates Court.

(b) As the Courts of Justices of the Peace, Aldermen and Magistrates, the Traffic Courts of the Cities of Philadelphia and Pittsburgh and the Police Court of the City of Pittsburgh are abolished, all matters pending before them shall be transferred to the Community Courts, which shall have the authority to dispose of all transferred actions or to enforce any judgment, order or sentence theretofore entered or imposed.

As those courts are abolished all books, records, documents and papers in the possession of any of those courts shall also be transferred to the Community Court of the appropriate judicial district.

Section 2. Article five of the Constitution of the Commonwealth of Pennsylvania is hereby repealed effective the thirty-first day of July of the year next succeeding the adoption of the foregoing article, except that as much of section 2 as provides for the succession of chief justices according to the priority of their commissions shall not be repealed until the expiration of the term or the death, resignation, retirement or removal of the last justice of the Supreme Court in office on July 31, 1968.

Referred to Committee on Judiciary

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Lancaster, Delegate Burkholder.

DELEGATE BURKHOLDER. Mr. President, the proposal follows almost verbatim the proposal of Mr. Thornburgh, which embodies the suggestion of the Pennsylvania Bar Association, but it varies in three respects.

In the first place, it changes the name from district courts to trial courts, to avoid the confusion which might exist with the federal and district courts.

In the second place, it would provide that members of the minor judiciary should fill out their unexpired terms.

In the third place, it provides that judges of the community courts need not be learned in the law, but must achieve certain other standards.

PRESIDENT BRODERICK. Thank you very much.

The Chair recognizes the delegate from Chester, Delegate Thomson.

DELEGATE THOMSON. Mr. President, I read in place and present to the Chair the following proposal and request an opportunity to speak on it.

No. 1032

By DELEGATE THOMSON

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania providing for abolition of bodies corporate and politic, commonly known as "authorities," for municipalities, counties, school districts and townships and payment of indebtedness of such "authorities."

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE
MUNICIPAL AUTHORITIES

Section 1. Municipal Authorities.—No incorporation as bodies corporate and politic for municipalities, counties, school districts or townships, commonly known as "authorities" shall take place subsequent to the adoption of this amendment. The General Assembly shall by legislation provide for abolition of such existing authorities within a period of ten years after the adoption of this constitutional amendment, and in such legislation shall provide for payment of all existing authority indebtedness.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. You may proceed, Delegate Thomson.

DELEGATE THOMSON. Mr. President, this particular proposal bears upon a proposition and a growing evil in Pennsylvania. I will admit that this proposal is predicated upon some action by another committee and another proposal in this Convention, namely, the removal of constitutional debt limitations at the local level.

This particular proposal will then provide a method of abolishing what I have regarded as a necessary evil in Pennsylvania—an expensive luxury that we can ill afford, namely, the authority system in this State.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Thomson.

The Chair recognizes the delegate from the 39th Senatorial District, Delegate Orbin.

DELEGATE RALPH E. ORBIN, Sr. Mr. President, I read in place and present to the Chair the following proposal:

No. 1033

By DELEGATE ORBIN

A PROPOSAL

Amending the Constitution of Pennsylvania providing for annexation of municipalities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding a new article to read:

ARTICLE
LOCAL GOVERNMENT

Section Annexation.—No city, borough, incorporated town or township nor any part thereof shall be annexed to any other city, borough, incorporated town or township unless the proposal is submitted to the electorate and a majority of the electors voting on the question in the annexing city, borough, incorporated town or township vote in favor of the annexation and a majority of the electors voting on the question in the city, borough, incorporated town or township of which a part or all is being annexed also vote in favor of annexation. The General Assembly shall provide by general law the method of submitting the proposal to the electorate.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. Does Delegate Orbin desire to make a statement on that proposal?

DELEGATE ORBIN. No, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Tate.

DELEGATE TATE. Mr. President, I read in place and present to the Chair the following proposal and request, after it has been read, an opportunity to make a brief statement:

No. 1034

By DELEGATE TATE

A PROPOSAL

Amending the Constitution of Pennsylvania making changes relating to Legislative Apportionment.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eighteen of article two of the Constitution of Pennsylvania is amended to read:

Section 18. [The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.] Legislative Apportionment.—(a) Immediately following each United States census, the Governor shall prepare a plan to apportion the State into senatorial and representative districts and submit it to the General Assembly within ninety days after certification of such census. Upon receipt of such plan from the Governor or immediately following the ninetieth day after such certification, whichever first occurs, the General Assembly shall apportion itself or accept the plan of the Governor, and if it fails to do either within one hundred and eighty days after such certification, the report of the Governor shall have the force of law.

(b) If the Governor or General Assembly fail to re-apportion as provided herein, the Supreme Court shall apportion the Commonwealth into senatorial and representative districts and for that purpose the Supreme Court shall have original jurisdiction. To assist the court in performing this extraordinary task, the court shall appoint and fix the compensation of the master or a board of masters for the purpose of taking testimony and making

recommendations to the court. The court shall conclude its work as expeditiously as possible and shall file the reapportionments in the office of the Secretary of the Commonwealth. The reapportionments made by the court shall have the force of law.

(c) Any apportionment made by the General Assembly under section 18, clause (a) shall be reviewable on appeal exclusively by the Supreme Court of Pennsylvania. Any such apportionment shall become effective when the Supreme Court has finally decided the appeal or when the last day for taking an appeal has passed and no appeal has been taken.

(d) Any apportionment made by the Supreme Court under section 18, clause (b) shall become effective immediately.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Tate.

DELEGATE TATE. Mr. President, this proposal suggests a method for apportioning the State General Assembly immediately following each United States Census. It would place initial responsibility in the hands of the Governor to prepare a recommendation to submit to the legislature. The Governor could, of course, appoint and take the advice of any advisory commission if he so chose. Upon receipt of the Governor's report, it would be the responsibility of the General Assembly to reapportion itself, and if it did not do so within a certain number of days, the Governor's recommendation would have the force of law.

In other respects, with regard to appeal to the Supreme Court, the proposal is identical to a proposal which was introduced last week by Delegate Morton.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Tate.

The Chair now recognizes the delegate from the 50th District, Delegate Scott.

DELEGATE SCOTT. Mr. President, I read in place and present to the Chair the following six proposals, and request, after the proposals are read, an opportunity to make a few remarks:

No. 1035

By DELEGATES SCOTT, HUGGINS and BALDRIGE

A PROPOSAL

Amending article fifteen of the Constitution of Pennsylvania granting residuary powers of government to certain cities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article fifteen of the Constitution of Pennsylvania is amended by adding, at the end thereof, a new section to read:

Section 6. Residual Powers of Cities.—Cities that adopt home rule charters or optional charters shall have all residual powers of government not denied them by this Constitution, by their charters or by general law.

Referred to Committee on Local Government.

No. 1036

By DELEGATES SCOTT, SAHLI and REDICK

A PROPOSAL

Amending section one, article fifteen of the Constitution of Pennsylvania providing for optional plans of city organization.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fifteen of the Constitution of Pennsylvania is amended to read:

Section 1. Home Rule.—Cities may be chartered whenever a majority of electors of any town or borough having a population of at least ten thousand shall vote at any general or municipal election in favor of the same. [Cities, or cities of any particular class, may be given the right and power to frame and adopt their own charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the Legislature.] The General Assembly shall, by general law, provide optional plans of city organization and city government under which an authorized optional plan may be adopted, repealed or abandoned by majority vote of the qualified electors of the city voting thereon. Laws also may be enacted affecting the organization and government of cities and boroughs, which shall become effective in any city or borough only when submitted to the electors thereof, and approved by a majority of those voting thereon.

Referred to Committee on Local Government

No. 1037

By DELEGATES SCOTT, PELLETIER and SCARLETT

A PROPOSAL

Amending article fifteen of the Constitution of Pennsylvania, and deleting certain sections, to provide for optional home rule charter government for cities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new section one is added to article fifteen of the Constitution of Pennsylvania to read:

Section 1. Home Rule Charter Making.—The qualified electors of any city may adopt, amend or repeal a home rule charter of government. Procedures for the adoption of such charters shall be provided by the General Assembly.

Section 2. Sections one and four of article fifteen of the Constitution of Pennsylvania are repealed

Referred to Committee on Local Government.

No. 1038

By DELEGATES SCOTT, LEACH, FILSON and FEATHER

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania to grant local governments exclusive power to regu-

late wages, hours and working conditions of local government employees.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

**ARTICLE XV-A
LOCAL GOVERNMENT EMPLOYEES**

Section 1.—Local governments shall have the exclusive power to pass laws relating to the wages, salaries, hours or working conditions of local government employees.

Referred to Committee on Local Government.

No. 1039

By DELEGATES SCOTT, DEVLIN and JOHNSON

A PROPOSAL

Amending article eight, section eight of the Constitution of Pennsylvania granting the General Assembly power to regulate the taxing and borrowing powers of local governmental units.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eight of article eight of the Constitution of Pennsylvania is amended to read:

Section 8. [The debt of any county, city, borough, township, school district, or other municipality or incorporated district, except as provided herein, and in section fifteen of this article, shall never exceed fifteen (15) per centum upon the assessed value of the taxable property therein nor shall any such county, municipality or district incur any debt, or increase its indebtedness to an amount exceeding five (5) per centum upon such assessed valuation of property, without the consent of the electors thereof at a public election in such manner as shall be provided by law. The debt of the city of Philadelphia may be increased in such amount that the total debt of said city shall not exceed thirteen and one-half (13½) per centum of the average of the annual assessed valuations of the taxable realty therein, during the ten years immediately preceding the year in which such increase is made, but said city shall not increase its indebtedness to an amount exceeding three (3) per centum upon such average assessed valuation of realty, without the consent of the electors thereof at a public election held in such manner as shall be provided by law. No debt shall be incurred by, or on behalf of, the county of Philadelphia.

In ascertaining the debt-incurring capacity of the city of Philadelphia at any time, there shall be deducted from the debt of said city so much of such debt as shall have been incurred, or is about to be incurred, and the proceeds thereof expended, or about to be expended, upon any public improvement, or in construction, purchase, or condemnation of any public utility, or part thereof, or facility therefor, if such public improvement or public utility, or part thereof, or facility therefor, whether separately, or in connection with any other public improvement or public utility, or part thereof, or facility therefor, may reasonably be expected to yield revenue in excess of operating expenses sufficient to pay the interest and sinking fund charges thereon. The method of deter-

mining such amount, so to be deducted, shall be as now prescribed, or which may hereafter be prescribed by the General Assembly.

In incurring indebtedness for any purpose the city of Philadelphia may issue its obligations maturing not later than fifty (50) years from the date thereof, with provision for a sinking fund to be in equal or graded annual or other periodical installments. Where any indebtedness shall be or shall have been incurred by said city of Philadelphia for the purpose of the construction or improvement of public works or utilities of any character, from which income or revenue is to be derived by said city, or for the reclamation of land to be used in the construction of wharves or docks owned or to be owned by said city, such obligations may be in an amount sufficient to provide for, and may include the amount of, the interest and sinking fund charges accruing and which may accrue thereon throughout the period of construction, and until the expiration of one year after the completion of the work for which said indebtedness shall have been incurred; and said city shall not be required to levy a tax to pay said interest and sinking fund charges as required by section ten of this article until the expiration of said period of one year after the completion of said work.] **Municipal Taxing and Debt.**—The Legislature may pass laws regulating the taxing and borrowing powers of the local governmental units of the State.

Section 2. Sections nine, ten and fifteen of article eight, and sections two and three of article fifteen of the Constitution are repealed.

Referred to Committee on Local Government.

No. 1040

By DELEGATES SCOTT, PELLETIER and HUGGINS

A PROPOSAL

Amending section seven, article eight of the Constitution of Pennsylvania allowing local governmental units to give financial assistance to certain bodies.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section seven, article eight of the Constitution of Pennsylvania is amended to read:

Section 7. **Local Governmental Units Not to Become Stockholders in Corporations, etc., Nor Loan Credit.**—The General Assembly shall not authorize any county, city, borough, township or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual, but the General Assembly may by general legislation provide standards by which local governmental units may give financial assistance to public service enterprises in the interest of the public health, safety and welfare.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scott.

DELEGATE SCOTT. Mr. Chairman and fellow Delegates, I am pleased to sponsor a package of proposals on behalf of the cities of Pennsylvania. All is not well with local government in Pennsylvania. It is plagued with exceedingly difficult problems and fragmentation, duplica-

tion, finance, archaic structure and organization, legislative and constitutional restrictions.

These problems, for the most part, were not created by local government; they were superimposed upon local government by the Constitution, the General Assembly or the Commonwealth of Pennsylvania. Much of the strength of our Commonwealth lies in our local governments. Its growth and progress are keyed to the growth and progress of our local governments. We have an inescapable responsibility to concern ourselves with the liability of our political subdivisions. These proposals will give local government new strength to meet the challenges of the future.

Thank you, Mr. Chairman.

PRESIDENT BRODERICK. Thank you, Delegate Scott.

The Chair recognizes the delegate from Allegheny, Delegate Fohl.

DELEGATE FOHL. Mr. President, I read in place and present to the Chair the following proposal:

No. 1041

By DELEGATES FOHL and POTT

A PROPOSAL

Amending article fourteen, sections one and four of the Constitution of Pennsylvania eliminating surveyors as county officers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections one and four of article fourteen of the Constitution of Pennsylvania are amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers [surveyors,] auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Section 4 Where Offices Shall Be Kept.—Prothonotaries, clerks of the courts, recorders of deeds, registers of wills [, county surveyors] and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pasquerilla, from Cambria County.

DELEGATE PASQUERILLA. Delegate Thomson requests, and I ask on behalf of Local Government, that the Chair review that proposal and see if it belongs in the Committee on Local Government.

PRESIDENT BRODERICK. The Chair would be happy to review it and discuss it with you. We might say, as I understand the proposal, Chairman Thomson indicated it was predicated upon action that would be taken by the Committee on Finance. We will certainly review it. Perhaps it is a matter that should be discussed by both committees.

RESOLUTIONS

PRESIDENT BRODERICK. The next order of business to be considered is Resolutions.

TRIBUTE TO DELEGATE BRENNAN

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Huggins.

DELEGATE HUGGINS. Mr. President, I might preface the introductory remarks at the beginning of this resolution by saying it is in regard to Delegate T. Robert Brennan, and it was written at the request of the Delegates from Allegheny County, as well as concerned delegates throughout the Convention.

Mr. President, I introduce the following resolution in regard to our concern for Delegate T. Robert Brennan who will undergo major surgery tomorrow morning at Pittsburgh Eye and Ear Hospital. And I further move, Mr. President, that it be sent, following its reading on the floor, to Mr. Brennan with quick dispatch as an example of our interest in his speedy recovery. For the record, the Resolution I offer states the following:

BE IT RESOLVED, That man is always expected to carry the burdens of life upon his frame in such a way that one would never see the burden. The way in which we carry our timeless barrage of problems is the way we portray our own individual strength of character. A man is admired when his burden is carried with a dignity that does not infringe upon the lives of other men;

THAT when burdens enter the frail handiwork of our human life we are tempted to crumple in fear and exhaustion, or to seek out someone to bear us up, or to carry that painful nuisance with pride and confidence through powers beyond human understanding. In this latter image we, who know Robert Brennan, have been extended a sharing in the life of one whose burden has been heavy, but whose ability to carry its ramifications is a true testimony to human greatness;

THEREFORE, in tribute to him, the esteemed Delegate from Allegheny County, we of the Fifth Constitutional Convention of Pennsylvania do now extend to him our concern, our prayers, and our hope for a speedy recovery from a surgery that will place even greater burdens upon his life. In confidence we ask for a Supreme help now to be with him and with his wife, and in confidence do we look forward to his return to our Convention.

PRESIDENT BRODERICK. Thank you, Delegate Huggins.

Do I hear a second to the resolution?

It is seconded by Delegate Pott from Allegheny.

The Chair hears no objections to the immediate consideration of the resolution.

On the question,

Will the Convention adopt the resolution?

PRESIDENT BRODERICK. The resolution is unanimously adopted and, pursuant to the request, it will be sent to our fellow Delegate Brennan, with our sincere wishes for a speedy recovery. Of course, I was very happy when I heard our chaplain for the day include him in our

prayers. I think we can say that we shall include him in our prayers each day until he is back with us.

CONGRATULATIONS TO THE REPUBLIC OF LIBERIA

The Chair recognizes the Secretary of the Convention, Secretary Michener.

SECRETARY MICHENER. Mr. President, in obedience to the request of the Convention yesterday, the following resolution has been drafted:

WHEREAS The citizens of the United States have always expressed a deep interest in the continued success of their great sister republic in Africa, Liberia; and

WHEREAS The Commonwealth of Pennsylvania has taken pride in the accomplishments of Liberia and now finds pleasure in the fact that this great nation is entering upon a new administration; and

WHEREAS The Commonwealth of Pennsylvania is presently engaged in revising the Constitution under which, as a sovereign state, she governs herself, and is therefore especially interested in the success of other governments which live under constitutional law; now, therefore,

Be It RESOLVED that this Constitutional Convention of the Commonwealth of Pennsylvania wishes to convey to the people of the Republic of Liberia its congratulations at this happy time of Inaugural ceremonies; and

Be It Further RESOLVED that these wishes be carried by hand to the Executive Mansion in the City of Monrovia in the Republic of Liberia by our distinguished fellow Delegate and esteemed Representative of the United States of America, the Honorable Hobson R. Reynolds of the Third Senatorial District of the Commonwealth of Pennsylvania and that he present them personally to the President-Elect, the Honorable William Tubman, at the said Executive Mansion.

For the Convention now in session in Harrisburg this 20th day of December, 1967, by

The Secretary
James A. Michener

The President
Raymond J. Broderick

PRESIDENT BRODERICK. Delegate Michener's resolution has been seconded by Delegate Gray, from Philadelphia, who yesterday suggested the resolution.

Without objection, we shall immediately consider the resolution.

The Chair hears no objection.

On the question,

Will the Convention adopt the resolution?

PRESIDENT BRODERICK. The resolution is unanimously adopted and, pursuant to the request, it will be handed to Delegate Reynolds for personal presentation, with our good wishes.

COMMITTEE MEETINGS

PRESIDENT BRODERICK. At this time the Chair requests the committee chairmen to announce their committee meetings for today.

Committee meetings were announced as follows:

JUDICIARY—Co-Chairmen Scranton and Amsterdam.

DELEGATE SCRANTON. The full Judiciary Committee—all the members of the Judiciary Committee—will meet in the Public Utility Commission's Hearing Room No. 3, which is on the first floor of the North Office Building, at 11:00 a.m. sharp. That gives you a half hour to get there, and we are going to start the meeting at 11 o'clock, whether you are there or not. The subcommittees will meet immediately thereafter.

LOCAL GOVERNMENT, Co-Chairmen Pasquerilla and Manderino, all Subcommittees on Local Government will meet in their respective meeting rooms fifteen minutes following adjournment of this session.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, total standing Committee on Taxation and State Finance will meet at 2:00 p.m. this afternoon in PUC Hearing Room No. 3, assuming the Judicial Committee is through at that time. The various subcommittees will meet as instructed yesterday.

ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE, Co-Chairmen Nelson and Gray, will meet this afternoon at 1:30 p.m., in Room 286, Capitol Building.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, the Subcommittee on Method of Apportionment will meet at 11:00 a.m. in Room 608.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. For what purpose does the delegate from Northampton rise?

DELEGATE WOODRING. Mr. President, I rise to a question of personal privilege.

PRESIDENT BRODERICK. The delegate will state it.

DELEGATE WOODRING. Mr. President, one-half of the officers and some of the delegates may be interested to know that Richard Nixon will be on the local station, No 8, this afternoon, at 5:00 p.m., on the Merv Griffin Show.

PRESIDENT BRODERICK. The Chair will not interrogate Delegate Woodring as to which half would be interested.

LOCATION OF PUC HEARING ROOM NO. 3

PRESIDENT BRODERICK. The Chair now recognizes Delegate Scranton.

DELEGATE SCRANTON. There seems to be some confusion in the Capitol of the Commonwealth of Pennsylvania as to where the Public Utility Commission's Hearing Room No. 3 is located. One person in the Public Utility Commission says that it is on the ground floor; another person says it is on the first floor; another person says it is in the basement. May I say that I do not know where it is? Please come to the Public Utility Commission Hearing Room No. 3.

I am deeply indebted to the Executive Director of the Convention, who has polled the Public Utility Commission, and the vote is three to two that it is on the ground floor.

PRESIDENT BRODERICK. Thank you, Delegate Scranton.

SELECTION OF CHAPLAINS

PRESIDENT BRODERICK. Ladies and gentlemen, as you probably already know, the Convention staff is now

in the process of assigning chaplains for the remainder of our sessions. You will find forms on your desks designed for your use if you should wish to recommend a chaplain for this service. The Convention will need a total of eight chaplains for the remainder of its calendar. Mondays of each week will also be kept open for visiting chaplains who will serve for just that one day. Any delegate desiring to recommend a chaplain for either weekly service or one day service should fill out the form and return it to Convention Headquarters, Room 500, North Office Building, as early as possible.

SANTA CLAUS PRESENTED

PRESIDENT BRODERICK. The Chair takes exceeding pleasure at this time in introducing a very special guest who is honoring us with a few moments of his extremely limited time.

I am certain it will be unnecessary for me to welcome him by name, since all of us consider him a great friend and hold him in high esteem.

His visit should lighten our hearts so that we may fully enjoy all aspects of the holiday season ahead.

In the spirit of the season, it would be most appropriate for us to have a gift for the people of Pennsylvania.

We are not yet ready with this gift of an acceptable and enduring Constitution for our time and for the future, but we will have one February 29, 1968, as our will stays strong, our minds open, and our hearts light.

And now I will ask our guest to make his entrance and to make himself at home here among us momentarily.

Then we will have to excuse him at once, because he is probably the only man around today who has more work and greater responsibilities than we do.

SANTA CLAUS. Mr. President and honored Delegates, I don't see a thing wrong with saving your Christmas

present for February 29th. As a Pennsylvanian, I'll be looking forward to it. The candy, incidentally, is my answer to that familiar problem of finding something for the person on your shopping list who has everything. I mean, brains, concern and determination to deliver your present. Keep at it, and a Merry Christmas to all!

PRESIDENT BRODERICK. I have another announcement. I have just been informed by our Parliamentarian that Santa Claus was informed yesterday that he is going to be a father, expecting his first child. That will be a disappointment to many of us who have been thinking over the years that he had many children.

Good luck and congratulations to you and Mrs. Claus! Santa is Franklin Linn, Assistant Secretary to the House Majority Leader.

ANNOUNCEMENT

The CLERK. The memorandum relating to Selection of Chaplains will be found in the mail box of each delegate in Room 511, North Office Building.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes the delegate from Venango, Delegate Gabreski, for the adjournment.

DELEGATE GABRESKI. Mr. President, as an accommodation to the House of Representatives who will meet at 10 a.m. tomorrow, I move that this Convention do now adjourn until Thursday, December 21, 1967, at 8:30 a.m.

PRESIDENT BRODERICK. It has been moved by Delegate Gabreski and seconded by Delegate Woodring that this Convention do now adjourn until Thursday, December 21, at 8:30 a.m.

The motion was agreed to, and (at 10:42 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Thursday, December 21, 1967

Number 13

The Convention was called to order at 8:30 a.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

PRESIDENT BRODERICK. The Convention will open today with prayer by the Very Reverend Arnold E. Mintz, Pastor of St. Stephen's Episcopal Church, Harrisburg, Pennsylvania.

THE VERY REVEREND ARNOLD E. MINTZ offered the following prayer:

Let us pray.

Almighty God, it is early and it is almost Christmas. We pray that this may not merely be another prayer of invocation to which we say "amen" without even hearing the prayer.

Here we are at a Constitutional Convention, and what are we doing here? Can we do the job for which the people of the Commonwealth have summoned us? We cannot if we rely solely upon the wisdom of man for we are only human and we know what that really means.

Have mercy upon us. Grant us wisdom and the faith that we can achieve the impossible constitutional changes that will benefit all of our citizens and provide twentieth century government for a sixteenth century Commonwealth; that through the awareness of our dependence upon the help of God the spirit of William Penn and many others will permeate this Convention and unite it in a common bond so that Pennsylvania will have better government, sound laws and improved justice.

All of this we pray for, we yearn for, and we need.

Hear us, Lord. Amen.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair now recognizes our Secretary, Delegate Michener, for leaves of absence.

SECRETARY MICHENER. Mr. President, I submit the following requests for leaves of absence:

From the 3rd District, **DELEGATE GRAY**, for December 21, for business reasons;

From the 29th District, **DELEGATE KRILL**, for January 2, because of reorganization meeting in his community;

From the 7th District, **DELEGATE AMSTERDAM**, for December 21, because he must be absent from the Commonwealth;

From the 44th District, **DELEGATE OTTO**, for December 20 and December 21, because of illness;

From the 9th District, **DELEGATE HARDING**, on January 2, because of Union business.

PRESIDENT BRODERICK. Thank you, Mr. Secretary.

Is there any objection to the granting of the requests for leaves?

The Chair hears none, and the leaves of absence are granted.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. This morning we are going to ask, first of all, that the committee chairmen of the Committees on Judiciary, Taxation and State Finance and Legislative Apportionment present to the floor their reports due today in connection with the scheduling of activities of their committees.

As soon as these reports are in we are going to ask each committee chairman to make a brief summary statement of the progress of their committees. This will be requested every week on the last business day of the Convention for that week.

The Chair now requests the reports due December 21, under the rules.

The Chair recognizes the Co-Chairman of the Committee on Legislative Apportionment, Delegate Fagan.

REPORT OF COMMITTEE ON LEGISLATIVE APPORTIONMENT

DELEGATE FAGAN. Mr. President, I would like at this time to present our schedule for the Legislative Apportionment Committee, and I also would like to make a brief report for the committee at this time if I would be in order.

PRESIDENT BRODERICK. Thank you very much, Delegate Fagan. Proceed with your report.

DELEGATE FAGAN. Mr. President, I am reporting for the Legislative Apportionment Committee, the Subcommittee on Method of Apportionment and the Subcommittee on Composition of the Legislature.

Our committee, since we have been assigned to this particular work, has been pursuing the various decisions handed down by the court as they apply to this particular section of the Constitution. We have also made studies of all the various proposals that have been submitted by the delegates.

On December 29 at 9:30 a.m., our committee will have an open public hearing for the appearance of any organization to present any information or witnesses they have to our Committee on Legislative Apportionment and its subcommittees.

After January 5, when all proposals have been submitted by the delegates, our committee will then be in position to submit its final report on the action of the Legislative Apportionment Committee within the time limit established by the Rules Committee of this Convention.

Thank you, Mr. President.

DELEGATE FAGAN submitted the following schedule for the Committee on Legislative Apportionment:

Proposed Dates of Committee Schedule

Dec. 20—Subcommittee—Composition of Legislature, Room 609

Dec. 21—No schedule.

Dec. 29—9:30 a.m. Public hearing.

All committee members to be present.

Jan. 2—Subcommittee—Composition of Legislature, Room 609

—Method of Apportionment, Room 608

Jan. 3—Legislature Apportionment Committee Meeting, Rooms 608-609

Jan. 4—Subcommittee—Composition of Legislature, Room 609

—Method of Apportionment, Room 608

Jan. 5—Legislative Apportionment Committee, Rooms 608-609

Jan. 8—Subcommittee—Composition of Legislature, Room 609

—Method of Apportionment, Room 608

Jan. 9—Legislative Apportionment Committee, Rooms 608-609

Jan. 10—Subcommittee—Composition of Legislature, Room 609

—Method of Apportionment, Room 608

Jan. 11—Legislative Apportionment Committee, Rooms 608-609

Jan. 12—Legislative Apportionment Committee, Rooms 608-609

Jan. 12-Feb. 2—Any other meeting necessary to conclude the business of the committee.

Feb. 2—Submit report of Legislative Apportionment Committee to the Convention.

All committee meetings to follow the adjournment of the Convention daily.

PRESIDENT BRODERICK. Thank you, Delegate Fagan, for a very fine report.

REPORT OF COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, the report concerning work completion date of the Committee on Taxation and State Finance is as follows:

December 14, 1967—Committee completed its review and study.

January 23, 1968 —Completion by Subcommittees of all proposed changes of Article VIII of the present Constitution.

January 26, 1968 —Completion by Standing Committee of consideration of all proposed changes in Article VIII of the present Constitution.

February 2, 1968 —Submission of Standing Committee proposals and supporting reports of the Convention.

Mr. President, I might say on behalf of myself and the chairman, this is a pessimistic report. These are the latest dates on which we contemplate the completion of these several tasks.

Mr. President, I have before me an interim or progress report if the Chair would like to receive it at this time.

PRESIDENT BRODERICK. We would be very happy to receive it at this time, Delegate Woodring, if you will proceed.

INTERIM REPORT

PRESIDENT BRODERICK The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. The Standing Committee on Taxation and State Finance has conducted five meetings to date. The first was an organizational meeting; the next three were devoted to a consideration and study of the subject matter of the three subcommittees, Taxation, State Debt and Sinking Fund. At these meetings the services of staff research employes and specialists in State Finance were employed.

The fifth meeting, held December 20, 1967, included interim reports of the several subcommittees and planning for future progress, framing of committee reports, arrangements for the taking of testimony by advisory witnesses, and related matters. At the meeting of December 20, the subcommittees were urged to proceed with all reasonable dispatch so that committee proposals might be reported as soon as possible to the Convention, and thereby the work of the Legislative Reference Bureau and the Committee on Style and Drafting might be aided and expedited.

Beginning January 9, 1968, the Standing Committee contemplates daily meetings at which reports of the subcommittees will be received and appropriate action taken. The Co-Chairmen of the Committee and Subcommittees have been meeting at frequent intervals to consider methods of procedure for briefing, research, study and the formulating and submission of proposals.

The Subcommittee on Taxation, Messrs. Pott and Gerber, Co-Chairmen, has met five times for organization, briefing, consideration and debate. The subject of tax exemptions has been explored and the provisions of other States studied in this regard.

The Subcommittee on State Debt, Messrs. Hocker and Popil, Co-Chairmen, has met five times for organization, briefing by staff personnel and a specialist on budgeting provisions and procedure, consideration of the positions of persons and organizations who testified before the Preparatory Committee, study of provisions of Constitutions of sister States, and the preliminary consideration of contemplated proposals and reports.

The Subcommittee on Sinking Fund, Messrs. Percy and Wilcox, has held five meetings, including organization, study of research material, briefing, establishment of time table and procedure for its work, general discussion of sinking fund and debt limitation provisions in the Con-

stitutions of sister States, briefing by staff personnel, and a general study of the sinking fund practices in the Commonwealth.

REPORT OF COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair now recognizes Delegate Orban who will report for the Committee on Judiciary.

DELEGATE ORBAN. Mr. President, the report of the Judiciary Committee was handed to me and I have been unable to locate either of the co-chairmen. Therefore, I am taking the liberty of presenting the report scheduling the completion of the Judiciary Committee's work.

PRESIDENT BRODERICK. Thank you.

This will be the last report, under the rules. Would you please read the report so that the body will know its schedule.

DELEGATE ORBAN. The report is directed to the President, and is as follows:

The committee procedures established by the Rules of the Convention call for each Standing Committee to file with the President, in writing, proposed dates for the completion by said committee of three steps outlined in the Rules. This submission to you covers the report of the Judiciary Committee itself and its five subcommittees, "A" through "E", re committee procedures 1 through 3.

The Judiciary Committee will have Procedure No. 1 completed by December 21, 1967, Procedure No. 2 by January 10, 1968 and Procedure No. 3, the preparation of committee proposals and reports and submission of same to the Convention on or before February 2, 1968.

The following are the dates of completion of Procedures 1, 2 and 3 by each of the subcommittees:

Subcommittee "A"—Selection of Judges
 Procedure No. 1 by December 21, 1967
 Procedure No. 2 by January 10, 1968
 Procedure No. 3 by January 17, 1968

Subcommittee "B"—Tenure of Judges
 Procedure No. 1 was completed December 19, 1967
 Procedure No. 2 by January 10, 1968
 Procedure No. 3 by January 12, 1968

Subcommittee "C"—Incompatible Activities of Judges; Removal, Discipline and Suspension of Judges
 Procedure No. 1 by December 20, 1967
 Procedure No. 2 by January 10, 1968
 Procedure No. 3 by January 12, 1968

Subcommittee "D"—Retirement and Post Retirement Service of Judges
 Procedure No. 1 and 2 completed December 14, 1967
 Procedure No. 3 by December 21, 1967

Subcommittee "E"—Judicial Administration and Organization
 Procedure No. 1 was completed December 14, 1967
 Procedure No. 2 by January 10, 1968
 Procedure No. 3 by January 17, 1968

As you will note, this will give the full committee two and one half weeks to complete all proposals and reports of the full committee for the Convention after the subcommittees have made their proposals to the Standing Judiciary Committee. The Standing Judiciary Committee may

bring parts of its final proposal to the Convention floor as appropriate from time to time when approved by the Standing Judiciary Committee.

The report is signed by Co-Chairmen Amsterdam and Scranton.

PRESIDENT BRODERICK. Thank you, Delegate Orban, for that report on behalf of the Judiciary Committee.

REPORT OF COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. That concludes the four reports required under the rules in connection with the schedule of completion.

And now may I recognize the Co-Chairman of the Local Government Committee, Delegate Manderino, for a report.

DELEGATE MANDERINO. Mr. President, to comply with the rules of the officers, the co-chairmen of the Local Government Committee, Frank Pasquerilla and myself, Louis Manderino, Delegate, 32nd Senatorial District, present the following report of the progress of the Local Government Committee for the period December 11 to December 21.

PROGRESS REPORT OF LOCAL GOVERNMENT FOR PERIOD DECEMBER 11 TO DECEMBER 21, 1967

Since the appointment of the Local Government Committee on Monday, December 11, the Standing Committee and the subcommittees have held a total of 56 separate meetings. To date twenty-three (23) delegate proposals have been referred to the Local Government Committee by the Convention President.

Judging from the delegate proposals, the heaviest interest appears to be in the area of home rule and residual powers for municipalities. Many delegate proposals have also been submitted in the area of county government.

By invitation, twenty-one (21) consultants have made presentations to the subcommittees.

The Local Government subcommittees are functioning, in our opinion, extremely well and we are quite pleased with the interest and dedication evidenced by the attendance at committee meetings. The work of the committees has been greatly facilitated by the excellent arrangements provided by the Convention staff. Committee quarters are well established and all committees are functioning with secretarial and research staffs.

All subcommittees have completed, in accordance with the rules, the review and study of existing constitutional provisions, their origin and history. The subcommittees are now engaged in the second phase of committee work under the rules. This involves the consideration and study of changes requested by delegate proposals and recommendations submitted by various citizen groups to the Preparatory Committee.

The Local Government Committee has approved a complete working schedule for the next six (6) weeks. One key item in the schedule is the final date for the submission of subcommittee recommendations to the Standing Committee. These recommendations are to be completed by January 15. The second key item in the schedule is the setting aside of six (6) days from Monday, January 22 to Tuesday, January 30 for full committee consideration

of all subcommittee recommendations. The adopted schedule should enable the committee to complete its work in accordance with the rules and submit committee proposals to the Convention floor on or before February 2, 1968.

The Co-Chairmen of the Local Government Committee wish to express their complete satisfaction with the progress being made by the committee members. They are keenly aware of their responsibilities as delegates to the Constitutional Convention.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you very much, Delegate Manderino, for an excellent report.

REPORT OF COMMITTEE ON STYLE AND DRAFTING

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Delaware, Delegate Bunting, who will report for the Committee on Style and Drafting.

DELEGATE BUNTING. Thank you, Mr. President.

Doctor Pelletier and Doctor Johnson, the Co-Chairmen of the Committee on Style and Drafting, have asked me to make this report in their behalf.

PRESIDENT BRODERICK. Very good. Proceed, Delegate Bunting.

DELEGATE BUNTING presented the following report:

Report on behalf of Co-Chairmen Pelletier and Johnson as of December 21, 1967:

The Committee on Style and Drafting has held two meetings to discuss such matters as:

- (1) the jurisdiction and responsibility of the committee,
- (2) the anticipation of problem areas, and
- (3) a schedule for committee action.

The committee has arranged for Mr. Frank Grad, the author of a definite study on the drafting of state constitutions, to be available as a consultant. He will meet with the committee on January 3, 1968.

Respectfully submitted,

HOLBROOK M. BUNTING, JR.

Mr. President, might I make a personal observation in the absence of Doctor Johnson and Doctor Pelletier, that this may be suggested as a sample to other writers with regard to brevity?

PRESIDENT BRODERICK. Yes, indeed, I think it is an excellent report

REPORT OF COMMITTEE ON ARRANGEMENT, SUBMISSION AND ADDRESS

PRESIDENT BRODERICK. The Chair recognizes Delegate Nelson, who is the Co-Chairman of the Committee on Arrangement, Submission and Address to the People, for his report.

DELEGATE NELSON. Mr. President, with the permission of the Chair, a report from the Committee on Arrangement, Submission and Address to the People will be given by Delegate Forster, a member of the committee from the 13th District.

PRESIDENT BRODERICK. Thank you.

The Chair at this time will be happy to recognize the delegate for the report.

DELEGATE FORSTER. Mr. President, obviously, the rules do not apply to this committee with respect to a report, but we have nevertheless drafted one to indicate to the Convention how we intend to approach our task.

By Monday, January 15, 1968, research will have been completed and evaluated concerning the methods and means used by all other recent state constitutional conventions in presenting the recommendations of their conventions to the people for ratification.

This committee is approaching its task in the following systematic manner:

- a. Members of this committee, almost all of whom are members of substantive committees, are following closely the committee and subcommittee deliberations with a view to anticipating how final conclusions of these groups can best be presented to the people. Arrangements have been made to cover all substantive committees on which our members are not represented.
- b. Delegates who have specific ideas about presentation of Convention proposals to the people via mass media are urged to frame their suggestions as proposals, and offer them to the Convention in the manner set forth in the rules. All such proposals will be evaluated by this committee and given full consideration in making final proposals for address to the people that will be offered to the Convention for adoption.
- c. On February 2, 1968, all final proposals submitted to the Convention by the substantive committees will be referred to specialized subgroups of this committee to begin assembling background data regarding the proposals.
- d. On February 21, 1968, the form of presentation to the people for all proposals adopted finally by February 17, 1968, will be presented to the Convention.
- e. On February 28, 1968, the form of presentation to the people for all other proposals adopted finally, hopefully adopted by February 24, will be presented to the Convention.

This Committee's work schedule is necessarily predicated on certain basic assumptions concerning the Convention's work schedule for the final weeks of the allowed time. If the latter is altered in a manner that renders the above schedule inoperable, we will adjust accordingly so that there will be time for the Convention on its final day to approve our proposed "address to the people"

REPORT OF COMMITTEE ON ADMINISTRATION AND FINANCE

PRESIDENT BRODERICK. Now we are ready for the report of the Committee on Administration and Finance.

The Chair recognizes Delegate Bloom.

DELEGATE BLOOM. Mr. President, we have the following to report:

We have established procedures for handling the Convention funds to speed the payment of bills, payrolls and so forth.

Approved the manner and quantity of printing material required by this Convention.

We approved the budget which was submitted to this Convention and passed by it.

Set up a procedure for the payment of part-time employees and the payment of overtime for clerical and stenographic help.

Prepared and passed resolution of adjournment for the Christmas and New Year holidays into which you are about to enter.

We have prepared schedules and places for hearings during this holiday recess, and all of you are aware of this schedule, and we have prepared procedures for same.

We have set up the procedures for the appointment and compensation of chaplains during the remaining weeks of the Convention, and you are well aware of it.

We have directed that an appropriate certificate be prepared for every delegate denoting their serving as a delegate to this Convention.

We also took up, considered and provided for the payment of expenses incurred by delegates serving the Commonwealth and the legislature and other branches of the Commonwealth when they are not in session, and when they appear solely as a delegate to this Convention. This action was taken subject to the approval of an opinion of the Attorney General as well as the solicitor for this Convention.

We also passed appropriate motions for the payment of one round trip for all delegates attending these public meetings.

We are caught up to date. We have provided rooms for all of the committees and subcommittees. We have provided staff which we feel will be fully filled after adjournment of the Senate and House today—I understand they are going to adjourn. Mr. Swope, my co-chairman, and myself will be ready and willing to call a meeting at any time that anything of importance comes up concerning the administration and finance of this committee.

I also would like to have the opportunity at this time, Mr. President, of calling a meeting of this committee in Room 500 immediately after this session. There are matters that we would like to dispose of before the Christmas holiday. We would like to have all of the members who are not members of the legislature that we can have present so that we have a quorum and can take care of these matters.

I wish to thank you.

PRESIDENT BRODERICK. Thank you, Chairman Bloom, and thank you for the excellent job you and Chairman Swope and your committee have been doing in connection with the administration. You have done a wonderful job.

PROGRESS REPORT

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton, Chairman of the Judiciary Committee.

DELEGATE SCRANTON. I hate to start off the report with an adverse comment about another committee. It was a very unfortunate incident yesterday afternoon when I had the privilege of walking into the headquarters of the Local Government Committee, and unfortunately, had to leave a note for the co-chairman who has just spoken, by saying that I understood they were reaping a great deal of propaganda about how hard they were working, but that when I walked into their office there was no one, and I repeat no one, there.

DELEGATE PASQUERILLA. What time was that last night?

DELEGATE SCRANTON. It was 3.30 yesterday afternoon, sir.

With regard to the Judiciary Committee, you have heard Mr. Orban read, and I thank him for it, the letter that Mr. Amsterdam and I sent to you indicating that Step 1 had been completed as of today by the full subcommittees and by the full committees.

Step 2, the proposals for changes, will be completed by January 10; Step 3, the proposals and the reports of the Convention, will be made on or before February 2.

At the hearing which, of course, is coming on December 27 at least 19 members of the committee will be there, and we are very hopeful that many delegates of other committees will be there for the hearings of the Judiciary Committee on Wednesday.

As for the substantive work, there have been continuous meetings going on by all the subcommittees ever since we came into being on December 1. At least three committee meetings of the whole committee, including an important one yesterday, and in contrast to the Local Government Committee, there has been someone in the office all the time.

The most difficult problems of our substantive problems, although we have a great many that will be, I am sure, contentious, are those that revolve around the selection of judges and those that revolve around the administration and the organization of the judicial system. In both of these instances at least, there will be, I am sure, a great deal of discussion, not only within the subcommittees and within the full committee—which there already is—but likewise on the floor of the Convention when these proposals are forthcoming from the full committee.

We have an excellent staff; we have excellent delegates; we have excellent subcommittee chairmen and co-chairmen. Mr. Amsterdam is an excellent co-chairman, so if there is anything wrong with the Judiciary Committee, you can point to one man.

Last, but by no means least, may I make a personal observation, which I think is important, I hope it is. Back last spring when a number of us were going back and forth across the State of Pennsylvania in an effort to have the people approve the establishment of this Convention, there was a great deal of talk at that time, particularly newspaper editorials, et cetera, about the fact that the Convention might be run, or at least induced to go along with proposals from pressure groups or special interests. This same thesis was continued a good deal in talks and other areas during the fall and at the beginning of this Convention in the media and various places.

This may come about, but personally I would like to say to you, Mr. President, that so far, at least, within the Judiciary Committee this has been anything but the case. As a matter of fact, if we have problems, they are not bad problems, they are good ones. They come from the fact that the delegates themselves are not only highly independent, but most intelligent and very interested in every one of these subjects and as a matter of fact, we have almost as many opinions about each subject as there are numbers of delegates.

And so, though I do not make predictions very often, I will be glad to make one on this occasion and that is if we do have a problem internally within the committee or the subcommittees or on the floor when our proposals come

there, I think they will be good problems. I think they will result from the fact that there is apt to be a considerable amount of consideration of each proposal, that there would apt not to be unanimity with regard to any of them or at least a great many of them and that this will create a great deal of excellent discussion. It may result in some things being done differently within the full committee than in the subcommittees or on the floor of the Convention as a whole from the committee proposals. Frankly, from a personal viewpoint at least, I think this is excellent and good type of comment on what has been going on.

PRESIDENT BRODERICK. Thank you for a very complete report, Delegate Scranton.

REPORTS OF COMMITTEE ON RULES

The following reports were submitted by Co-Chairmen Leach and Gabreski:

The Rules Committee met at noon on Tuesday, December 19, 1967, together with the Ex-Officio members, officers of the convention, Robert P. Casey, Frank A. Orban, Jr., and James A. Michener. This was the first opportunity for the majority of the Chairmen of the Standing Committees to meet collectively. The most important outcome of the luncheon meeting was to prompt a second luncheon meeting of the Officers of the Convention and all Chairmen of standing committees for Wednesday, December 20th, whereby lines of communication were established, progress reports made and responsibilities of the various Chairmen coordinated.

The Rules Committee plans to meet regularly hereafter without the embellishments.

**CHARLES P. LEACH
MAX P. GABRESKI**

JOURNAL ON RULES COMMITTEE MEETING DECEMBER 19, 1967

The Rules Committee met at noon on December 19, 1967 at the Penn Harris Motor Inn under the chairmanship of Charles P. Leach and Max P. Gabreski. Present were the ex-officio members of the committee, Robert P. Casey, 1st Vice-President, Frank A. Orban, Jr., 2nd Vice-President and James A. Michener, Secretary, and the following members of the committee: Gustave G. Amsterdam, Gay B. Banes, Robert E. J. Curran, William J. Devlin, William H. Gray, Richard L. Huggins, Louis L. Manderino, Frank J. Pasquerilla, Edward Popil, Basil C. Scott and William W. Scranton. Also present was Paul Bell, senior college student from McKeesport, Pennsylvania, a special, personal guest of Reverend Richard Huggins and the committee.

The work of the committee was discussed and it was pointed out by the co-chairmen that under the permanent rules of the Convention, as adopted, the duties and powers of this committee are specifically addressed to:

1. Investigate and report to the Convention any question of the election, returns, or qualifications of any Delegates.
2. To make studies and recommendations designed to promote, improve and expedite the business of the Convention and the committees thereof, and may propose any amendments to the Rules deemed necessary to accomplish such purposes.

The co-chairmen did not anticipate any substantial problems as to paragraph number 1 of the "Powers," however, it was left open to discussion of the membership as to whether the committee was an investigative one under paragraph number 2 to observe the functions and the progress of the other standing committees and subcommittees of the Convention.

In light of the powers and duties mentioned in paragraph number 2 of the rules aforesaid, Delegate Manderino proposed that there should be communication between the respective committees as to a timetable of committee and subcommittee meetings and the progress that each committee is making in its respective endeavors.

It was further discussed at the suggestion of Delegate Pasquerilla that prompt action be taken to recommend to the officers of this Convention that all standing committee chairmen meet regularly with the officers of the Convention for coordinating their activities and expedite the business of the Convention.

Delegate Casey wanted this suggestion firmly acted upon and the co-chairmen suggested to Secretary Michener to convey this suggestion to the president and have immediate action thereon.

Delegate Devlin brought up what he considered a violation of the rules of the Convention with respect to the Committee on Administration and Finance setting public hearing dates, it was the consensus of the Rules Committee that in effect there was a definite violation of the rules, however, there was no point of making an issue of this matter.

The Committee on Local Government was willing to accept the suggested public hearing dates as promulgated by the Committee on Administration and Finance.

The spontaneous discussion with respect to all aspects of the Convention germinated at the luncheon meeting seemed to prove fruitful to all members present.

No specific time was set for a subsequent meeting.
Meeting adjourned at 2:00 P.M.

**CHARLES P. LEACH
MAX P. GABRESKI
Co-Chairmen**

PRESIDENT BRODERICK. The Chair again recognizes the co-chairman of the Local Government Committee, Chairman Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, for the record, we can testify through the first vice president, the delegate from Lackawanna County, Mr. Casey, that he and I were visiting subcommittee meetings all afternoon yesterday and we did notify Mr. Scranton of that by letter yesterday afternoon.

PETITIONS RECEIVED

Mr. President, the delegate, a member of our committee from the 39th District, Mr. Scales, has received petitions signed by residents of the township of North Huntingdon in Westmoreland County. We would like to know, since they are addressed to the Convention, whether they should become a part of the record of this Convention, or how they are to be handled. Should we forward them directly to the Home Rule Committee since it pertains to that particular subcommittee?

PRESIDENT BRODERICK. Chairman Pasquerilla, since

they are addressed to the Convention, I would rule that they would be presented to the clerk. We will make copies and see they get to the appropriate committees.

DELEGATE PASQUERILLA. Thank you, Mr. President.

PETITIONS PRESENTED

DELEGATE SCALES presented the following petitions:

THE TOWNSHIP OF NORTH HUNTINGDON

Town House
Irwin, Pennsylvania—15642

December 18, 1967

Mr John Scales
Harrisburg, Pa.

Dear Mr. Scales:

Enclosed are petitions signed by residents in behalf of Home Rule and the right of municipalities to deal effectively with their own problems relative to municipal administration regardless of the size of the municipality.

Very truly yours,

HENRY L. CROFT, President,
Board of Commissions

PETITION

TO THE

CONSTITUTIONAL CONVENTION

OF THE

COMMONWEALTH OF PENNSYLVANIA

We, the undersigned, after due consideration of all material and relevant circumstances, do hereby express our unrequited belief in Home Rule, and, therefore, oppose any erosion of the Constitutional provision relative thereto. We, as citizens of the Commonwealth of Pennsylvania, and as citizens of our respective municipalities, firmly believe that said municipalities can deal effectively with problems of law enforcement, traffic control, sewage disposal, Building Code enforcement, Zoning Code enforcement and all other problems relative to municipal administration regardless of the size of the municipality.

We are unalterably opposed to the recommendation of the Committee for Economic Development which concluded that each municipality must have a population of not less than 50,000 people. We are of the opinion that the Committee's conclusion is completely unjustifiable and we are further of the opinion that the Committee has not clearly demonstrated knowledge of the facts nor has the Committee performed sufficient investigation in order to support its conclusions.

Therefore we, the undersigned, do hereby request your Convention to preserve Home Rule as a governmental philosophy in the Commonwealth of Pennsylvania.

NAME	ADDRESS	ZIP CODE
Gertrude Sahman, 117 Herold Dr., Irwin		15642
Wilburetta Pogue, 112 Herold Dr., Irwin		15642
Olga Lukart, 182 Lincoln Way West, Irwin		15642
John B. Tucker, 164 Herold Dr., Irwin		15642
Wm. C. Berkoben, 116 Herold Dr., Irwin		15642
Edgar Davis, 99 Penn Ave., N. Irwin		15642
Betty Gobbel, 153 Herold Dr., Irwin		15642
Donald J. Gobbel, 153 Herold Dr., Irwin		15642
E. A. Acaloth, 147 Roth Dr., Irwin		15642
Marie Berkoben, 116 Herold Dr., Irwin		15642
Betty Nelson, 124 Adams Dr., Irwin		15642
Edward J. Klotz, 104 Herold Dr., Irwin		15642
Pauline Matthews, 114 Herold Dr., Irwin		15642
Antoinette McEurn, 244 Forest Dr., Irwin		15642
Virginia Tucker, 164 Herold Dr., Irwin		15642
Gerald P. Mennen, 245 Herold Dr., Irwin		15642
Fred C. Platt, 696 Walnut Street, Irwin		15642
James McCabe, 117 Adams Dr., Irwin		15642
Thomas Kane, 134 Herold Dr., Irwin		15642
Richard Pogue, 112 Herold Dr., Irwin		15642
John Campbell, 570 Kelso Dr., Irwin		15642
Lola D. Campbell, 570 Kelso Dr., Irwin		15642
Adolph Ferrari, 1901 Melrose Ave., Irwin		15642
Dorothy Ferrari, 1901 Melrose Ave., Irwin		15642
Frank Podule, 208 Larimer Ave., Irwin		15642
Paul McDonald, 207 Larimer Ave., Irwin		15642
Margaret McDonald, 207 Larimer Ave., Irwin		15642
Irene Chuba, 104 North St., Irwin		15642
Agatha Alt, Box 176, Larimer		15647
Anne Dugan, Box 281, Larimer		15647
Mildred Shaw, Box 114, Larimer		15647
Joseph W. Shaw, Box 114, Larimer		15647
Dorothy Yeager, 275 Larimer Ave., Irwin		15642
Laura Naturo, 1002 9th Ave., Irwin		15642
Dorothy Thomas, 701 Penn Ave., Irwin		15642
Robert Thomas, 701 Penn Ave., Irwin		15642
E. E. Eichelberger, 6 Bonnie Dr., Irwin		15642
Evelyn Eichelberger, 6 Bonnie Dr., Irwin		15642
Pauline K. Lane, 209 Old Lincoln Highway		15642
Audrey Butler, 112 North St., Irwin		15642
Gale Butler, 112 North St., Irwin		15642
Catherine M. Damico, 110 North St., Irwin		15642
Irene Brooke, 204 Larimer Ave., Irwin		15642
Irene Carr, 205 Larimer Ave., Irwin		15642
James E. Carr, 205 Larimer Ave., Irwin		15642
Albert Thornton, 211 Larimer Ave., Irwin		15642
Dolores Thornton, 211 Larimer Ave., Irwin		15642
Evelyn L. Page, 212 Larimer Ave., Irwin		15642
C. S. Page, 212 Larimer Ave., Irwin		15642
Viola R. Steck, 214 Larimer Ave., Irwin		15642
Roy C. Steck, 214 Larimer Ave., Irwin		15642
Attilio Comunale, 213 Larimer Ave., Irwin		15642
Ann Comunale, 213 Larimer Ave., Irwin		15642
Kay Kristopartes, 215 Larimer Ave., Irwin		15642
Ellen Horrell, 202 Larimer Ave., Irwin		15642
Sherman Horrell, 202 Larimer Ave., Irwin		15642
Marianne Shayka, 203 Larimer Ave., Irwin		15642
John Shayka, 203 Larimer Ave., Irwin		15642
Charles J. Cook, 114 Birchbrook St., Irwin		15642
William Condi, 315 Third St., Irwin		15642
Vicki Plepovich, 89 Main St., Irwin		15642

NAME	ADDRESS	ZIP CODE
William V. Kisebech, 33 Bluebird Dr., Irwin		15642
John R. Ulmer, 104 Crestwood Dr., Irwin		15642
Joseph Lamison, R.D. #7, Irwin		15642
Kenneth R. Walkiss, 250 Dria Dr., Irwin		15642
Robert Lee, 143 Deerfield Dr., Irwin		15642
Hope Cook, 114 Birchbrook St., Irwin		15642
Patsy Dillon, 211 Main St., Irwin		15642
William T. McCabe, 144 McKee Rd., Irwin		15642
Jenna McGowan, 503 Laurel Ave., Irwin		15642
Wendell R. Holmes, Jr., 101 Chestnut Dr., Irwin		15642
William Bloom, 107 Birchbrook St., Irwin		15642
Mr. and Mrs. William Emerson, 200 Butterfield Dr., Irwin		15642
Mr. and Mrs. Jos. Golich, 507 Laurel Ave., Irwin		15642
William Hyland, 506 Laurel Ave., Irwin		15642
Mrs. Fred Hilbert, 505 Laurel Ave., Irwin		15642
Marv A. Lyland, 506 Laurel Ave., Irwin		15642
Pichard O. Leighty, R.D. #3, Irwin		15642
Maxine H. Leighty, R.D. #3, Irwin		15642
H. Grace Brooks, R.D. #3, Irwin		15642
C. C. Whitehead, R.D. #3, Irwin		15642
Vera Whitehead, R.D. #3, Irwin		15642
Charles R. Brahr, R.D. #3, Irwin		15642
John G. Croushore, R.D. #3, Irwin		15642
Gladys Croushore, R.D. #3, Irwin		15642
John Beamer, R.D., Greensburg		15601
Marcella Beamer, R.D., Greensburg		15601
Laura Urias, R.D., Greensburg		15601
Gwin Urias, R.D., Greensburg		15601
Ada McGuire, R.D. #1, Irwin		15642
Ivan Bower, R.D. #4, Irwin		15642
John W. Raccko, 128 McKee Rd., Irwin		15642
Nancy F. Raccko, 128 McKee Rd., Irwin		15642
Frank J. Novak, 131 Seminole Dr., Irwin		15642
Raymond P. Sabol, 112 Highland Dr., Irwin		15642
Helen Sabol, 112 Highland Dr., Irwin		15642
Mary Milchick, 125 Seminole Dr., Irwin		15642
Andrew R. Milchick, 125 Seminole Dr., Irwin		15642
Mrs. C. L. Kerlin, R.D. #1, Guffy Rd., Irwin		15642
Mrs. Eugene N. Krise, 129 McKee Rd., Irwin		15642
Mrs. Stephen Bill, 125 McKee Rd., Irwin		15642
Mrs. Florence Yusk, 124 McKee Rd., Irwin		15642
H. A. Yusk, 124 McKee Rd., Irwin		15642
Margaret Dick, 127 McKee Rd., Irwin		15642
Andrew Dick, 127 McKee Rd., Irwin		15642
Irene Grzesleski, 119 Whitmore Rd., Irwin		15642
John Grzesleski, 119 Whitmore Rd., Irwin		15642
Janette Miranda, 132 McKee Rd., Irwin		15642
Mike Miranda, 132 McKee Rd., Irwin		15642
R. Miranda, 132 McKee Rd., Irwin		15642
Louise Clark, R.D. #4, Irwin		15642
Harry Shields, Jr., R.D. #4, Irwin		15642
Dorothy Shields, R.D. #4, Irwin		15642
James Roycroft, R.D. #4, Irwin		15642
Harriet Roycroft, R.D. #4, Irwin		15642
Jim Mahaffy, R.D. #4, Irwin		15642
Pauline Mahaffy, R.D. #4, Irwin		15642
Minnie Betters, R.D. #4, Irwin		15642
Martin Betters, R.D. #4, Irwin		15642
Julia D. Betters, R.D. #4, Irwin		15642

NAME	ADDRESS	ZIP CODE
Sam Betters, R.D. #4, Irwin		15642
Annamarie E. Syme, R.D. #4, Irwin		15642
Robert L. Syme, R.D. #4, Irwin		15642
Leona A. Pearson, Box 139, Irwin		15642
Samuel J. Pearson, Box 139, Irwin		15642
Bessie Christenson, 116 Broadway, N. Irwin		15642
Sally McNeil, 306 Taylor Rd., Irwin		15642
E. Lehman, R.D. #4, Irwin		15642
O. H. Clark, R.D. #4, Irwin		15642

SUBCOMMITTEE REFERRALS

PRESIDENT BRODERICK. The Chair recognizes the co-chairman of the Local Government Committee, Chairman Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, the Committee on Local Government announces the referrals of the following proposals:

- No. 1023 to the subcommittee on County Government;
- No. 1026 to County Government;
- No. 1027 to County Government;
- No. 1028 to Annexation and Boundary Changes;
- No. 1029 to County Government;
- No. 1030 to Structure and Organization and also Home Rule;
- No. 1033 to Annexation and Boundary Changes;
- No. 1035 to Structure and Organization and to Home Rule;
- No. 1036 to Home Rule and to Structure and Organization;
- No. 1037 to Home Rule, County Government, Structure and Organization;
- No. 1038 to Local Finance, Home Rule, County Government;
- No. 1039 to Local Finance;
- No. 1040 to Local Finance;
- No. 1041 to County Government.

PRESIDENT BRODERICK. Thank you very much, Chairman Pasquerilla.

May the Chair at this time ask the Co-Chairmen of Taxation and Finance and the Co-Chairmen of the Committee on Apportionment if they are ready to make their assignments to subcommittees in connection with the proposals that were assigned yesterday.

Chairman Fagan, do you have a report as to the reassignment of proposals?

DELEGATE FAGAN. Mr. President, the proposal referred yesterday to the Committee on Legislative Apportionment has been assigned as follows:

- No. 1034 to Subcommittee on Method of Apportionment.

PRESIDENT BRODERICK. Thank you very much.

May I ask if Chairman Leonard or Chairman Woodring are prepared to make reassignments?

DELEGATE WOODRING. Mr. President, Proposal No. 1032 will be held by the Committee on Taxation and Finance and will not be assigned. Action will be deferred pending the report of the Committee on Local Government it being Municipal Authorities.

PRESIDENT BRODERICK. The Chair discussed that matter with the chairmen of the Local Government Committee as well as one of the co-chairmen of the subcommittee and for the time being at least, that proposal will remain in your committee for action with the understanding that there will be cooperation between the two committees in arriving at a determination on the subject matter.

PROPOSALS INTRODUCED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Chester, Delegate Thomson.

DELEGATE THOMSON. Mr. President, yesterday I introduced Proposal No. 1032, pertaining to authorities and discovered that that was the cart that got before the horse. I am submitting this proposal which I believe will be the horse of that team:

No. 1042

By DELEGATES THOMSON and ABERMAN

A PROPOSAL

Repealing sections eight, ten and fifteen of article eight of the Constitution of the Commonwealth of Pennsylvania, removing limitations upon indebtedness of certain political subdivisions.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections eight, ten and fifteen of article eight of the Constitution of Pennsylvania are repealed.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair again recognizes Delegate Thomson.

DELEGATE THOMSON. Mr. President, I am introducing a proposal here that is pointing up a problem in Pennsylvania that affects all local government, a problem that is perhaps best described in a Pennsylvania Dutch saying: It is getting no better fast. We hope that this will pinpoint the problem and result in some improvement in this very dangerous situation.

Mr. President, I read in place and present the following proposal:

No. 1043

By DELEGATE THOMSON

A PROPOSAL

Amending section one of article eight of the Constitution of the Commonwealth of Pennsylvania, removing certain exemptions from taxation.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one, article eight of the Constitution of Pennsylvania be amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws [;

but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein]. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Thomson.

DELEGATE THOMSON. Mr. President, this proposal is to try to correct a situation that is not covered specifically in any of the present constitutional articles, but which has been a growing evil in Pennsylvania. We feel that this proposal, which I think should be entitled "The Taxpayers' Amendment to the Constitution," should be given very serious consideration.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Morton.

DELEGATE MORTON. Mr. President, I believe you may want to have this proposal read by name and title.

PRESIDENT BRODERICK. The clerk will now read the title of the proposal just presented by Delegate Thomson.

The **CLERK.** A proposal amending Article III of the Constitution of Pennsylvania, providing that each county, city, borough, incorporated town and township shall have the exclusive power to provide for all matters relating to wages, hours, and working conditions of its employees, and deleting inconsistent constitutional provisions.

PRESIDENT BRODERICK. Thank you. The Chair will delay referring that last proposal.

The Chair recognizes the delegate from Allegheny, Delegate Morton.

DELEGATE MORTON. Thank you. Mr. President, I rise to offer the following proposal and request permission to make a brief comment on it.

No. 1044

By DELEGATE MORTON

A PROPOSAL

Amending the Constitution of Pennsylvania, regulating the

election, compensation, qualifications, jurisdiction and compensation of justices of the peace and aldermen, the jurisdiction of magistrates courts in Philadelphia, and the disposition of certain fees.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections eleven and twelve of article five of the Constitution of Pennsylvania are amended to read:

Section 11. Justices of the Peace. Aldermen. Constables. Term Residence. Number.—[Except as otherwise provided in this Constitution, justices] Justices of the peace or aldermen shall be elected in the several [wards, districts, boroughs or townships,] legislative districts from which the House of Representatives is elected by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the Governor for a term of six years. No [township, ward,] legislative district [or borough] shall elect more than two justices of the peace or aldermen [without the consent of a majority of the qualified electors within such township, ward or borough; no]. No person shall be elected to such office unless he shall have resided within the [township, borough, ward or] legislative district for one year next preceding his election, [In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district,] and shall hold no other public office. Other qualifications of training and education shall be determined by the General Assembly.

Justices of the peace or aldermen shall have no jurisdiction of any civil actions or of any suits to enforce or for violation of any ordinances or laws of political subdivisions.

Justices of the peace or aldermen and all constables shall be compensated by fixed salaries paid by the State as prescribed by the General Assembly and no other compensation or fees whatsoever. All fees and costs collected or received shall be paid into the State Treasury.

Section 12. Magistrates' Courts in Philadelphia. Election. Term. Salaries. Jurisdiction.—In Philadelphia there shall be established, for each thirty thousand inhabitants, one court, not of record, of police [and civil] causes; [with jurisdiction not exceeding one hundred dollars;] such courts shall be held by magistrates whose term of office shall be six years and they shall be elected on general ticket at the municipal election, by the qualified voters at large; and in the election of the said magistrates no voter shall vote for more than two-thirds of the number of persons to be elected when more than one are to be chosen; they shall be compensated only by fixed salaries, to be paid by said county; and shall exercise such criminal jurisdiction, [civil and criminal,] except as herein provided, as is now exercised by aldermen, subject to such changes, not involving [an increase of] civil jurisdiction or conferring political duties, as may be made by law. In Philadelphia the office of aldermen is abolished.

Section 2. Section thirteen of article five of the Constitution of Pennsylvania is repealed.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton.

DELEGATE MORTON. I believe the proposal title as read by the clerk clearly denotes the area which it covers. This proposal is offered not as a solution to, or contrary to the Bar proposal, which calls for the abolition of the justices of the peace, but merely in recognition that half a loaf may be better than none and that we will have all the proposals before us which we can consider in this area. Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, I read in place and present to the Chair, three proposals and request the right to comment on them after they are read.

No. 1045

By DELEGATE GOLDMAN

A PROPOSAL

Amending the Constitution of Pennsylvania to provide a method for the apportionment of the State into senatorial and representative districts and to provide for appeals.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eighteen, article two of the Constitution of Pennsylvania is amended to read:

Section 18. Legislative Apportionment—(a) The General Assembly at its first session after the adoption of this Constitution, and [immediately after each] within ninety days after the official report of the United States [decennial] census, but not oftener than every five years, shall apportion the State into senatorial and representative districts [agreeably to the provisions of] in accordance with the [two] next two preceding sections.

(b) If the General Assembly shall fail to reapportion itself as provided herein, a commission, consisting of the Lieutenant Governor, who shall be chairman, and the majority and minority leaders of the Senate and the House of Representatives, shall within ninety days thereafter, apportion the State into senatorial and representative districts in accordance with the next two preceding sections. Such apportionment shall then be filed in the office of the Secretary of the Commonwealth and shall then have the force and effect of law.

(c) Any apportionment made hereunder shall be reviewable on appeal exclusively by the Supreme Court of Pennsylvania. Any such apportionment shall become effective when the Supreme Court has finally determined the appeal or when the last day for taking such appeal has passed and no appeal has been taken.

Referred to Committee on Legislative Apportionment.

No. 1046

By DELEGATE GOLDMAN

A PROPOSAL

Amending the Constitution of Pennsylvania to allow the credit of the Commonwealth to be pledged to certain entities exclusively engaged in public redevelopment activities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section six, article eight, of the Constitution of Pennsylvania is amended to read:

Section 6. State Credit not to be Pledged.—The credit of the Commonwealth shall not be pledged or loaned to any individual, company, corporation or association, nor shall the Commonwealth become a joint owner or stockholder in any company, association or corporation, but the Commonwealth may pledge or loan its credit to any company, corporation or association which shall be engaged as its sole and exclusive business activity in the operations of a public redevelopment of an economically underdeveloped or depressed area or one wherein an act of God has created an area of devastation and wherein the State and/or Federal government might otherwise have lent or used its funds or credit for the same, and then upon such conditions and restrictions as shall be set and determined by the General Assembly. In the event any such company, corporation or association shall avail itself of this section, then no State funds shall thereafter be used in any manner in which such pledge or loan of the State have also been granted.

Referred to Committee on Taxation and State Finance.

No. 1047

By DELEGATE GOLDMAN

A PROPOSAL

Amending the Constitution of Pennsylvania to allow a suspension of the power to tax corporations when a corporation is exclusively engaged in certain public redevelopment activities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section three, article eight of the Constitution of Pennsylvania is amended to read:

Section 3. Taxation of Corporations. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party, unless such corporation shall be engaged as its sole and exclusive business activity in the operations of a public redevelopment of an economically underdeveloped or depressed area or one wherein an act of God has created an area of devastation, and where in the State and/or Federal government might otherwise have lent or used its funds for the same, and then upon such conditions and restrictions as shall be set and determined by the General Assembly. In the event any such private corporation shall avail itself of this section, then no State funds shall thereafter be used in any manner in which such corporate funds are also being expended or provided for.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Goldman.

DELEGATE GOLDMAN. Thank you, Mr. President. The first proposal which was introduced was more or less an

amendment to the proposal already introduced by Delegate Morton which I believe is an extremely fine proposal having to do with the apportionment problem. The proposal which I introduced is simply a means of appeal. Rather than having the Supreme Court of Pennsylvania become involved in these appeals, I have provided another method of appeal.

The last two proposals are the ones which I believe are the heart of the three that I introduced this morning. The purpose of these last two proposals would be to encourage private corporations and individuals and other persons within this Commonwealth to take a more active role both from a standpoint of actually physically doing things and the investment of their own private funds in the redevelopment areas to begin to take some of this burden off the State and to get people in the State back into becoming involved in their own redevelopment problems.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Redick.

DELEGATE REDICK. Mr. President, I read in place and present to the Chair the following proposal: I would like to say a few words concerning this proposal.

No. 1048

By DELEGATES REDICK and HUGGINS

A PROPOSAL

Amending the Constitution of Pennsylvania revising the provisions relating to justices of the peace and aldermen.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections eleven and twenty-eight of article five of the Constitution of the Commonwealth of Pennsylvania are amended to read:

Section 11. Justices of the Peace; Aldermen; Term; Residence; Number.—Except as otherwise provided in this Constitution, justices of the peace or aldermen shall be elected in the several [wards, districts,] cities, towns, boroughs or townships, by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the Governor for a term of six years. [No township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.] Each city, town, borough and township shall elect one justice of the peace or alderman for each ten thousand persons, or fraction thereof, in the city, town, borough or township. The General Assembly shall, by general law set forth the requirements and qualifications of justices of the peace and aldermen. Justices of the peace and aldermen shall have jurisdiction over all civil and criminal cases involving claims or fines of less than one thousand dollars. Justices of the peace and aldermen shall be paid an annual salary of not less than eight thousand dollars but not more than ten thousand dollars as the General Assembly shall determine.

All fees levied by a justice of the peace or alderman shall be paid over to the Department of Revenue monthly and audited annually.

A code of ethics for justices of the peace and aldermen shall be established and published by a "Minor Judiciary Ethics Commission" composed of the President of the Magistrates and Squires Association, the President of the Pennsylvania Bar Association and four citizens appointed by the Governor.

Section 28 Training Course for Minor Judiciary.—The General Assembly may, by general law, provide that [a course] courses of training and education be completed by justices of the peace and aldermen [hereafter selected] who have not been admitted to practice law in this Commonwealth. The required course of training and education shall [not exceed three months' duration, one month of which] consist of a basic course of study of at least three months' duration, and a program of training and education continuing for the entire term of office. One month of the basic course of training and instruction shall be taken after their election and prior to their assuming office. The remaining two months of the basic course of training and education shall be taken immediately after assuming office. [Their justification] Jurisdiction of justices of the peace and aldermen shall extend to summary offenses only prior to completion of the required basic course. Persons who have served as justices of the peace or aldermen prior to the adoption of this amendment shall not be required to take [this] the basic course. The continuing courses of training and instruction shall include both civil and criminal matters for at least one month each year. The required [course] courses of training and instruction shall be at the cost of the Commonwealth.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Redick.

DELEGATE REDICK. Thank you, Mr. President. One of the great problems of our time is the increasing strong emphasis placed upon more centralized control for the public good. As time progresses, we of the public become confused and dissatisfied with the old and ardent attempts which might be placed before us under the false concept of "public interest."

It is for this reason that I submit this proposal for myself and Delegate Huggins, so that we who are framing a new law for a new day may not in our newness breach the strength of yesterday. Here then is our proposal in regard to the minor Judiciary.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Tate, the delegate from Philadelphia.

DELEGATE TATE. Mr. President, I read in place and present to the Chair the following proposal, with the request that after it is read by the clerk I would have an opportunity to make a brief statement.

No. 1049

By **DELEGATE TATE**

A PROPOSAL

Amending the Constitution of Pennsylvania, providing for the limitation of State debt.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four, article eight of the Constitution of Pennsylvania is amended to read:

Section 4. [No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.] **Limitation of State Debt.**—No debt shall be contracted by or in behalf of this Commonwealth unless such debt shall be authorized by law for one or more public purposes specified therein.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. Proceed with your statement, Delegate Tate.

DELEGATE TATE. Thank you, Mr. President. This proposal quite simply would do away with the existing limitations on state debt and substitute in their place the simple language that no debt shall be contracted by or allowed by this Commonwealth unless such debt shall be authorized by law for one or more public purposes specified therein.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes another Delegate from Philadelphia, Delegate Camardella.

DELEGATE CAMARDELLA. Mr. President, I read in place and present to the Chair the following proposal:

No. 1050

By **DELEGATES CAMARDELLA and POWELL**

A PROPOSAL

Amending section one of article eight of the Constitution of Pennsylvania providing for exemptions from local real estate taxes for certain persons sixty-five years of age or over.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—(a) All taxes shall be uniform, upon the same class of subject, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and

make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

(b) Any real estate with an assessed valuation of ten thousand dollars or less which is owned by a person sixty-five years of age or older, which has been owned by such person for at least the ten years prior to attaining age sixty-five and which is used as the principal homestead of such person shall be exempt from all local real estate taxes. The General Assembly may by general law provide for the carrying out of this subsection.

Referred to Committee on Taxation and State Finance.

' **PRESIDENT BRODERICK.** Would you proceed with your statement, Delegate Camardella, please?

DELEGATE CAMARDELLA. Mr. President, with deep feeling for our senior citizens of Pennsylvania and with a moral obligation, I submit this proposal for the serious adoption by this Convention. In sincerity and with deep conviction I submit it, and I urge serious consideration on it.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Thornburgh.

DELEGATE THORNBURGH. I read in place and present a proposal and request the opportunity to address some brief remarks.

No. 1051

By **DELEGATE THORNBURGH**

A PROPOSAL

Amending the Constitution of Pennsylvania to remove the specification of county officers from the Constitution, and to change the provisions relating to election of officers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections one and two, article fourteen of the Constitution of Pennsylvania are amended to read:

Section 1. County Officers.—County officers shall consist of [sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.]

such officers as are specified in a plan of county organization and government adopted by a majority of the voters of a county voting thereon or, in the absence of such a plan, such officers as may from time to time be established by the General Assembly by laws of general application.

Section 2. Election of County Officers; Terms.—[County] Elected county officers shall be [elected] chosen at [the] municipal elections and shall [hold their offices for the term of four years, beginning] take office on the first Monday of January next after their election [, and]. They shall hold office until their successors [shall be duly] have qualified [; all vacancies not otherwise provided for, shall be filled in such manner as may be provided by law]. Elected county officers shall be citizens of the Commonwealth and qualified electors of the county.

Section 2. Sections three, four, five, six, seven and eight of article fourteen are repealed.

Referred to Committee on Local Government.

PRESIDENT BRODERICK The Chair recognizes Delegate Thornburgh for his remarks

DELEGATE THORNBURGH Mr. President, yesterday there were submitted to the Convention two proposals removing specified officers from the enumeration in the present constitution. The removal was related to the offices of coroner and surveyor.

This leaves still specifically enumerated within the present constitution, if these proposals were enacted, a total of 10 county officers. I am sure that the Convention of 1873 in its wisdom saw fit to leave the coroner and surveyor as officers enumerated in the constitution for good reason.

As we have seen in the interim, these reasons have either ceased to exist or have not been realized. There has been considerable agitation for the elimination of coroner as a constitutional officer in favor of the substitution of a medical examiner system so pointedly referred to yesterday by those persons making the introduction of that proposal. In respect to the surveyor, his duties have become in my own home county case, nonexistent.

Since we are writing a document that we hope will endure at least as long as the document that we are convened to rewrite in certain respects, I would submit that the necessity of specifically enumerating in the constitution any class of officers should be given very careful review. The proposal which I have introduced today would delete from the constitution any enumeration of officers of the county as constitutionally mandated. It would leave to the county organization which adopts an optional form of home-rule government or, in the event that such form is not adopted, to the General Assembly, the right to enumerate and to change from time to time those officers required to be in office in a county.

I think this imparts a degree of flexibility and looks toward more permanency of the document than the present language even as amended in the salutary manner proposed by the delegate yesterday would provide.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Rea.

DELEGATE REA. Mr. President, I read in place and submit two proposals and ask permission of the Chair to briefly comment thereon.

No. 1052

By DELEGATE REA

A PROPOSAL

Amending the Constitution of Pennsylvania providing for family courts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended, by amending section one and adding after section twenty-eight a new section to read:

Section 1. Judicial Power.—The judicial power of this Commonwealth shall be vested in a Supreme Court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, family courts, magistrates' courts, and in such other courts as the General Assembly may from time to time establish.

Section 29. Family Courts.—In every county wherein the population shall exceed one hundred and fifty thousand persons, the General Assembly shall, and in any other county may, establish a separate court to be known as the family court, to consist of one or more judges who shall be learned in the law. The family court shall have exclusive jurisdiction over all matters relating to marriage, divorce, adoption of children, juvenile matters, support of spouse and children and such other matters as the General Assembly shall confer upon it.

Referred to Committee on Judiciary.

No. 1053

By DELEGATES REA, REDICK and POTT

A PROPOSAL

Amending the Constitution of Pennsylvania limiting the power of cities adopting home rule charters to tax residents of other municipalities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fifteen of the Constitution of Pennsylvania is amended to read:

Section 1. Home Rule.—Cities may be chartered whenever a majority of electors of any town or borough having a population of at least ten thousand shall vote at any general or municipal election in favor of the same. Cities, or cities of any particular class, may be given the right and power to frame and adopt their own charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the Legislature. Laws also may be enacted affecting the organization and government of cities and boroughs, which shall become effective in any city or borough only when submitted to the electors thereof, and approved by a majority of those voting thereon. No city which may adopt a home rule charter shall impose any tax or levy on the residents of any other city, borough, town or township unless such other city, borough, town or township shall be authorized to enact

such tax or levy on the same subjects and under the same terms, conditions and rates.

Referred to Committee on Local Government

PRESIDENT BRODERICK. The Chair now recognizes Delegate Rea for his statement.

DELEGATE REA. Mr. President, the second proposal which I have submitted has been endorsed both by Delegates Pott, Redick and myself.

The purpose of the second proposal is to limit the rights of cities who adopt home rule charters from levying taxes upon outlying municipalities at greater rates or in manners that the other outlying municipalities cannot do, so that this provides a way in which the outlying boroughs and townships may protect themselves against the heavy taxation by cities.

But the first proposal which was read provides for the establishment of a constitutionally mandated family court. If this Convention is truly a Project 2000, that is, developing a constitution for the year 2000, it is my thought that the most important thing to be considered is the people of Pennsylvania, and the most troubled areas of our judicial system for the next 100 years will be the problems of marriage, divorce, family, juvenile and other such problems. Rather than to worry about torts and equity suits and reapportionment suits, it is my belief that we should establish a family court that can deal with the most important subject that we have in the State of Pennsylvania, its people.

PRESIDENT BRODERICK. The Chair recognizes Delegate Keller.

DELEGATE J. W. KELLER. Mr. President, I read in place and present the following proposal:

No. 1054

By DELEGATES J. W. KELLER, BARRON, NELSON and CLINGER

A PROPOSAL

Repealing article five of the Constitution of the Commonwealth of Pennsylvania relating to the Judiciary and adding new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of the Commonwealth of Pennsylvania is amended by adding after article four, a new article to read:

ARTICLE
THE JUDICIARY

Section 1. Courts.—The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Superior Court, District Courts, Estates Courts, and Community Courts. Other courts may be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall consist of seven justices, one of whom shall be Chief

Justice of Pennsylvania. In the absence of the Chief Justice, the member of the court senior in length of service on the court shall serve in his place.

(b) The Supreme Court shall be the highest court of the Commonwealth and shall have final appellate jurisdiction. It shall have no original jurisdiction except as may be expressly provided in this Constitution. It may assume jurisdiction of actions pending in any other court at any stage of the proceedings. It shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction. Appeals from final judgments of the District Court shall lie as of right directly to the Supreme Court only in cases of judgments imposing sentences of death or life imprisonment. In all other cases, appeals permitted by law shall be assigned by the Supreme Court to such court, including the Superior Court, as the Supreme Court shall by rule prescribe.

Section 3. Superior Court.—(a) The Superior Court shall consist of nine judges, except that the Supreme Court may from time to time assign additional judges from among the judges of the District Court or the Estates Court to temporary service upon the Superior Court as the business of the Superior Court may require. The number of judges of the Superior Court may be changed by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court. The court may act in panels of three or more judges, and shall sit at such places and times as the Supreme Court shall by rule prescribe.

(b) The Superior Court shall have no original jurisdiction. It shall exercise such appellate jurisdiction, including such review of the actions of executive or administrative offices or agencies, as may be assigned to it by rule of the Supreme Court. When no other court has been designated by rule of the Supreme Court, appeals permitted by law shall be taken to the Superior Court.

(c) One of the judges of the Superior Court shall serve as its President Judge. In the absence of the President Judge the member of the Superior Court senior in length of service on the court shall act in his place.

Section 4. District and Estates Courts.—(a) There shall be one District Court for each judicial district. Initially, the number and boundaries of the judicial districts, and the number of judges to be selected from each district, shall be as at present, but the Supreme Court shall recommend from time to time to the General Assembly, such changes in the foregoing as the Supreme Court may deem advisable. The President Judge of the District Court of each judicial district shall, under the direction of the Chief Justice or such associate justice as shall be deputized by him, supervise the court's judicial business, including the assignment of the court's judges within the district.

(b) In any district in which a separate Orphans' Court presently exists there shall be a separate Estates Court which initially shall consist of the number of judges authorized to sit on the Orphans' Court of the district when this section becomes effective. The jurisdiction of the court shall continue to be the jurisdiction now exercised by the Orphans' Court of the district, unless modified by rule of the Supreme Court. In any other district there may be a separate Estates Court as the General Assembly may determine upon recommendation of the Supreme Court.

(c) In all districts except those containing separate Estates Courts, the District Courts shall have unlimited original jurisdiction in all cases except such as may be

assigned exclusively to the Community Courts by rule of the Supreme Court; and in districts containing separate Estates Courts the District Courts shall have the same original jurisdiction as in other districts, except that they shall not have jurisdiction in cases over which the Estates Courts of their respective districts shall have jurisdiction.

(d) The District Courts shall have such powers of review of the actions of the Community Courts and of executive or administrative offices or agencies as may be provided by rule of the Supreme Court.

(e) The District Courts may exercise their jurisdiction through such appropriate divisions, including civil, criminal, and, except in districts in which there are separate Estates Courts, estates divisions, as the Supreme Court shall by rule prescribe. There shall be a Presiding Judge for each division which may be created in any district.

Section 5. Community Courts.—(a) All existing courts not of record are abolished and shall be superseded by Community Courts which shall be courts of such limited jurisdiction and shall exercise their jurisdiction through such appropriate divisions as the Supreme Court shall by rule prescribe.

(b) The number of judges constituting the Community Courts shall be determined for each judicial district by rule of the Supreme Court. Judges of the Community Court for each judicial district shall be selected in the same manner as the judges of the District Court of such district. The President Judge of the District Court for each judicial district shall designate the places within the district where the Community Court for that district shall sit, subject to review by the Supreme Court.

(c) The President Judge of the District Court of each judicial district shall, in accordance with rules prescribed by the Supreme Court appoint commissioners for the district to accept bail, issue warrants, or otherwise assist the judges of the Community Court of the district in the performance of their judicial duties within the district as the Supreme Court may by rule prescribe.

Section 6. Qualifications of Judges and Commissioners.—(a) Justices and judges shall be citizens of the Commonwealth. Unless in any judicial district, there are less than six qualified lawyers willing to accept appointment to fill a vacancy, judges of the District Courts, Estates Courts and Community Courts shall be residents of the judicial districts for which they shall be selected and shall reside in the districts in which they serve. All justices and judges shall be members of the bar of the Supreme Court.

(b) Commissioners shall be citizens of the Commonwealth and residents of the judicial districts for which they shall be appointed. They shall possess such additional qualifications and shall be subject to such restrictions as to activities outside their official duties, as the Supreme Court shall by rule prescribe.

Section 7. Method of Selection of Judges.—(a) Whenever a vacancy occurs by death, resignation, retirement, removal from office, expiration of a term of office, or creation of an additional judgeship, in the office of justice of the Supreme Court or of judge of the Superior Court, judge of the District Court, judge of the Estates Court, or judge of the Community Court of the respective judicial districts embodying Philadelphia County and Allegheny County or of any other judicial district in which the qualified electors shall have elected to have their judges appointed in the manner provided for the respective districts embody-

ing Philadelphia County and Allegheny County, the Governor shall fill the vacancy by appointment from a panel of persons qualified for the office, nominated to him by a Judicial Nominating Commission established and organized as hereinafter provided.

(b) In the case of a justice of the Supreme Court or a judge of the Superior Court, the State-wide Judicial Nominating Commission shall nominate to the Governor six names. If the Governor fails within sixty days to make an appointment from the panel submitted to him, the Judicial Nominating Commission shall certify the same six names to the Chief Justice who shall promptly appoint one of the six nominees.

(c) In all other cases the appropriate Judicial Nominating Commission shall nominate to the Governor the names of three persons qualified for the office and residing within the judicial district in which the vacancy exists unless there are within the district less than six lawyers qualified for the office who are willing to accept appointment in which case the Judicial Nominating Commission shall nominate to the Governor three lawyers qualified for the office regardless of their residence. If none of the persons so nominated is acceptable to the Governor, he shall so notify the Judicial Nominating Commission within sixty days of his receipt of the nominations. Upon receipt of such notification, or upon expiration of such sixty-day period without such notification if no appointment has been made, the Judicial Nominating Commission shall nominate a second panel of three other persons. If none of the persons nominated in either panel is appointed by the Governor within thirty days of his receipt of the nominations in the second panel, the appointment shall be made by the Chief Justice from among the persons nominated in either panel as certified to him by the Judicial Nominating Commission.

(d) Each justice or judge appointed in the manner prescribed by subsection (a) of this section shall hold office for a term ending the first Monday of January following the next municipal election day more than twenty-four months following his appointment. Not less than one hundred twenty days before the expiration of the term of office of a justice or a judge appointed by the Governor or by the Chief Justice or not less than one hundred twenty days before the expiration of the term of office of an elected justice or judge entitled to succeed himself, the justice or judge may file in the office of the official in charge of State-wide elections, a declaration of candidacy for retention to succeed himself. If he does not file such declaration, a vacancy shall exist at the end of his term to be filled by appointment by the Governor or the Chief Justice as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on separate judicial ballots or in a separate column on voting machines, in either case without party designation, at the municipal election immediately preceding the expiration of his term of office, to determine only the question whether he shall be retained in office. If a majority of the votes cast are against retaining the justice or judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment by the Governor or the Chief Justice as herein provided. If a majority of the votes cast are in favor of retaining a justice or a judge, he shall serve for the full term of office provided herein, unless sooner removed. At the expiration of each term any justice or

judge shall be eligible for retention in office in the manner provided herein, subject only to the retirement laws then in force.

(e) In judicial districts in which judges are not to be selected in the manner prescribed by subsection (a) of this section, vacancies in the office of judge of the District Court, of the Estates Court, if any, or of the Community Court, occurring by death, resignation, retirement, removal from office or creation of an additional judgeship shall be filled by appointment of the Governor until the first Monday of January succeeding the first municipal election which shall occur three or more months after the happening of the vacancy. In all such districts elections of judges for full terms to fill vacancies however caused shall be held on municipal election days.

(f) At any municipal or general election, the qualified voters of any judicial district other than those embodying Allegheny and Philadelphia Counties may, by a majority vote of those voting on the question, elect to have the judges of their district appointed in the manner provided for the respective districts embodying Philadelphia County and Allegheny County.

(g) Where the qualified voters of any judicial district have elected to fill vacancies in the office of judge in the manner provided for the respective districts embodying Allegheny and Philadelphia Counties, the qualified electors of the district may thereafter, at a municipal or general election, by a majority vote of those voting on the question, elect to discontinue that method of filling judicial vacancies.

(h) Any question presenting the foregoing option shall be placed upon the ballot in any judicial district by petition which shall be in such form as shall be prescribed by the officer of the Commonwealth having supervision over elections. Any such petition shall be filed with such officer. It shall be signed by not less than two hundred qualified electors of the judicial district. The manner of signing of such petitions, the time of circulating them, the affidavits of the persons circulating them and all other details not contained herein shall be governed by the general laws relating to the signing of nominating petitions for the office of Governor.

Section 8. Judicial Nominating Commissions.—(a) There shall be a single State-wide Judicial Nominating Commission for the Supreme and the Superior Courts, and separate Judicial Nominating Commissions for each of the districts in which judicial vacancies are to be filled in the manner provided by subsection (a) of the preceding section. Each such commission shall be composed of one justice or judge, three members of the bar selected by the members of the bar and three lay citizens. The justice or judge and the members of the bar on each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens on each Judicial Nominating Commission shall be appointed by the Governor. Members of the Judicial Nominating Commission for the Supreme and the Superior Courts shall be chosen from the Commonwealth at large, and members of the Judicial Nominating Commission for a judicial district shall be chosen from that district except that the justice or judge may be chosen from outside the district.

(b) The members of each Judicial Nominating Commission shall serve for terms of three years, staggered except in the case of the justice or judge on the commission, so

that two members, one selected by the bar and the other appointed by the Governor, shall be selected each year. Of the first members selected following the effective date of this section, two members, one selected by the bar and one appointed by the Governor, shall be selected for one-year terms and two other members selected by the bar and by the Governor respectively, shall be selected for two-year terms. Vacancies in the membership of any Judicial Nominating Commission shall be filled for the balance of the term by the same appointing power as appointed the member whose place has become vacant. No member of a Judicial Nominating Commission shall serve for more than two successive three-year terms on that commission, but he may be reappointed or re-elected after a lapse of one year. The members of each commission shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. Each commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization, nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Section 9. Appointments by the Governor and by the Chief Justice.—The Governor and the Chief Justice shall have full responsibility for all appointments made by them, respectively under this article. They shall make such appointments solely on the basis of merit regardless of the political affiliations of the appointees. The Governor's and Chief Justice's appointments under this article shall not require the consent of the Senate.

Section 10. Tenure of Judges; Method of Selection of Chief Justices, President Judges and Presiding Judges.—

(a) When the qualified electors of the State-at-large or of the appropriate judicial district have voted to retain them, justices of the Supreme Court, and judges of the Superior Court, of the District Courts and of the Estates Courts shall serve for terms of ten years, and judges of the Community Courts shall serve for terms of not more than ten years as the General Assembly shall from time to time prescribe. The tenure of any judge shall not be affected by changes in judicial districts or by the reduction of the number of judges.

(b) The Chief Justice of Pennsylvania shall be elected for a term of five years by the State-wide Judicial Nominating Commission and shall always be eligible for re-election. A member of the court may resign the office of Chief Justice without resigning from the court.

(c) The President Judge of the Superior Court, and the President Judge of the District Court, and the President Judge of the Estates Court, if any, for each judicial district, shall be appointed by the Chief Justice of Pennsylvania and shall serve in such capacity at his pleasure.

(d) The President Judge of the Community Court for each judicial district and the Presiding Judge of any divisions of the District Court shall be appointed by the President Judge of the District Court for the district and shall serve at his pleasure.

Section 11. Compensation and Retirement of Judges.—(a) Justices and judges shall receive compensation paid by the Commonwealth as prescribed by law, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth.

(b) Justices and judges shall be retired at such age, not less than seventy-two years for justices of the Supreme Court and judges of the Superior Court, and not less than seventy years for all other judges, as shall be provided by the General Assembly. Notwithstanding the expiration of the term for which a justice or a judge was last elected, his retirement, resignation or removal from office for physical or mental disability, he shall receive such compensation as shall be prescribed by the General Assembly. A former judge may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

Section 12. Removal, Discipline and Compulsory Retirement of Judges.—(a) There shall be a Judicial Qualifications Commission to be composed of two judges of the Superior Court, and three judges of the District Courts from different Judicial Districts, to be selected by the Supreme Court; two members of the bar to be selected by the members of the bar; and two lay citizens to be selected by the Governor. The judges and the members of the bar shall be selected in the manner and in accordance with rules prescribed by the Supreme Court.

The members of the Judicial Qualifications Commission shall serve for terms of four years, the selection of the first members following the effective date of this section to be staggered as follows: one judge of the Superior Court, one member of the bar, and one lay member shall be selected for two-year terms, and one judge of the Superior Court, one member of the bar, and one lay member shall be selected for four-year terms; one judge of the District Court shall be selected for a term of two years, one for a term of three years, and one for a term of four years. A vacancy in the membership of the Commission shall be filled for the balance of the term by the same appointing power as selected the member whose place has become vacant. No member of the Commission shall serve for more than one full four-year term on the Commission, but he may be reappointed or re-elected after a lapse of one year. The members of the Commission shall elect one member to serve as Chairman for a term of one year. The Commission shall act only with the concurrence of a majority of all its members.

During the terms of office for which members of the Judicial Qualifications Commission have been chosen, they shall not hold any office in a political party or organization nor, except for the members who are judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the Commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In accordance with the procedure prescribed in subsection (c) of this section, any justice or judge may be removed from office or otherwise disciplined for misconduct in office, neglect of duty, failure to perform his duties, violation of any canon of legal or judicial ethics adopted by the Supreme Court, or other conduct which prejudices the proper administration of justice; and any justice or

judge may be retired for disability seriously interfering with the performance of his duties, which is, or is likely.

(c) The Judicial Qualifications Commission shall keep itself as fully informed as may be of facts and circumstances relating to justices or judges, insofar as the same may bear upon any of the grounds for removal, discipline, or compulsory retirement; shall receive complaints or reports, formal or informal, from any source pertaining to such matters and shall make such preliminary investigations as it may determine.

The Judicial Qualifications Commission may, after such investigation as it deems necessary, order a hearing to be held before it concerning the removal, discipline or compulsory retirement of a justice or a judge, or the Commission may in its discretion request the Supreme Court to appoint three special masters, who shall be justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the Commission. The Commission's orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court of Dauphin County.

If, after hearing or after considering the record and report of the masters, the Commission finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline, or compulsory retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline, or compulsory retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for compulsory retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired under section 11 (b) of this article. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the Judicial Qualifications Commission or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the Commission or the masters shall be privileged; provided that, upon being filed by the Commission in the Supreme Court, the record loses its confidential character.

The Supreme Court shall by rule provide for procedure under this section before the Judicial Qualifications Commission, the masters, and the Supreme Court.

No justice or judge shall sit as a member of the Commission or the Supreme Court in any proceedings involving his own removal, discipline, or compulsory retirement.

(d) Any justice or judge who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the bar of the Supreme Court, shall automatically forfeit his judicial office.

(e) This section is alternative to and cumulative with the provisions for impeachment for misbehavior in office contained in Article VI, sections 4, 5 and 6. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

Section 13 Nonjudicial Duties and Prohibited Activities.—(a) No duties, other than judicial duties, shall be

imposed by law upon any court or upon any of the justices or judges thereof, nor shall any power of appointment be conferred upon any court or upon any justice or judge thereof except such as relates to the exercise of the judicial power of this Commonwealth or the administration of the courts as provided in this article.

(b) No justice or judge shall directly or indirectly make any contribution to or hold any office in a political party or organization, nor while retaining judicial office shall he become a candidate at either a primary or general election for any office other than a judicial office, except that a judge running for election or re-election in a district in which judges are nominated and elected as candidates of political parties, shall be permitted to contribute to the political party or organization conducting his campaign, and excepting also contributions made by any justice or judge to the political campaign of a member of his family.

(c) No justice or judge shall practice law or engage in any other employment for compensation, except that he may receive compensation as a lecturer, teacher or author, as an officer of a nonprofit professional organization, as a fiduciary of the estate of a member of his family, and as a member of the National Guard or a reserve component of the Armed Forces of the United States while on inactive duty.

Section 14. Administration of Courts.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts of this Commonwealth, including the temporary assignment of judges from one court or district to another, but in judicial districts containing populations in excess of five hundred thousand a judge of the District Court or of the Estates Court or of the Community Court shall not be assigned to a district other than his own without the consent of the President Judge of his court. The powers of administration vested in the Supreme Court shall be exercised by the Chief Justice, or by an associate justice deputized by him, in accordance with rules prescribed by the Supreme Court. The Chief Justice shall appoint an administrative director and staff, who shall assist the Chief Justice or the associate justice deputized by him, in supervising the administrative operations of the judicial system and shall serve at his pleasure.

(b) The Supreme Court shall have power to prescribe rules in all civil and criminal actions and proceedings for all courts, governing administration, practice and procedure, including rules of evidence, appeals, appellate jurisdiction including time for appeals, and the issuance of all writs necessary or appropriate in aid of the jurisdiction of the respective courts. These rules shall have the force and effect of law and shall suspend all statutes inconsistent therewith.

Section 15 Clerks of Court, Court Personnel.—(a) There shall be such Clerks of Court and such other non-judicial personnel as shall be necessary for the effective performance of the judicial work of the Commonwealth. The clerks of the District Courts, of the Estates Courts, and of the Community Courts, their assistants and other non-judicial court officers within each judicial district shall be appointed by the judges of the respective courts of that district, until such time as the Supreme Court shall otherwise provide in accordance with rules prescribed by it.

(b) The Supreme Court may prescribe a merit system for appointment, promotion, removal, discipline, and sus-

pension of nonjudicial personnel in the judicial system and may provide for exempt categories. The Supreme Court may administer the merit system through an administrative director, or may provide for its administration by other appropriate agencies of the Commonwealth or its political subdivisions, who shall be required to render necessary assistance to the court.

Section 16. Judicial Council.—(a) The Supreme Court shall establish a Judicial Council consisting of such number of members and selected in such manner as the Supreme Court may by rule prescribe.

(b) The Judicial Council shall conduct studies for improvement of the administration of justice and for law reform, and shall make reports and recommendations to the Supreme Court and to the General Assembly at intervals of not more than two years. The Judicial Council shall perform such other duties as may be prescribed in this article or assigned to it by rule of the Supreme Court.

Section 17. Implementation of this Article.—The General Assembly shall enact all laws which may be necessary to implement the provisions of this article.

SCHEDULE

That no inconvenience may arise from changes in the Judiciary article of the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared that:

1. This Judiciary article, except as otherwise provided herein, shall become effective on the thirty-first day of December of the year next succeeding its adoption; and the tenure of the Chief Justice and of justices of the Supreme Court and of judges of the Superior Court then in office shall not be affected by this article. Subject to the provisions of the retirement acts then in effect, judges of both courts shall be eligible for re-election in the manner provided in section 7 (d).

2. The provisions of section 10, subsection (b) relating to the election of the Chief Justice by the State-wide Judicial Nominating Commission shall become effective upon the expiration of the term, or the death, resignation or removal of the last justice of the Supreme Court in office on July 31, 1968.

3. The Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, the County Court of Philadelphia, the County Court of Allegheny County, the Juvenile Court of Allegheny County, the Court of Common Pleas of Allegheny County, and the separate Courts of Common Pleas of Philadelphia County are abolished, and their jurisdiction and powers shall be exercised by the District Courts provided by this article. The tenure of judges of the abolished courts shall not be affected by the abolition of the same, and the judges thereof are hereby constituted for the remainder of their respective terms as judges of the District Court or in counties having separate Orphans' Courts, judges of the Estates Court, as the case may be, in their present respective judicial districts and shall be eligible for re-election as judges thereof in the manner provided by section 7 (d) or section 7 (e) as may be appropriate.

4. The Magistrates' Courts in Philadelphia County and the Aldermen's and Justices of the Peace Courts in other counties, the Traffic Court of the City of Pittsburgh, the Police Magistrates of the City of Pittsburgh, and the Traffic

Court of the City of Philadelphia are abolished on the effective date of this article and the terms of office of the incumbent judges thereof shall then terminate. Subsequently the jurisdiction and powers of the aforesaid courts shall be exercised by the Community Courts until otherwise provided by rule of the Supreme Court of Pennsylvania.

5. The Board of Claims and the Board of Arbitration of Claims shall continue to exercise the jurisdiction now provided by law until otherwise provided by the General Assembly but shall not be deemed courts forming part of the judicial system created by this article.

6. (a) The offices of Clerk of the Court of Quarter Sessions of the Peace, of Oyer and Terminer, and of Clerk of the Orphans' Court, and the office of Prothonotary are abolished.

(b) The present Prothonotaries of the Common Pleas Court shall become clerks of the District Court within their respective districts for the balance of their terms, subject to the provisions of this article.

(c) The presently elected Clerks of the Courts of Quarter Sessions and of Oyer and Terminer shall become deputy clerks of the District Courts within their respective districts for the balance of their terms, subject to the provisions of this article.

7. (a) All causes and proceedings pending in the courts of record not continued by this article, except those pending before the Board of Claims and the Board of Arbitration of Claims, shall be transferred to the District Court, or, when appropriate, to the Estates Court, which shall have authority to dispose of all actions so transferred or to enforce any judgment, order, sentence, or decree heretofore or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdiction of the transferee court and been commenced herein. All dockets, books, records, documents, or other papers in the possession of the clerks of the courts of record whose existence is not continued shall be transferred to the clerks of the District Courts or, when appropriate, of the Estates Court.

(b) All matters pending before the Courts of Justices of the Peace, Aldermen and Magistrates, the Traffic Courts of the Cities of Philadelphia and Pittsburgh and the Police Court of the City of Pittsburgh shall be transferred to the Community Courts, which shall have the authority to dispose of all transferred actions or to enforce any judgment, order or sentence heretofore entered or imposed.

All books, records, documents and papers in the possession of any of those courts shall also be transferred to the Community Court of the appropriate judicial district.

Section 2. Article five of the Constitution of the Commonwealth of Pennsylvania is hereby repealed effective the thirty-first day of July of the year next succeeding the adoption of the foregoing article, except that (a) as much of section 2 as provides for the succession of chief justices according to the priority of their commissions shall not be repealed until the expiration of the term or the death, resignation, retirement or removal of the last justice of the Supreme Court in office on July 31, 1968 and (b) the provisions of section 15 relating to the election of judges shall be repealed only as to the judicial districts embodying Philadelphia and Allegheny Counties and such additional districts in which the electors thereof determine to have their judges selected in the manner provided by section

7 of the foregoing article for the selection of judges in Philadelphia and Allegheny Counties.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Keller for a statement.

DELEGATE J. W. KELLER. Mr. President, fellow delegates, this proposal is cosponsored by Delegate Clinger of the 25th District, Delegate Barron of the 33rd District and Delegate Nelson of the 30th District. It is known pessimistically by the Pennsylvania Bar Association as the "alternate proposal." It is precisely the same proposal as No. 1000 except that it changes the provisions governing the nonpolitical selection of judges so that such selection applies only to the statewide offices and to the counties of Allegheny and Philadelphia.

The four sponsors of this proposal are what are known as "country lawyers." We feel that we do not know the problems in the great municipalities and we recognize our need for advice and guidance in that area. On the other hand, we do feel that we are familiar with the problems in our areas and we do not feel the nonpolitical selection is desirable in our areas.

This proposal is presented in order to provide an alternate method for each of the few types of areas where we will have the Judiciary. The sponsors also wish to make it a matter of record that they reserve the right to oppose certain of the other provisions included within this all-encompassing proposal and specifically to oppose that which provides for the abolition of the office of justice of the peace.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Murray.

DELEGATE MURRAY. Mr. President, I read in place and present to the Chair the following proposal and would like to comment on that proposal.

No. 1055

By **DELEGATE MURRAY**

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania providing local governmental taxing units with authority to exempt from or reduce real estate taxes imposed on the residence owned and occupied by citizens and residents of this Commonwealth who are sixty-five years of age, or over.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE LOCAL TAXATION

Section 1. Local Taxation.—Local governmental taxing units shall have the authority to exempt from or reduce real estate taxes imposed on the residence owned and occupied by citizens and residents of this Commonwealth who are sixty-five years of age, or over.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Murray.

DELEGATE MURRAY. Thank you, Mr. President. Fellow delegates, there is a great need in Pennsylvania for some kind of aid or help for these senior citizens which number some two million people in our Commonwealth.

The proposal that I have offered takes into consideration several important items. First, it lets the local government authority set their own rules, regulations and conditions on whether or not they in their own taxing units would allow some form of reduced taxation or exemption for these people in this special category.

Second, it would allow, not force,—I repeat, it will allow, not force—the local taxing units to consider this problem based on the conditions in their own communities. Now, with ever increasing taxation and inflation, which is becoming a very strong, strangling force for these people with fixed income, retirement income, I think something is definitely needed, some special provisions should be made to take into consideration this ever increasing problem.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from York, Delegate Ruth.

DELEGATE RUTH. I read in place and offer the following proposal:

No. 1056

By **DELEGATES RUTH and WARMAN**

A PROPOSAL

Repealing article five of the Constitution of Pennsylvania relating to the Judiciary and adding a new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding after article four, a new article to read:

ARTICLE THE JUDICIARY

Section 1. Courts.—The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Superior Court, Commonwealth Court, District Courts, Estates Courts, Community Courts and Justice of the Peace Courts. Other courts may be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall consist of seven justices, one of whom shall be Chief Justice of Pennsylvania. In the absence of the Chief Justice, the member of the court senior in length of service on the court shall serve in his place.

(b) The Supreme Court shall be the highest court of the Commonwealth and shall have final appellate jurisdiction. It shall have no original jurisdiction except as expressly provided by acts of Assembly. It may assume jurisdiction of actions pending in any other court at any stage of the proceedings. It shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction.

(c) Appeals from final judgments of the District Court shall lie as of right directly to the Supreme Court only in cases of judgments imposing sentences of death or life imprisonment. In all other cases the Supreme Court shall have appellate jurisdiction by appeal and certiorari or writ of error as is now or may hereinafter be provided by the General Assembly.

Section 3. Superior Court.—(a) The Superior Court shall consist of seven judges, except that the Supreme Court may from time to time assign additional judges from among the judges of the District Court or the Estates Court to temporary service upon the Superior Court as the business of the Superior Court may require. The number of judges of the Superior Court may be changed by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

(b) The Superior Court shall have no original jurisdiction. It shall exercise such appellate jurisdiction, including such review of the actions of executive or administrative offices or agencies, except as may be assigned to the Commonwealth Court by rule of the Supreme Court. When no other court has been designated by the rule of the Supreme Court, appeals permitted by law shall be taken to the Superior Court.

(c) One of the judges of the Superior Court shall serve as its President Judge. In the absence of the President Judge the member of the Superior Court senior in length of service on the court shall act in his place.

Section 4. Commonwealth Court.—(a) The court to be known as the Commonwealth Court shall be composed of five judges one of whom shall be President Judge. Its jurisdiction shall extend throughout the Commonwealth.

(b) (1) The first judges of the Commonwealth Court shall be appointed by the Governor and shall hold office until the first Monday of January, 1969. The Governor shall designate the member who shall act as President Judge, until the first Monday of January, 1969. No more than three of the judges first appointed shall be of the same political party or body.

(2) The first elected judges of the court shall be chosen at the general election in November, 1968, and the five candidates who receive the highest vote shall be declared elected but no elector shall vote for more than three upon one ballot for said office.

(3) The term of office of elected judges of the court shall be ten years, to begin on the first Monday of January following their election.

(4) Succeeding elections for the office shall be held at the proper election preceding the expiration of the term of any judge, or at the proper election following a vacancy by death or otherwise.

(5) Whenever two judges of Commonwealth Court are to be elected for the same term of service, each voter shall vote for one only, and when three are to be elected each voter shall vote for no more than two; candidates highest in vote shall be declared elected.

(6) At no time by appointment shall the court be composed of more than three judges from any one political party or body.

(7) Whenever a vacancy occurs by death or otherwise in the office, the Governor may appoint a person to fill the vacancy in the manner and for the period fixed by this Constitution, and the person elected thereafter to the vacant seat shall hold his office for the term of ten years, beginning on the first Monday of January following his election.

(8) As soon as convenient after the first election, the successful candidate shall cast lots for priority of commission and certify the result to the Governor, who shall issue their commissions in accordance therewith, and, except as hereinafter provided, the same procedure shall be followed whenever thereafter two or more judges are elected at the same time. Whenever a judge is reelected, he shall not cast lots for priority of commission but his rank, priority and seniority shall be determined by his continuous length of service as a member of the court.

(c) (1) The court shall have the power to appoint such personnel as may be necessary to exercise its powers and perform its functions and duties. The General Assembly shall fix their compensation which shall be paid by the State.

(2) The court shall have the power to promulgate rules of practice and procedures. Such rules shall not be inconsistent with this Constitution and rules of practice and procedure promulgated by the Supreme Court of Pennsylvania or the Superior Court of Pennsylvania.

(d) (1) The Commonwealth Court shall meet at least once a year and as its business requires in the cities of Philadelphia, Pittsburgh, Harrisburg, Scranton and Williamsport. The court in such cities shall use accommodations furnished for the Superior Court.

(2) The prothonotary and officers of the Superior Court shall be the prothonotary and officers for the Commonwealth Court.

(e) (1) The Commonwealth Court shall have jurisdiction throughout the State for the purpose of hearing and determining all suits, claims and demands whatever, in law and in equity, in which the Commonwealth may be the party plaintiff for accounts, unpaid balances, unpaid liens, taxes, penalties and all other causes of action, real, personal and mixed.

(2) The Commonwealth Court shall also have jurisdiction throughout the State in those cases in which the Commonwealth or its officers, boards, commissions or agencies are involved as the Supreme Court shall by rule prescribe.

(f) When the judges of the Commonwealth Court are not occupied with the business of their court, they may be assigned by the Chief Justice of the Supreme Court to assist in the work of any of the various District Courts in the Commonwealth.

Section 5. District and Estates Courts.—(a) There shall be one District Court for each judicial district. Initially, the number and boundaries of the judicial districts, and the number of judges to be selected from each district, shall be as at present; but the General Assembly may make only such changes in the foregoing as the Supreme Court recommends advisable, however, not more than four counties shall be included in one judicial district. The President Judge of the District Court of each judicial district shall, under the direction of the Chief Justice or such associate justice as shall be deputized by him, supervise the court's judicial business, including the assignment of the court's judges within the district. The office of associate judge not learned in the law is abolished; but the several associate judges in office when this Constitution shall be adopted shall serve for their unexpired term.

(b) In any district in which a separate Orphans' Court presently exists there shall be a separate Estates Court which initially shall consist of the number of judges authorized to sit on the Orphans' Court of the district

when this section becomes effective. The jurisdiction of the court shall continue to be the jurisdiction now exercised by the Orphans' Court of the district, unless modified by rule of the Supreme Court. In any other district there may be a separate Estates Court as the General Assembly may determine upon recommendation of the Supreme Court.

(c) In all districts except those containing separate Estates Courts, the District Courts shall have unlimited original jurisdiction in law and equity in all cases except such as may be assigned exclusively to the Community Courts and Justice of the Peace Courts; and in districts containing separate Estates Courts the District Courts shall have the same original jurisdiction as in other districts, except that they shall not have jurisdiction in cases over which the Estates Courts of their respective districts shall have jurisdiction.

(d) The District Courts shall have such powers of review of the actions of the Community Courts of Justice of the Peace Courts and of executive or administrative offices or agencies as may be provided by rule of the Supreme Court.

(e) The District Courts may exercise their jurisdiction through such appropriate divisions, including civil, criminal, juvenile, domestic relations, and, except in districts in which there are separate Estates Courts, estates divisions, as the Supreme Court shall by rule prescribe. There shall be a Presiding Judge for each division which may be created in any district.

Section 6 Community Courts.—(a) There shall be Community Courts which shall be courts of record with concurrent limited jurisdiction such as the Supreme Court shall prescribe and appropriate divisions as the Supreme Court shall by rule prescribe.

(b) The number of judges constituting the Community Courts shall be determined for each judicial district by rule of the Supreme Court. Judges of the Community Court for each judicial district shall be selected in the same manner as the judges of the District Court of such district. The President Judge of the District Court for each judicial district shall designate the places within the district where the Community Court for that district shall sit, subject to review by the Supreme Court.

(c) The President Judge of the District Court of each judicial district shall, in accordance with rules prescribed by the Supreme Court appoint commissioners for the district to accept bail, issue warrants, or otherwise assist the judges of the Community Court of the district in the performance of their judicial duties within the districts as the Supreme Court may by rule prescribe.

Section 7. Justice of the Peace Courts.—(a) All existing courts not of record are abolished as of January 1, 1970 and shall be superseded by Justice of the Peace Courts which shall be courts of record with jurisdiction limited to summary, misdemeanor and civil causes not exceeding five hundred dollars (\$500) arising in this district. The number and boundaries of the Justice of the Peace Court shall be determined for each judicial district by rule of the District Court thereof; however, there shall not be less than fifteen in number and not more than three townships, boroughs or municipalities shall be included in one Justice of the Peace District.

(b) The justices of the peace shall be elected in the several districts by the qualified electors thereof at the municipal election in November, 1969 in such manner as shall

be directed by law, and shall be commissioned by the Governor for a term of four years.

(c) Justices of the peace shall be citizens of the Commonwealth of Pennsylvania and residents of the district for which they shall be selected. They shall reside and maintain an office in the district in which they serve.

(d) Justices of the peace not members of the bar of the Supreme Court must have taken and satisfactorily passed a course in basic law, court procedure and conduct and received certification thereof from the Department of Public Instruction of the Commonwealth of Pennsylvania within one year of each primary election for the office of justice of the peace.

(e) The compensation of justices of the peace shall be by salary regulated by law, and they shall pay all fees, fines and penalties which they may receive into the treasury of the city, county or State as may be directed by law. The salary shall not be less than six thousand four hundred fifty dollars (\$6450) and shall not exceed the aggregate amount of fees earned during his term and collected by or for him.

(f) No justice of the peace is to practice law or engage in any other employment for compensation except that he may serve as Commissioner, and Magistrate of Police Court or Traffic Court within the municipal district in which his court is located.

Section 8. Appeal from Decisions of Justices of Peace.—In all cases of summary conviction or of judgment in suit for a penalty before a justice of the peace either party may appeal to the Community Court or other court as shall be prescribed by Supreme Court rule.

Section 9. Method of Selection of Justices and Judges.—(a) Supreme Court Justices, Superior and Commonwealth Court Judges shall be elected at large by the qualified electors of the State.

(b) District, Estate and Community Court Judges shall be elected by the qualified electors of the respective judicial district over which they are to preside.

(c) Whenever there is more than one justice or judge to be selected for the same court, each voter shall vote for the number of vacancies to be filled.

Section 10. Tenure.—(a) All Supreme Court Justices shall hold office for a term of fourteen years.

(b) All Superior, Commonwealth, District and Estate Judges shall hold office for a term of ten years.

(c) All Community Court Judges shall hold office for a term of six years.

Section 11. Qualifications of Judges and Commissioners.—(a) Justices and judges shall be citizens of the Commonwealth. Unless there are less than fifteen qualified lawyers residing in any judicial district, judges of the District Courts, Estates Courts and Community Courts shall be residents of the judicial districts for which they shall be selected and shall reside in the districts in which they serve. All justices and judges shall be members of the bar of the Supreme Court.

(b) Commissioners shall be citizens of the Commonwealth and residents of the judicial districts for which they shall be appointed. They shall possess such additional qualifications and shall be subject to such restrictions as to activities outside their official duties, as the Supreme Court shall by rule prescribe.

Section 12. Method of Selection of Judges.—(a) Whenever a vacancy occurs by death, or resignation, in the office

of justice of the Supreme Court or of judge of the Superior Court, judge of the Commonwealth Court, judge of the District Court, judge of the Estates Court, or judge of the Community Court, the Governor shall fill the vacancy for the unexpired term by appointment from a panel of persons qualified by the office, nominated to him by a Judicial Nominating Commission established and organized as hereinafter provided.

(b) Whenever a vacancy occurs by removal from office, creation of additional judgeship or expiration of office, such vacancy is to be filled as provided in section 10 hereof.

(c) In the case of a justice of the Supreme Court or a judge of the Superior Court, the State-wide Judicial Nominating Commission shall nominate to the Governor six names. If the Governor fails within sixty days to make an appointment from the panel submitted to him, the Judicial Nominating Commission shall certify the same six names to the Chief Justice who shall promptly appoint one of the six nominees.

(d) In all other cases the appropriate Judicial Nominating Commission shall nominate to the Governor the names of three persons qualified for the office and residing within the judicial district in which the vacancy exists unless there are within the district less than six lawyers qualified for the office who are willing to accept appointment in which case the Judicial Nominating Commission shall nominate to the Governor three lawyers qualified for the office regardless of their residence. If none of the persons so nominated is acceptable to the Governor, he shall so notify the Judicial Nominating Commission within sixty days of his receipt of the nominations. Upon receipt of such notification, or upon expiration of such sixty-day period without such notification if no appointment has been made, the Judicial Nominating Commission shall nominate a second panel of three other persons. If none of the persons nominated in either panel is appointed by the Governor within thirty days of his receipt of the nominations in the second panel, the appointment shall be made by the Chief Justice from among the persons nominated in either panel as certified to him by the Judicial Nominating Commission.

Section 13. Judicial Nominating Commissions.—(a) There shall be a single State-wide Judicial Nominating Commission for the Supreme and the Superior Courts, and separate Judicial Nominating Commissions for each judicial district. Each such commission shall be composed of one justice or judge, three members of the bar selected by the members of the bar and three lay citizens. The justice or judge and the members of the bar on each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens on each Judicial Nominating Commission shall be appointed by the President Judge of the judicial district involved. Members of the Judicial Nominating Commission for the Supreme and the Superior Courts shall be chosen from the Commonwealth at large, and members of the Judicial Nominating Commission for a judicial district shall be chosen from that district.

(b) The members of each Judicial Nominating Commission shall serve for terms of three years, staggered except in the case of the justice or judge on the commission, so that two members, one selected by the bar and the other appointed by the President Judge shall be selected each year. Of the first members selected following the effective

date of this section, two members, one selected by the bar and one appointed by the President Judge, shall be selected for one-year terms and two other members selected by the bar and by the President Judge respectively, shall be selected for two-year terms. Vacancies in the membership of any Judicial Nominating Commission shall be filled for the balance of the term by the same appointing power as appointed the member whose place has become vacant. No member of a Judicial Nominating Commission shall serve for more than two successive three-year terms on that commission, but he may be reappointed or re-elected after a lapse of one year. The members of each commission shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. Each commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Section 14. Appointments by the Governor and by the Chief Justice.—The Governor and the Chief Justice shall have full responsibility for all appointments made by them, respectively under this article. They shall make such appointments solely on the basis of merit regardless of the political affiliations of the appointees. The Governor's and Chief Justice's appointments under this article shall not require the consent of the Senate.

Section 15. Compensation and Retirement of Judges.—

(a) Justices and judges shall receive compensation paid by the Commonwealth as prescribed by law.

(b) All justices and judges shall be retired at not less than sixty-two years of age. Notwithstanding the expiration of the term for which a justice or a judge was last elected, his retirement, resignation or removal from office for physical or mental disability, he shall receive such compensation as shall be prescribed by the General Assembly. A former judge may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

Section 16. Removal, Discipline and Compulsory Retirement of Judges.—(a) There shall be a Judicial Qualifications Commission to be composed of two judges of the Superior Court, and three judges of the District Courts from different Judicial Districts, to be selected by the Supreme Court; two members of the bar to be selected by the members of the bar; and two lay citizens to be selected by the Governor. The judges and the members of the bar shall be selected in the manner and in accordance with rules prescribed by the Supreme Court.

The members of the Judicial Qualifications Commission shall serve for terms of four years, the selection of the first members following the effective date of this section to be staggered as follows: one judge of the Superior Court, one member of the bar, and one lay member shall be selected for two-year terms, and one judge of the Superior Court, one member of the bar, and one lay member shall be se-

lected for four-year terms; one judge of the District Court shall be selected for a term of two years, one for a term of three years, and one for a term of four years. A vacancy in the membership of the Commission shall be filled for the balance of the term by the same appointing power as selected the member whose place has become vacant. No member of the Commission shall serve for more than one full four-year term on the Commission, but he may be reappointed or re-elected after a lapse of one year. The members of the Commission shall elect one member to serve as chairman for a term of one year. The Commission shall act only with the concurrence of a majority of all its members.

During the terms of office for which members of the Judicial Qualifications Commission have been chosen, they shall not hold any office in a political party or organization nor, except for the members who are judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the Commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In accordance with the procedure prescribed in subsection (c) of this section, any justice or judge may be removed from office or otherwise disciplined for misconduct in office, neglect of duty, failure to perform his duties, violation of any canon of legal or judicial ethics adopted by the Supreme Court, or other conduct which prejudices the proper administration of justice; and any justice or judge may be retired for disability seriously interfering with the performance of his duties.

(c) The Judicial Qualifications Commission shall keep itself as fully informed as may be of facts and circumstances relating to justices or judges, insofar as the same may bear upon any of the grounds for removal, discipline, or compulsory retirement; shall receive complaints or reports, formal or informal, from any source pertaining to such matters and shall make such preliminary investigations as it may determine.

The Judicial Qualifications Commission may, after such investigation as it deems necessary, order a hearing to be held before it concerning the removal, discipline or compulsory retirement of a justice or a judge, or the Commission may in its discretion request the Supreme Court to appoint three special masters, who shall be justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the Commission. The Commission's order for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court of Dauphin County.

If, after hearing or after considering the record and report of the masters, the Commission finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline, or compulsory retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline, or compulsory retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for compulsory retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired under section 11 (b) of this

article. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the Judicial Qualifications Commission or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the Commission or the masters shall be privileged; provided, that, upon being filed by the Commission in the Supreme Court, the record loses its confidential character.

The Supreme Court shall by rule provide for procedure under this section before the Judicial Qualifications Commission, the masters, and the Supreme Court.

No justice or judge shall sit as a member of the Commission or the Supreme Court in any proceedings involving his own removal, discipline, or compulsory retirement.

(d) Any justice or judge who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the bar of the Supreme Court, shall automatically forfeit his judicial office.

(e) This section is alternative to and cumulative with the provisions for impeachment for misbehavior in office contained in Article VI, sections 4, 5 and 6. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

Section 17. Nonjudicial Duties and Prohibited Activities.

—(a) No duties, other than judicial duties, shall be imposed by law upon any court or upon any of the justices or judges thereof, nor shall any power of appointment be conferred upon any court or upon any justice or judge thereof except such as relates to the exercise of the judicial power of this Commonwealth or the administration of the courts as provided in this article.

(b) No justice or judge shall hold any office in a political party or organization, nor while retaining judicial office shall he become a candidate at either a primary or general election for any office other than a judicial office.

(c) No justice or judge shall practice law or engage in any other employment for compensation, except that he may receive compensation as a lecturer, teacher or author, as an officer of a nonprofit professional organization, as a fiduciary of the estate of a member of his family, and as a member of the National Guard or a reserve component of the Armed Forces of the United States while on inactive duty.

Section 18. Administration of Courts.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts of this Commonwealth, including the temporary assignment of judges from one court or district to another, but in judicial districts containing populations in excess of five hundred thousand a judge of the District Court or of the Estates Court or of the Community Court shall not be assigned to a district other than his own without the consent of the President Judge of his court. The powers of administration vested in the Supreme Court shall be exercised by the Chief Justice, or by an associate justice deputized by him, in accordance with rules prescribed by the Supreme Court. The Chief Justice shall appoint an administrative director and staff, who shall assist the Chief Justice or the associate justice deputized by him, in supervising the administrative operations of the judicial system and shall serve at his pleasure.

(b) The General Assembly shall provide for appeals and appellate jurisdiction taking into consideration Supreme Court recommendations.

(c) The Supreme Court shall have power to prescribe rules in all civil and criminal actions and proceedings for all courts, governing administration, practice and procedure, including rules of evidence, time for taking appeals, and the issuance of all writs necessary or appropriate in aid of the jurisdiction of the respective courts. These rules shall have the force and effect of law and shall suspend all statutes inconsistent therewith.

Section 19. Clerks of Court, Court Personnel.—(a) There shall be such Clerks of Court and such other non-judicial personnel as shall be necessary for the effective performance of the judicial work of the Commonwealth. The clerks of the District Courts, of the Estates Courts, and of the Community Courts, their assistants and other non-judicial court officers within each judicial district shall be appointed by the judges of the respective courts of that district, until such time as the Supreme Court shall otherwise provide in accordance with rules prescribed by it.

(b) The Supreme Court may prescribe a merit system for appointment, promotion, removal, discipline, and suspension of nonjudicial personnel in the judicial system and may provide for exempt categories. The Supreme Court may administer the merit system through an administrative director, or may provide for its administration by other appropriate agencies of the Commonwealth or its political subdivisions, who shall be required to render necessary assistance to the court.

Section 20. Judicial Council.—(a) The Supreme Court shall establish a Judicial Council consisting of such number of members and selected in such manner as the Supreme Court may by rule prescribe.

(b) The Judicial Council shall conduct studies for improvement of the administration of justice and for law reform, and shall make reports and recommendations to the Supreme Court and to the General Assembly at intervals of not more than two years. The Judicial Council shall perform such other duties as may be prescribed in this article or assigned to it by rule of the Supreme Court.

Section 21. Implementation of this Article.—The General Assembly shall enact all laws which may be necessary to implement the provisions of this article.

SCHEDULE

That no inconvenience may arise from changes in the Judiciary article of the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared that:

1. This Judiciary article, except as otherwise provided herein, shall become effective on the first day of January, 1970 and the tenure of the Chief Justice and of justices of the Supreme Court and of judges of the Superior Court then in office shall not be affected by this article. Subject to the provisions of the retirement acts then in effect, judges of both courts shall be eligible for re-election in the manner provided in section 9.

2. The Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, the County Court of Philadelphia, the County Court of Allegheny County, the Juvenile Court of Allegheny County, the Court of Common Pleas of every judicial district are abolished, and

their jurisdiction and powers shall be exercised by the District Courts provided by this article. The tenure of judges of the abolished courts shall not be affected by the abolition of the same, and the judges thereof are hereby constituted for the remainder of their respective terms as judges of the District Court or in counties having separate Orphans' Courts, judges of the Estates Court, as the case may be, in their present respective judicial districts and shall be eligible for re-election as judges thereof in the manner provided by section 9.

3. The Magistrates' Courts in Philadelphia County and the Aldermen's and Justices of the Peace Courts in other counties except as herein provided, the Traffic Court of the City of Pittsburgh, the Police Magistrates of the City of Pittsburgh, and the Traffic Court of the City of Philadelphia are abolished as of January 1, 1970 and the terms of office of the incumbent judges thereof shall then terminate. Subsequently the jurisdiction and powers of the aforesaid courts shall be exercised by the Community Courts, except as herein provided until otherwise provided by rule of the Supreme Court of Pennsylvania.

4. The Board of Claims and the Board of Arbitration of Claims shall continue to exercise the jurisdiction now provided by law until otherwise provided by the General Assembly but shall not be deemed courts forming part of the judicial system created by this article.

5. (a) The offices of Clerk of the Court of Quarter Sessions of the Peace, of Oyer and Terminer, and of Clerk of the Orphans' Court, and the office of Prothonotary are abolished.

(b) The present Prothonotaries of the Common Pleas Court shall become clerks of the District Court within their respective districts for the balance of their terms, subject to the provisions of this article.

(c) The presently elected Clerks of the Courts of Quarter Sessions and of Oyer and Terminer shall become deputy clerks of the District Courts within their respective districts for the balance of their terms, subject to the provisions of this article.

6. (a) All causes and proceedings pending in the courts of record not continued by this article, except those pending before the Board of Claims and the Board of Arbitration of Claims, shall be transferred to the District Court, or, when appropriate, to the Estates Court, which shall have authority to dispose of all actions so transferred or to enforce any judgment, order, sentence, or decree heretofore or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdiction of the transferee court and been commenced herein. All dockets, books, records, documents, or other papers in the possession of the clerks of courts of record whose existence is not continued shall be transferred to the clerks of the District Courts or, when appropriate, of the Estates Court.

(b) All matters pending before the Courts of Justices of the Peace, Aldermen and Magistrates, the Traffic Courts of the Cities of Philadelphia and Pittsburgh and the Police Court of the City of Pittsburgh shall be transferred to the Community Courts, which shall have the authority to dispose of all transferred actions or to enforce any judgment, order or sentence heretofore entered or imposed.

All books, records, documents and papers in the possession of any of those courts shall also be transferred to the Community Court of the appropriate judicial district.

Section 2. Article five of the Constitution of the Commonwealth of Pennsylvania is hereby repealed effective the first day of January, 1970.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Ruth.

DELEGATE RUTH. Mr. President, in addition to other ideas, this proposal incorporates the various segments of the Pennsylvania Bar Association Plan, the Board of Judges of the Court of Common Pleas Plan, the Commonwealth Court Proposal of Delegates Jirolanio and Prendergast and the Raymond Perlstine Plan.

This proposal is the first proposal submitted on the Judiciary Article that would fully and completely retain the election of judges. The Judiciary, being the third branch of the government, is the traditional defender of the rights and liberties of the people and defends them against encroachment by the legislative or executive branches, as well as being the final recourse for settlement of disputes between citizen and citizen, and citizen and government.

It is in the courts that these issues affecting the life, liberty and property of the people are resolved, and thus the people should have the right to say who shall administer justice on the people's behalf. An appointed master to the selection of judges does not remove the politics but only changes the battleground and the judiciary, being the highest form of patronage, should not be added as another pawn on the government chessboard. Courts do not belong to the government and lawyers alone, they belong to the people.

This proposal also includes the retention of the justice of the peace, reduced in number with concurrent and limited jurisdiction and restricted territorial jurisdiction to avoid shopping. The proposal includes training requirements and salary. The minor judiciary, especially in the rural areas, is providing service to the Pennsylvania citizens and will continue to provide the service that cannot be replaced by community courts, that cannot be located in each borough and township, and thus, cannot provide the everyday assistance necessary to the many citizens today and in the future.

PRESIDENT BRODERICK. The Chair recognizes Delegate Sharp from Centre.

DELEGATE SHARP. Mr. President, I read in place and present the following proposal to the Chair, and ask to make a few remarks following the reading by the clerk.

No. 1057

By **DELEGATE SHARP**

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for apportionment of local government units by the Legislature when such apportionment is required by law.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding a new article to read:

ARTICLE APPORTIONMENT OF LOCAL GOVERNMENTAL UNITS

Section 1. When apportionment of local governmental units is required by law, local governmental units shall district or redistrict the area over which they have jurisdiction in such manner and at such times as the Legislature may provide.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. You may proceed now, Delegate Sharp, with your statement.

DELEGATE SHARP. Mr. President, this proposal relates to legislative apportionment on the local level. As a result of the impact of Baker v. Carr and the uncertainty as to the application of Baker v. Carr on the local unit, this proposal provides that where local units shall be required by law, and if required by law to redistrict, that this shall be under the auspices and in the times and manner as provided by the legislature.

Thank you.

RESOLUTIONS

PRESIDENT BRODERICK. We will now move to the next item of business which is resolutions.

HOLIDAY GREETINGS

PRESIDENT BRODERICK. The Chair now recognizes Delegate Ruth from York.

DELEGATE RUTH. Mr. President, whereas it is the time of the year to hang the holly and be jolly, and whereas this is the season when stars, candles and friendship shine brighter, and whereas this is the time to remember peace and good will to all men, and whereas the spirit of Christmas should be filled with joy and good cheer, I, therefore, suggest that we adopt the following resolution:

Now, therefore, we, the 1967 Constitutional Convention hereby extend to the people of Pennsylvania, the United States and the world our heartiest best wishes for a Merry Christmas and a Happy New Year.

PRESIDENT BRODERICK. Do I hear any objections to the immediate consideration of that resolution?

The Chair hears none. Does that resolution have a seconder?

The resolution has been seconded by Delegate Tully.

On the question,

Will the Convention adopt the resolution?

It was unanimously adopted.

COMMITTEE MEETINGS

PRESIDENT BRODERICK. The Chair will now take up committee meetings for the day.

The following committee meetings were announced:

JUDICIARY, Co-Chairmen Scranton and Amsterdam, Subcommittees A, B and D will meet in their respective rooms immediately following adjournment of this session.

LOCAL GOVERNMENT, Co-Chairmen Pasquerilla and Manderino, all subcommittees of Local Government will meet immediately following adjournment of the Convention.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, Subcommittees A and C will meet today immediately after adjournment in their meeting rooms.

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, will meet immediately after session today.

PUBLIC HEARINGS

PRESIDENT BRODERICK. The Chair now recognizes the secretary, Secretary Michener.

SECRETARY MICHENER. At the request of the chairmen of the four substantive committees, I announce the following details concerning the hearings on Wednesday, December 27, Thursday, December 28 and Friday, December 29. These data are extremely provisional in that we do not have all of the answers in yet. They are available to us through the work late last night of the executive director of this session and his assistant, Mr. Severino Stefanon.

From the way our telephone rang yesterday, there is great interest across the State in these hearings. The concentration of people whose replies we have received so far—and I would expect a substantial number will come in today—indicate that the major concentration is going to be on judiciary with the secondary concentration on local government.

For Wednesday, December 27, the following nine petitioners have already asked the right to speak and two of them just reached me early this morning:

The Pennsylvania Democratic Study Committee, the Pennsylvania Bar Association, the Fraternal Order of Police, Mr. Milton Herschcowitz, Esquire, who is a justice of the peace, Arlen Specter, the District Attorney of Philadelphia, William Lipky, Esquire, Doctor Gene Knox, Pittsburgh Magistrates and Constables Association and four judges of the Common Pleas Court of Philadelphia. I would expect another five or six responses before the day is out.

For Local Government on Thursday, December 28, the Pennsylvania Democratic Study Committee, the Pennsylvania Bar Association, the Pennsylvania Medical Society, the Citizens Alliance for Local Government Incorporated, the Improved Johnstown Association and Mr. Milton Berkes, a man well versed in local government problems.

On Friday, December 29, two hearings are scheduled. So far we have only two respondents to the first one on Legislative Apportionment, the Democratic Study Committee and the Bar Association, and three on Taxation and State Finance, the Democratic Study Committee, the Bar Association and the United States War Pensioners Association.

We will take steps through Mr. Ingram's office to keep the eight chairmen of the substantive committees advised over the holidays of the total number of people and organizations wanting to testify before you. This will presumably be done by telegram; it may, however, be done by telephone, but we will do our best to let you know what is happening in this field.

Mr. Ingram and I will have the responsibility on the day after Christmas of getting the hearing places organized so that you will be in dignified and comfortable surroundings.

Two or three of the officers will be present each day to help conduct the hearings from the point of view of having enough people and enough interested members of this Convention there. Every effort will be made to give the people of Pennsylvania a dignified setting in which they can be heard and to give you an organized system for hearing their reports to you.

I would repeat that mileage will be paid to delegates who attend, but only one set of mileage will be paid, as it were; you cannot get it four times. You can get your mileage coming and going, because we do invite you most seriously to attend these hearings.

One final note, Mr. President: We have heard some competition between two of the committees this morning as to who is farthest ahead and who is best organized. I have the doleful fact to report to you that I have just received a communication from one of those committees—and I think in the spirit of Christmas harmony I will not identify which one—which invites me to a hearing which will take place on December 3. By my calculations that committee is already three weeks behind time; something better be done.

PRESIDENT BRODERICK. Thank you very much, Secretary Michener.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. For what purpose does the delegate from Philadelphia, Delegate Rappaport, rise?

DELEGATE RAPPAPORT. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The delegate will state it.

DELEGATE RAPPAPORT. We had many proposals introduced this morning and I know that most of the delegates are going to use this period for study of proposals. Might I ask that they either be mailed out to us or be available on the hearing days so that those of us who come to Harrisburg can have them in printed form and will be able to study them?

PRESIDENT BRODERICK. All the proposals that were introduced today will be printed and, of course, ready tomorrow and they will be ready for you at the time of the hearings when you return.

DELEGATE RAPPAPORT. Thank you, Mr. President.

PRESIDENT BRODERICK. Are there any further items that should come to the attention of the Convention this morning before we entertain the motion to adjourn?

FARM SHOW WEEK

PRESIDENT BRODERICK. The Chair recognizes the Executive Director, John Ingram.

DIRECTOR INGRAM. Those who are familiar with Harrisburg during Farm Show week know that there is a great shortage of hotel space during that week in Harrisburg.

This year Farm Show begins on January 15, and carries through until the following Sunday, during the entire week.

We can expect an exceptional demand and exceptional shortage of hotel space. We have contacted the four major downtown hotels and they have agreed to protect the

rooms for their regular delegate guests, provided they are notified promptly of the plans of those respective delegates to be in Harrisburg that week. In other words, we suggest that all delegates who are occupying hotel rooms notify the hotel before they go home this week of their plans to be here in Farm Show week and that those who require hotel accommodations, in any sense, make arrangements now to get those hotel accommodations for the week beginning January 15th.

PRESIDENT BRODERICK. Thank you very much, Director Ingram. May I again emphasize the importance of that announcement, having lived through a Farm Show week here in Harrisburg. The accommodations are very limited and we have important work to do. We want to make sure that all of you have a place to stay. If anyone has difficulty, if you will contact Mr. Ingram, we will try to help you.

Before calling on Delegate Krill, from Carbon, for the adjournment resolution, the Chair says Merry Christmas.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Carbon, Delegate Krill.

DELEGATE KRILL. Mr. President, I move that this Convention do now adjourn until Tuesday, January 2, 1968, at 3:30 p.m., e.s.t. Have a happy holiday.

PRESIDENT BRODERICK. Thank you. It has been moved by the delegate from Carbon, Delegate Krill, and seconded by the delegate from Philadelphia, Delegate Tate, that this Convention do now adjourn until Tuesday, January 2, 1968, at 3:30 p.m.

The motion was agreed to, and (at 9:58 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Tuesday, January 2, 1968

Number 14

The Convention was called to order at 3:30 p.m.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND CHARLES E. DORSEY, Council of Churches, Harrisburg, Pennsylvania, offered the following prayer:

Eternal Father, by Whose loving wisdom we have been created and given the freedom and power to participate in planning for our own personal and communal destinies, we bow in humble adoration before Thee to acknowledge Thy presence and to ask Thy divine guidance upon our Constitutional Convention.

As we go into this busy week when many proposals will be submitted, the time draws near when the mind of this body of leaders shall be called upon to express itself in concrete proposal. Grant us, O Lord, level heads, steady eyes and honest openness to truth.

We pray for light to see beyond the nose of our own political philosophy; for patience and endurance to keep working at proposals until the very best possible ideas are distilled; for courage and faith to break with old patterns and chart new directions for our beloved Commonwealth.

Deliver us, Lord, from the limitations of closed minds, the blindness of self-interest, or the fear of failure and reprisal. Give us an honest fear and sincere love of Thyself, our Heavenly Father, that we may do our work well in the right spirit and know the joy of those servants who are considered good and faithful by their Master. We pray in our Master's Name. Amen.

PRESIDENT BRODERICK. Thank you, Reverend Dorsey.

APPROVAL OF JOURNAL POSTPONED

PRESIDENT BRODERICK. Without objection, approval of the Journal for December 21, 1967, will be postponed until printed.

The Chair hears no objection.

QUORUM PRESENT

PRESIDENT BRODERICK. It is apparent there is a quorum present today. Without objection the Chair will dispense with the calling of the roll, and will suggest that we convene tomorrow at 9 o'clock instead of, as provided in the rules, at 9:30 unless there is some serious objection to that proposal. At that time, we want to go through the operation of the call board. We are getting many proposals and we do not want to cut down the time of business.

The Chair hears no objection.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, I want to submit the following requests for leaves of absence:

The delegate from the 33rd District, DELEGATE BARON, for December 21. He had to appear in court that day;

The delegate from the 39th District, DELEGATE MANGERY, for January 2 and 3, reorganization;

The delegate from the 10th District, DELEGATE POWELL, on January 2, because of reorganization;

The delegate from the 16th District, DELEGATE ROY W. MILLER, from January 2 to 6. Delegate Miller has been in a serious accident. I am told that he is in good condition and will be in at the beginning of next week;

The delegate from the 4th District, DELEGATE McGLYNN, for January 2, because of business;

The delegate from the 21st District, DELEGATE BRAHAM, who sent me a telegram saying that he had been knocked down by influenza and would try to be with us tomorrow;

The delegate from the 2nd District, DELEGATE ABERMAN, absent today because of business;

The delegate from the 17th District, DELEGATE GERBER, absent today because of reorganization;

The delegate from the 47th District, DELEGATE HENDERSON, asks for an excuse in the future, January 8, because of school business.

Then I have a curious request from the delegate from the 19th District, DELEGATE HANNUM, who says he wants to go and sit on a bench somewhere, but I told him that we could not spare him.

COMMITTEE REPORTS

PUBLIC HEARINGS

PRESIDENT BRODERICK. I would like at this time to take the opportunity to congratulate the four committees who held hearings over the holidays and state that these were very successful, tremendously successful hearings.

You will be interested in the statistics. We had more than 80 witnesses who appeared personally or submitted written testimony representing every facet of the four major Constitutional questions that we are called upon to consider.

The delegate attendance was almost perfect on every occasion despite the mean weather on two out of the three days. I, personally, congratulate the chairmen of those four committees and the members of this Convention for four outstanding public hearings that were conducted.

REFERRAL OF PROPOSALS TO SUBCOMMITTEES

PRESIDENT BRODERICK. If there are any committee chairmen who have referrals in connection with the proposals that were introduced on Thursday, the 21st of December, I would like them at this time to make their referrals to the subcommittees.

The Chair recognizes the Co-Chairman of the Committee on Taxation and Finance, Delegate Leonard.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD. Mr. President, the Committee on Taxation and State Finance, rerefers the proposals made last week as follows:

Proposal No. 1042 will be referred to each of the three subcommittees.

- No. 1043 to the Subcommittee on Taxation;
- No. 1046 to the Subcommittee on State Debt;
- No. 1074 to the Subcommittee on Taxation;
- No. 1049 to the Subcommittee on State Debt;
- No. 1050 to the Subcommittee on Taxation.

PRESIDENT BRODERICK. Thank you, Chairman Leonard.

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, the Committee on Local Government has referred the following proposals:

- No. 1051 to the Subcommittee on County Government;
- No. 1053 to Subcommittees on Home Rule and Local Finance;
- No. 1055 to the Subcommittee on Local Finance;
- No. 1057 to the Subcommittee on Apportionment.

PRESIDENT BRODERICK. Thank you, Chairman Pasquerilla.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair now recognizes the Co-chairman of the Committee on Judiciary, Delegate Scranton.

DELEGATE SCRANTON. Only because we do not want to be outdone by the Local Government Committee we would be glad to announce all these but they are in here. Do we have to announce them anyway?

PRESIDENT BRODERICK. Well, the only reason—they are in there—if I may state so quickly, is because we have not met since December 21st, but ordinarily it is of interest to the members and also for our record to know so that we can put them in there.

DELEGATE SCRANTON. Very well. The following proposals have been rereferred:

- No. 1044 to Subcommittees A, B and E;
- No. 1048 to Subcommittees A, B, C and E;
- No. 1052 to Subcommittee E;

No. 1054 to Subcommittees A, B, C, D and E;

No. 1056 to Subcommittees A, B, C, D and E, which outdoes Local Government.

PRESIDENT BRODERICK. Thank you, Chairman Scranton.

PROPOSAL RETURNED

PRESIDENT BRODERICK. Before we discuss the next item of business, I want to point out again that the rules adopted by this Convention provide that no proposals shall be accepted for introduction by the Convention unless the President has ruled on it in accordance with the limitations set forth in Act No. 2 of the 1967 session, which, of course, is the act that authorizes our existence.

In accordance with that, I must again rule that we have to return to Delegate Thomson, of Chester, the proposal which he introduced on Thursday, December 21, which amended Article III of the Constitution. The opinions of counsel that we have received in connection with that indicate that it is not within our jurisdiction. Therefore, the proposal is being returned to Delegate Thomson with the request that it be corrected and put in proper form, if possible, in accordance with his desires.

PROPOSALS REREFERRED

PRESIDENT BRODERICK. On December 20, the Chair rereferred Proposal No. 1032 which proposed the elimination of municipal authorities. That proposal was referred to the Committee on Taxation and Finance.

On December 21, the Chair referred Proposal No. 1042, which proposed the elimination of the debt limit on local government to the Committee on Taxation and Finance.

After a discussion with the chairmen of both the Committee on Taxation and Finance and the Committee on Local Government, it has been determined that both of those proposals should be considered by both committees, that is, the Committee on Local Government and the Committee on Taxation and Finance. Your Chair is, therefore, referring them to both committees for their joint consideration.

PROPOSALS INTRODUCED

PRESIDENT BRODERICK. The Chair now recognizes Delegate Clark from Northumberland.

DELEGATE CLARK. Northampton, sir.

Mr. President, I read in place and present the following proposal and would appreciate a moment to address a few remarks.

No. 1058

By **DELEGATES CLARK, WHITTUM and HIMES**

A PROPOSAL

Amending the Constitution of Pennsylvania further providing for Commonwealth indebtedness.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four of article eight of the Constitution of Pennsylvania is amended to read:

Section 4. [No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.] Commonwealth Indebtedness.—(a) No debt shall be created by or on behalf of this Commonwealth except:

(1) To suppress insurrection, to rehabilitate areas affected by disaster and to implement unexpended authority approved by the electors prior to the adoption of this article; or

(2) Debt created for the purpose specified in the statute authorizing such debt and the question of whether the debt shall be incurred has been submitted to the electors and approved by a majority of those voting on the question;

(3) Debt with a maturity within the fiscal year in which incurred and payable from revenues received during such fiscal year, under procedures the General Assembly shall establish. The purpose of this clause is to affirm the principal that operating expenditures shall not exceed income from all sources during such fiscal year;

(4) Debt incurred for the purpose of assuming or refunding any debt issued by any Commonwealth authority and which is payable from Commonwealth revenues under leases with such authority, as may be authorized by statute of the General Assembly.

(b) All debt incurred by the Commonwealth for capital improvements shall mature within a period not to exceed the estimated useful life of the property or improvement for which it is incurred, and such period of usefulness shall be stated in the statute authorizing the project, but, in any event, the maximum maturity for any obligation shall not be in excess of forty years.

(c) The General Assembly may authorize by statute the creation of Commonwealth authorities, which authorities may incur debt for self supporting capital projects and for projects created for the joint benefit of this Commonwealth and one or more other governments.

(d) All debt of the Commonwealth shall be evidenced by its general obligation bonds or notes which, except for tax anticipation notes, shall be obligations with serial maturities payable in periodic level installments in conformance with the provisions of this article.

Referred to Committee on Taxation and Finance.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Northampton, Delegate Clark.

DELEGATE CLARK. Mr. President, the proposal is the result of the joint effort of Delegates Thelma D. Himes, Charles H. Whittum and myself, and I want to make sure that my colleagues have their full measure of recognition for their part in drafting this proposal.

The main thrust of our proposal is to require the Commonwealth to conduct its current affairs on a pay-as-you-go basis, in other words, a balanced budget.

Further, it provides for limited use of authority borrowing, otherwise debt may be created only after an act

of legislature which would be subsequently approved by the voters.

These principles, we believe, are at the very heart of fiscal responsibility and this is the situation that the people of Pennsylvania should expect from their government.

Thank you very much, sir.

PRESIDENT BRODERICK. Thank you Delegate Clark from Northampton.

The Chair recognizes the delegate from Chester, Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I am Delegate O'Donnell from the 19th District comprised of Chester County. I read in place and present to the Chair the following proposal, and ask leave to make a few comments.

PRESIDENT BRODERICK. The clerk will read the title. The clerk read the title as follows:

A PROPOSAL amending the Constitution of Pennsylvania making changes relating to legislative apportionment.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Chester, Delegate O'Donnell.

DELEGATE O'DONNELL. One of the largest difficulties faced not only by the legislature of the Commonwealth of Pennsylvania, but throughout the nation, is their inability to apparently reapportion decennially as required by the constitutions of this State and many others. It strikes me that the root cause of the problem is that it puts upon every legislature the responsibility of being the judge of its own cause.

A legislator is required to decide by our present method of reapportionment whether he or his colleague and friend should be districted out of office.

The thrust of the proposal I have just handed up would take that job out of the hands of the legislature and put it into the hands of a reapportionment commission.

That is not a novel proposal. What is novel here is specifying the way in which the members of the reapportionment commission would be selected. It specifically puts upon the Governor the responsibility to select six of seven members, three of the Governor's selection with the advice and consent of the majority party in the State Senate and three by the Governor with the advice and consent of the minority in the State Senate and the seventh, who would be its chairman, to be selected by the six.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Allegheny, Delegate Richter.

DELEGATE RICHTER. Mr. President, I read in place and present the following proposal and request permission to make a brief statement:

No. 1059

By **DELEGATE RICHTER**

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for a minimum of minority representation in elected local government bodies.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding a new article to read:

ARTICLE

MINORITY REPRESENTATION

Section 1. In all elected offices in local governmental units where there are three or more elected officials on one local government body, a minimum of one-third of such officials shall be of the minority political party, but where the number of elected officials comprising the local government body renders it impossible to have one-third minority representation, then less than one-third minority representation is permissible, if, when one-third minority representation is possible, such representation is effected.

Referred to Committee on Local Government

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate RICHTER.

DELEGATE RICHTER. Mr. President, as the title indicates in this proposal it provides for minority representation on all elected municipal or political subdivisions. This is proposed with the principle in mind that good government, better government, is provided when both parties are represented and no large segment of one party is disfranchised.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Centre, Delegate McGeary.

DELEGATE McGEARY. Mr. President, I read in place and present to the Chair a proposal and ask to give a brief explanation.

No. 1060

By DELEGATE McGEARY

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania providing for optional plans of local government.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE

OPTIONAL PLANS OF LOCAL GOVERNMENT

Section 1. Optional Plans of Local Government.—The General Assembly shall provide by general law optional plans of governmental structure for counties, cities, boroughs, towns and townships, which may be adopted or repealed by a majority of the qualified electors of the political subdivision voting thereon. In each such case the existing plan shall be one of the options.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate McGeary for a statement.

DELEGATE McGEARY. Mr. President, this is a relatively simple proposal which would require the legislature—it says “shall” not “may”—to provide optional plans of governmental structure for all local governments; that is,

three plans perhaps for counties—and counties are included in this—optional plans for boroughs, cities and townships and counties.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook from Greene County.

DELEGATE HOOK. Mr. President, I read in place and present two proposals. I would like to speak on each.

No. 1061

By DELEGATE HOOK

A PROPOSAL

Amending the Constitution of Pennsylvania, establishing medical examiners as county officers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners or medical examiners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Referred to Committee on Local Government.

No. 1062

By DELEGATE HOOK

A PROPOSAL

Amending the Constitution of Pennsylvania, permitting county treasurers to succeed themselves.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law [; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.]

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate HOOK.

DELEGATE HOOK. Under the proposal pertaining to the county treasurers to succeed themselves, in 1961 this was attempted to be passed. I felt at that time it should have been passed by the voters, and I would like to see it brought forth again and included in our Constitution if treasurers are retained as county officers.

As to the matter pertaining to coroners or medical ex-

aminers, I feel that this is the same situation that we have with auditors or controllers. Some of the smaller counties, less than fifth class, smaller than fifth class, cannot afford to operate on a medical examiner's system so I am proposing there that we use the words coroner or medical examiners in the Constitution.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Welsh.

DELEGATE WELSH. Mr. President, I read in place and present to the Chair the following proposal:

No. 1063

By DELEGATE WELSH

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for a system of district courts to handle appeals from summary convictions and judgments of magistrates or courts not of record.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections fourteen, fifteen and eighteen of article five, Constitution of Pennsylvania, are amended to read:

Section 14. Appeal from Summary Conviction.—In all cases of summary conviction in this Commonwealth, or of judgment in suit for a penalty before a magistrate, or court not of record, either party may appeal to [such] a district court [of record as may be prescribed by law, upon allowance of the appellate court or judge thereof upon cause shown.] , which shall be created, as need be, for each senatorial district by the court or courts of common pleas of the county or portion of the county embraced by the senatorial district. The district courts shall be created and shall be governed in accordance with rules promulgated by said court or courts of common pleas. The district court shall sit only within the boundaries of the senatorial district for which it was created. All judges of district courts shall be learned in the law.

District courts shall have no original jurisdiction, and shall only hear appeals from summary convictions in this Commonwealth, or of judgments of magistrates or courts not of record.

The number, method of selection and salary of judges of district courts shall be as by rule established and promulgated by the court or courts of common pleas.

Appeals from decisions of the district court shall be to the court of common pleas to which the appeal would have gone if there had been no district court, and such appeal shall be as prescribed by law, upon allowance of the appellate court or judge thereof upon cause shown.

Section 15. Election of Judges; Term; Removal.—All judges required to be learned in the law, except the judges of the Supreme Court and judges of district courts created by courts of common pleas, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any

of them on the address of two-thirds of each House of the General Assembly.

The Chief Justice of the Supreme Court may designate and assign former judges, learned in the law, who are willing so to do, who have served at least one term and who have not been defeated for reelection, to the office of judge of any court of record, to temporarily sit in the courts of any judicial district for the disposal of business under such circumstances and subject to such qualifications and conditions as the General Assembly may prescribe.

Section 18. Compensation of Judges.—The judges of the Supreme Court and the judges of the several courts of common pleas, and all other judges required to be learned in the law, shall at stated times receive for their services an adequate compensation, which shall be fixed by law, and paid by the State, except judges of district courts created by courts of common pleas whose compensation shall be fixed by the convening authority and paid by the county or counties in which the district court sits. They shall receive no other compensation, fees or perquisites of office for their services from any source, nor hold any other office of profit under the United States, this State or any other State.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. You may proceed with your statement, Delegate Welsh.

DELEGATE WELSH. Mr. President, the idea behind my proposal is the creation of a district court which would be the intermediary between the Justice of the Peace Court and either the Common Pleas or County Court, depending upon what county we are speaking of.

These courts have only appellate jurisdiction from the squire courts. They are created by the Court of Common Pleas in the particular county that we are speaking of or in the particular Senatorial district which I believe would possibly limit the creation of them to only the counties which the Common Pleas Courts feel need help.

The purpose, I believe, in my proposal is to possibly strike a compromise between the Pennsylvania Bar plan and the Justice of the Peace argument. These judges I am proposing for this district court are ones that are learned in the law; therefore, my idea being that the average citizen only wants to have his legal determination—\$500 or more—decided by someone who is learned in the law, someone who is qualified to give a determination. It is a matter of actual practice, at least in Allegheny County and I am sure throughout the Commonwealth of Pennsylvania, the plaintiff's attorneys advise their clients not even to go to a squire's hearing because they know that the defendant will not show up. In 99 percent of the cases, the defendant does not show because he knows that judgment will be determined against him. His own attorney advises that and, therefore, the actual practice seems to be that the defense counsel advises the defendant not to appear and that they will appeal the determination of the squire to the local county court or Common Pleas Court. My idea is that the citizenry of this Commonwealth need legal determinations by competent lawyers, judges, at this lower level.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Dauphin, Delegate Swope.

DELEGATE SWOPE. Mr. President, my proposal flows from my firm conviction that the two-party system is the very heart and essence of our representative form of government from the federal level to the local level.

I read in place and present the following proposal to the Chair and desire to have further opportunity to make some remarks.

No. 1064

By **DELEGATE SWOPE**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for limited nomination and election of county commissioners and auditors.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section seven of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 7. County Commissioners and Auditors.—[Three] Boards of three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; and in the nomination of said officers each political party or body shall nominate one person for chairman and one person for member of the board of such officers; and in the election of said officers each qualified elector shall vote for [no more than two persons, and the three persons having the highest number of votes shall be elected] one person as chairman and one person as a member of the board of such officers, and the person having the highest number of votes for chairman shall be elected chairman and the two other persons having the highest number of votes for member of the board shall be elected members of such board; any casual vacancy in the office of county commissioners or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Dauphin, Delegate Swope.

DELEGATE SWOPE. Mr. President, I am sure that my fellow delegates who come from counties where there is a vast disproportion between the strength of the minority and the majority parties will understand what I am trying to accomplish with this proposed amendment of Article XIV, Section 7 of the Constitution.

As we now have it, the Board of County Commissioners—and I am principally interested in that because in my county we do not have a Board of Auditors—the Board of County Commissioners consists of three members. Each party nominates two and each elector may vote for only two, and we then see the incongruity of the minority party nominating two candidates for county commissioner who will immediately begin to fight each other for that one position on the County Commissioners' Board. What I am

hoping to achieve here is to preserve the integrity of the minority representation at the county level.

I propose that a chairman of the Board of County Commissioners shall be voted on separately, that the parties will nominate a candidate for chairman. Then for the other two commissioners, each party nominates but one, and at the election the elector can vote for only one. What I am trying to prevent is having the majority party reach its big hand down into the minority to elect a County Commissioner from the minority who is acceptable to the majority.

Thank you, Mr. President.

PRESIDENT BRODERICK Thank you, Delegate Swope.

The Chair recognizes the delegate from Chester, Delegate Thomson.

DELEGATE THOMSON. Mr. President, I read in place and present the following proposal:

No. 1065

By **DELEGATE THOMSON**

A PROPOSAL

Amending the Constitution of Pennsylvania, requiring the General Assembly to provide for consolidation of cities, boroughs, incorporated towns and townships, and for changing the boundaries of such municipalities and townships.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding after article fifteen, a new article to read:

ARTICLE XV-A

CONSOLIDATION AND CHANGING BOUNDARIES OF MUNICIPALITIES AND TOWNSHIPS

Section 1. Consolidation and Changing Boundaries. — The General Assembly shall enact legislation providing for the consolidation of cities, boroughs, incorporated towns and townships and for changing the boundaries of such cities, boroughs, incorporated towns and townships. Such legislation shall require the approval, by referendum, of the electorate of each city, borough, incorporated town or township being consolidated with another city, borough, incorporated town or township or the boundary of which is being changed in order for any such consolidation or boundary change to take effect.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Thomson.

DELEGATE THOMSON. Mr. President, we have heard considerable discussion given here this morning in the local government field about the consolidation and reduction of numbers of our local governments in Pennsylvania. This has extended not only statewide, but nationwide through some educators and commissions who very frankly were not too familiar with the subject. Practically all of these suggestions lost sight of a very basic factor in local government; that is, actions in local government

should be taken with the consent of the people who are affected by those actions.

The proposal just submitted, I think, covers a wide field but with the consent of the electors.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Somerset, Delegate Dumbauld.

DELEGATE DUMBAULD. Mr. President, I read in place and present to the Chair two proposals:

PRESIDENT BRODERICK. The clerk will read the titles.

The clerk read the following titles:

A Proposal amending the Constitution of Pennsylvania to provide that appropriations to certain schools be made on the basis proportionate to the number of students in the schools.

A Proposal amending the Constitution of Pennsylvania to prohibit the appropriation of state funds to certain schools.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Centre, Delegate Sharp.

DELEGATE SHARP. Mr. President, I read in place and present to the Chair a proposal and ask leave to comment, finishing the reading by the clerk.

No. 1066

By **DELEGATE SHARP**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for a system of local government.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of the Commonwealth of Pennsylvania is amended by adding after Article XVI, a new article to read:

ARTICLE XVI-A

LOCAL GOVERNMENT

Section 1. Organization of Local Government.—(a) The General Assembly shall provide by general law, subject to reasonable classification, for the government of counties, cities and other local governmental units and for methods and procedures of incorporating, merging, consolidating and dissolving such local governmental units and altering their boundaries.

(b) Under any plan of local government, any elected governing body in which representatives are elected by districts, such districts shall be as nearly equal in population and most compact and contiguous as possible.

Section 2. Home Rule for Local Governments.—(a) Any local government may adopt or amend a charter for its own government, subject to such regulations as are provided in this Constitution and as shall be established by general law. The General Assembly shall provide one or more optional procedures for nonpartisan election of charter commissioners and for framing, publishing and adopting a charter or charter amendment.

(b) At any time upon petition of at least five per cent of the qualified voters in a local governmental unit calling for a change in its charter or for a charter adoption, a referendum shall be held on this matter at the next regularly scheduled primary or general election provided the petition is filed with proper authorities at least thirty days prior to the date of the election.

(c) The General Assembly is charged with providing the Commonwealth with the optimum of local self-government and a minimum of local governmental units and shall provide for the federation of local governments and integration of services whenever feasible and practical.

Section 3. Powers of Local Governments.—Local governments shall have such powers as shall be provided by general or home rule. Any local governmental unit may, by agreement, subject to a local referendum and the approval of a majority of the qualified voters voting on any such question, transfer any of its functions or powers to a nearby county or city, and revoke the transfer of any such function or power, under regulations provided by general laws.

Section 4. County Government.—Any county charter shall provide the form of government of the county and shall determine which of its officers shall be elected and the manner of their election. It shall provide for the exercise of all powers vested in, and the performance of all duties imposed upon, counties and county officers by law. Such charter may provide for the concurrent or exclusive exercise by the county, in all or in part of its area, of all or of any designated powers vested by the Constitution or laws of this Commonwealth in cities and other civil divisions; it may provide for the succession by the county to the rights, properties and obligations of cities and other civil divisions therein incident to the powers so vested in the county, and for the division of the county into districts for purposes of administration or of taxation or of both. No provision of any charter or amendment vesting in the county any powers of a city or other civil division shall become effective unless it shall have been approved by a majority of those voting thereon, (i) in the county; (ii) in any local governmental unit containing more than twenty-five per cent of the total population of the county; and (iii) in the county outside of such city or cities.

Section 5. City Government.—Subject to the other limitations of this Constitution, each city is hereby granted full power and authority to pass laws and ordinances relating to its local affairs, property and government; and no enumeration of powers in this Constitution shall be deemed to limit or restrict the general grant of authority hereby conferred; but this grant of authority shall not be deemed to limit or restrict the power of the General Assembly to enact laws of State-wide concern uniformly applicable to every city.

Section 6. Powers of Local Government Units.—A local government unit may exercise any legislative power or perform any function which is not denied to it by its charter or general law properly applicable to it. Home rule powers shall not include the power to enact law governing private relationships except as incident to an exercise of an independent public power nor shall it include power to define and provide for a crime punishable by imprisonment for more than six months.

Section 7. Civil Service Merit System.—The General Assembly shall provide for the establishment and the admin-

istration of a system of personnel administration in the civil service of all units of local government. Appointments and promotions should be based on merit and fitness, demonstrated by examination or by other evidence of competence.

Section 8. County Government Abolished in Philadelphia.—(a) In Philadelphia all county offices are abolished, and the city shall perform all functions of county government within its area through officers selected in such manner as may be provided by law.

(b) Local and special laws, regulating the affairs with respect to powers granted to the City of Philadelphia and creating offices or prescribing the powers and duties of officers of the City of Philadelphia, shall be valid notwithstanding the provisions of any sections of this Constitution relating to local and special legislation.

(c) All laws applicable to the County of Philadelphia shall apply to the City of Philadelphia.

(d) The City of Philadelphia shall have, assume and take over all powers, property, obligations and indebtedness of the County of Philadelphia.

(e) The provisions of article fifteen, section one of this Constitution relating to home rule shall apply with full force and effect to the functions of the county government hereafter to be performed by the city government.

(f) This amendment shall become effective immediately upon its adoption.

(g) All officers performing functions of county government shall be officers of the City of Philadelphia, and until otherwise provided by the City of Philadelphia through amendment to the Philadelphia Home Rule Charter, shall continue to perform their duties and be elected, appointed, compensated and organized in the manner now in effect.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. You may proceed with your statement in connection with that proposal, Delegate Sharp.

DELEGATE SHARP. Mr. President, this is a proposal relating to local government. Although local government might not be one of the issues of this Convention that will have the most immediate popular appeal, nevertheless, it is my firm conviction that there is no area of our deliberations which will be so important to the people of this Commonwealth for several generations as will our decisions in the field of local government.

In many instances we will be reviewing old institutions; we will be weighing the virtues and the disadvantages of new vehicles of government, some vulnerably new, many of them untried, in order to finally arrive at a vehicle which would provide appropriate government for our people.

It appears to me in this connection that in our deliberations it is befitting that we deliberate in as large a scope as possible, exploring as many ideas as can be processed and can be put forth so that from the assimilation of this large body of material we can in good conscience arrive at those vehicles of local government that we feel most fitting and appropriate for the future.

It is for this reason that I have voiced in this proposal covering such subjects as home rule, consolidation of

cities, implementation of county government and those other vehicles of local government which we shall be deliberating here in the next few weeks.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Sharp.

The Chair recognizes the delegate from Allegheny, Delegate Pott.

DELEGATE POTT. Mr. President, I read in place and present the following proposal:

No. 1067

By **DELEGATES POTT, GERBER, BALDUS, CAMARDELLA, RENDERSON, HEYBURN, KRILL, LEINBACH, MANGERY, R. W. MILLER and POWELL**

A PROPOSAL

Amending article eight, section one of the Constitution of Pennsylvania further regulating exemptions from taxation public property used for public purposes and institutions of purely public charity.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws [; but the]. However the General Assembly may, by general laws, exempt from taxation public property used for public purposes and institutions of purely public charity, provided that a method be established whereby the authority levying the tax may collect a fair and equitable compensation from the owner or user of said property for governmental sources rendered to said owner or user by said authority in connection with said property. In addition, the General Assembly may, by general laws, exempt from taxation actual places of religious worship, places of burial not used or held for private or corporate profit [, institutions of purely public charity] and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

Referred to Committee on Taxation and Finance.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Berks, Delegate Benfield.

DELEGATE BENFIELD. At this time, I would like to present and read in place two proposals, Mr. President.

No. 1068

By DELEGATE BENFIELD

A PROPOSAL

Amending the Constitution of Pennsylvania reducing the numbers of justices of the peace and aldermen and requiring the General Assembly, by general law, to provide that a course of training and education be completed by certain justices of the peace and aldermen hereafter selected.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Sections eleven and twenty-eight, article five of the Constitution of Pennsylvania are amended to read:

Section 11. Justices of the Peace; Aldermen; Term; Residence; Number.—Except as otherwise provided in this Constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs or townships, by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the Governor for a term of six years. No township, ward, district or borough shall elect more than [two justices] one justice of the peace or [aldermen] alderman without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. [In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.] The terms of all justices of the peace and aldermen in office on the effective date of this amendment shall be for the full term for which they were commissioned irrespective of the above provisions of this section.

Section 28. Training Course for Minor Judiciary.—The General Assembly [may] shall, by general law, provide that a course of training and education be completed by justices of the peace and aldermen hereafter selected who have not been admitted to practice law in this Commonwealth. The required course of training and education shall not exceed three months' duration, one month of which shall be taken after their election and prior to their assuming office. The remaining two months of training and education shall be taken immediately after assuming office. Their justification shall extend to summary offenses only prior to completion of the required course. Persons who have served as justices of the peace or aldermen prior to the adoption of this amendment shall not be required to take this course. The required course shall be at the cost of the Commonwealth.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Benfield.

DELEGATE BENFIELD. On that proposal, Mr. President, what we are proposing is that the number be reduced from two to one in each borough or township or

municipality, and it makes it mandatory that the justice of the peace or the alderman take a training course. We believe that this would solve a great problem.

No. 1069

By DELEGATE BENFIELD

A PROPOSAL

Amending the Constitution of Pennsylvania, authorizing county treasurers to succeed themselves.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law [; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.].

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Benfield.

DELEGATE BENFIELD. If I heard correctly, I believe there was another proposal given this afternoon which may go along the same line.

If we go back to our original constitution, the sheriff and the treasurer were prohibited from succeeding themselves. Then by an election on November 6, 1945, the sheriff was then allowed to succeed himself. I believe there is no reason why a treasurer should not have the same privilege.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Delaware County, Delegate Bunting.

DELEGATE BUNTING. Mr. President, I read in place and present to the Chair the following proposal:

No. 1070

By DELEGATE BUNTING

A PROPOSAL

Amending the Constitution of Pennsylvania further regulating exemptions from taxation, the State debt and the State Sinking Fund.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections one, two, four and eleven of article eight of the Constitution of Pennsylvania are amended to read:

Section 1. Uniform Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation [public] all property [used for public purposes, actual places of religious worship, places of burial not

used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines;] owned or leased by the Commonwealth, its agencies and its political subdivisions; and the General Assembly may, by general laws, [set up] establish standards and qualifications for [private] forest and water reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all [real property] taxes [upon the residence occupied by the said citizens and residents of this Commonwealth] imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission or its successor, determines that such persons are in need of the tax exemptions granted herein. [Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.]

Section 2 Exemption from Taxation Restricted.—All laws exempting property from taxation, other than the property above enumerated shall be void. All existing exemptions from taxation, not allowed or authorized by this article, shall terminate within ten years following the adoption of this amendment.

Section 4. State Debt.—No debt shall be [created] contracted by or on behalf of the State, [except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.] unless such debt shall be authorized by law for projects or objects distinctly specified therein, and shall be approved by a two-thirds vote of both Houses of the General Assembly. The money so borrowed shall be used for the purposes specified and no other.

Section 11. State Sinking Fund.—To provide for the payment of the present State debt, and any additional debt contracted as aforesaid, the General Assembly shall continue and maintain the sinking fund, sufficient to pay the accruing interest and installments of principal on such debt [, and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; the said sinking fund shall consist of the proceeds of the sales of the public works or any part thereof, and of the income or proceeds of the sale of any stocks owned by the Commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the State not required for the ordinary and current expenses of government; and unless in case of war, invasion or insurrection, no part of the said sinking fund shall be used or applied otherwise than in the extinguishment of the public debt]. If at any time the General Assembly fails to make an appropriation for this purpose the State Treasurer, any

other provision of this Constitution notwithstanding, shall set apart from the revenues of the Commonwealth a sum sufficient to pay the accruing interest and installments of principal, and shall so apply the moneys so set apart. No part of the sinking fund shall be used or applied otherwise than in the payment of the State debt until all debt of the Commonwealth has been completely repaid. Any money remaining in the sinking fund at such time may be transferred to such other fund as the General Assembly, by a two-thirds vote of both Houses, shall direct. The moneys of the sinking fund shall never be invested in or loaned upon the security of anything, except the obligations of the United States or of the Commonwealth.

Referred to Committee on Taxation and Finance

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Delaware County, Delegate Bunting.

DELEGATE BUNTING. Thank you, Mr. President.

I feel in turning in this proposal that the words that I have heard so many times, "there is nothing new under the sun," are very applicable. But I do believe that it is worthwhile to call to the attention of the Convention that the sentiment for removing tax exemptions should be limited at least to the extent that for exempt organizations that would lose their exemption, there should be a 10-year period for them to readjust their budgets and arrange for payments from the municipalities to support their functions.

Thank you

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Otto.

DELEGATE OTTO. Mr. President, I read in place and present to the Chair the following two proposals, which I desire to comment on.

No. 1071

By DELEGATES OTTO, HUGGINS and THOMSON

A PROPOSAL

Amending the Constitution of Pennsylvania, providing for selection of the chief justice of the Supreme Court and the selection of president judges of other courts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Sections two and six of article five of the Constitution of Pennsylvania are amended to read:

Section 2. Supreme Court.—The Supreme Court shall consist of seven judges, who shall be elected by the qualified electors of the State at large. They shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible. The [judge whose commission shall first expire shall be] chief justice, [and thereafter each judge whose commission shall first expire shall in turn be chief justice.] shall be elected by the judges of the court as frequently as they shall deem proper.

Section 6. Court of Common Pleas of Philadelphia and Allegheny Counties.—In the county of Philadelphia all the jurisdiction and powers now vested in the district courts and courts of common pleas, subject to such changes as

may be made by this Constitution or by law, shall be in Philadelphia vested in five distinct and separate courts of equal and co-ordinate jurisdiction, composed of three judges each. The said courts in Philadelphia shall be designated respectively as the court of common pleas number one, number two, number three, number four, and number five, but the number of said courts may be by law increased, from time to time, and shall be in like manner designated by successive numbers. The number of judges in any of said courts, or in any county where the establishment of an additional court may be authorized by law, may be increased, from time to time, and whenever such increase shall amount in the whole to three, such three judges shall compose a distinct and separate court as aforesaid, which shall be numbered as aforesaid. In Philadelphia all suits shall be instituted in the said courts of common pleas without designating the number of the said court, and the several courts shall distribute and apportion the business among them in such manner as shall be provided by rules of court, and each court, to which any suit shall be thus assigned, shall have exclusive jurisdiction thereof, subject to change of venue, as shall be provided by law.

In the county of Allegheny all the jurisdiction and powers now vested in the several numbered courts of common pleas shall be vested in one court of common pleas, composed of all the judges in commission in said courts. Such jurisdiction and powers shall extend to all proceedings at law and in equity which shall have been instituted in the several numbered courts, and shall be subject to such changes as may be made by law, and subject to change of venue as provided by law.

[The president judge of said court shall be selected as provided by law.] The number of judges in said court may be by law increased from time to time. This amendment shall take effect on the first day of January succeeding its adoption.

Section 2. Article five of the Constitution of Pennsylvania is amended by adding at the end thereof, a new section to read:

Section 29. President Judges.—The president judges of courts of common pleas, courts of oyer and terminer, and general jail delivery, courts of quarter sessions of the peace, orphans' courts, magistrates courts, and such other courts as the General Assembly has established or may from time to time establish shall be elected by the judges of such courts as frequently as they shall deem proper.

Referred to Committee on Judiciary.

No. 1072

By DELEGATES OTTO, DUMBAULD and HUGGINS

A PROPOSAL

Amending the Constitution of Pennsylvania, fixing a date by which the Governor shall submit a budget to the General Assembly.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Article eight of the Constitution of Pennsylvania is amended by adding after section three, a new section to read:

Section 3A. Budget—In order that proper financing and

taxation may be provided for this Commonwealth, there shall be submitted by the Governor to the General Assembly of Pennsylvania a budget by the first day of April prior to the beginning of the fiscal year to which the budget shall apply.

Referred to Committee on Taxation and Finance.

PRESIDENT BRODERICK You may now proceed with your remarks, Delegate Otto.

DELEGATE OTTO Mr President, Delegate Huggins and myself have introduced the amendment with respect to the change in the selection of the Chief Justice of the Supreme Court and the Presidents of the various other courts of the Commonwealth.

The procedure would be that the judges within the confines of each particular court would elect, when they see fit, the Chief Justice or the President of the court. We feel that this is a forward step in this selection which has been on the seniority basis in the past

With respect to the second proposal, in order that the proper financing and taxation and legislation could be handled in a quicker and more orderly fashion, Delegates Dumbauld, Huggins, Thomson and myself are recommending in our proposal that the Governor submit to the General Assembly no later than April 1 his budget for the following fiscal year

Thank you very much.

PRESIDENT BRODERICK. Thank you, Delegate Otto.

The Chair recognizes the delegate from Philadelphia, Delegate Amsterdam

DELEGATE AMSTERDAM Mr President, I read in place and present the following proposals:

No. 1073

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania by repealing the provision relating to the limitation on reserve funds.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Section thirteen of article eight of the Constitution of Pennsylvania which reads as follows is repealed.

[Section 13 The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured]

Referred to Committee on Taxation and Finance.

No. 1074

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania by repealing

the section relating to special assessment for transit facilities in Philadelphia.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section nineteen of article eight of the Constitution of Pennsylvania which reads as follows is repealed.

[Section 19. The city of Philadelphia, in constructing, for the benefit of the inhabitants thereof, transit subways, rapid transit railways, or other local transit facilities for the transportation of persons or property, shall have the power, in order the more justly to distribute the benefits and costs of such transit facilities, to levy special assessments against such properties, whether abutting or not abutting upon said transit facilities, as are or will be specially and particularly benefited by the construction or operation of such transit facilities; such power to be exercised in accordance with existing or with future laws or pursuant to statutes enacted prior to the adoption of this amendment but made effective by it. Such special assessments, when so levied, may be made payable presently when levied or in installments over a period of years, with or without interest, and shall immediately, when so levied, be deducted from any indebtedness incurred for such purposes in calculating the debt of such city. Such city may acquire by eminent domain either the fee or less estate or easements in land necessary for the construction or operation of such transit facilities or for the disposal of earth or material excavated in the construction thereof or for other incidental purposes; but this provision shall not create any additional powers for the condemnation of any railroad or street railway in operation.]

Referred to Committee on Local Government.

No. 1075

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania by further providing for exemptions from taxation.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly [may] shall, by general laws, exempt from taxation public property used for public purposes, except public utilities, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly [may] shall by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof; and the General Assembly shall by

general laws exempt persons of low income from real estate taxation. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation. Any taxing authority may tax subjects taxed or licensed by the Commonwealth.

Referred to Committee on Taxation and Finance.

No. 1076

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania providing that municipal or private debt shall not be assumed by the State.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section nine of article eight of the Constitution of Pennsylvania is amended to read:

Section 9. Municipal or Private Debt Not to Be Assumed by State.—The Commonwealth shall not assume the debt, or any part thereof, of any city, county, borough, [or] township or other political subdivision, or of any individual, association or corporation, unless such debt shall have been contracted by reason of riot or civil disorder or to enable the State to [repel invasion, suppress domestic insurrection,] suppress insurrection or defend itself in time of war [or to assist the State in the discharge of any portion of its present indebtedness].

Referred to Committee on Taxation and Finance.

No. 1077

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania by removing the limitation of State debt.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four of article eight of the Constitution of Pennsylvania which reads as follows is repealed.

[Section 4. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Pro-

vided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.]

Referred to Committee on Taxation and Finance.

No. 1078

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania prohibiting municipalities from becoming stockholders in corporations.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section seven of article eight of the Constitution of Pennsylvania is amended to read:

Section 7. Municipalities Not to Become Stockholders in Corporations.—[The General Assembly shall not authorize any] No county, city, borough, [township or incorporated district to] incorporated town, township, school district or other political subdivision shall become a stockholder in any company, association or corporation or [to] obtain or appropriate money for, or [to] loan its credit to, any corporation, association, institution or individual.

Referred to Committee on Local Government.

No. 1079

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania providing for abolishment of county offices in Philadelphia.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eight, article fourteen of the Constitution of Pennsylvania is amended to read:

Section 8. Abolition of County Offices in Philadelphia.—(1) In Philadelphia all county offices are hereby abolished [, and the]. The city shall henceforth perform all functions of county government within its area [through officers selected in such manner as may be provided by law].

(2) Local and special laws, [regulating the affairs of] with respect to powers granted to the city of Philadelphia [and creating offices or prescribing the powers and duties of officers of the city of Philadelphia], shall be valid notwithstanding the provisions of [section seven of article three of] this Constitution relating to local and special legislation.

(3) All laws applicable to the county of Philadelphia shall apply to the city of Philadelphia.

(4) The city of Philadelphia shall have, assume and take over all powers, property, obligations and indebtedness of the county of Philadelphia.

(5) [The provisions of article fifteen, section one of the

Constitution shall apply with full force and effect to the functions of the county government hereafter to be performed by the city government.

(6) This amendment shall become effective immediately upon its adoption.

(7) Upon adoption of this amendment all county officers shall become officers of the city of Philadelphia, and, until the General Assembly shall otherwise provide, shall continue to perform their duties and be elected, appointed, compensated and organized in such manner as may be provided by the provisions of this Constitution and the laws of the Commonwealth in effect at the time this amendment becomes effective, but such officers serving when this amendment becomes effective shall be permitted to complete their terms.] All officers performing functions of county government shall be officers of the city of Philadelphia through amendment to the Philadelphia Home Rule Charter, shall continue to perform their duties and be elected, appointed, compensated and organized in the manner now in effect.

Referred to Committee on Local Government.

No. 1080

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania by providing a merit system for non-judicial employees of the courts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding, at the end thereof, a new section to read:

ARTICLE V THE JUDICIARY

* * *

Section . Court Personnel; Merit System.—The Supreme Court shall prescribe a merit system for appointment, promotion, removal, discipline, and suspension of non-judicial personnel in the judicial system and may provide for exempt categories. The Supreme Court may administer the merit system through an administrative director, or may provide for its administration by other appropriate agencies of the State or political subdivisions, who shall be required to render necessary assistance to the court.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, these proposals result from conversations which a number of delegates from the Philadelphia area had with members of the city government in the city of Philadelphia. We believe that they are so persuasive that it really will not be necessary to say very much in the way of recommendation for their adoption by this Convention.

However, I do want to say that the other delegates who have been sitting in on these conversations have not had an opportunity to see these proposals because we did want to get them to the Convention floor just as quickly as possible. It may be that they would want to add their names to the sponsorship of these proposals at some future time.

Thank you, Mr. President

CORRECTION ON REREFERRAL OF PROPOSALS

PRESIDENT BRODERICK The Chair recognizes Delegate Woodring

DELEGATE WOODRING Mr. President, I do not have a proposal, but ask leave to endeavor to make a correction on the rereferrals of two proposals

I note by the history that 1032 is noted as having been rereferred to the Committee on Taxation. This is one of the two authority bills. Originally the Committee on State Finance and Taxation determined that this was a local government question and asked leave to defer rereferral. The Chair has advised otherwise and both 1032 and 1042 have been rereferred to the three subcommittees of Taxation.

PRESIDENT BRODERICK. Thank you very much, Delegate Woodring.

RESOLUTIONS

PRESIDENT BRODERICK. The Chair recognizes the delegate from Chester, Delegate Thomson.

DELEGATE THOMSON Mr. President, in the county seat of West Chester yesterday there was elevated to the Superior Court of Pennsylvania a distinguished citizen of our county. In that elevation there was recognized the respect and ability of a very prominent citizen in our county. I feel that that elevation to that exalted office in our judicial system is also something that should be noted by this Convention, of which said gentleman is a distinguished delegate.

Therefore, Mr. President, I am presenting a resolution and if it is not contrary to the rules, I would appreciate its immediate consideration

PRESIDENT BRODERICK Without objection, the Chair will permit immediate consideration of this resolution. The Chair hears no objection.

The Clerk read the following resolution:

In the Constitutional Convention, January 2, 1968

John B. Hannum of Chester County has been appointed Judge of the Superior Court to succeed President Judge Harold L. Ervin whose resignation became effective January 1, 1968.

His appointment to the Superior Court and his election as a delegate to this Constitutional Convention are only the latest of Judge Hannum's many contributions to public service. He is also a trustee of Dickinson School of Law and president of its Alumni Association, and a member of the Executive Committee of the Board of Trustees of Lincoln University. His past service includes election to the Electoral College in 1956 and election as a delegate to the Republican National Convention in 1960; therefore be it

RESOLVED, That the Constitutional Conven-

tion of Pennsylvania congratulates the Honorable John B. Hannum on his appointment as Judge of the Superior Court, and be it further

RESOLVED, That a copy of this resolution be presented to the Honorable John B. Hannum.

HAROLD A. THOMSON

PRESIDENT BRODERICK The Chair recognizes Secretary Michener, who wishes to second that resolution

SECRETARY MICHENER. Mr. President I had the honor of meeting the subject of this resolution for the first time at the preliminary session that was held on the campus at the former air base here in Harrisburg. I did not know who he was and I noted the attention with which he followed every bit of the instruction that was coming from the leaders of that preliminary session. I assumed he was a man, like me, who knew nothing about the subject at hand, and when I discovered who he was, I learned that he was a man who knew at least as much as the men who were talking.

I thought it was a remarkable gesture of citizenship that he would take the time out to attend these hearings and perfect himself in the event that he was elected a delegate.

It is with a great feeling of pride that I second the resolution that has just been presented

PRESIDENT BRODERICK Thank you, Secretary Michener.

The Chair recognizes the delegate from the 15th District, Delegate Woodside

DELEGATE WOODSIDE. I would like to third, if I may, the resolution that has been presented

I think that both the Superior Court of the Commonwealth of Pennsylvania and this Convention, as well as Mr. Hannum, ought to be congratulated on the appointment.

I have known the appointee for many years and served on the board of trustees at Dickinson School of Law with him. He is one of the outstanding lawyers of this Commonwealth of Pennsylvania and he is going on one of the greatest courts in this whole country

PRESIDENT BRODERICK Thank you, Delegate Woodside.

It has been moved, seconded and thirded that this resolution be adopted.

On the question

Will the delegates adopt the resolution?

PRESIDENT BRODERICK The resolution is unanimously adopted and the Chair would like to just offer his own words of congratulation to one of our members. I do think he deserves our round of applause

The Chair recognizes Delegate Hannum

DELEGATE HANNUM. Mr. President and my beloved colleagues of the Constitutional Convention, I will be very brief in stating this: This recent appointment has solidified my concepts of tenure

PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. Mr President, I rise to a question of personal privilege at this time

PRESIDENT BRODERICK The gentleman will state it.

DELEGATE HOOK Mr President, on Friday, December 29, 1967, there appeared an article in the Pittsburgh Press pertaining to the Constitutional Convention. There are two points contained in this article that I think are very valuable to the Convention

One has to deal with free lunches and the other one has to deal with overtime pay

PRESIDENT BRODERICK I think you should proceed. We are interested in both

DELEGATE HOOK I feel a little bit guilty here, Mr. President, as I did participate last week in the hearings and was a recipient of the free lunches. But I do speak on this matter because I feel it is very important for the delegates who are here and I believe also there is some explaining to be done by the Convention staff pertaining to this, as I do not think anyone was aware of the free lunches before we appeared here last week, first of all.

Secondly, I do not believe that it was covered in our budget as approved by the Convention. I, as one, would like to know how we get a free ride in some situations and others we do not, as I was of the opinion that I would receive \$2,500 and I would receive my mileage at 10 cents a mile.

I do not know—this article goes on and says this is a free meal, they are common at the Capitol. It states officials are not permitted to include lunches on their expense accounts when they are in town. I believe that this should be explained.

I talked to the chairman of the Administration and Finance this afternoon and he said he was not of this opinion. He knew nothing about it and I would like to know under whose auspices this was given and if this is going to be true practice for the remainder of the Convention

Also at the same time, I call to your attention the matter of salary of one of the participants on one of the committees. Mr. Stefanon has reported 91 hours overtime in a two-week period and received a sum of \$1,183. I feel that if this man is a secretary of the Department of Education, I was of the opinion myself that if these gentlemen were to serve on a part-time basis with the Convention, they would be paid on a part-time basis, but for a two-week period of 91 hours. Mr. Stefanon received the sum of \$1,183. I would like to know also if this was approved by the Committee on Administration and Finance as such.

I believe it is entitled to be said at this time that all delegates are making a personal sacrifice, but it appears that we must have some freeloaders that are here.

PRESIDENT BRODERICK. Thank you, Delegate Hook.

We will ask the Executive Director, Mr. Ingram, to look into the matter as requested by you and give you a report.

COMMITTEE MEETINGS

JUDICIARY, Co-Chairmen Scranton and Amsterdam, subcommittees B and C, Tuesday, January 2, 1968, immediately after today's session.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, entire committee, Room 609, Tuesday, January 2, 1968, immediately after today's session.

LOCAL GOVERNMENT COMMITTEE, Co-Chairmen Manderino and Pasquerilla, entire committee, Room 216, Old Museum Building, Tuesday, January 2, 1968, immediately after today's session; all subcommittee chairmen, Dutch Room of the Penn Harris Hotel, Tuesday, January 2, 1968, at 6 30 p.m., est.

ANNOUNCEMENTS BY DELEGATE SCRANTON

PRESIDENT BRODERICK The Chair recognizes the Co-Chairman of the Judiciary Committee, Delegate Scranton

DELEGATE SCRANTON The subcommittee on Judicial Organization and Administration, which is one of the most contentious and difficult subjects that we have before the Convention, has asked the other members of the Judiciary Committee who may wish to, to present their views to that subcommittee tomorrow afternoon at an open session from two until five o'clock, and I hope that they will take advantage of this opportunity. This is before the subcommittee presents any proposals to the full committee

The Committee on Judiciary made a request to the Committee on Administration to have certain eminent individuals come and appear before the members of the Judiciary Committee, and two are due this week. Justice Hall of Missouri will discuss the Missouri Plan, and we will tell you precisely what time and place on January 4. We are hopeful to be able to get a big enough room to have as many delegates as wish to attend

Secondly, Mr. Glenn Winters of the American Judicature Society will be here on January 5, Friday, for the same purpose—to discuss not just that, but many other things that this Judicature Society is taking a primary interest in, and likewise we are trying to find a room large enough to hold not only the Judiciary Committee, but other delegates if they are interested. We will let you know the exact time and place later.

PRESIDENT BRODERICK Thank you, Delegate Scranton.

ANNOUNCEMENTS BY THE CLERK

PRESIDENT BRODERICK We will now have announcements by the clerk

The CLERK. A number of delegates have failed to pick up their mail from the boxes located in Room 511 in the North Office Building. As a result, the boxes are filled to capacity and it is impossible to distribute current incoming mail and messages. To relieve this condition, delegates' mail and messages not picked up by Wednesday afternoon of each week henceforth will be packaged and forwarded to the delegates' home address

The delegates are again reminded that hotel space in Harrisburg will be in unusually great demand during Farm Show week, to begin January 15, 1968. It is imperative that delegates occupying hotel rooms on a continuing basis notify the hotel management of their plans for Farm Show week if they wish to have their room reservation protected. This is a must.

Delegates who attended the public hearings in Harrisburg on December 27, 28, and 29 were asked to sign a register in order to qualify for mileage reimbursement for that week. If any delegates who attended did not sign the

register, they may do so by calling the Convention office, Room 500, North Office Building.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes the delegate from Montgomery, Delegate Sprogell for the adjournment motion

DELEGATE SPROGELL Mr. President, I move that

this Convention do now adjourn until Wednesday, January 3, 1968, at 9 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by the delegate from Montgomery, Delegate Sprogell, and seconded by the delegate from Franklin, Delegate Keller, that the Convention do now adjourn until Wednesday, January 3, 1968, at 9 a.m., e.s.t.

The motion was agreed to, and (at 4:44 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Wednesday, January 3, 1968

Number 15

The Convention was called to order at 9 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND GILBERT BENNETT, pastor of the Calvary Methodist Church, Harrisburg, Pennsylvania, offered the following prayer:

God of our Fathers, we enter Thy presence with thanksgiving; we come into Thy courts with praise. In Thy goodness and mercy Thou hast enriched the earth with beauty and plenty. In field and in meadow, on hilltop and in valley, we witness the unceasing flow of Thy bounty and rejoice in the unnumbered mercies of Thy grace and providence. Thou hast surrounded us with the endless wonders of Thy creation and hast caused Thy glory to shine into our hearts, that we may become ennobled by Thy spirit and may seek to glorify Thy Holy Name in all our ways.

And we thank Thee, O Father, for the many blessings Thou hast bestowed upon us.

We gratefully recall the living care with which Thou hast watched over our forefathers. Always, in the deserts and wildernesses of our national life and life in this great Commonwealth, Thou hast given them shelter and protecting love. With a Father's love Thou didst guide and shield them and lead them forth to be bearers of Thy truth and champions of Thy law.

As it was with our Fathers, O Lord, so let it be with us. Grant unto these delegates power to see beyond the fleeting moments of the present and may there come from their labors a new constitution for our Commonwealth that shall inspire men and women and young people to serve their fellowmen with equity and justice. May the dream of brotherhood become a resounding reality in our day.

O God, it is not so much what we can get from this State that counts but what we can give to it.

May the God of Peace direct our lives this day and every day.

Amen.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary of our Convention, Delegate Michener, for leaves of absence.

SECRETARY MICHENER. Mr. President, I want to submit the following requests for leaves of absence:

The delegate from the 42nd district, **DELEGATE FAGAN**, asks to be absent on January 3, on account of a law case;

The delegate from the 49th District, **DELEGATE GEHRLEIN**, asks to be absent on January 4 and 5, on account of illness;

The delegate from the 27th District, **DELEGATE CROOP**, asks to be absent on January 8 and 9.

Mr. President, this Convention has among its members only one man who is president of a bank. That distinguished gentleman, Delegate Croop, from the 27th District, has just handed me a note asking to be excused for January 8 and 9. He says, "I want to go home and count it."

PRESIDENT BRODERICK. Are there any objections to the requests for leaves?

The Chair hears no objections, and the leaves of absence are granted.

COMMITTEE REPORTS

PRESIDENT BRODERICK. The next order of business is Committee Reports. The Chair now asks for referrals of proposals to subcommittees.

PROPOSALS REFERRED TO SUBCOMMITTEES

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, the Committee on Taxation and State Finance has referred the following proposals:

- No. 1058 to the Subcommittee on State Debt;
- No. 1067 to the Subcommittee on Taxation;
- No. 1070 to the Subcommittees on Taxation, State Debt and Sinking Fund;
- No. 1072 to the Subcommittee on Sinking Fund;
- No. 1073 to the Subcommittee on Sinking Fund;
- No. 1075 to the Subcommittee on Taxation;
- No. 1076 to the Subcommittee on State Debt;
- No. 1077 to the Subcommittee on State Debt.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Judiciary Committee, Delegate Scranton.

DELEGATE SCRANTON. Mr. President, the Committee on Judiciary has referred the following proposals:

- No. 1063 to Subcommittees A, B, C and E;
- No. 1068 to Subcommittees A and E;
- No. 1071 to Subcommittees A, B and E;
- No. 1080 to Subcommittee E.

PRESIDENT BRODERICK. Thank you, Chairman Scranton.

PROPOSAL REFERRED

PRESIDENT BRODERICK. We now move to introduction of proposals. The proposal introduced yesterday by Delegate O'Donnell, amending the Constitution, making changes relating to legislative apportionment, has been referred to the Committee on Legislative Apportionment.

PROPOSALS RETURNED

PRESIDENT BRODERICK. We have one proposal introduced yesterday by Delegate Amsterdam; I believe it is the one we referred to as No. 9. According to the reports and the opinions written by counsel for the Convention, as well as the Attorney General's opinion, this proposal does not come within the authority of the Convention. This has been discussed, I believe, with Chairman Amsterdam and will be returned with the understanding that he may revise it to bring it within the authority of the Convention.

We also had two proposals yesterday introduced by Delegate Dumbauld. One of these proposals was a proposal amending the constitution prohibiting the appropriation of State funds to certain schools, and the other one amending the constitution to provide that appropriations to certain schools be made on a basis proportionate to the number of students in the school. The legal opinions in connection with each of these have stated that they are not within the authority of the Convention and, therefore, they are being returned to Delegate Dumbauld for either correction or abandonment.

PROPOSALS INTRODUCED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Chester, Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I read in place and present to the Chair the following proposal:

No. 1081

By DELEGATE O'DONNELL

A PROPOSAL

Amending the Constitution of Pennsylvania making changes relating to legislative apportionment.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen, seventeen and eighteen of article two of the Constitution of Pennsylvania are amended to read:

Section 16. Senatorial Districts; Ratio.—The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate

district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No] Unless division shall be absolutely necessary, no ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

Section 17. [The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] Representative Districts; Ratio.—The State shall be divided into two hundred representative districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no ward, borough or township shall be divided in the formation of a representative district. The representative ratio shall be ascertained by dividing the whole population of the State by the number two hundred.

Section 18. [The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.]

Legislative Apportionment.—(a) Immediately after each United States decennial census, the State shall be apportioned into senatorial and representative districts by an apportionment commission composed of seven members. Three members of the apportionment commission shall be appointed by the Governor with the advice and consent of those Senators who are members of the political party having the greatest number of members elected to the Senate. Three members of the apportionment commission shall be appointed by the Governor with the advice and consent of those Senators who are members of the political party having the second greatest number of members elected to the Senate. One member of the apportionment commission, who shall be chairman, shall be selected by the six members appointed by the Governor. All members of the apportionment commission shall be citizens of the United States and Commonwealth of Pennsylvania and none shall be a member of the General Assembly. The apportionment commission shall complete its work within one hundred twenty days and shall file the reapportion-

ments in the same office in which acts of the General Assembly are filed.

(b) If the apportionment commission fails within one hundred twenty days to complete its work, upon petition of any citizen of the United States and Commonwealth of Pennsylvania, the Supreme Court shall apportion the Commonwealth into senatorial and representative districts and for that purpose the Supreme Court shall have original jurisdiction. To assist the court in performing this task, the court may appoint and fix the compensation of a master or a board of masters for the purpose of taking testimony and making recommendations to the court. The court shall conclude its work as expeditiously as possible and shall file the reapportionments in the same office in which acts of the General Assembly are filed.

(c) Any apportionment made under section 18, clause (a) shall be reviewable on appeal exclusively by the Supreme Court of Pennsylvania. Any such apportionment shall become effective when the Supreme Court has finally decided the appeal or when the last day for taking an appeal has passed and no appeal has been taken.

(d) Any apportionment made by the Supreme Court under section 18, clause (b) shall become effective immediately.

(e) At the first primary election occurring sixty days or more after a new apportionment has become effective, Senators and Representatives shall be nominated and, notwithstanding the provisions of section 2 of this article, they shall be elected at the following municipal or general election.

(f) Notwithstanding the provisions of section 3 of this article, the terms of any Representatives elected at a municipal election shall be three years, the terms of Senators elected at such election from odd-numbered districts shall be three years, and the terms of Senators elected at such election from even-numbered districts shall be five years. At the expiration of these terms all Senators and Representatives shall be elected at general elections, Representatives for two years, and Senators for four years.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Cosetti.

DELEGATE COSETTI. Mr. President, I read in place and present to the Chair the following proposals:

No. 1082

By **DELEGATES COSETTI, BALDUS, BALDWIN, BALDRIGE, FOHL and POTT**

A PROPOSAL

Amending the Constitution of Pennsylvania establishing and regulating a balanced State budget for the next fiscal year and financial plans for the succeeding five years.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding at the end thereof a new section to read:

Section 25. Submission of Budget and Financial Plan.—Each year the Governor shall submit to the General As-

sembly for approval a budget for the next fiscal year and a financial plan for each of the succeeding five fiscal years setting forth separately all anticipated debt service, operating and capital expenditures by each department, agency, authority and instrumentality and for all programs, projects and facilities of the State. The anticipated revenue from all sources including grants, existing taxes, new taxes and borrowed funds shall be set forth separately. Proposed expenditures from any fund shall not exceed the estimated revenues thereof.

No appropriation act shall become effective until the General Assembly first adopts a balanced budget for the next fiscal year and balanced financial plans for each of the five succeeding years. The Governor's estimate of anticipated tax revenues may not be changed by the General Assembly. All laws establishing or amending a program which requires the expenditure of capital or operating moneys shall contain an estimate of the moneys required for the operation of the program in the next fiscal year and in each of the five succeeding years.

The details and time of preparation, presentation and adoption of the budget and financial plans shall be prescribed by law.

Referred to Committee on Taxation and State Finance.

No. 1083

By **DELEGATES COSETTI, FOHL, BALDUS and REDICK**

A PROPOSAL

Amending the Constitution of Pennsylvania, further regulating State debt.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four of article eight of the Constitution of Pennsylvania is amended to read:

Section 4. State Debt.—[No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or to pay existing debt; and the debt to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.] (a) No debt shall be created by the State unless:

(1) The debt has been authorized by statute, and

(2) It is incurred to suppress insurrection, to rehabilitate areas affected by disaster, to supply short term casual deficiencies of revenue by the issuance of tax anticipation notes payable in the fiscal period in which they are issued, or to implement unexpended authority voted by the electors prior to the adoption of this article, or

(3) The debt is for capital improvements or for the assumption of obligations issued by an authority or instrumentality of the State, and the annual debt service on such debt together with all other existing annual debt service, including interest, repayment of principal, and authority rentals for non-self-supporting debt, shall not exceed four per cent of the sum of the tax revenues of the previous

three fiscal years; or shall not exceed six per cent of the sum of the tax revenues of the previous three fiscal years' tax revenues unless such debt is approved by two-thirds vote of the General Assembly, or

(4) The debt is for any purpose including those specifically enumerated in this section, separately specified in the statute and the question whether the debt shall be incurred has been submitted to the electors and a majority of those voting on the question shall have voted in the affirmative.

(b) All debt of the State its authorities and instrumentalities for capital improvements shall mature within a period not to exceed the usefulness of the capital improvements for which they are issued, which shall not exceed forty years. The estimated period of usefulness shall be stated in the statute authorizing the project, and when so stated shall be conclusive.

Referred to Committee on Taxation and State Finance.

No. 1084

By DELEGATES COSETTI, BALDUS, BALDWIN
and BALDRIGE

A PROPOSAL

Amending the Constitution of Pennsylvania, providing for Commonwealth reimbursement of local governments for losses of revenue incurred by certain exemptions.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section one, a new section to read:

Section 1A. Reimbursement of Local Governments.—The Commonwealth shall reimburse local governments for losses of revenue incurred by exemptions created by this article. Reimbursements for exemptions shall be a uniform percentage of the comparable taxes that would be imposed consistent with local tax practices. Actual places of religious worship shall not be included for reimbursement.

Referred to Committee on Taxation and State Finance.

No. 1085

By DELEGATES COSETTI, BALDUS, BALDWIN
and BALDRIGE

A PROPOSAL

Amending the Constitution of Pennsylvania, limiting tax exemption to cemeteries not engaged in the sale of personal property in competition with taxpayers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects,

within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit or by an entity engaged in the sale of personal property in competition with taxpayers, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

Referred to Committee on Taxation and Finance.

PRESIDENT BRODERICK You may proceed with your statement, Delegate Cosetti.

DELEGATE COSETTI. I wish to first acknowledge the help of Delegate Baldus in the preparation of these proposals and also to note that they are variously supported by Messrs. Baldus, Baldrige, Baldwin, Pott, Fohl and Redick.

The committee on which I serve has been most generous in permitting me to present my views. I do not present them again here because of a lack of a forum there, but to encourage those of you who are interested in these measures to assist me in perfecting them further.

The first proposal pertains to budgeting, a subject on which our constitution is silent. It is worthy to note that all of the other recently adopted State constitutions have strong budget provisions. Following the lead of business, political scholars for a number of years have been emphasizing the advantages of good budgeting practices to efficient government. Effective state budgeting requires that the Governor be charged with the responsibility of preparing and submitting a comprehensive budget outlining plans, programs and expenditures and income for a number of years. In many states, including our own, the budget department is immersed in the immediate fiscal year ahead or even shorter time periods and are so burdened with administrative detail that they rarely take a look at the longer view. Very little is done in the area of cost benefit studies, cost effectiveness and with the current concept of planning, programming and budgeting.

This proposal requires the Governor to submit a budget for the next fiscal year and a financial plan for each of the five succeeding fiscal years. It requires the adoption of a balanced budget and plans before appropriations

may become effective. It requires legislation authorizing the expenditure of moneys to have attached an estimate of its cost. And, finally, it empowers the legislature to specify in further detail as time and science permit.

The second proposal amends Section 4 dealing with state debt. As all of you know, the present Constitution forbids direct state debt and only permits it by the time-consuming and cumbersome procedure of constitutional amendment, requiring two legislative sessions and a vote of the people. This stringency has forced the courts, in their wisdom, to do violence to the intent of the present Constitution and has encouraged the growth of authorities. In effect, we find ourselves in a situation in which there is no present constitutional limitation on state debt unless we use this costly means of providing it.

This proposal is intended to offer the State alternative methods of creating debt. I will only refer to a unique provision as many of the delegates' provisions are included in other proposals. It permits debt by statute for capital improvements and for the assumption of authority debt, providing a certain ratio of debt service and tax revenue is maintained. Without detailed research, we are suggesting that that ratio be four per cent of the last three fiscal years' tax revenue and that the debt service for this purpose include the debt service of authority debts. We are also suggesting that by a two-thirds majority of the legislature, this debt service could go to six per cent.

We think this proposal meets many of the requirements of a good debt proposal in that it permits the legislature to act in an emergency. It permits the legislature to create debt for capital improvement providing it keeps within prudent limits and ability of the State to pay. It also permits the legislature to go to the people on those measures in which it wants the concurrence of the people.

The third proposal amends Section 5 of the present Constitution which requires debt to be specific as to purpose. This section is quite old and can be traced to the 1838 Constitution. It has very little significance today because it does not apply to authority debt and because direct debt by constitutional amendment is specific by nature.

If the previous proposal is adopted, the legislature's ability to create debt will be increased. We, therefore, are revitalizing Section 5 and including within its competence, authority debt. In addition, it grants to the Governor an item veto over debt authorizations of all types.

The fourth proposal deals with the subject of exemptions. Most scholars urge us to remove all exemptions. I realize there are emotional reasons why, after many years of usage, it may be politically impractical to remove these exemptions. Almost all agree that a system in which the State determines the purpose and then requires a local government to subsidize that purpose is inequitable. In almost all cases these facilities which are subsidized serve a wider area than the municipality in which they are located.

This proposal would require the State to reimburse the local taxing authorities by a uniform percentage—quite small at first—of the taxes that would have been collected from that property if it were not exempted by this article.

The fifth proposal deals with exemptions associated with places of burial and Mr. Roystan, at public hearings last Friday dealt with this in detail.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Cosetti.

The Chair recognizes Delegate Roberts.

DELEGATE ROBERTS. Mr. President, I read in place and present the following proposal:

No. 1086

By DELEGATE ROBERTS

A PROPOSAL

Amending the Constitution of Pennsylvania providing for a county zoning administrator.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one, article fourteen of the Constitution of Pennsylvania is amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys, zoning administrators and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected

Referred to Committee on Local Government.

PRESIDENT BRODERICK The Chair recognizes Delegate Roberts.

DELEGATE ROBERTS. Mr. President, the purpose and intent of this proposal is to create a mandatory, elective office to be added to the list of county offices enumerated in Section 1 of Article XIV providing for a county zoning administrator.

We in Pennsylvania can be justly proud of the splendid and highly sensitive work which has been done by many local zoning planning commissions, but unfortunately we find in some areas a lack of cooperation between communities and at times a total failure on the part of some communities to meet the high standards for zoning of an adjacent community.

It seems to me, Mr. President, that some coordinative effort is needed.

It is my prayer, Mr. President, that the appropriate committee and this body itself will amend the present Constitution of our Commonwealth to create a zoning administrator for every county, mandatory and elective.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Roberts.

The Chair recognizes the delegate from Allegheny, Delegate Baldus.

DELEGATE BALDUS. Mr. President, I read in place and present to the Chair the following proposal and request permission to speak briefly on it.

No. 1087

By DELEGATES BALDUS and BASHOFF

A PROPOSAL

Amending the Constitution of Pennsylvania, revising the

term of Supreme Court judges and providing for non-partisan reelection of all judges on their records.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections two, fifteen and twenty-five, article five of the Constitution of Pennsylvania are amended to read:

Section 2. Supreme Court; Chief Justice.—The Supreme Court shall consist of seven judges, who shall be elected by the qualified electors of the State at large. [They shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible.] The judge [whose commission shall first expire] longest in continuous service on the court shall be chief justice, [and thereafter each judge whose commission shall first expire shall in turn be chief justice] and in case two or more judges have continuously served during the same period, the senior in age of these shall be chief justice.

Section 15. Election and Reelection of Judges; Term; Removal.—All judges required to be learned in the law, [except the judges of the Supreme Court,] shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, [if they shall so long behave themselves well; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any of them on the address of two-thirds of each House of the General Assembly] unless sooner removed. Not less than six months prior to the general or municipal election appropriate to the office, next preceding the expiration of his term of office, any previously elected judge learned in the law may file in the office in charge of State-wide elections a declaration of candidacy to succeed himself, and the name of a judge filing such declaration shall be submitted to the voters, on a separate judicial ballot or in a separate column on voting machines, in either case without party designation on the sole question whether he shall be retained in office for another term. The affirmative votes of a majority of the voters voting on the question shall elect him to the full term of office provided herein unless sooner removed. Any judge who fails of reelection shall vacate his office at the expiration of his term, whether or not his successor, who shall be selected pursuant to section twenty-five of this article, shall yet have qualified. The office of any judge who does not file a declaration within the time herein specified shall be filled by election at the general or municipal election appropriate to the office next preceding the expiration of his term of office. No judge shall be a candidate for reelection under this section if he is a candidate for any other judicial or public office.

The Chief Justice of the Supreme Court may designate and assign former judges, learned in the law, who are willing so to do, who have served at least one term and who have not been defeated for reelection, to the office of judge of any court of record, to temporarily sit in the courts of any judicial district for the disposal of business under such circumstances and subject to such qualifications and conditions as the General Assembly may prescribe.

Section 25. Filling Vacancies in Courts of Record.—Any vacancy happening by death, resignation, rejection, removal or retirement or otherwise, in any court of record, shall

be filled by appointment by the Governor, to continue till the first Monday of January next succeeding the first general or municipal election appropriate to the office, which shall occur three or more months after the happening of such vacancy.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Mr. President, the proposal granting powers of local self-government to cities is being introduced by all nine delegates from the city of Pittsburgh. This proposal was prepared for submission after consultation with Pittsburgh city officials and it represents a bipartisan effort to provide all our cities with the powers they now need to deal with the governmental problems we face in urban centers such as Pittsburgh.

The proposal gives all our cities residual powers of the type now exercised by Philadelphia. In addition, it provides exclusive powers superior to statute in the fields of personnel, taxation and structure and organization.

The urban problem, Mr. President, is the problem of our time and it is our hope that the Convention will give our cities the powers needed to meet the challenge.

Mr. President, I have also introduced a proposal which will empower both the state and local governments to encourage private investment in the fields of public need through tax incentives, loans of credit and direct financial assistance.

This proposal will remove barriers in the present constitution which prohibit our local governments from acting in partnership with private business to solve community problems in such areas as job training, housing, economic development and urban renewal. The private sector, Mr. President, has the capacity to help both our cities and rural communities. Our Constitution must be changed to enable local government to draw fully on this capacity in the years ahead.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Otto

DELEGATE OTTO Mr. President, I read in place and present the following proposal

No. 1088

By DELEGATES OTTO and CROOP

A PROPOSAL

Amending the Constitution of Pennsylvania providing for apportionment of the State into senatorial and representative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eighteen, article two of the Constitution of Pennsylvania is amended to read:

Section 18 Legislative Apportionment.—(a) The General Assembly at its first session after the adoption of this amendment to the Constitution, and [immediately] after [each] receipt of certification of the United States [decennial] official census for Pennsylvania, shall apportion

within ninety days the State into senatorial and representative districts [agreeable to the provisions of the two next preceding sections] agreeable to the other provisions of this article.

(b) If the General Assembly fails to apportion the State into new senatorial and representative districts within the ninety day period, the Governor and the majority and minority leaders of the General Assembly shall appoint, within thirty days, an independent commission to perform this function within a ninety day period. The commission's recommended plan shall be subject to the approval of the General Assembly.

(c) If the General Assembly fails to adopt or amend the plan within sixty days, the plan shall be presented to the State Supreme Court for approval or disapproval within sixty days. If the State Supreme Court rejects the plan, it shall assume original jurisdiction, and shall apportion the senatorial and representative districts within ninety days. Such plan shall take effect immediately.

(d) The General Assembly shall appropriate funds necessary to provide for salaries and expenses incurred in carrying the functions and duties prescribed by this section.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, Delegate Croop and myself have introduced another proposal with respect to how legislative apportionment should take place for the Senate and the House. It is a variation from some of the others that have been introduced.

Mr. President, several weeks ago the citizens of the State were shocked by the actions of the House in passing a six per cent sales tax with votes of missing members. Before that a cigarette tax was passed by the Senate with a newly adopted majority. This is being challenged in the courts at present. The House thereafter, undaunted by the uproar over the taxation mess in the State, then proceeded to pass what has been termed by the press as the "pension grab." Once again absentee votes were cast in gaining the majority vote and absentee members later hollered to the high heavens about this infringement and violation of the House rules. The newspapers again properly informed the people of this State with headlines and editorials titled such as: "Our Image Makers," "A Fraudulent Sales Tax Vote," "The Pennsylvania Legislature—A Study in Indifference," "The Plunder Blunder."

Because of this atmosphere and the encouragement of many people in the Commonwealth who have written and called me, I submit this new adjusted proposal.

I hope, Mr. President, you will seriously consider approval of this second effort which will assure our people that the Convention resents the legislature's voting habits on important matters and rejects the actions which amount to "taxation without representation."

I assure you, sir, that the people next April will overwhelmingly vote for this measure if this body adopts this proposal which requires all members of each House to be physically present in their seats on final passage of any tax and financial measure.

The proposal has been presented by Delegates Dumbauld, Huggins and myself.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bunting.

DELEGATE BUNTING. Mr. President, I read in place and present the following proposal:

No. 1089

By **DELEGATES BUNTING and ROBERTS**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for apportionment of legislative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen and seventeen of article two of the Constitution of Pennsylvania, are amended to read:

Section 16. Senatorial Districts.—The State shall be divided into fifty senatorial districts [of compact and contiguous territory as nearly equal in population as may be], and each senatorial district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.]

Section 17. [The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] **Representative Districts.**—Each senatorial district shall be divided into four representative districts and each representative district shall be entitled to elect one representative.

Section 2. Article two of the Constitution of Pennsylvania is amended by adding after section seventeen, a new section to read:

Section 17.1. Legislative Districts; Composition.—Each legislative district shall be composed of compact and contiguous territory as nearly equal in population as practicable, and shall not be created so as to favor any person or political party.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bunting.

DELEGATE BUNTING. Thank you, Mr. President. This proposal includes one additional sentence or clause that has not appeared in the other proposals relating to legislative apportionment. Delegate Roberts of the 20th Senatorial District joins in this proposal with me. I think it is quite fitting that he does because his district is the horseshoe district.

The gist of this proposal is to expressly prohibit gerrymandering which, I believe, is one of the prime concerns of the voters who called this Convention. We would do so by using language suggested in one of the reference manuals that apportionment shall not be designed to favor any person or political party.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Bunting.

The Chair recognizes the delegate from Mercer, Delegate Scott.

DELEGATE SCOTT. Mr. President, fellow delegates, this is Delegate Scott from the 50th Senatorial District.

I read in place and present to the Chair the following proposal relating to local government and request to comment after the proposal is read.

No. 1090

By **DELEGATE SCOTT**

A PROPOSAL

Amending the Constitution of Pennsylvania to provide that the General Assembly shall reimburse local government units for revenue lost on account of exemptions granted from local taxes.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding a new article to read:

ARTICLE

LOCAL TAXATION

Section 1. Local Taxation.—Local governmental units shall have the power to impose taxes authorized by this Constitution or by general law. Whenever the General Assembly grants exemptions from such taxes it shall likewise provide that the Commonwealth reimburse local governmental units for revenues lost because of such exemptions.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scott.

DELEGATE SCOTT. Mr. President, fellow delegates, I am pleased to sponsor this proposal on behalf of local government. Local governments are creatures of the Commonwealth. The Commonwealth holds a responsibility to provide financial responsibility to local governments so that the services best performed at the local level can be provided at the local level.

The first concern of the local government is revenue. Sometimes it must seem to local officials that they are fighting a losing battle in an attempt to provide services through tax revenues. Citizens are continually increasing their demands for new and more sophisticated and more expensive services. The cost of providing existing services, as everything else, is steadily on the rise.

While all these increases in expenditures are pressing down on local administrations, a whittling away of the local tax base, primarily through state legislative action, compounds the revenue problem. Every session of the legislature sees bills which would exempt another class of property from local taxation.

Each one of these proposals mandates loss of local taxes without providing off-setting revenues. If adopted, this proposal will give local government new strength to meet the challenges of the future in the 20th and 21st centuries.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Scott.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Room 500, North Office Building, Wednesday, January 3, 1968, one-half hour after today's session.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, all subcommittees, Wednesday, January 3, 1968, immediately after today's session.

JUDICIARY, Subcommittee on Judicial Administration and Organization, Room 132, Finance Building, Wednesday, January 3, 1968, at 2 p.m., e.s.t.

LEGISLATIVE APPORTIONMENT, Subcommittee on Composition of Legislature, Co-Chairmen Jrolanio and Markley, Room 609, North Office Building, Wednesday, January 3, 1968, 15 minutes after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, all subcommittees, respective rooms, Wednesday, January 3, 1968, immediately after today's session.

STYLE AND DRAFTING, Co-Chairmen Johnson and Pelletier, Room 615, South Capitol Building, Wednesday, January 3, 1968, at 2 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, all subcommittees, respective rooms, Wednesday, January 3, 1968, immediately after today's session; entire committee, Wednesday, January 3, 1968, at 7:30 p.m., e.s.t., place to be announced later.

ANNOUNCEMENT BY DELEGATE SCRANTON

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Tomorrow Justice Hall of the State of Missouri is coming to our Convention and will be here and will have an opportunity to address you and likewise to have a question and answer session with you immediately after the morning session at the auditorium of the museum.

The Judiciary Committee welcomes any and all of you and it is sincerely hoped that you will come, because this man is as well versed in the so-called famed "Missouri Plan" as anybody who has had experience of over a decade of it being in effect there.

This, I think you will find, will become one of the most interesting and perhaps one of the most contentious problems we have to deal with in this Convention. I hope you will take this opportunity. It will be primarily a question and answer session so that you can get all your questions to him who is one of the most experienced people in this field.

Thank you.

PRESIDENT BRODERICK Thank you, Chairman Scranton

ANNOUNCEMENT BY DELEGATE PELLETIER

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. At the meeting held today, we shall have with us Frank Grad, who is the major draftsman of the model state constitution and who has been active in legislative, statutory and constitutional drafting throughout the country.

We would like to extend an invitation to any member of the Convention to meet with us. We think Mr. Grad has something significant to say and we welcome any member of the Convention.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Pelletier.

POSTPONEMENT OF COMMITTEE MEETING

The CLERK. The meeting of officers and standing committee co-chairmen planned for 12:00 noon today is postponed to Friday January 5, at 12:00 noon, location to be announced later.

OPERATION OF ROLL CALL SYSTEM

PRESIDENT BRODERICK. In connection with the demonstration of the use of the electric roll call, we will run through a roll call for the purpose of determining whether a quorum is present. This, of course, is just a dry run and at this time I am going to ask Mr. Anthony Petrosky, who is our Director of Operations to explain the operation of this board to you and to me.

Mr. PETROSKY. Our delegates have all received their instructions on the use of the electronic roll call system. If you will raise the switch cover on the top side of your desk and for the purpose of a quorum call, you would move your toggle switch to the left-hand position, move it there firmly until it is locked, it will register an "aye" vote. Will you proceed to do so?

Now if the delegates will observe the board to the delegates' right, you will note at all times when voting on proposals in the event that you cast an "aye" vote, a green light will appear opposite your name. You will check your vote during the time that you will be voting on proposals. In the event that your light does not register, you should proceed to take the microphone, get the attention of the Chair and indicate that your vote is not registering.

Will you please all vote "aye" at the present time so that we can get the quorum roll call recorded? Then we will run through the other phases of the voting switch.

PRESIDENT BRODERICK. The way this will work from here on in, the Chair will say that the next order of business will be the calling of the roll to determine if a quorum is present. At that time, of course, we will unlock the voting machine and ask the delegates to proceed to record their presence by voting "aye," or "yes." Then we will ask, have all the delegates present voted? I then will ask the clerk to please record the vote. Now we are going to ask the clerk to please record the vote in connection with the number of members present.

I am advised by the clerk that the machine records 127 members present now which, of course, is a quorum.

The roll was recorded as follows:

Aberman	Desmond	Keller, M	Rappaport
Allison	Devlin	Kelly	Rea
Amsterdam	Donaldson	Kline	Redick
Aurentz	Donolow	Krill	Richter
Bagenstose	Dumbauld	Lane	Roberts
Baldrige	Erwin	Laputka	Ruth
Baldus	Fawcett	Leach	Sahl
Baldwin	Fay	Lee, K	Scales
Banes	Feather	Lee, L	Scarlett
Barron	Filson	Leimbach	Scott
Barry	Finneman	Leonard	Scranton
Bashoff	Fohl	Levin	Sebastian
Benedict	Forster	Manderino	Shapiro
Benfield	Fortney	Markley	Shettig
Bloom	Gabreski	Mattioni	Shively
Braham	Gerber	McGeary	Shoemaker
Broderick	Goldstein	Meyer	Shrager
Brown	Gouger	Michael	Silverman
Buck	Gray	Michener	Solomon
Bunting	Griffith	Miller, D.	Sprogel
Burkholder	Hannum	Moonhead	Stout
Butera	Harding	More	Strickler
Camardella	Hatter	Morton	Stroup
Caputo	Henderson	Murray	Swope
Caron	Heyburn	Nelson	Tate
Casey	Himes	O'Donnell	Thomson
Clark	Hocker	Orban	Tomasick
Clinger	Hook	Orbin	Tully
Conley	Horne	Otto	Van Sant
Corey	Hosteller	Pasquerilla	Waldron
Cortess	Huggins	Pechan	Welsh
Cosetti	Irviss	Pelletier	Westerberg
Croop	Jrolano	Popl	Whitum
Cunningham	Johnson	Polt	Wilcox
Curran	Kauffman	Powell	Woodring
Dailley	Keller, J.	Prendergast	Woodside

PRESIDENT BRODERICK One hundred forty-four delegates having been recorded, a quorum is present.

The Chair now recognizes Delegate Fohl of Allegheny.

DELEGATE FOHL. Mr. President, I would like to inquire as to how the delegate from Allegheny, Delegate Otto, voted.

PRESIDENT BRODERICK. I think you are in order. Will the delegate please inform?

The Chair now recognizes Mr. Petrosky.

Mr. PETROSKY The delegate from Allegheny, Delegate Otto, is recorded as not voting.

PRESIDENT BRODERICK. Well, that just goes to show that the machine works.

INSTRUCTIONS ON CALLING PAGES

PRESIDENT BRODERICK. The next item will be explained by Mr. Petrosky.

Mr. PETROSKY In order to summon a page, you will rotate that white knurled switch to a downward position. When you do so, a light automatically appears either on the left or the right of the rostrum on a board facing the

pages which, of course, would indicate that you are in need of a page and a page in checking your number would automatically come back to your seat and serve your particular needs.

I note that the lights are being lit up and you may use this because the pages, from today on, will watch the white lights on the side boards which face the pages in order to answer your calls.

I believe it would be desirable at this time too for the gentlemen operating the electronic voting machine to place a proposal number on the board. If you will note, on the left board a proposal No. 111 is registered. I think it would be fine if you would vote either in the affirmative or the negative. To vote in the affirmative, the toggle switch would be placed in the left hand position and to vote in the negative it would be in a right hand position. If you will do this at your discretion, voting either aye or nay, we will have a dry run on voting for a proposal.

PRESIDENT BRODERICK. I want to add that the President at this time would say, "The question is, will the Convention finally pass this proposal?" The Chair will then announce that the delegates shall now proceed to vote. Now we unlock the machine.

Mr. PETROSKY. For the information of the delegates, you will note that there is a running total which operates in a series until it records every affirmative and negative vote and comes to a pause, then begins to run through the cycle again. The President will indicate, after a proper time element, as to whether all the delegates have voted.

PRESIDENT BRODERICK. And now at this time I would say, "Have all the delegates voted?"

Mr. PETROSKY. After such time as the President indicates, "Have all the delegates voted?" then the machine will again be automatically locked by either the President or the clerk recording the roll. This, of course, is a policy that must be adopted by the Convention.

PRESIDENT BRODERICK. Now I am going to ask the clerk to record the vote. He will, therefore, lock the machine.

While we are having the total checked, I want to point out that under the rules, they provide that only members who are in their seats may vote.

Now the totals given to me by the clerk as recorded by the machine are yeas, 32; nays, 101; not voting, 30.

RECOGNITION BY PRESIDING OFFICER

Mr. PETROSKY. In the event that a delegate would want to attract the attention of the presiding officer, you

may do so by joggling your voting switch back and forth several times and a light will appear at your desk number on the master board in front of your presiding officer. The best possible way, of course, for getting recognition is to get to a microphone. But at times when you may deem it an emergency to attract the presiding officer and you cannot get to the microphone in time, you can joggle your switch and a light will appear on the desk number as it appears on the master sheet in front of the presiding officer. Would you try doing that?

If the delegates will just take their sheets that have been prepared by Mr. Stummel, you will find that it will be very easy and should be enlightened upon this in a very short period of time. I am assuming that you will be voting on motions, proposals, roll calls, amendments, et cetera.

Thank you.

PRESIDENT BRODERICK. If there are any questions, I would be very glad to have Mr. Petrosky answer them for you.

(No response.)

ANNOUNCEMENT BY PRESIDENT

PRESIDENT BRODERICK. May I make the announcement that the chairmen or one of the co-chairmen, of each committee pick up their proposals here before they leave.

Again, may I state that I have been requested by several of our committee chairmen to have our starting time for Thursday and Friday of this week at 9 o'clock, because of the volume of proposals expected and because of the time that the committees want to devote to the consideration of the proposals.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes the delegate from Mercer, Delegate Scott.

DELEGATE SCOTT. Mr. President, I move that this Convention do now adjourn until Thursday, January 4, 1968, at 9 a.m.

PRESIDENT BRODERICK. It has been moved by Delegate Scott and seconded by Delegate M. V. Keller that this Convention adjourn until Thursday, January 4, 1968, at 9 a.m.

The motion was agreed to, and (at 10:14 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Thursday, January 4, 1968

Number 16

The Convention was called to order at 9 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE RABBI NATHANIEL H. ZIMSKIND, of the Temple Israel of Uniontown, Pennsylvania, offered the following prayer:

O Lord our God, Father of all the world, we ask Thy blessing upon us in these perilous times. Turn our hearts to Thee, O God. Help us to rise above self-seeking and pettiness that we might see where Thou wouldst lead us. For Thy will is peace and we long to be at peace. We long to live in friendship with all Thy children, and we know not the way. May Thy will fill our hearts, and may its strength break down the walls of hatred and distrust and fear, that all men might see that they are brothers, the children of one Father, the builders of Thy Kingdom.

We ask Thy blessing upon those met here in solemn assembly to fashion the laws of this Commonwealth. Grant them, O God, a keen awareness of their place in history. Fill their hearts with the overriding desire to serve Thee through the creation of ever broader avenues of justice. May the Constitution for whose improvement they labor be not a monument to any cleverness of theirs, but a monument to their submission to Thee and Thy law of justice and love. May the document agreed upon here proclaim to all who come upon it in later years that these men chosen by their fellow citizens fulfilled their trust. May history record that they sought to establish peace through the creation of a body of law that comprehended the rights and the just aspirations of the people. Grant, O God, that their work may be a strong link in the chain that shall one day join all men in bonds of peace and fellowship. Amen.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 4th District, **DELEGATE BALDWIN**, for January 5, on account of business;

The delegate from the 11th District, **DELEGATE BAGENSTOSE**, for January 5, on account of business;

The delegate from the 35th District, **DELEGATE PASQUERILLA**, for January 10 and 11, on account of business;

The delegate from the 48th district, **DELEGATE CARON**, for January 5, on account of business;

The delegate from the 35th District, **DELEGATE CUNNINGHAM**, for January 5, on account of business;

The delegate from the 34th District, **DELEGATE SHARP**, for January 5, on account of attendance of court.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Without objection, the leaves of absence are granted.

QUORUM CALL

PRESIDENT BRODERICK. The next order of business will be the calling of the roll to determine if a quorum is present.

Delegates may now proceed to record their presence.

The roll was recorded as follows:

Aberman	Devlin	Laputka	Redick
Amsterdam	Dumbauld	Leach	Richter
Bagenstose	Erwin	Lee, L.	Roberts
Baldrige	Fagan	Leinbach	Sahl
Baldus	Fawcett	Leonard	Scales
Baldwin	Fay	Levin	Scarlett
Banes	Feather	Manderino	Scott
Barron	Fohl	Markley	Scranton
Barry	Forster	Mattioni	Sebastian
Bashoff	Gabreski	McGeary	Sharp
Benedict	Gerber	Meyer	Shettig
Bloom	Goldman	Michael	Shively
Braham	Goldstein	Michener	Shoemaker
Buck	Gonger	Moorhead	Shrager
Bunting	Griffith	More	Solomon
Caputo	Hannum	Morton	Sprogel
Caron	Harding	Murray	Stout
Casey	Hatter	Muselman	Strickler
Clark	Henderson	Nelson	Tate
Chager	Heyburn	O'Donnell	Thomson
Conley	Himes	Orban	Thornburgh
Corey	Hook	Orbin	Tully
Cortese	Horne	Otto	Waldron
Cosetti	Huggins	Pasquerilla	Warman
Croop	Johnson	Pelletier	Welsh
Cunningham	Kauffman	Popl	Whittem
Curran	Keller, J.	Polt	Wilcox
Dailey	Kelly	Powell	Wilmarth
Desmond	Krill	Rea	Woodring

PRESIDENT BRODERICK. One hundred and sixteen delegates having been recorded, a quorum is present.

The Chair also notes the presence of the following delegates:

Broderick	Gray	Mangery	Shapiro
Brown	Hooker	Percey	Swope
Burkholder	Jrolanio	Prendergast	Tomasick
Cain	Keller, M.	Quiles	Van Sant
Camardella	Lane	Rappaport	Westerberg
Filzon	Lee, K.	Ruth	Woodside
Fineman			

PROPOSALS REREFERRED

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes Chairman Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, the Committee on Local Government has referred the following proposals:

No. 1059 to the Subcommittees on Structure and Organization and County Government;

No. 1060 to the Subcommittees on Structure and Organization, Home Rule and County Government;
 No. 1061 to the Subcommittee on County Government;
 No. 1062 to the Subcommittee on County Government;
 No. 1064 to the Subcommittees on County Government and Local Apportionment;
 No. 1065 to the Subcommittee on Annexation and Boundary Changes;
 No. 1066 to the Subcommittees on Structure and Organization, Annexation and Boundary Changes, Local Apportionment and Home Rule;
 No. 1069 to the Subcommittee on County Government;
 No. 1074 to the Subcommittee on Local Finance;
 No. 1078 to the Subcommittees on Structure and Organization and Local Finance,
 No. 1079 to the Subcommittee on Home Rule;
 No. 1086 to the Subcommittee on County Government;
 No. 1090 to the Subcommittee on Local Finance.
PRESIDENT BRODERICK. Thank you, Chairman Pasquerilla.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair recognizes the Chairman of the Judiciary Committee, Chairman Amsterdam.

DELEGATE AMSTERDAM. Mr. President, the Committee on Judiciary has referred the following proposal:

No. 1087 to the subcommittees A, B, C, and E of the Judiciary Committee.

PRESIDENT BRODERICK. Thank you, Chairman Amsterdam.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Chairman of the Taxation and State Finance Committee, Chairman Leonard.

DELEGATE LEONARD. Mr. President, the Committee on Taxation and State Finance has referred the following proposals:

No. 1082 to the Subcommittee on Sinking Fund;

No. 1083 to the Subcommittee on State Debt;

No. 1084 to the Subcommittee on Taxation;

No. 1085 to the Subcommittee on Taxation.

PRESIDENT BRODERICK. Thank you, Chairman Leonard.

COMMITTEE ON LEGISLATIVE APPORTIONMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman on Legislative Apportionment, Delegate Fagan.

DELEGATE FAGAN. Mr. President, the Committee on Legislative Apportionment makes the following assignments of proposals:

No. 1081 to the Subcommittee on Method of Apportionment;

No. 1088 to the Subcommittee on Method of Apportionment;

No. 1089 to the Subcommittee on Method of Apportionment.

PRESIDENT BRODERICK. Thank you, Chairman Fagan.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the Delegate from Dauphin, Delegate Swope.

For what purpose does the gentleman rise?

DELEGATE SWOPE. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE SWOPE. This is a matter of personal privilege, Mr. President. I was unavoidably detained by a telephone call in my office this morning. May I be recorded as being present.

PRESIDENT BRODERICK. The delegate will be so recorded.

ANNOUNCEMENTS

FINAL DATE FOR FILING PROPOSALS

PRESIDENT BRODERICK. The Chair would like to make an announcement in connection with committees.

In view of the fact that tomorrow is the fifth day of January, it is the last day for the introduction of proposals according to the rules. Unless other circumstances intervene, I assume that we will be in session tomorrow, unless this Convention determines otherwise when they vote on adjournment. I, therefore, at this time, request the chairmen of all committees to prepare a short summary statement for the Convention tomorrow, setting forth the activities of their committees since the last report was received on Thursday, December 21. I hope our committee chairmen will have a summary of their committees' activities for reporting tomorrow.

RULES GOVERNING RETURN OF PROPOSALS

Again the Chair wishes to make an announcement. I think you are all well aware of the fact that ours is a limited Convention, specifically limited by Act No. 2 of 1967 which set up this procedure, the Convention which was approved by the voters. You are also aware of the fact that we have received several proposals since we have convened here which the Chair was required to return because they did not come within the authority granted to us in that act.

I want each and every one of the delegates to know that in each instance the return of those proposals was based upon legal opinions received by the Chair. In each instance we received more than one legal opinion, and in every instance all the legal opinions received agreed that the proposals did not come within our jurisdiction.

We made our rulings—the Chair, that is—based on these opinions. However, this morning I am going to ask that the co-chairmen of the Rules Committee, that is Chairman Leach and Chairman Gabreski, if they will, call a meeting of their committee for the purpose of reviewing the procedure set forth in the rules that we adopted for determining whether proposals are within the authority, the scope, of our Convention.

I am asking them to review this for the purpose of seeing whether there is a better way, a better method, of handling proposals that are not within our jurisdiction or are questionable.

Until the Convention receives the report from that committee and until it is acted upon, the Chair will continue to operate under the present rules with one variation

which I think should have been enforced, perhaps, from the very beginning, and that is, I am going to ask the counsel to the Convention, Marvin Comisky, who is sitting up here with us, in each instance when a proposal is returned, to explain his opinion—this is the opinion on which the Chair bases this ruling—to explain the opinion to you. In that way you can make your determination much better as to whether you wish to take an appeal from the Chair's ruling. We will use this procedure until we have a report from the Rules Committee as to whether, in the opinion of the Rules Committee, there is a better way of handling proposals which may not come within our authority or jurisdiction.

PROPOSALS RETURNED

PRESIDENT BRODERICK. This morning the Chair again regrets that we have to return three proposals that were introduced yesterday. The first of these is being returned to Delegate Otto and that was his proposal concerning the voting in the General Assembly on tax matters.

I am now asking Mr. Comisky if he will come forward and take the microphone and explain his ruling in connection with Delegate Otto's proposal of yesterday. I might add that we have a file on each of the proposals that have so far been returned and that file is available to you and any delegate at any time and, of course, available to the press. It sets forth the legal opinions that we receive in connection with the proposal and the Chair ruled on the basis of those opinions.

LEGAL OPINIONS BY CONVENTION COUNSEL

PRESIDENT BRODERICK. The Chair recognizes Mr. Comisky.

Mr. COMISKY. Mr. President and distinguished delegates to the Constitutional Convention, just a preliminary word in connection with all opinions of counsel. They have been rendered in consultation with my partner, Mr. Crystal, with Mr. Thomas Balaban, and with counsel to subcommittees, with study and review of the magnificent material prepared by your Preparatory Committee, and also I have sought and received the advice and opinion of the Attorney General. However, the opinions do reflect the independent and sole opinion of your counsel.

As to Delegate Otto's proposal, technically it relates to a subject within the jurisdiction of the Convention, namely, an amendment to Article VIII. Let me just read it to you since it is very brief. It covers just four lines. It is entitled, "Uniformity of Taxation." It says: "All citizens, residents, businesses and corporations of the Commonwealth shall be exempt from the collection of any tax, which has been enacted with less than a majority of the elected members of each House physically present and in their seats at the time of final passage. Any tax law enacted contrary to this provision shall be void."

While this proposal speaks in terms of exemption, it is apparent, at least to all counsel who have been consulted, that this relates really to the method of legislation.

Article II covers the legislature; Article III covers legislation. Specifically, Section 4 of Article III covers consideration of bills, and in the very last sentence provides for the taking of a vote and the casting of the necessary votes, namely, a majority of those voting for the passage of legislation to be effected by the legislature.

It is our opinion, therefore, that since this proposal affects Section 4 of Article III and the entire Article III dealing with legislation, it is not within the scope of the jurisdiction of this Convention dealing with Article IX, renumbered Article VIII, which deals entirely with taxation and municipal and state indebtedness.

PRESIDENT BRODERICK. Thank you, Mr. Comisky.

The Chair recognizes Delegate Otto.

DELEGATE OTTO. On my proposal, I would like to make a few suggestions, if possible.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE OTTO. First of all, I nonconcur with the decision. Secondly, I think that you have gone a progressive step forward in the handling of proposals and the rejections thereof. I think that is very admirable.

I think one further step, particularly in my case where I have to now go back to my counsel, I think it would be well if we could have a copy of the written opinion at the time a decision such as this is rendered in order to expedite matters.

PRESIDENT BRODERICK. I am sure that can be provided for you, and I appreciate that suggestion. We will provide a copy of counsel's opinion, which will accompany from this moment henceforth the return of proposals.

Thank you.

DELEGATE OTTO. Further, I understand there may be some time restriction on appeals, so that is another reason for expediting. I would like to have the decision as quickly as possible.

Thank you.

The following are Counsel Opinion and Proposal returned to Delegate Otto:

COUNSEL OPINION No 14

Q. Whether a proposal, attached hereto, adding a Section 1C to Article VIII, now Article IX, of the Pennsylvania Constitution, which is attached hereto, is within the jurisdiction of the Constitutional Convention?

A. No.

Discussion: The attached proposal exempts all taxpayers "from the collection of any tax which has been enacted with less than a majority of the elected members of each House physically present and in their seats at the time of final passage," and further provides that "any tax law enacted contrary to this provision shall be void." This proposal clearly relates to the methods of enacting legislation, presently covered under Section 4 of Article III of the Pennsylvania Constitution which is not within the limited authority of the Constitutional Convention, as set forth in Section 7 of Act No. 2 of 1967. The Convention cannot extend its jurisdiction in this respect, indirectly, by providing an additional tax exemption in Article VIII based upon the manner in which the tax law was enacted.

MARVIN COMISKY,
Counsel to Convention

By DELEGATES OTTO, DUMBAULD and HUGGINS

A PROPOSAL

Amending the Constitution of Pennsylvania, further regulating uniformity of taxation, exemption from and validity of certain taxes.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section 1B, a new section to read:

Section 1C. Uniformity of Taxation; Exemptions.—All citizens, residents, businesses and corporations of the Commonwealth shall be exempt from the collection of any tax which has been enacted with less than a majority of the elected members of each House physically present and in their seats at the time of final passage. Any tax law enacted contrary to this provision shall be void.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 28th District, Delegate Ruth.

DELEGATE RUTH. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE RUTH. I wish to have my presence recorded, since I was not here when the roll call was taken.

PRESIDENT BRODERICK. You will be recorded, Delegate Ruth.

Thank you for calling it to our attention, and I hope all the delegates observe the same procedure if they arrive after the calling of the roll.

PROPOSAL RETURNED

PRESIDENT BRODERICK. The next proposal, which the Chair regrets it must return this morning, is the proposal of Delegate Baldus. It is his proposal concerning the powers of local self-government by cities.

I am going to ask again our counsel, Mr. Comisky, to state his opinion or ruling in connection with that proposal.

LEGAL OPINION

PRESIDENT BRODERICK. The Chair recognizes Mr. Comisky.

Mr. COMISKY. This proposal is a little more difficult to describe than the previous one, because it covers some 36 lines and, therefore, I will not read it. Let me just call your attention to the salient points. It, too, is technically accurate, referring to Article XV of the Constitution of Pennsylvania, clearly a subject matter within the jurisdiction of the Convention.

But subparagraph D of that proposal provides—and I am quoting in part—"notwithstanding any other provision of this constitution," and now I am paraphrasing—cities may apply rates of taxation on persons or business associations taxable without any restriction whatsoever.

In our opinion, this evades the uniformity clause of Article IX, the first sentence of which is an exception to the jurisdiction of this Convention. The very fact that

the proposal starts with "notwithstanding any other provision of this constitution" is in and of itself contrary to the restricted nature of this Convention. It may enact laws obviously on local government, but they must be consistent with the Articles which are in the constitution and which may affect the administration of local government.

There is an additional provision in this proposal, and I quote this: "The judicial review of administrative proceedings shall be subject to the superior authority of statutes"

In our opinion, this is contrary to the check and balance system of our government. It apparently imposes the rule of legislation over that of the judiciary. Under our equal branches of government, legislative, executive and judicial, in our opinion, this is a violation of the due process clause of the Federal and State Constitutions and also contrary to the limited, restrictive nature of the Constitutional Convention which cannot affect the basic checks and balances of our constitutional form of state government.

PRESIDENT BRODERICK. Thank you, Mr. Comisky.

I just want to point out to Delegate Baldus, Delegate Otto and others that where the Chair must return the proposal, these proposals can be revised in accordance with the opinions or you can take an appeal from the ruling of the Chair.

The following are Counsel Opinion and Proposal returned to Delegate Baldus:

COUNSEL OPINION No. 16

Q. Whether a proposal adding a Section 1A to Article XV of the Pennsylvania Constitution, which is attached hereto, is within the jurisdiction of the Constitutional Convention?

A. No.

Discussion: The proposed addition to Article XV provides for the exercise of powers of local self-government by cities and, in a general sense, is within the jurisdiction of the Constitutional Convention as set forth in Section 7 of Act No. 2 of 1967, which authorizes the Convention to consider amendments relating to the subject of Local Government now contained in Articles XIII, XIV, XV and part of Article IX. There are, however, provisions of this proposal which are outside the authority of the Convention and which render the proposal defective. These provisions are as follows:

1. Paragraph (b) provides: "Notwithstanding any other provisions of this Constitution . . . cities shall have the exclusive right" to exercise certain powers and functions of government. The Constitutional Convention is limited on the subjects which it may consider and any proposal concerning subjects, such as local government, over which it has jurisdiction cannot supersede or affect the other provisions of the Constitution which are not within its jurisdiction. The clause of paragraph (b) of the proposal providing that the exercise of governmental powers by cities shall be "notwithstanding any other provision of this Constitution" is, therefore, clearly improper. This is particularly true in view of paragraph (b) (4) of the proposal

which provides that the exercise by cities of the tax power shall be unrestricted as to the rates or subjects of taxation. These two provisions, together, appear to abolish the principle of tax uniformity prescribed by Section 1 of Article VIII (now Article IX) as pertains to local taxation contrary to the express language of Section 7 (b) of Act No. 2 of 1967.

2. Paragraph (b) (2) of the proposal provides that "The judicial review of administrative proceedings shall be subject to the Superior authority of statute." It is difficult to determine the meaning or intent of this provision, but to the extent that it restricts the right of judicial review in certain cases, it may be invalid under the due process clauses of both the Pennsylvania and United States Constitutions. Moreover, by restricting judicial review in this manner, the provision negates the basic concept of three co-equal independent branches of government which is implicit in the Constitution as a whole and which is not subject to change by this Constitutional Convention.

MARVIN COMISKY,
Counsel to Convention.

By DELEGATE BALDUS

A PROPOSAL

Amending the Constitution of Pennsylvania, providing for the exercise of powers of local self-government by cities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article fifteen of the Constitution of Pennsylvania is amended by adding after section one, a new section to read:

Section 1-A. Exercise of Powers of Local Self-government by Cities.—(a) Cities may exercise all residual functional powers of government not denied by or inconsistent with the Constitution of the United States, the Constitution of this Commonwealth, or such laws of this Commonwealth as are applicable in every part of the Commonwealth.

(b) Notwithstanding any other provision of this Constitution, and in addition to any other powers granted thereby, cities shall have the exclusive right, superior to statute, to exercise any power or perform any function with respect to (i) municipal executive, legislative and administrative structure and organization, (ii) the selection, compensation, terms and conditions of service, removal and retirement of municipal personnel, and (iii) the imposition of taxes, subject to the following conditions and requirements:

(1) The members of the municipal legislative body must be chosen by popular vote.

(2) The judicial review of administrative proceedings shall be subject to the superior authority of statute.

(3) In exercising any power or performing any function with respect to the selection, compensation, terms and conditions of service, removal and retirement of municipal personnel, cities may not: (i) reduce any rights, benefits, privileges and terms and conditions of employment and

retirement provided by statute as of the date of adoption of this section so long as such statute remains in effect, or (ii) deny any right provided for any class of employees in every part of the Commonwealth by any statute enacted pursuant to the amendment of Article III, section 31 of this Constitution, approved November 7, 1967.

(4) The exercise of any power or the performance of any function with respect to the imposition of taxes: (i) shall be limited to the subject of taxation within the authority of cities as of the date of adoption of this section, or as hereafter authorized by the General Assembly, but such limitation shall not apply to any restrictions on the rates of taxation or on the persons or business associations taxable, and (ii) shall not include provisions for the filing and collection of municipal and tax claims or liens and for the sale of real or personal property in satisfaction thereof, or for the assessment of real or personal property and persons for taxation purposes.

(c) The powers and limitations set forth in clause (2) shall be part of any home rule charter adopted by any city.

PRESIDENT BRODERICK. I just want to point out to Delegate Baldus, Delegate Otto and others that where the Chair must return the proposal, these proposals can be revised in accordance with the opinions or you can take an appeal from the ruling of the Chair.

RIGHT OF APPEAL TO RULINGS

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Mr. President, I would like to put a question to the Parliamentarian with respect to the right of appeal and the form therefor in this Convention.

My question is, Mr. Gruell, is the right of appeal waived if not taken at this moment when the Chair has given its ruling on the admissibility of a proposal that has been offered?

PARLIAMENTARIAN GRUELL. Under this system that we have here now, the opinions are not given to the delegate ahead of time that they can look them over and decide whether or not they would appeal. This is not, in the parliamentary sense, a decision by the Chair.

Therefore, at the proper time if the delegate would want to appeal the decision of the Chair as far as its rejecting the proposal after he has had a chance to read the opinion and digest it, I think the appeal would be in order in this case.

If it was a regular point of order raised on the decision from the Chair, it would have to be made immediately. This is outside the ordinary opinion of the Chair.

DELEGATE BALDUS. Thank you.

PRESIDENT BRODERICK. May I ask the Parliamentarian if he is saying at the time the Chair rules is when . . .

PARLIAMENTARIAN GRUELL. When a point of order is made from the floor.

PRESIDENT BRODERICK. At the time the Chair rules on the return of the proposal.

DELEGATE BALDUS. When will the Chair rule on the return of the proposal?

PRESIDENT BRODERICK. I am ruling on the return of these proposals at this moment, Delegate Baldus. I think what our Parliamentarian was saying to you was that the explanation by our attorney was not the ruling,

but I base my ruling on the opinion, and I am ruling now in connection with the return of each of these. Is that right, Mr. Gruell?

DELEGATE BALDUS. Am I correct, Mr. Gruell, that it is necessary then to take an appeal at this time?

PARLIAMENTARIAN GRUELL. No. As I said, you have not seen the opinion. I think it would be only fair to give the delegate the chance to see the opinion and read through it. If, in his opinion then he thinks he should appeal the decision, the appeal would be in order even though it might be the next day or two days later.

DELEGATE BALDUS. Is there any time limit set for this?

PARLIAMENTARIAN GRUELL. I would not wait more than one day.

DELEGATE BALDUS. Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Goldman.

DELEGATE GOLDMAN. May I request that the Chair give copies of all these opinions to all the delegates and not just necessarily to the delegate whose proposal is being returned.

PRESIDENT BRODERICK. We will be happy to do that. I just want to say and I thought I had made it clear the day the first proposal was ruled on that copies of the opinions were available, but we will expedite that by seeing that they are distributed at the time when we return the proposal, pursuant to your request.

DELEGATE GOLDMAN. Thank you.

LEGAL OPINION

PRESIDENT BRODERICK. The Chair now recognizes Counsel Comisky to explain the reason for the return of Delegate Cosetti's proposal in connection with the limitation on state loans. I again request our counsel, Mr. Comisky, if he will state the basis of his opinion in connection with that ruling.

Mr. COMISKY. Here, too, Delegate Cosetti's proposal fits technically within the basic jurisdiction of the Convention. It purports to amend Section 5 of Article VIII, dealing with the limitation on state loans. There is actually such a section of a heading presently existing in the constitution, and the first sentence of this proposal simply expands or modifies the content of the law and its provisions. That first sentence is clearly within the purpose of the Convention, dealing entirely with limitation on state loans and is simply an expansion of its limitations.

It is the second sentence, however, that causes me difficulty on the basis of the ruling and I read it to you: "The Governor shall have the power to disapprove in whole or in part any purpose, program, project, facility or improvement specified in any bill authorizing the borrowing of money and the part or parts of the bill to disapprove shall be void." In other words, what this sentence does is give to the Governor the power to disapprove item by item.

The executive power of the government is described in Article IV of the Constitution, and in Section 15 thereof there is a description of the power of the Governor to approve or veto bills. He must do so in their entirety with one exception, Section 16, which provides for the partial disapproval of appropriation bills, in which event he may do so item by item.

Now this last sentence of Delegate Cosetti's proposal af-

fects the power of the executive by increasing it and modifies the power of the legislature by permitting the Governor to change legislation in a way not heretofore permitted. In our opinion therefore, since Article IV, dealing with the executive, is without the jurisdiction of this Convention, this proposal is beyond the jurisdiction of the Convention.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Cosetti.

DELEGATE COSETTI. I am going to await your official ruling, Mr. President.

PRESIDENT BRODERICK. Thank you. I shall return that proposal on the basis of the opinion that was just rendered.

The following are Counsel Opinion and Proposal returned to Delegate Cosetti:

COUNSEL OPINION No. 15

Q. Whether a proposal amending Section 5 of Article VIII (now Article IX) of the Pennsylvania Constitution, which is attached hereto, is within the jurisdiction of the Constitutional Convention?

A. No.

Discussion: Section 5 of Article VIII (now Article IX), as presently constituted, pertains to legislation authorizing State loans, and is clearly within the jurisdiction of the Constitutional Convention as set forth in Section 7 of Act No. 2 of 1967, which expressly authorizes the Convention to consider amendments relating to Taxation and State Finance now covered by part of Article IX. The attached proposal, however, in amending Section 5, adds a provision conferring upon the Governor "the power to disapprove, in whole or in part, any purpose, program, project, facility or improvement specified in any bill authorizing the borrowing of money and the parts of the bill disapproved shall be void." The power of the Governor to veto legislation is presently covered by Section 15 of Article IV of the Constitution, which is not within the limited authority of the Constitutional Convention as set forth in Section 7 of Act No. 2 of 1967. Section 15 of Article IV provides that any veto be with respect to an entire bill. The only exception to this rule is set forth in Section 16 of Article IV permitting the item veto of appropriation bills, which is not applicable to the type of legislation covered by Section 5 of Article VIII. The proposal, therefore, directly affects Article IV, Section 15 and is outside the jurisdiction of the Constitutional Convention.

MARVIN COMISKY
Counsel to Convention

By DELEGATE COSETTI

A PROPOSAL

Amending the Constitution of Pennsylvania, regulating laws authorizing the borrowing of money by and on behalf of the State or any of its authorities or in-

strumentalities and the Governor's veto power in regard to such laws.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section five of article eight of the Constitution of Pennsylvania is amended to read:

Section 5. Limitation on State Loans.—All laws, authorizing the borrowing of money by and on behalf of the State, or any of its authorities or instrumentalities, shall specify the purpose, program, project, facility or improvement for which the money is to be used, and the money so borrowed shall be used for the purpose, program, project, facility or improvement specified and no other. The Governor shall have the power to disapprove, in whole or in part, any purpose, program, project, facility or improvement specified in any bill authorizing the borrowing of money and the part or parts of the bill disapproved shall be void.

APPEAL TO RULING

DELEGATE COSETTI. May I ask the parliamentarian a question?

Is the motion to appeal a decision of the Chair debatable?

PRESIDENT BRODERICK. Yes, it is.

DELEGATE COSETTI. Mr. President, I therefore move to appeal your decision on this question.

PRESIDENT BRODERICK. It has been moved and seconded that there is an appeal from the Chair's ruling in connection with the action of the Chair in returning to Delegate Cosetti his proposal, a portion of which was just read to you, and the opinion on which the Chair based its ruling was just read to you.

Now, is there any discussion on that appeal?

The Chair now recognizes Delegate Cosetti.

DELEGATE COSETTI. In the first part of that article we clearly give the General Assembly the legislative power to specify more specifically how the debt shall be authorized. I think within that clear limitation we should also be empowered to place some restrictions on the executive action with regard to the creation of that debt. I understand the technical ruling that the Chair has made, but I think that this is clearly within the call of this Convention and that the interpretation given us is just too narrow.

PRESIDENT BRODERICK. Thank you, Delegate Cosetti.

Is there anyone else who wishes to be heard in connection with this appeal?

The Chair recognizes Delegate Tate.

DELEGATE TATE. If I understand the ruling correctly, it is based primarily on the fact that the item of veto, as it might be categorized in this proposal, is a Governor's power which is beyond the scope of this Convention because the article dealing with the powers of the Governor are not within the scope of this Convention.

There are many proposals now pending before this Convention which give to the Governor and to the legislature certain powers, and I am thinking particularly in the area of legislative apportionment. Also, in local government, many powers will or might be given to the legislature, possibly to the Governor.

In the Judiciary Article, we are considering the possibility of the Governor's role in the selection of judges. It seems to me that if this ruling is to be sustained, a great many of the proposals might suffer the same consequences or might have suffered the same consequences if a similar ruling had been applied to them.

I therefore speak in support of Delegate Cosetti's appeal and will vote according to his appeal.

PRESIDENT BRODERICK. The Chair recognizes Delegate Rappaport.

DELEGATE RAPPAPORT. Thank you, Mr. President.

Aside from the particular merits of this proposal and the opinion that we have received, there is much opinion, which I have heard at this Convention, that having been summoned into session by the people and that our result will be voted on by the people. We have plenary power. If we wanted to rewrite the whole Constitution and the people approved it, we would have the right to do so. Aside from that, I think the opinion we have been given is a cogent one; however, I would rather see every proposal put in by the learned delegates be printed and be put before us and perhaps a copy of the opinion given so that each of us can consider these proposals in committee without regard to having to consider them on the floor here.

At this point, I would, therefore, urge my fellow delegates to vote to overrule the ruling of the Chair and let all these proposals be printed and submitted to us in the proper manner.

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I speak on a point of order solely, and that is this: I do not believe that in the minds of any of the delegates the proposal, nor Mr. Comisky's opinion, nor the Chair's ruling on it are in sufficient shape nor subject to sufficient understanding of the delegates to be acted upon at this time. I would perhaps suggest that the debate on the subject be suspended, at least for one day, so that the delegates can have an opportunity to inform themselves better as to the subject matter of this appeal.

RULING SUPPORTED

PRESIDENT BRODERICK. The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, I speak in defense of the Chair's position on the refusal of these proposals.

Delegate Tate and Delegate Rappaport have both commented to the effect that all proposals should be submitted to the floor and that the Chair should allow all the delegates to openly debate every issue. I do not believe this is proper, nor do I believe that it will be possible for this Convention to consider every potential proposal regardless of its nature and still be finished by February 29. That is the first consideration.

The second consideration is that, regardless of our inherent power which is debatable within itself, regardless of that issue, the people of Pennsylvania, I think, have clearly delegated to us certain specific responsibilities. There is no question but that in any constitution there is

an intertwining of powers from one area of government to another and to say that the Governor will have certain powers within one section that we are going to change but yet another we are not permitted to change, is only obvious. Certainly the sections that we are permitted to deal with are going to affect the entire form of government as we now know it in Pennsylvania. To limit it to any other way would be a defeat of this Constitution.

I urge that we accept the decision of the Chair and that we extremely limit and define the role which this Constitution can play.

MOTION TO POSTPONE

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 46th District, Delegate Hook.

DELEGATE HOOK. Mr. President, I would second the suggestion of Mr. O'Donnell that we postpone this until tomorrow for a vote, and I would so make a motion to that effect.

PRESIDENT BRODERICK. May I ask Delegate Cosetti if he would have, pursuant to the suggestion made by Delegates Hook and O'Donnell, any objection to the matter staying on the table until tomorrow until everyone gets a copy of the opinion and a copy of the proposal?

The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. I have no objections. If you lay a motion on the table and you lay the appeal on the table also, consequently no ruling is made?

PRESIDENT BRODERICK. There is a ruling, but your appeal still stands.

DELEGATE COSETTI. I will go along with that. May I further suggest that it be done on Monday?

PRESIDENT BRODERICK. I have no objection. Apparently there is no objection to laying this on the table until Monday. It will go over until Monday.

DELEGATE COSETTI. Mr. President, just a word of comment. I did not want to discuss the content of that because I did not think that was proper, and I am not an attorney. I think I understand perfectly clearly the ruling of the Chair and am surprised that some of the attorneys are having some difficulty understanding it.

PRESIDENT BRODERICK. The Chair will therefore rule that we will keep the appeal on the table, together with the ruling, until Monday, at which time, or before that time—we will have on your desks tomorrow—copies of the opinion and copies of the proposal.

PROPOSALS INTRODUCED

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Mr. President, I read in place and present the following proposal:

No. 1091

By **DELEGATES BALDUS, COSETTI, CONLEY**
and **THORNBURGH**

A PROPOSAL

Amending the Constitution of Pennsylvania, authorizing the General Assembly to set standards for the granting of tax exemptions and financial assistance by the

State and local taxing authorities to organizations and corporations providing public services.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section seven, a new section to read:

Section 7.1. Assistance to Public Service Enterprises; Tax Exemptions for Real Estate Improvements.—Notwithstanding any inconsistent provisions of this Constitution, the General Assembly may provide by general legislation standards by which:

(1) the State or any local taxing authority may, to encourage private investment and participation in the fields of health, welfare, education, job training, employment, public safety, recreation, crime prevention, low and moderate income housing, economic development, community development, or reconstruction, renewal or rehabilitation of obsolete or blighted areas, give financial assistance, loan its credit or, for limited periods not to exceed twenty-five years, grant or authorize exemptions from its taxes to any corporation or association providing public services in one or more of such fields pursuant to a plan adopted by the State or by the local taxing authority, and

(2) any local taxing authority may grant to individuals, corporations or associations tax exemptions for limited periods, not to exceed twenty-five years, on the increased value of residential real estate resulting from improvements made for the purpose of developing, reconstructing or rehabilitating, renewing obsolete or blighted areas or real estate.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Buck.

DELEGATE BUCK. I wish to read in place and present to the Chair the following proposal:

No. 1092

By **DELEGATES BUCK, STOUT, BUNTING,**
SPROGELL, GOLDMAN, GRAY, NELSON
and **GOUGER**

A PROPOSAL

Amending the Constitution of Pennsylvania to require approval of a majority of electors for increases in salary or other benefits paid by the Commonwealth to elected public officials.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding at the end thereof a new section to read:

Section 26. Disbursement of Funds for Increases in Salary and Benefits.—No moneys received by the Commonwealth from taxes, fees, borrowings, or other sources of revenue or finance shall be used for the payments of any increase in the salary or other benefits of any elected public official paid by the Commonwealth until the increase has been approved for disbursement by a majority of the electors at a general election.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Buck.

DELEGATE BUCK. My cosponsors of this proposal are William B. Stout, William H. Gray, Jr., Holbrook M. Bunting, Jr., James W. Nelson, Barbara S. Sprogell, Matthew M. Gouger and Harold H. Goldman.

Although we recognize that the people must surrender to their Government some of their natural rights in order to vest it with sufficient power for all Commonwealth purposes, it would seem appropriate at this time to consider the wisdom of imposing some constitutional restraint upon the power of the public servant to fix his own wage without also obtaining the approval of the people, his employer.

To paraphrase the words of James Madison in that historical document, *The Federalist*,

"It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself but the greatest reflection upon human nature. If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary."

Madison's profound commentary is no less true today than when it was uttered in 1787.

We sense grave concern questioning whether the people can any longer rely upon the exercise of restraint by their elected representatives when they are considering what constitutes reasonable compensation for the services they render.

The ever-increasing cost of government and more and more taxes impel us to suggest that we take cognizance of this lively and undoubtedly controversial issue, and to propose that we consider the merits of a constitutional amendment that requires the approval of a majority of the voters before moneys may be disbursed for any future increase in salary or other benefits of an elected public official who is paid by the commonwealth.

We believe that such deliberation by this historic assembly would provide reasonable restraint to promote the people's confidence in State government, elevate its statesmanship and mitigate public cynicism.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Barry.

DELEGATE BARRY. Mr. President, I read in place and present to the Chair three proposals, and ask permission to make brief comments on the proposals.

No. 1093

By DELEGATES CURRAN, BANES and BARRY

A PROPOSAL

Amending the Constitution of Pennsylvania, requiring the election of judges.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article five of the Constitution of Pennsylvania is amended to read:

Section 1. Judicial Power.—The judicial power of this Commonwealth shall be vested in a Supreme Court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, magistrates' courts, and in such other courts as the General Assembly may from time to

time establish. The judges of such courts shall be elected in the manner prescribed by law.

Referred to Committee on Judiciary.

No. 1094

By DELEGATES BANES and BARRY

A PROPOSAL

Amending the Constitution of Pennsylvania, authorizing counties to frame and adopt their own charters and to exercise the powers and authority of local self government.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article thirteen of the Constitution of Pennsylvania is amended by changing the article heading and by adding at the end thereof, a new section to read:

ARTICLE XIII [NEW] COUNTIES.

Section 2. Whenever a majority of the electors of any county shall vote at any general or municipal election in favor of same, the county shall have the right and power to frame and adopt its own charter and to exercise the powers and authority of local self government: Provided, That all powers now or hereafter provided for the cities, boroughs, incorporated towns and townships situate in said county be reserved: And, provided further, That the charter shall provide for the continued existence of the cities, boroughs, incorporated towns and townships situate in the said county under their present names and forms of government, subject to the laws now or hereafter provided for government of the cities, boroughs, incorporated towns and townships for their respective forms and classes.

Referred to Committee on Local Government.

No. 1095

By DELEGATES BARRY and BANES

A PROPOSAL

Amending the Constitution of Pennsylvania, providing for separate courts in Philadelphia and Allegheny Counties to exercise the jurisdiction and powers heretofore exercised by courts of oyer and terminer and courts of quarter sessions of the peace.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections six, eight and nine of article five of the Constitution of Pennsylvania are amended to read:

Section 6. Court of Common Pleas of Philadelphia and Allegheny Counties.—In the county of Philadelphia all of the jurisdiction and powers now vested in the district courts and courts of common pleas, subject to such changes as may be made by this Constitution or by law, shall be in Philadelphia vested in five distinct and separate courts of equal and co-ordinate jurisdiction, composed of three judges each. The said courts in Philadelphia shall be designated respectively as the court of common pleas number one, number two, number three, number four, and

number five, but the number of said courts may be by law increased, from time to time, and shall be in like manner designated by successive numbers. The number of judges in any of said courts, or in any county where the establishment of an additional court may be authorized by law, may be increased, from time to time, and whenever such increase shall amount in the whole to three, such three judges shall compose a district and separate court as aforesaid, which shall be numbered as aforesaid. In Philadelphia all suits shall be instituted in the said courts of common pleas without designating the number of the said courts, and the several courts shall distribute and apportion the business among them in such manner as shall be provided by rules of court, and each court, to which any suit shall be thus assigned, shall have exclusive jurisdiction thereof, subject to change of venue, as shall be provided by law.

In the county of Allegheny all the jurisdiction and powers now vested in the several numbered courts of common pleas shall be vested in one court of common pleas, composed of all the judges in commission in said courts. Such jurisdiction and powers shall extend to all proceedings at law and in equity which shall have been instituted in the several numbered courts, and shall be subject to such changes as may be made by law, and subject to change of venue as provided by law.

The president judge of said court shall be selected as provided by law. The number of judges in said court may be by law increased from time to time. This amendment shall take effect on the first day of January succeeding its adoption.

Upon election of separate judges for the courts of oyer and terminer, quarter sessions of the peace and general jail delivery, the courts of common pleas in Philadelphia and Allegheny Counties shall not have the jurisdiction and powers of courts of oyer and terminer, quarter sessions of the peace and general jail delivery.

Section 8. Criminal Courts in Philadelphia and Allegheny Counties.—[The said courts in the counties of Philadelphia and Allegheny, respectively, shall, from time to time, in turn detail one or more of their judges to hold the courts of oyer and terminer and the courts of quarter sessions of the peace of said counties, in such manner as may be directed by law.]

The General Assembly shall provide by law for separate courts in the counties of Philadelphia and Allegheny to exercise the jurisdiction and power heretofore exercised by courts of oyer and terminer and courts of quarter sessions of the peace in such counties. Such legislation shall provide the election of judges for such courts, and one such judge shall be elected for each five hundred thousand population in the county in which elected.

Section 9. Powers of Judges of Common Pleas Courts.—Judges of the courts of common pleas learned in the law, other than in Philadelphia and Allegheny Counties, shall be judges of the courts of oyer and terminer, quarter sessions of the peace and general jail delivery, and of the orphans' court, and within their respective districts shall be justices of the peace as to criminal matters.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Barry.

DELEGATE BARRY. The first proposal is at the suggestion of several common pleas judges of Allegheny County. It is felt by these judges that there should be a separate criminal court in Allegheny County certainly, and in all counties that have a population similar to Allegheny County, which in effect means Philadelphia County. The proposal as submitted suggests that there be a criminal court judge for each 500,000 people within the jurisdiction of the county, which in effect would give four criminal court judges to Allegheny County and six, I believe, to Philadelphia County. It is felt that the administration of criminal justice would be furthered by such a move.

Now, as far as the second proposal is concerned, that gives to the counties the right to frame home rule charters provided they do not interfere with the local government within their jurisdiction, and provided this is submitted to a referendum of the voters in the county.

As far as the third proposal is concerned, it provides for the election, as heretofore, of judges within the Commonwealth. This in effect reiterates the provisions of the 1873 Constitution, and it is my opinion that that provision in the Constitution of 1874 occasioned quite a bit of debate on the floor at that time.

Until recently there has not been a move afoot to provide for the selection of judges by commission; they are to be elected by popular vote. It is my opinion that this is still a feature that should be in the Constitution, and it is further my opinion that this is the consensus of this Convention and of the people of this Commonwealth.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baner.

DELEGATE BANES. Mr. President, I read in place and present the following proposals:

No. 1096

By **DELEGATES BANES and BARRY**

A PROPOSAL

Amending the Constitution of Pennsylvania, requiring all assessments of property for tax purposes to be at the full value of such property.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions; Assessments.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was

engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation. All assessments of property for tax purposes shall be at the full value of such property.

Referred to Committee on Taxation and State Finance.

No. 1097

By **DELEGATES BANES and BARRY**

A PROPOSAL

Amending section eleven of article five of the Constitution of Pennsylvania, further regulating the election of justices of the peace and aldermen and providing for their compensation.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eleven of article five of the Constitution of Pennsylvania is amended to read:

Section 11. Justices of the Peace. Aldermen. Term. Residence. Number.—Except as otherwise provided in this Constitution, two justices of the peace or aldermen shall be elected in each of the several [wards, districts, boroughs or townships,] legislative districts by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the Governor for a term of six years. No [township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no] person shall be elected to such office unless he shall have resided within the [township, borough, ward or] legislative district for one year next preceding his election. [In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.] The General Assembly shall provide for compensating justices of the peace and aldermen by annual salaries, and all fees collected by justices of the peace and aldermen shall be paid to the Commonwealth of Pennsylvania.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Banes.

DELEGATE BANES. On the first proposal, if the President please, tax assessors from the inception of the system used to separate people from their money for purposes of government, and have exercised their ingenuity in assessing property for tax purposes. Legislation and court decisions have established many rules and standards of fixed values to make for uniformity. From a practical

standpoint, however, the present system and laws have failed this purpose, since properties are generally assessed at less than market value without uniformity throughout the Commonwealth.

We know that tax assessments are used for many purposes in government and in business, and though on a local basis the assessments are generally uniform, we know that under our present system, which permits percentage assessments on the local level as indicated, this has created many problems in government on the state level particularly because of reimbursement to local municipalities. State funds are frequently based on the value of property in the community, and though we have the State Tax Equalization Board which has attempted to make for uniformity we know that problems have been created. It is therefore the purpose of this particular proposal to require that all tax assessments on real estate throughout the Commonwealth be set and fixed at market value.

The second proposal addresses itself to the problem of the minor judiciary and very simply provides that two members of the minor judiciary be allocated to each legislative district at a fixed salary and that fees and costs be returned to the State.

Thank you.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Montgomery, Delegate Gerber.

DELEGATE GERBER. Mr. President, I read in place and present two proposals

No. 1098

By **DELEGATES GERBER, OTTO and DUMBAULD**

A PROPOSAL

Amending the Constitution of Pennsylvania, authorizing the General Assembly to make special provision for the taxation of land used for residential construction or agricultural purposes.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp for honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and land used for residential construction or agricultural purposes, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this

Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

Referred to Committee on Taxation and State Finance.

No. 1099

By DELEGATES GERBER, OTTO and DUMBAULD

A PROPOSAL

Amending the Constitution of Pennsylvania, authorizing the General Assembly to provide for the exemption, postponement or abatement of taxation on land used for residential construction or agricultural purposes.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Section two of article eight of the Constitution of Pennsylvania is amended to read:

Section 2. Exemption from Taxation Limited.—All laws exempting property from taxation, other than the property above enumerated shall be void, except that the General Assembly may, by general laws, provide for the exemption, postponement or abatement of taxation on land used for residential construction or agricultural purposes.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. You may proceed with your comment, Delegate Gerber.

DELEGATE GERBER. Mr. Chairman, these proposals and the alternative are to me a specific problem that has arisen as the result of certain acts of the Assembly which provides for the taxation of residential construction at a level of their full occupancy. As a result of this, in the district which I represent, the school district levied a tax on development of certain apartment houses which literally drove the developer into bankruptcy. Upon serious study of this problem it seems to me that the Convention should seriously consider this matter to provide uniform relief in this area, as it does to the manufacturers of consumer goods, in that they are not taxed until after the completion of the manufacturing and sale, and here there is taxation on commercial units prior to their commercial opportunity to be leased or sold.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Northampton, Delegate Jirolanio. For what purpose does the gentleman rise?

DELEGATE JIROLANIO. I rise to a question of personal privilege, Mr. President.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE JIROLANIO. Mr. President, I would like to be recorded as being present because I was not in the hall at the time that the roll call was recorded.

PRESIDENT BRODERICK. The delegate will be recorded as present.

PROPOSAL INTRODUCED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Northampton, Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President, I read in place and offer the following proposal on behalf of myself and Delegates Rappaport, Johnson, Kauffman, J. W. Keller, Horne and Huggins, and ask permission to make a few remarks on the same.

No. 1100

By DELEGATES JIROLANIO, RAPPAPORT, JOHNSON, KAUFFMAN, J. W. KELLER, HORNE and HUGGINS

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the public defender as a county officer.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys, public defenders who shall be attorneys-at-law and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Northampton, Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President and members of the Convention, I have offered this particular proposal, and this proposal does the following:

Under our present Constitution, Article XIV, Section 1, defines and spells out who the county officers are. I would propose to add to that list of present county officers the words and the office, of course, of public defender. Those of you, of course, who are not members of the bar, I am quite sure, have heard that word on many, many occasions. In practically every county of the Commonwealth of Pennsylvania, it has been customary from the time of our inception as a State that where a defendant is without counsel the court does appoint a counsel for him. In the last years, of course, the Supreme Courts of both the United States and our own State have insisted that a person who does not have the means to have someone defend him must have someone appointed by the courts, with the result that every county that I know about today has a public defender. In my county we have one who is paid the sum, I believe, of \$9,000. In addition thereto he has attached to this staff his colleague and one or two assistants.

This proposal will incorporate in the Constitution, under Article XIV, Section 1, the words "public defender," and then that a public defender would have to be an attorney

at law or an attorney of record and would be a public officer who would have to be elected and therefore be responsible to the people. After all, in all the counties where you do have public defenders, they are paid from tax money and if they are paid from tax money I believe that the people of the particular district should have the right to say who they are and be able to determine whether it is for the best interests of the people.

This particular amendment to the Constitution would have to have an enabling act by the legislature in order to carry out this provision.

Mr. President, on this particular amendment in question, I am happy to say that there are very, very fine men who have agreed to go along with it. My proposal is not a controversial one, but one that is necessary and is needed in this day and age.

Thank you.

PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lancaster, Delegate Burkholder.

For what purpose does the gentleman rise?

DELEGATE BURKHOLDER. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE BURKHOLDER. I would like to be recorded as present. I missed the roll call.

PRESIDENT BRODERICK. We will have you recorded as present. Thank you for calling it to our attention.

PROPOSAL INTRODUCED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lancaster, Delegate Burkholder.

DELEGATE BURKHOLDER. Mr. President, I read in place and submit the following proposal and ask to make one comment

No. 1101

By **DELEGATE BURKHOLDER**

A PROPOSAL

Repealing article five of the Constitution of the Commonwealth of Pennsylvania relating to the Judiciary and adding new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of the Commonwealth of Pennsylvania is amended by adding after article four, a new article to read:

ARTICLE THE JUDICIARY

Section 1. Courts.—The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Superior Court, Trial Courts, Estates Courts, and Community Courts. Other courts may be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall consist of seven justices, one of whom shall be Chief

Justice of Pennsylvania. In the absence of the Chief Justice, the member of the court senior in length of service on the court shall serve in his place.

(b) The Supreme Court shall be the highest court of the Commonwealth and shall have final appellate jurisdiction. It shall have no original jurisdiction except as may be expressly provided in this Constitution. It may assume jurisdiction of actions pending in any other court at any stage of the proceedings. It shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction. Appeals from final judgments of the Trial Court shall lie as of right directly to the Supreme Court only in cases of judgments imposing sentences of death or life imprisonment. In all other cases, appeals permitted by law shall be assigned by the Supreme Court to such court, including the Superior Court, as the Supreme Court shall by rule prescribe.

Section 3. Superior Court.—(a) The Superior Court shall consist of nine judges, except that the Supreme Court may from time to time assign additional judges from among the judges of the Trial Court or the Estates Court to temporary service upon the Superior Court as the business of the Superior Court may require. The number of judges of the Superior Court may be changed by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court. The court may act in panels of three or more judges, and shall sit at such places and times as the Supreme Court shall by rule prescribe.

(b) The Superior Court shall have no original jurisdiction. It shall exercise such appellate jurisdiction, including such review of the actions of executive or administrative offices or agencies, as may be assigned to it by rule of the Supreme Court. When no other court has been designated by rule of the Supreme Court, appeals permitted by law shall be taken to the Superior Court.

(c) One of the judges of the Superior Court shall serve as its President Judge. In the absence of the President Judge the member of the Superior Court senior in length of service on the court shall act in his place.

Section 4. Trial and Estates Courts.—(a) There shall be one Trial Court for each judicial district. Initially, the number and boundaries of the judicial districts, and the number of judges to be selected from each district, shall be as at present, but the Supreme Court shall recommend from time to time to the General Assembly, such changes in the foregoing as the Supreme Court may deem advisable. The President Judge of the Trial Court of each judicial district shall, under the direction of the Chief Justice or such associate justice as shall be deputized by him, supervise the court's judicial business, including the assignment of the court's judges within the district.

(b) In any district in which a separate Orphans' Court presently exists there shall be a separate Estates Court which initially shall consist of the number of judges authorized to sit on the Orphans' Court of the district when this section becomes effective. The jurisdiction of the court shall continue to be the jurisdiction now exercised by the Orphans' Court of the district, unless modified by rule of the Supreme Court. In any other district there may be a separate Estates Court as the General Assembly may determine upon recommendation of the Supreme Court.

(c) In all districts except those containing separate

Estates Courts, the Trial Courts shall have unlimited original jurisdiction in all cases except such as may be assigned exclusively to the Community Courts by rule of the Supreme Court; and in districts containing separate Estates Courts the Trial Courts shall have the same original jurisdiction as in other districts, except that they shall not have jurisdiction in cases over which the Estates Courts of their respective districts shall have jurisdiction.

(d) The Trial Courts shall have such powers of review of the actions of the Community Courts and of executive or administrative offices or agencies as may be provided by rule of the Supreme Court.

(e) The Trial Courts may exercise their jurisdiction through such appropriate divisions, including civil, criminal, and, except in districts in which there are separate Estates Courts, estates divisions, as the Supreme Court shall by rule prescribe. There shall be a Presiding Judge for each division which may be created in any district.

Section 5. Community Courts.—(a) All existing courts not of record shall be superseded as hereinafter provided by Community Courts which shall be courts of such limited jurisdiction and shall exercise their jurisdiction through such appropriate divisions as the Supreme Court shall by rule prescribe.

(b) The number of judges constituting the Community Courts shall be determined for each judicial district by rule of the Supreme Court. Judges of the Community Court for each judicial district shall be selected in the same manner as the judges of the Trial Court of such district. The President Judge of the Trial Court for each judicial district shall designate the places within the district where the Community Court for that district shall sit, subject to review by the Supreme Court.

(c) The President Judge of the Trial Court of each judicial district shall, in accordance with rules prescribed by the Supreme Court appoint commissioners for the district to accept bail, issue warrants, or otherwise assist the judges of the Community Court of the district in the performance of their judicial duties within the districts as the Supreme Court may by rule prescribe.

Section 6. Qualifications of Judges and Commissioners.—(a) Justices and judges shall be citizens of the Commonwealth. Unless in any judicial district, there are less than six qualified lawyers willing to accept appointments to fill a vacancy, judges of the Trial Courts, Estates Courts and Community Courts shall be residents of the judicial districts for which they shall be selected and shall reside in the districts in which they serve. All justices and judges, except judges of Community Courts, shall be members of the bar of the Supreme Court. Judges of the Community Courts who are not members of the bar of the Supreme Court shall have not less than a high school education and in addition shall either have served for not less than eight consecutive years as a justice of the peace, alderman or similar judicial officer in Pennsylvania, or have successfully completed a special training course not exceeding six months prescribed by the Supreme Court.

(b) Commissioners shall be citizens of the Commonwealth and residents of the judicial districts for which they shall be appointed. They shall possess such additional qualifications and shall be subject to such restrictions as to activities outside their official duties, as the Supreme Court shall by rule prescribe.

Section 7. Method of Selection of Judges.—(a) When-

ever a vacancy occurs by death, resignation, removal from office, expiration of a term of office, or creation of an additional judgeship, in the office of justice of the Supreme Court or of judge of the Superior Court, judge of the Trial Court, judge of the Estates Court, or judge of the Community Court, the Governor shall fill the vacancy by appointment from a panel of persons qualified for the office, nominated to him by a Judicial Nominating Commission established and organized as hereinafter provided.

(b) In the case of a justice of the Supreme Court or a judge of the Superior Court, the State-wide Judicial Nominating Commission shall nominate to the Governor six names. If the Governor fails within sixty days to make an appointment from the panel submitted to him, the Judicial Nominating Commission shall certify the same six names to the Chief Justice who shall promptly appoint one of the six nominees.

(c) In all other cases the appropriate Judicial Nominating Commission shall nominate to the Governor the names of three persons qualified for the office and residing within the judicial district in which the vacancy exists unless there are within the district less than six persons qualified for the office who are willing to accept appointment in which case the Judicial Nominating Commission shall nominate to the Governor three persons qualified for the office regardless of their residence. If none of the persons so nominated is acceptable to the Governor, he shall so notify the Judicial Nominating Commission within sixty days of his receipt of the nominations. Upon receipt of such notification, or upon expiration of such sixty-day period without such notification if no appointment has been made, the Judicial Nominating Commission shall nominate a second panel of three other persons. If none of the persons nominated in either panel is appointed by the Governor within thirty days of his receipt of the nominations in the second panel, the appointment shall be made by the Chief Justice from among the persons nominated in either panel as certified to him by the Judicial Nominating Commission.

(d) Each justice or judge appointed in the manner prescribed by subsection (a) of this section shall hold office for a term ending the first Monday of January following the next municipal election day more than twenty-four months following his appointment. Not less than one hundred twenty days before the expiration of the term of office of a justice or a judge appointed by the Governor or by the Chief Justice or not less than one hundred twenty days before the expiration of the term of office of an elected justice or judge entitled to succeed himself, the justice or judge may file in the office of the official in charge of State-wide elections, a declaration of candidacy for retention to succeed himself. If he does not file such declaration a vacancy shall exist at the end of his term to be filled by appointment by the Governor or the Chief Justice as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on separate judicial ballots or in a separate column on voting machines, in either case without party designation at the municipal election immediately preceding the expiration of his term of office, to determine only the question whether he shall be retained in office. If a majority of the votes cast are against retaining the justice or judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment by the Governor or the Chief Justice

as herein provided. If a majority of the votes cast are in favor of retaining a justice or a judge, he shall serve for the full term of office provided herein, unless sooner removed. At the expiration of each term any justice or judge shall be eligible for retention in office in the manner provided herein, subject only to the retirement laws then in force.

Section 8. Judicial Nominating Commissions.—(a) There shall be a single State-wide Judicial Nominating Commission for the Supreme and the Superior Courts, and separate Judicial Nominating Commissions for each judicial district. Each such commission shall be composed of one justice or judge, three members of the bar selected by the members of the bar and three lay citizens. The justice or judge and the members of the bar on each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens on each Judicial Nominating Commission shall be appointed by the Governor. Members of the Judicial Nominating Commission for the Supreme and the Superior Courts shall be chosen from the Commonwealth at large, and members of the Judicial Nominating Commission for a judicial district shall be chosen from that district except that the justice or judge may be chosen from outside the district.

(b) The members of each Judicial Nominating Commission shall serve for terms of three years, staggered except in the case of the justice or judge on the commission, so that two members, one selected by the bar and the other appointed by the Governor, shall be selected each year. Of the first members selected following the effective date of this section, two members, one selected by the bar and one appointed by the Governor, shall be selected for one-year terms and two other members selected by the bar and by the Governor respectively, shall be selected for two-year terms. Vacancies in the membership of any Judicial Nominating Commission shall be filled for the balance of the term by the same appointing power as appointed the member whose place has become vacant. No member of a Judicial Nominating Commission shall serve for more than two successive three-year terms on that commission, but he may be reappointed or re-elected after a lapse of one year. The members of each commission shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. Each commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization, nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Section 9. Appointments by the Governor and by the Chief Justice.—The Governor and the Chief Justice shall have full responsibility for all appointments made by them, respectively under this article. They shall make such appointments solely on the basis of merit regardless of the political affiliations of the appointees. The Governor's and

Chief Justice's appointments under this article shall not require the consent of the Senate.

Section 10. Tenure of Judges; Method of Selection of Chief Justices, President Judges and Presiding Judges.—(a) When the qualified electors of the State-at-large or of the appropriate judicial district have voted to retain them, justices of the Supreme Court, and judges of the Superior Court, of the Trial Courts and of the Estates Courts shall serve for terms of ten years, and judges of the Community Courts shall serve for terms of not more than ten years as the General Assembly shall from time to time prescribe. The tenure of any judge shall not be affected by changes in judicial districts or by the reduction of the number of judges.

(b) The Chief Justice of Pennsylvania shall be elected for a term of five years by the State-wide Judicial Nominating Commission and shall always be eligible for re-election. A member of the court may resign the office of Chief Justice without resigning from the court.

(c) The President Judge of the Superior Court, and the President Judge of the Trial Court, and the President Judge of the Estates Court, if any, for each judicial district, shall be appointed by the Chief Justice of Pennsylvania and shall serve in such capacity at his pleasure.

(d) The President Judge of the Community Court for each judicial district and the Presiding Judge of any divisions of the Trial Court shall be appointed by the President Judge of the Trial Court for the district and shall serve at his pleasure.

Section 11. Compensation and Retirement of Judges.—(a) Justices and judges shall receive for their services only the compensation paid by the Commonwealth as prescribed by law, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth.

(b) Justices and judges shall be retired at such age, not less than seventy-two years for justices of the Supreme Court and judges of the Superior Court, and not less than seventy years for all other judges, as shall be provided by the General Assembly. Notwithstanding the expiration of the term for which a justice or a judge was last elected, his retirement, resignation or removal from office for physical or mental disability, he shall receive such compensation as shall be prescribed, for similar judges upon retirement, by the General Assembly. A former judge may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

Section 12. Removal, Discipline and Compulsory Retirement of Judges.—(a) There shall be a Judicial Qualifications Commission to be composed of two judges of the Superior Court, and three judges of the Trial Courts or Estates Courts from different Judicial Districts, to be selected by the Supreme Court; two members of the bar to be selected by the members of the bar; and two lay citizens to be selected by the Governor. The judges and the members of the bar shall be selected in the manner and in accordance with rules prescribed by the Supreme Court.

The members of the Judicial Qualifications Commission shall serve for terms of four years, the selection of the first members following the effective date of this section to be staggered as follows: one judge of the Superior Court, one member of the bar, and one lay member shall be selected for two-year terms, and one judge of the Superior Court,

one member of the bar, and one lay member shall be selected for four-year terms; one judge of the Trial Court or Estates Court shall be selected for a term of two years, one for a term of three years, and one for a term of four years. A vacancy in the membership of the Commission shall be filled for the balance of the term by the same appointing power as selected the member whose place has become vacant. No member of the Commission shall serve for more than one full four-year term on the Commission, but he may be reappointed or re-elected after a lapse of one year. The members of the Commission shall elect one member to serve as Chairman for a term of one year. The Commission shall act only with the concurrence of a majority of all its members.

During the terms of office for which members of the Judicial Qualifications Commission have been chosen, they shall not hold any office in a political party or organization nor, except for the members who are judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the Commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In accordance with the procedure prescribed in subsection (c) of this section, any justice or judge may be removed from office or otherwise disciplined for misconduct in office, neglect of duty, failure to perform his duties, violation of any canon of legal or judicial ethics adopted by the Supreme Court, or other conduct which prejudices the proper administration of justice; and any justice or judge may be retired for any disability which is seriously interfering or is likely to interfere seriously with the performance of his duties.

(c) The Judicial Qualifications Commission shall keep itself as fully informed as may be of facts and circumstances relating to justices or judges, insofar as the same may bear upon any of the grounds for removal, discipline, or compulsory retirement; shall receive complaints or reports, formal or informal, from any source pertaining to such matters and shall make such preliminary investigations as it may determine.

The Judicial Qualifications Commission may, after such investigation as it deems necessary, order a hearing to be held before it concerning the removal, discipline or compulsory retirement of a justice or a judge, or the Commission may in its discretion request the Supreme Court to appoint three special masters, who shall be justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the Commission. The Commission's orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the Trial Court of Dauphin County.

If, after hearing or after considering the record and report of the masters, the Commission finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline, or compulsory retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline, or compulsory retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for compulsory retirement, the justice or

judge shall thereby be retired with the same rights and privileges as if he retired under section 11 (b) of this article. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the Judicial Qualifications Commission or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the Commission or the masters shall be privileged; provided that, upon being filed by the Commission in the Supreme Court, the record loses its confidential character.

The Supreme Court shall by rule provide for procedure under this section before the Judicial Qualifications Commission, the masters, and the Supreme Court.

No justice or judge shall sit as a member of the Commission or the Supreme Court in any proceedings involving his own removal, discipline, or compulsory retirement.

(d) Any justice or judge who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the bar of the Supreme Court, shall automatically forfeit his judicial office.

(e) This section is alternative to and cumulative with the provisions for impeachment for misbehavior in office contained in Article VI, sections 4, 5 and 6. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

Section 13. Nonjudicial Duties and Prohibited Activities.—(a) No duties, other than judicial duties, shall be imposed by law upon any court or upon any of the justices or judges thereof, nor shall any power of appointment be conferred upon any court or upon any justice or judge thereof except such as relates to the exercise of the judicial power of this Commonwealth or the administration of the courts as provided in this article.

(b) No justice or judge shall directly or indirectly make any contribution to or hold any office in a political party or organization, nor while retaining judicial office shall he become a candidate at either a primary or general election for any office other than a judicial office, except that any justice or judge may contribute to the political campaign of a member of his family.

(c) No justice or judge shall practice law or engage in any other employment for compensation, except that he may receive compensation as a lecturer, teacher or author, as an officer of a nonprofit professional organization, as a fiduciary of the estate of a member of his family, and as a member of the National Guard or a reserve component of the Armed Forces of the United States while on inactive duty; and except that a judge of a Community Court may engage in any other employment not prohibited by a rule of the Supreme Court provided it does not interfere with his duties as judge.

Section 14. Administration of Courts.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts of this Commonwealth, including the temporary assignment of judges from one court or district to another, but in judicial districts containing populations in excess of five hundred thousand a judge of the Trial Court or of the Estates Court or of the Community Court shall not be assigned to a district other than his own without the consent of the President Judge of his court. The powers of administration vested in the

Supreme Court shall be exercised by the Chief Justice, or by an associate justice deputized by him, in accordance with rules prescribed by the Supreme Court. The Chief Justice shall appoint an administrative director and staff, who shall assist the Chief Justice or the associate justice deputized by him, in supervising the administrative operations of the judicial system and shall serve at his pleasure.

(b) The Supreme Court shall have power to prescribe rules in all civil and criminal actions and proceedings for all courts, governing administration, practice and procedure, including rules of evidence, appeals, appellate jurisdiction including time for appeals, and the issuance of all writs necessary or appropriate in aid of the jurisdiction of the respective courts. These rules shall have the force and effect of law and shall suspend all statutes or other rules inconsistent therewith.

(c) Subject to the provisions of subsection (b) of this section, each Trial Court and each Estates Court shall have power to prescribe similar rules for their particular courts.

Section 15. Clerks of Court, Court Personnel.—(a) There shall be such Clerks of Court and such other nonjudicial personnel as shall be necessary for the effective performance of the judicial work of the Commonwealth. The clerks of the Trial Courts, of the Estates Courts, and of the Community Courts, their assistants and other nonjudicial court officers within each judicial district shall be appointed by the judges of the respective courts of that district, until such time as the Supreme Court shall otherwise provide in appropriate rules promulgated by it.

(b) The Supreme Court may prescribe a merit system for appointment, promotion, removal, discipline, and suspension of nonjudicial personnel in the judicial system and may provide for exempt categories. The Supreme Court may administer the merit system through an administrative director, or may provide for its administration by other appropriate agencies of the Commonwealth or its political subdivisions, who shall be required to render necessary assistance to the court.

Section 16. Judicial Council.—(a) The Supreme Court shall establish a Judicial Council consisting of such number of members and selected in such manner as the Supreme Court may by rule prescribe.

(b) The Judicial Council shall conduct studies for improvement of the administration of justice and for law reform, and shall make reports and recommendations to the Supreme Court and to the General Assembly at intervals of not more than two years. The Judicial Council shall perform such other duties as may be prescribed in this article or assigned to it by rule of the Supreme Court.

Section 17. Implementation of this Article.—The General Assembly shall enact all laws which may be necessary to implement the provisions of this article.

SCHEDULE

That no inconvenience may arise from changes in the Judiciary article of the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared that:

1. This Judiciary article, except as otherwise provided herein, shall become effective on the thirty-first day of July of the year next succeeding its adoption; and the tenure of the Chief Justice and of justices of the Supreme Court and of judges of the Superior Court then in office shall not be affected by this article. Subject to the provisions of the

retirement acts then in effect, judges of both courts shall be eligible for re-election in the manner provided in section 7 (d).

2. The provisions of section 10, subsection (b) relating to the election of the Chief Justice by the State-wide Judicial Nominating Commission shall become effective upon the expiration of the term, or the death, resignation or removal of the last justice of the Supreme Court in office on July 31, 1968.

3. The Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, the County Court of Philadelphia, the County Court of Allegheny County, the Juvenile Court of Allegheny County, the Court of Common Pleas of every judicial district are abolished, and their jurisdiction and powers shall be exercised by the Trial Courts provided by this article. The tenure of judges of the abolished courts shall not be affected by the abolition of the same, and the judges thereof are hereby constituted for the remainder of their respective terms as judges of the Trial Court or in counties having separate Orphans' Courts, judges of the Estates Court, as the case may be, in their present respective judicial districts and shall be eligible for re-election as judges thereof in the manner provided by section 7 (d) or section 7 (e) as may be appropriate.

4. Each person holding a judicial office with Magistrates' Courts in Philadelphia County, in the Aldermen's and Justices of the Peace Courts in other counties, in the Traffic Court of the City of Pittsburgh, in the Police Court of the City of Pittsburgh, and in the Traffic Court of the City of Philadelphia shall continue in office until the expiration of their respective terms of office. At that time, or prior thereto upon a vacancy occurring because of death, resignation or removal their particular offices are abolished. The jurisdiction and powers of the abolished courts shall be exercised by the Community Courts until otherwise provided by rule of the Supreme Court of Pennsylvania.

5. The Board of Claims and the Board of Arbitration of Claims shall continue to exercise the jurisdiction now provided by law until otherwise provided by the General Assembly but shall not be deemed courts forming part of the judicial system created by this article.

6. (a) The offices of Clerk of the Court of Quarter Sessions of the Peace, of Oyer and Terminer, and of the Clerk of the Orphans' Court, and the office of Prothonotary are abolished.

(b) The present Prothonotaries of the Common Pleas Court shall become clerks of the Trial Court within their respective districts for the balance of their terms, subject to the provisions of this article.

(c) The presently elected Clerks of the Courts of Quarter Sessions and of Oyer and Terminer shall become deputy clerks of the Trial Courts within their respective districts for the balance of their terms, subject to the provisions of this article.

7. (a) All causes and proceedings pending in the courts of record not continued by this article, except those pending before the Board of Claims and the Board of Arbitration of Claims, shall be transferred to the Trial Court, or, when appropriate, to the Estates Court, which shall have authority to dispose of all actions so transferred or to enforce any judgment, order, sentence, or decree henceforth or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdic-

tion of the transferee court and been commenced therein. All dockets, books, records, documents, or other papers in the possession of the clerks of the courts of record whose existence is not continued shall be transferred to the clerks of the Trial Courts or, when appropriate, of the Estates Court.

(b) As the Courts of Justices of the Peace, Aldermen and Magistrates, the Traffic Courts of the Cities of Philadelphia and Pittsburgh and the Police Court of the City of Pittsburgh are abolished, all matters pending before them shall be transferred to the Community Courts, which shall have the authority to dispose of all transferred actions or to enforce any judgment, order or sentence theretofore entered or imposed.

As those courts are abolished all books, records, documents and papers in the possession of any of those courts shall also be transferred to the Community Court of the appropriate judicial district.

Section 2 Article five of the Constitution of the Commonwealth of Pennsylvania is hereby repealed effective the thirty-first day of July of the year next succeeding the adoption of the foregoing article, except that as much of section 2 as provides for the succession of chief justices according to the priority of their commissions shall not be repealed until the expiration of the term or the death, resignation, retirement or removal of the last justice of the Supreme Court in office on July 31, 1968.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK The Chair recognizes Delegate Burkholder.

DELEGATE BURKHOLDER. Mr. President, I regret to say that in Proposal No. 1031 which I submitted last week, there were a few words omitted by accident. The purpose of the present proposal is simply to supply those words. They appear in section 6-A of the proposal.

PRESIDENT BRODERICK. The Chair recognizes Delegate Levin.

DELEGATE LEVIN. Mr. President, I read in place and present to the Chair the following proposal:

PRESIDENT BRODERICK. Delegate Levin reads in place and presents a proposal, the title to which the clerk shall read.

The **CLERK.** A proposal amending the Constitution of Pennsylvania by limiting the imposition of a sales tax.

PRESIDENT BRODERICK. The Chair recognizes Delegate Levin.

DELEGATE LEVIN. No comments are necessary. Mr. President. The proposal speaks for itself.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I read in place and present to the Chair the following proposal:

No. 1102

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the extent of land permitted to be taken for public improvements.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section five, article fifteen of the Constitution of Pennsylvania is amended to read:

Section 5. Acquisition of Land for Public Purpose.—[The General Assembly may authorize cities to take more land and property than is needed for actual construction in the laying out, widening, extending or relocating highways or streets connecting with bridges crossing streams or tunnels under streams which form boundaries between this and any other state, but the additional land and property, so authorized to be taken, shall not be more than sufficient to form suitable building sites on such highways or streets. Nor shall the authority hereby conferred be exercised in connection with the laying out, widening, extending or relocating of any highway or street at a point more than three miles distant from the approach to any such bridge or tunnel. After so much of the land and property has been appropriated for such highways or streets as is needed therefor, the remainder may be sold or leased and any restrictions imposed thereupon which will preserve or enhance the benefit to the public of the property actually needed for the aforesaid public use.] When the public purpose for which land is taken can best be attained by acquiring more land than the municipality proposes to retain, the municipality, subject to regulations prescribed by law, may take all the land which in its judgment is needed for the attainment of such purpose and may dispose of portions thereof, subject to restrictions protective of the public purpose.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM This is simply a proposal to replace one which had been sent up to you yesterday and was turned back because it went beyond the powers of this Convention. It provided that land taken for public purpose might be disposed of subject to restrictions protective of that public purpose. The earlier proposal included the State of Pennsylvania. This proposal is limited to any municipality in the State.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Fohl

DELEGATE FOHL. Mr. President, I read in place and present the following proposal:

No. 1103

By DELEGATE FOHL

A PROPOSAL

Amending the Constitution of Pennsylvania providing for a State Court of Appeals.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article five of the Constitution of Pennsylvania is amended to read:

Section 1. Judicial Power.—The judicial power of this Commonwealth shall be vested in a Supreme Court, a Court of Appeals, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of

quarter sessions of the peace, orphans' courts, magistrates' courts, and in such other courts as the General Assembly may from time to time establish.

Section 2. Article five of the Constitution of Pennsylvania is amended by adding after section three, a new section to read:

Section 3A. Court of Appeals.—(a) The Court of Appeals shall consist of seven judges who shall be elected by the qualified electors of the State at large. They shall hold their offices for the term of ten years, but shall not be eligible to serve more than two elective terms.

(b) The Court of Appeals shall have no original jurisdiction. It shall have intermediate appellate jurisdiction as shall be provided for by the General Assembly, except, where specifically authorized by the General Assembly, it may exercise exclusive and final appellate jurisdiction.

(c) The member of the Court of Appeals senior in length of service shall serve as President Judge of the Court; in his absence the member next in length of service shall serve in his place.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fohl.

DELEGATE FOHL. Our present Superior Court, Mr. President, is statutory rather than a constitutional court. While a number of other proposals have provided for the constitutional recognition of this important court, this proposal is significantly different in two respects. One, it proposes that the name of the court be the Court of Appeals. This name is more descriptive and specific regarding the court's functions. The public will be fully aware of the nature of the activities and responsibilities of this court.

Two, it provides for the direct popular election of the members of this court.

PRESIDENT BRODERICK. The Chair recognizes the delegate from York, Delegate Ruth.

DELEGATE RUTH. Mr. President, I read in place and present the following proposal:

No. 1104

By DELEGATE RUTH

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for compensation, accountability, and bonding of officers of local governmental units.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections five and six of article fourteen of the Constitution of Pennsylvania are amended to read:

Section 5. [The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees,

shall not exceed the aggregate amount of fees earned during his term and collected by or for him.

Section 6.] Compensation and Accountability of Officers of Local Governmental Units.—(a) County, township, city, borough and incorporated town officers shall be paid only by salary for services performed for the State government or for the local governmental unit and for any other official service. Except as otherwise provided in this Constitution, such salaries shall be prescribed by law. All fees and commissions received by officers of local governmental units shall be paid into the treasury of the local governmental unit or into the State treasury as prescribed by law.

(b) The General Assembly shall provide by law for the strict accountability of all county, township [and] city, borough and incorporated town officers, as well as for the fees which may be collected by them, as for all public or [municipal] local governmental unit moneys which may be paid to them.

Section 6 Consolidated Bonding.—The General Assembly shall provide by law for the mandatory placing of bids for consolidated bonding through the county of all county, township, city, borough and incorporated town officers required to be bonded.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Ruth.

DELEGATE RUTH. Mr. President, it has been my awareness for a number of years that our county officials and township and general municipal officials receive additional compensation above and beyond their salaries. However, last week during the public hearings which I attended with the Judiciary Committee, I was rather startled to realize during the testimony that a judge testified that \$12 million of inheritance tax money went through the register of wills of Allegheny County, so that he received in addition to his regular salary his compensation from the State based on the \$12 million figure. This is not the only office that is involved; there are township officers who also are paid, such as tax collectors, on a percentage basis of money taken in, regardless of the actual service or time spent above their salaries. I think this is something that needs our attention under local government, in reducing the proper cost and paying for time and services rendered. It is inequitable and unrealistic to pay on a basis of such a haphazard method.

Also, in this proposal there is the provision for consolidation of bonding by counties for all municipal officers in that county. In our particular county it has recently been brought to our attention that a particular school district could have saved a number of thousands of dollars if a tax collector had gone along with centralized bonding, which he refused to do, and it has now become a matter of court action. I think that if we are to provide good government for the future, we must provide measures which save the cost of local government, and that is why these proposals are submitted.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Berks, Delegate Bagenstose.

DELEGATE BAGENSTOSE. Mr. President, I read in place and present one proposal on behalf of myself and Delegate Thomas E. Wilcox:

No. 1105

By DELEGATES BAGENSTOSE and WILCOX

A PROPOSAL

Amending the Constitution of Pennsylvania by providing that authority bonds must be sold at public sale.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Article eight of the Constitution of Pennsylvania is amended by adding at the end thereof a new section to read:

Section . Authority Bonds.—Whenever the General Assembly enacts any laws authorizing authorities to issue bonds said bonds shall be sold at public sale to the lowest responsible bidder in so far as the rate of interest is concerned.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bagenstose.

DELEGATE BAGENSTOSE. Thank you, Mr. President.

Under Section 1, Article VIII, the constitution does not provide for competitive bidding in the sale of authority bonds. In order to assure the taxpayer the lowest possible interest rates in the sales of bonds, I offer this proposal

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Delaware County, Delegate Bunting.

DELEGATE BUNTING. Mr. President, I read in place and present to the Chair the following proposal and ask leave to make a comment.

No. 1106

By DELEGATE BUNTING

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for a Judicial Nominating Committee Selection Commission to establish State and District Judicial Nominating Committees for the nomination of justices and judges to vacancies in the courts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section twenty-five, article five of the Constitution of Pennsylvania is amended to read:

Section 25. [Any vacancy happening by death, resignation or otherwise, in any court of record, shall be filled by appointment by the Governor, to continue till the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy.] Method of Selection of Judges.—(a) Whenever a vacancy occurs by death, resignation, removal from office, expiration of a term of office, or creation of an additional judgeship, in the office of justice of the Supreme Court or of judge of the Superior Court, judge of the Trial Court, judge of the Estates Court, or judge of the Community Court, the Governor shall fill the vacancy by appointment from a panel of persons qualified for the office, nominated to him by a Judicial Nominating Committee as hereinafter provided:

(1) There shall be a Judicial Nominating Committee

Selection Commission composed of one judge of the Superior Court appointed by the President Judge, the Majority and Minority Leader of the Senate and the House of Representatives, six members of the bar selected in accordance with rules prescribed by the Supreme Court, and six lay members from different geographical areas and only three may be of the same political party appointed by the Lieutenant Governor. The judicial, bar and lay members of the commission shall serve for terms of three years, except that of the first bar and lay members of the commission two bar and two lay members shall serve for a term of one year, and two bar and two lay members shall serve for a term of two years. The bar and lay members shall not serve more than two terms. Vacancies in the membership of the commission shall be filled for the balance of the term in the same manner as for the member whose place has become vacant.

(2) The commission shall establish a State Judicial Nominating Committee for the Supreme and the Superior Courts, and separate District Judicial Nominating Commissions for each judicial district. Each such committee shall be composed of one justice or judge, three members of the bar selected by the members of the bar and three lay citizens. The members of the bar on each committee shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay members and the justice or judge on each Judicial Nominating Committee shall be appointed by the commission. Members of the State Judicial Nominating Committee for the Supreme and the Superior Courts shall be chosen from the Commonwealth at large, and members of the District Judicial Nominating Committee for a judicial district shall be chosen from that district except that the justice or judge may be chosen from outside the district.

(3) The members of each Judicial Nominating Committee shall serve for terms of three years, staggered except in the case of the justice or judge on the committee, so that two members, one selected by the bar and the other appointed by the commission shall be selected each year. Of the first members selected following the effective date of this section, two members, one selected by the bar and one appointed by the commission, shall be selected for one-year terms and two other members selected by the bar and by the commission respectively, shall be selected for two-year terms. Vacancies in the membership of any Judicial Nominating Committee shall be filled for the balance of the term by the same appointing power as appointed the member whose place has become vacant. No member of a Judicial Nominating Committee shall serve for more than two successive three-year terms on that committee, but he may be reappointed or re-elected after a lapse of one year. The members of the commission and each committee shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. The commission and each committee shall act only with the concurrence of a majority of all its members

(4) During the terms of office for which members of the commission and each committee have been chosen, the bar and lay members shall not hold any office in a political party or organization, nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission or committees, but shall be re-

imbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In the case of a vacancy on the Supreme Court or the Superior Court, the State Judicial Nominating Committee shall nominate to the Governor six names. If the Governor fails within sixty days to make an appointment from the panel submitted to him, the State Judicial Nominating Committee shall certify the same six names to the Chief Justice who shall promptly appoint one of the six nominees.

(c) In all other cases the appropriate District Judicial Nominating Committee shall nominate to the Governor the names of three persons qualified for the office and residing within the judicial district in which the vacancy exists unless there are within the district less than six persons qualified for the office who are willing to accept appointment in which case the District Judicial Nominating Committee shall nominate to the Governor three persons qualified for the office regardless of their residence. If none of the persons so nominated is acceptable to the Governor, he shall so notify the District Judicial Nominating Committee within sixty days of his receipt of the nomination. Upon receipt of such notification, or upon expiration of such sixty-day period without such notification if no appointment has been made, the District Judicial Nominating Committee shall nominate a second panel of three other persons. If none of the persons nominated in either panel is appointed by the Governor within thirty days of his receipt of the nominations in the second panel, the appointment shall be made by the Chief Justice from among the persons nominated in either panel as certified to him by the District Judicial Nominating Committee.

(d) Each justice or judge appointed in the manner prescribed by subsection (a) of this section shall hold office for a term ending the first Monday of January following the next municipal election day more than twenty-four months following his appointment. Not less than one hundred twenty days before the expiration of the term of office of a justice or a judge appointed by the Governor or by the Chief Justice or not less than one hundred twenty days before the expiration of the term of office of an elected justice or judge entitled to succeed himself, the justice or judge may file in the office of the official in charge of State-wide elections, a declaration of candidacy for retention to succeed himself. If he does not file such declaration a vacancy shall exist at the end of his term to be filled by appointment by the Governor or the Chief Justice as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on separate judicial ballots or in a separate column on voting machines, in either case without party designation, at the municipal election immediately preceding the State Judicial Nominating Committee for the Supreme and the Superior Courts, and separate District Judicial Nominating Commissions for each judicial district.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bunting for a statement.

DELEGATE BUNTING. This proposal adds an additional step to the Bar Association proposal for the selection of judges. The additional step is suggested as an answer to some of the criticism which has been directed

at the type of nominating committees proposed by the bar. This additional step adds further complexity to the selection of judges, but it may be in the best interest of the Commonwealth that we add such complexities in the interest of improving and upgrading and continuing good judgeships in the State.

Thank you very much, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Otto.

DELEGATE OTTO. Mr. President, I read in place and present to the Chair the following proposal, and a first for me, without comment.

No. 1107

By DELEGATES OTTO and HUGGINS

A PROPOSAL

Amending the Constitution of Pennsylvania, providing for election of auditors in cities, boroughs, incorporated towns and townships.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding after article fifteen, a new article to read:

ARTICLE XV-A CONTROLLERS

Section 1. Controllers.—The qualified electors of each city, borough, incorporated town or township shall elect, in the manner provided by law, a controller whenever the auditor or auditors of such political subdivision are appointed, and may elect, in the manner provided by law, a controller whenever the auditor or auditors of such political subdivision are elected

Referred to Committee on Local Government.

POINT OF INQUIRY

PRESIDENT BRODERICK. The Chair recognizes the delegate from Somerset, Delegate Dumbauld. For what purpose does the delegate rise?

DELEGATE DUMBAULD. I rise to a point of inquiry.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE DUMBAULD. The page just delivered to me two copies of proposals which you did not accept yesterday. Do I still have that right of appeal and could I have a copy of that decision?

PRESIDENT BRODERICK. Yes, you do have the right of appeal, Delegate Dumbauld.

DELEGATE DUMBAULD. Thank you.

PRESIDENT BRODERICK. Let me ask Delegate Dumbauld, do you wish to appeal?

DELEGATE DUMBAULD. Yes.

PRESIDENT BRODERICK. Your appeal will be noted and we will get copies of the opinion and your proposals distributed tomorrow and we will put those, if it is agreeable to you, on the desk for discussion on Monday along with the others. Is that agreeable to you?

DELEGATE DUMBAULD. Yes, thank you.

QUESTIONS OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the

delegate from Berks, Delegate Benfield. For what purpose does the gentleman rise?

DELEGATE BENFIELD. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE BENFIELD. Mr. President, I was not in the hall this morning when roll call was taken, and I was wondering whether my heavy load in the Judiciary Committee would entitle me to be marked present.

PRESIDENT BRODERICK. You will be recorded as present. Thank you for calling it to our attention.

The Chair recognizes the delegate from Philadelphia, Delegate Cain.

DELEGATE CAIN. I wish to be marked present. I was also absent at the time of the roll call.

PRESIDENT BRODERICK. Thank you for calling that to our attention, Delegate Cain. You will be marked present.

The Chair recognizes the delegate from the 14th District, Delegate Tomascik.

DELEGATE TOMASCIK. I was not in the House at the time of the roll call and wish my presence to be recorded.

PRESIDENT BRODERICK. Thank you. Your presence will be so recorded.

The Chair recognizes the delegate from the 41st District, Delegate Filson.

DELEGATE FILSON. I should like to have my presence recorded.

PRESIDENT BRODERICK. Your presence will be recorded.

The Chair recognizes the delegate from the 15th District, Delegate Hocker.

DELEGATE HOCKER. I checked in at 9:12½ and I had a little trouble. I had to dig my dogs out of the snow this morning to get in here with a sled, but I want to say that my good neighbor Mark Gruell, the parliamentarian, beat me here with his dogs but he has heated kennels.

PRESIDENT BRODERICK. Thank you, Delegate Hocker.

The Chair recognizes the delegate from the 25th District, Delegate Westerberg.

DELEGATE WESTERBERG. I was helping Blaine Hocker this morning, so I was a little late, too.

PRESIDENT BRODERICK. Thank you. Your presence will be noted and thank you for calling it to our attention.

The Chair recognizes Delegate Prendergast.

DELEGATE PRENDERGAST. Mr. President, I was with Blaine Hocker last night. I wish my presence to be noted, too.

PRESIDENT BRODERICK. Your presence will be noted.

The Chair recognizes Delegate Keller.

DELEGATE M. V. KELLER. Mr. President, I desire to be recorded as being present. I have no excuses.

PRESIDENT BRODERICK. You will be so recorded and thank you for calling it to our attention.

The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. I am going to play straight man and just plead late.

PRESIDENT BRODERICK. You will be recorded as being present.

The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. I am very troubled with my attendance record. If not too late, I would like to be recorded as being present yesterday afternoon. I was not able to be here in the morning.

PRESIDENT BRODERICK. Thank you. We will mark you as having arrived yesterday afternoon.

PROPOSALS INTRODUCED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Mercer, Delegate Scott.

DELEGATE SCOTT. Mr. President, I read in place and present to the Chair the following two proposals:

No. 1108

By DELEGATES SCOTT, SCARLETT, PELLETIER, SAHL, SCALES, JOHNSON, SOLOMON and GERBER

A PROPOSAL

Amending the Constitution of Pennsylvania to provide that cities can adopt home rule charters and that the General Assembly shall prescribe procedures for adopting charters, and, in case the General Assembly fails to prescribe such procedures, that alternate procedures may be employed.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fifteen of the Constitution of Pennsylvania is amended to read:

Section 1. [Cities may be chartered whenever a majority of electors of any town or borough having a population of at least ten thousand shall vote at any general or municipal election in favor of the same. Cities, or cities of any particular class, may be given the right and power to frame and adopt their own charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the Legislature. Laws also may be enacted affecting the organization and government of cities and boroughs, which shall become effective in any city or borough only when submitted to the electors thereof, and approved by a majority of those voting thereon.] Home Rule Charters.—Any city may adopt, amend, or repeal a home rule charter for its own government, subject to such regulations as are provided in this Constitution and as may be provided by general law. Procedures for the adoption of such home rule charters shall be provided by the General Assembly. In the absence of legislation providing such procedures, proposals for the adoption, amendment or repeal of a home rule charter may be submitted to the electorate in the manner provided for by the election laws by resolution of the governing body of the city or by a charter commission of not less than seven members elected by the qualified electors of the city from their membership pursuant to petition for such election, bearing the signatures of at least ten per cent of the qualified electors of the city and filed with the chief recording officer of the legislative body of the city.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. You may proceed with your remarks, Delegate Scott.

DELEGATE SCOTT. Mr. President, relative to the Home Rule Charter proposal, this proposal is an amendment to Proposal No. 1036 submitted on December 20, 1967.

Mr. President, I read in place and present to the Chair the following proposal and would like to comment on the proposal.

No. 1109

By DELEGATE SCOTT

A PROPOSAL

Amending the Constitution of Pennsylvania to require bills introduced into the General Assembly to indicate the method of financing to carry out the legislation.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Article eight of the Constitution of Pennsylvania is amended by adding, after section five, a new section to read:

Section 5.1. Financing Proposed Legislation.—All bills introduced into the General Assembly shall contain a statement of the method by which the provisions of the bill are to be financed.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. You may proceed with your remarks, Delegate Scott.

DELEGATE SCOTT. There is no comment on that one, it just spells out what it says.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Shrager.

DELEGATE SHRAGER. Mr. President, I read in place and offer the following several proposals which are being introduced on behalf of the City of Philadelphia:

No. 1110

By DELEGATES ABERMAN, RAPPAPORT, TATE, BASHOFF, MATTIONI and KELLY

A PROPOSAL

Amending the Constitution of Pennsylvania to eliminate certain provisions and to provide that all officers performing functions of county government shall be officers of the city of Philadelphia and shall continue to perform their duties and be elected, appointed, compensated and organized in the manner now in effect, until provided otherwise by amendment to the Philadelphia Home Rule Charter.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eight, article fourteen of the Constitution of Pennsylvania is amended to read:

Section 8. Abolition of County Officers in Philadelphia. —(1) In Philadelphia all county offices are [hereby] abolished [, and the]. The city shall [henceforth] perform all functions of county government within its area

[through officers selected in such manner as may be provided by law].

(2) Local and special laws [, regulating the affairs of] with respect to powers granted to the city of Philadelphia [and creating offices or prescribing the powers and duties of officers of the city of Philadelphia,] shall be valid notwithstanding the provisions of [section seven of article three of] this Constitution relating to local and special legislation.

(3) All laws applicable to the county of Philadelphia shall apply to the city of Philadelphia.

(4) The city of Philadelphia shall have, assume and take over all powers, property, obligations and indebtedness of the county of Philadelphia.

(5) [. The provisions of article fifteen, section one of the Constitution shall apply with full force and effect to the functions of the county government hereafter to be performed by the city government.

(6) This amendment shall become effective immediately upon its adoption.

(7) Upon adoption of this amendment all county] All officers performing functions of county government shall [become] be officers of the city of Philadelphia [, and, until the General Assembly shall otherwise provide,]. Until otherwise provided by the city of Philadelphia through amendment to the Philadelphia Home Rule Charter, they shall continue to perform their duties and be elected, appointed, compensated and organized in [such] the manner [as may be provided by the provisions of this Constitution and the laws of the Commonwealth in effect at the time this amendment becomes effective, but such officers serving when this amendment becomes effective shall be permitted to complete their terms] now in effect.

Referred to Committee on Local Government

No. 1111

By DELEGATES SHRAGER, ABERMAN, MATTIONI, MURRAY, BASHOFF and KELLY

A PROPOSAL

Amending the Constitution of Pennsylvania to make provisions applicable to all political subdivisions and to any individual, association or corporation to eliminate provisions dealing with repelling invasion and assisting State in discharge of its indebtedness, and to apply provisions to debt incurred by any political subdivision by reason of riot or civil disorder.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section nine of article eight of the Constitution of Pennsylvania is amended to read:

Section 9. Municipal Debt not to be Assumed by State. Exceptions.—The Commonwealth shall not assume the debt, or any part thereof, of any city, county, borough [or], township or other political subdivision, or of any individual, association or corporation, unless such debt shall have been contracted to enable the [State] Commonwealth to [repel invasion,] suppress [domestic] insurrection, or defend itself in time of war, or [to assist the State in the discharge of any portion of its present indebtedness] shall have been incurred by any such political subdivision by reason of riot or civil disorder.

Referred to Committee on Taxation and State Finance.

No. 1112

By DELEGATES SHRAGER, ABERMAN and BASHOFF

A PROPOSAL

Amending the Constitution of Pennsylvania to eliminate certain provisions, to require the General Assembly to provide for incorporation and government of cities and boroughs, to alter municipal boundaries, to consolidate or dissolve municipalities, to empower the General Assembly to provide optional plans of municipal organization and government, to provide for adoption of such plans, to grant to cities and boroughs the right and power to frame and adopt home rule charters, and to empower them to exercise powers and authority of self-government, subject to certain powers of the General Assembly.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one, article fifteen of the Constitution of Pennsylvania is amended to read:

Section 1. [Cities may be chartered whenever a majority of electors of any town or borough having a population of at least ten thousand shall vote at any general or municipal election in favor of the same.] Municipal Organization, Boundaries, and Home Rule.—(a) The General Assembly shall provide by general law for the incorporation and government of cities and boroughs and the methods by which municipal boundaries may be altered and municipalities may be consolidated or dissolved.

(b) The General Assembly may provide optional plans of municipal organization and government which may be adopted or repealed by majority vote of the qualified electors of the city or borough voting thereon.

(c) Cities [, or cities of any particular class, may be given] and boroughs shall have the right and power to frame and adopt their own home rule charters and [to] shall have and may exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the [Legislature. Laws also may be enacted affecting the organization and government of cities and boroughs, which shall become effective in any city or borough only when submitted to the electors thereof, and approved by a majority of those voting thereon] General Assembly.

Referred to Committee on Local Government.

No. 1113

By DELEGATES SHRAGER, ABERMAN, MURRAY, MATTIONI, RAPPAPORT, TATE and BASHOFF

A PROPOSAL

Repealing section nineteen of article eight of the Constitution of Pennsylvania, to delete the grant of power to Philadelphia to levy special assessments and to acquire land by eminent domain.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Section nineteen of article eight of the Constitution of Pennsylvania, which reads as follows, is repealed:

[Section 19. The city of Philadelphia, in constructing, for the benefit of the inhabitants thereof, transit subways, rapid transit railways, or other local transit facilities for the transportation of persons or property, shall have the power, in order the more justly to distribute the benefits and costs of such transit facilities, to levy special assessments against such properties, whether abutting or not abutting upon said transit facilities, as are or will be specially and particularly benefited by the construction or operation of such transit facilities; such power to be exercised in accordance with existing or with future laws or pursuant to statutes enacted prior to the adoption of this amendment but made effective by it. Such special assessments, when so levied, may be made payable presently when levied or in installments over a period of years, with or without interest, and shall immediately, when so levied, be deducted from any indebtedness incurred for such purposes in calculating the debt of such city. Such city may acquire by eminent domain either the fee or less estate or easements in land necessary for the construction or operation of such transit facilities or for the disposal of earth or material excavated in the construction thereof or for other incidental purposes; but this provision shall not create any additional powers for the condemnation of any railroad or street railway in operation.]

Referred to Committee on Local Government.

No. 1114

By DELEGATES SHRAGER, ABERMAN, RAPPAPORT, TATE and MATTIONI

A PROPOSAL

Amending the Constitution of Pennsylvania to allow political subdivisions to become financially affiliated with certain entities for public purposes.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section seven, article eight of the Constitution of Pennsylvania is amended to read:

Section 7. Municipalities Not to Become Stockholders in Corporations, etc., nor Loan Credit, Except for Public Purposes—[The General Assembly shall not authorize any] Except for public purposes, no county, city, borough, incorporated town, township, [or incorporated district to] school district or other political subdivision shall become a stockholder in any company, association or corporation, or [to] obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual.

Referred to Committee on Local Government.

No. 1115

By DELEGATES SHRAGER, ABERMAN, TATE, MURRAY, RAPPAPORT and MATTIONI

A PROPOSAL

Repealing section thirteen of article eight of the Constitution of Pennsylvania to delete the limitation on reserve funds and to eliminate the requirement of monthly statements.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section thirteen of article eight of the Constitution of Pennsylvania which reads as follows, is repealed:

[Section 13. The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured.]

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Shrager for his remarks.

DELEGATE SHRAGER. Mr. President, I merely want to say that the following delegates have joined me in presenting these proposals: Delegates Aberman, Bashoff, Camardella, Gray, Kelly, King, Mattioni, McGlynn, Murray, Quiles, Rappaport, Silverman and Tate, all delegates from Philadelphia.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Philadelphia, Delegate Quiles.

DELEGATE QUILES. Mr. President, I read in place and wish to present the following proposal:

PRESIDENT BRODERICK. The delegate from Philadelphia, Delegate Quiles, reads in place and presents a proposal, the title to which the clerk shall now read.

The CLERK. A proposal amending Article VIII of the constitution of Pennsylvania authorizing taxation appropriation for nonpublic schools.

PRESIDENT BRODERICK. Is there a comment, Delegate Quiles?

DELEGATE QUILES. No, sir.

RESOLUTION

CALLING CONSTITUTIONAL CONVENTION EVERY 25 YEARS

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Erie, Delegate Scott, for a resolution.

DELEGATE SCOTT. Mr. President, I would like to make a few remarks before I present my resolution.

Mr. President and fellow delegates, I would suggest that the Constitution provide for periodic Constitutional Conventions every 25 years. Four hard looks at the Constitution in one century are not too many. Let every generation have its voice in the matter.

Mr. President and fellow delegates, I offer the following resolution and move its adoption:

In the Constitutional Convention, January 4, 1968

In the modern world, times and customs change rapidly. It is important therefore that our basic law be kept attuned to these changing times; therefore be it

RESOLVED, That this Constitutional Convention urges the General Assembly to provide machinery requiring the calling of a Constitutional

Convention every twenty-five years to consider the entire Constitution of Pennsylvania

BASIL C SCOTT

Thank you, Mr. President.

PRESIDENT BRODERICK. Is there a second to that resolution?

The resolution has been seconded by the delegate from Allegheny, Delegate Otto

If there is no objection, that resolution will be referred to the Rules Committee for study and recommendation to the Convention.

The Chair hears no objection

RESOLUTION

URGING STANDARD HOLE PUNCHING

PRESIDENT BRODERICK. The Chair recognizes the delegate from York, Delegate Shoemaker.

DELEGATE SHOEMAKER. Mr. President, throughout the process of this Convention, we have been barraged with various material which includes but is not limited to proposals, reports, rules, lists, directories and, of course, the Journal. The first month the aforesaid documents were of various sizes and shapes, containing either two holes, three holes or no holes at all.

In our area on the floor, we have kept our helpful pages quite busy punching and repunching so that we could, in an orderly fashion, consolidate these into one group as we saw fit.

Today we received the first Journal and were not, of course, surprised to find four holes therein, and Journal No. 2 came out with three holes which, I might add, did not match.

If it would not be too great a difficulty to accomplish, could this body now consider a resolution as follows:

In the Constitutional Convention, January 4, 1968

Be it Resolved that this convention adopt a standard for hole punching in the Journal, Reporter, Proposals, Rules and other official documents of the Convention.

PRESIDENT BRODERICK. The resolution is referred to the Committee on Rules for appropriate action.

INSPECTION OF JOURNALS

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, in extension of the remarks just made, you have on your desks this morning two copies of the Journal, numbers one and two. The others will follow promptly. This leads to the inquiry made by Delegate Shapiro of the 12th District who says that, he, along with several other delegates who have mentioned this to me, came by my office yesterday to correct their remarks in preceding Journals.

Those Journals were missing yesterday and quite properly so. They stay in my office only a short time, I think two days, for correction and then they are sent to the printers so that those are not recoverable.

I would, however, ask someone in authority to state how

long these Journals will be kept available for correction of remarks in my office. I do not know.

PRESIDENT BRODERICK. We will have Mr. Petrosky answer that for you.

Mr. PETROSKY. In accordance with the rules as passed upon by the delegates of the Convention, they will remain in the Secretary's office for two Convention days. After that they are picked up and transmitted to the printer.

RESOLUTION

INVALID PROPOSALS

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton.

DELEGATE MORTON. Mr. President, I have a resolution that I was going to have typed and presented tomorrow and it should be referred to the Committee on Rules. In view of the fact that they are meeting tonight, I would like the Chair's permission to read the resolution, comment on it and then present it in the typed form.

PRESIDENT BRODERICK. You may proceed.

DELEGATE MORTON read the following resolution:

WHEREAS, the Act of the General Assembly No. 2, Session 1967, provides that the Convention "shall also determine rules for the conduct of its delegates and provide for the censure, suspension or removal of a delegate, if necessary;"

WHEREAS, the Rules do not so provide for the censure, suspension or removal of a delegate, if necessary;

WHEREAS, the Rules provide that the Committee on Rules shall have the power to make studies and recommendations designed to promote, improve and expedite the business of the Convention and may propose any amendments to the Rules deemed necessary to accomplish such purpose;

WHEREAS, certain delegates have persisted in introducing proposals which are not in accordance with the limitations of Act No. 2;

WHEREAS, some persons introducing such proposals have indicated that they may persist in this course of conduct by seeking to present amendments to proposals when they reach the convention floor which have heretofore been ruled beyond the limitations of Act No. 2.

BE it resolved that the Rules Committee, as empowered by the Rules, propose an amendment of the rules to provide for the censure of any delegate who introduces two or more proposals or one amendment to a proposal which is not in accordance with the limitation of Act No. 2.

JAMES D. MORTON
GEORGE F. POTT
HENRY E. REA
JOHN J. REDICK

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton.

DELEGATE MORTON. Mr. President, we have no objection to people presenting proposals, but we feel that we have reached a stage now where we have legal counsel and if there is a question of the legality of it, that could be submitted beforehand.

Our concern lies when we get to the Convention floor in February when time will be precious. Any proposal that has been ruled out of order beforehand should not be, in any way, introduced as an amendment so that it can come back to the floor here.

Thank you.

PRESIDENT BRODERICK. The resolution has been seconded by Delegate Pott and will be referred to the Committee on Rules for action as requested. In view of the fact that the Committee on Rules is meeting today, the resolution has been accepted in the form offered.

The Chair recognizes the delegate from the 18th District, Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President, I would like to know whether or not I have the permission to say a few words on that so-called resolution that was just presented by the learned gentleman.

PRESIDENT BRODERICK. You may proceed.

DELEGATE JIROLANIO. Mr. President, I was shocked to hear the reading and the contents of that resolution. I would presume that every delegate in this assembly came here to do a just duty and he would have a perfect right to introduce proposals or amendments which he thinks would be proper. How could you determine, or how could the Rules Committee determine whether the motive of the delegate in introducing an amendment which is first ruled to be out of order, which would contain the same contents, was done with the express intention of avoiding the rule that he would have that resolution become?

We certainly cannot stifle the thoughts of the members of this assembly. That is the worst thing that we could do. We came here with an open mind. We are not supposed to be Democrats and we are not supposed to be Republicans. Now they want us to be marionettes.

I certainly do not approve of that type of resolution. I hate to get up and express my opinion on that, but since it is going to the Rules Committee for its determination before it could be acted upon, I thought I had to have my little say before I go to bed tonight.

PRESIDENT BRODERICK. Thank you, Delegate Jirolanio.

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 45th District, Delegate Baner.

DELEGATE BANES. Mr. President, may I have a word on the prior resolution, sir?

PRESIDENT BRODERICK. I just want you to know that I think it is out of order, but you may have the word.

DELEGATE BANES. I would like to know, if you please, if you have ruled the resolution out of order at this time.

PRESIDENT BRODERICK. No, not the resolution. The resolution was referred to the Rules Committee. I permitted Delegate Jirolanio to make a statement, therefore, you certainly can speak likewise.

DELEGATE BANES. The record will show there has been no action, official or otherwise, on this particular resolution?

PRESIDENT BRODERICK. The resolution has been referred to the Rules Committee. That is the only action taken.

DELEGATE BANES. Thank you.

PRESIDENT BRODERICK. We have to await the report of the Rules Committee in connection with the resolution.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from the 27th District, Delegate Percey. For what purpose does the gentleman rise?

DELEGATE PERCEY. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE PERCEY. Mr. President, I respectfully request that you direct the clerk to mark me present today.

PRESIDENT BRODERICK. Thank you for calling it to our attention. We shall do that.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Thursday, January 4, 1968, immediately after today's session.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, entire committee, auditorium of New Museum Building, Thursday, January 4, 1968, immediately after today's session; subcommittee chairmen, Room 500, North Office Building, Thursday, January 4, 1968, at 5:30 p.m., e.s.t.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, all subcommittees, respective subcommittee rooms, Thursday, January 4, 1968, immediately following today's session.

RULES, Co-Chairmen Gabreski and Leach, Room 351, Local Government Conference Room, Thursday, January 4, 1968, at 7:30 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, subcommittees, respective rooms, Thursday, January 4, 1968, immediately after today's session; subcommittee co-chairmen, Room 611, North Office Building, Thursday, January 4, 1968, at 5 p.m., e.s.t.

ANNOUNCEMENT BY DELEGATE AMSTERDAM

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Judiciary Committee, Delegate Amsterdam.

DELEGATE AMSTERDAM. All members, all delegates and the public are also invited to the meeting to be held

in the auditorium of the new Museum Building. At that time, we will have with us Judge Harry Hall, judge of the Circuit Court of Jackson County, Missouri.

Those who were with Judge Hall until 10 o'clock last evening know that the experience he has had in the State of Missouri is invaluable to the delegates of this Convention in framing our Judiciary Article.

I might say that Judge Hall has been a member of the Constitutional Commission which has been working for over two years now on the formation of a new Judiciary Article for the State of Missouri, so that he has had a great deal of experience.

In addition to that, Judge Hall served for 16 years as an active attorney prior to the new Judiciary Article, served for 15 more years as an active attorney under the new Judiciary Article and served for 12 years as a judge under the so-called new Judiciary Article. That includes, of course, the Missouri Plan for the merit selection of judges. We feel this will be of tremendous importance to the Convention and all delegates are invited and members of the public are invited to that meeting. We expect it will probably run until one o'clock today.

I might also note that the subcommittees will announce their individual meetings for this afternoon at the meeting which will be held this morning in the New Museum Building.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Amsterdam.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair now recognizes Delegate Griffith for the adjournment motion.

DELEGATE GRIFFITH. Mr. President, I move that this Convention do now adjourn until Friday, January 5, 1968, at 9 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Griffith and seconded by Delegate Casey that the Convention do now adjourn until Friday, January 5, 1968, at 9 a.m., e.s.t.

The motion was agreed to, and (at 10:51 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Friday, January 5, 1968

Number 17

The Convention was called to order at 9 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND JAY F. EBERSOLE, pastor of the Fourth United Church of Christ of Harrisburg, Pennsylvania, offered the following prayer:

Let us pray. O God, the Father of all men, we thank Thee for this new day of Thy creation. We thank Thee for this historic place in which to gather at work for constitutional government. We thank Thee for the high calling entrusted to these representatives of our people.

In all that is said and done this day, keep us mindful, we pray Thee, that according to our faith it is Thy law by which we learn to live. It is the vision of Thy Kingdom by which we measure the State as our community. It is Thy will that men should be free. And it is Thy love which draws us to truth which brings peace on earth and good will to men.

May the words of this and every moment of our prayers be spoken in the actions of our lives this day and always. Amen.

APPROVAL OF JOURNAL POSTPONED

PRESIDENT BRODERICK. Without objection, approval of the Journal for January 4, 1968, will be postponed until printed.

The Chair hears no objection.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, I want to submit the following requests for leaves of absence:

The delegate from the 33rd District, DELEGATE BARON, for January 8 and January 9, because he has to appear in court.

The delegate from the 44th District, DELEGATE BRENAN, to January 15. I am very happy to say that word goes out that he hopes to be out of the hospital by January 15 and on his way back here. He has, as you know, undergone an operation.

The delegate from the 40th District, DELEGATE WELSH, for January 5, because he has to appear in court.

The delegate from the 2nd District, DELEGATE ABERMAN, for January 5 and January 8, because of a law case.

The delegate from the 33rd District, DELEGATE J. W. KELLER, for January 5, because of a meeting of the county commissioners.

The delegate from the 21st District, DELEGATE BROWN, for January 4, because of illness.

The delegate from the 8th District, DELEGATE MORE, for January 4, because of business.

The delegate from the 5th District, DELEGATE HORNE, for January 5 and January 9, because of an education meeting.

The delegate from the 38th District, DELEGATE RICHTER, for January 5, because of business.

The delegate from the 5th District, DELEGATE BASHOFF, for January 5, because of business.

The delegate from the 49th District, DELEGATE GEHRLIN, for January 5, because of illness. I have just received a phone call from Mr. Gehrlein who is still ill but expects to join us on Monday.

PRESIDENT BRODERICK. Without objection, the leaves requested by the Secretary are granted. The Chair hears no objection.

QUORUM CALL

PRESIDENT BRODERICK. The next order of business is the calling of the roll to determine whether we have a quorum present.

At this time we will unlock the voting machine and the delegates will proceed to record their presence by voting "aye."

The roll was recorded as follows:

Allison	Fawcett	Levin	Redick
Baldridge	Fay	Manderino	Roberts
Baldus	Feather	Mangery	Sahli
Banes	Filson	Mathon	Scarlett
Barron	Forster	McGeary	Seranton
Benfield	Gouger	Meyer	Shetig
Bloom	Gray	Michael	Shively
Braham	Hannum	Michener	Shoemaker
Brown	Harding	Moorhead	Shrager
Bunting	Hatter	Morton	Silverman
Burkholder	Himes	Musselman	Sprogel
Caputo	Hocker	Nelson	Strickler
Casey	Hook	Orban	Swope
Clark	Hostetler	Orbin	Tale
Corey	Huggins	Otto	Thornburgh
Cosetti	Johnson	Pasquerilla	Tomasick
Croop	Kauffman	Pelletier	Tully
Curran	Kelly	Percey	Van Sant
Daley	Krill	Popl	Waldron
Desmond	Leach	Powell	Warman
Devlin	Lee, L	Prendergast	Whittum
Dumbauld	Leinbach	Rappaport	Wilcox
Erwin	Leonard	Rea	Woodring

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 92 delegates present.

The Chair also notes the presence of the following delegates:

Amsterdam	Fineman	Lee, K	Ruth
Aurentz	Fohl	Markley	Scales
Broderick	Gabreski	Miller, D	Shapiro
Buck	Gerber	Miller, R	Stout

Butera
Clinger
Donaldson

Irviss
Keller, J.
Keller, M

Murray
O'Donnell
Polt

Westerberg
Woodside

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. The next item of business is the reports of the committee co-chairmen.

Today is the day when all our standing committee co-chairmen report the activities and the accomplishments of their respective committees, since the last report which was obtained on Thursday, December 21, 1967.

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of Local Government, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, delegates to the Convention, in accordance with the rules, reporting for this week on the Committee on Local Government, this report covers the progress of the Local Government Committee since the last report to the Convention on December 21, 1967. The period covered in this report is from December 22, 1967 to January 5, 1968.

In accordance with the established schedule, public hearings were held by the Local Government Committee on Thursday, December 28, 1967 from 9:30 a.m. to 5:30 p.m. Seventeen witnesses appeared before the committee for oral presentation and four presentations were made by written submission.

During the period of this report, 20 separate meetings have been held by the Local Government Committee and its subcommittees. The cumulative total since the appointment of the committee is 76.

Consultants have continued to appear by invitation of the subcommittees and 11 consultants have made presentations to the subcommittees. Total of such appearances since the appointment of the committee is 32.

Fifty proposals have been referred by the President to the Local Government Committee, and these, in turn, have been referred to the appropriate subcommittees as follows: Structure and Organization, 16; Annexation and Boundary Changes, 10; Local Finance, 15; Home Rule, 21; County Government, 24; Local Apportionment, 6.

The work of the Local Government Committee is proceeding in accordance with the daily schedule of activities previously submitted to the Convention. It is anticipated that in accordance with the schedule, subcommittee recommendations will be received by the standing committee on or before January 15. One subcommittee has already begun the submission of recommendations to the standing committee.

Co-chairmen of the Local Government Committee are well satisfied with the progress being made by the subcommittees and feel confident that the committee's schedule of progress will be maintained.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you for an excellent report, Chairman Manderino.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes Chairman Leonard, the co-chairman of the Committee on Taxation and State Finance, for his report.

DELEGATE LEONARD. Mr. President, since the last interim report dated December 21, the Committee on Taxation and State Finance has held the following meetings: We had a public hearing on December 29; we had a general meeting on the evening of January 3, and we have had 11 separate subcommittee meetings.

There have been, prior to this meeting, 31 delegate proposals referred to the Taxation and State Finance Committee, all of which have been referred to the subcommittees as follows: Some proposals have been referred to more than one subcommittee; Taxation has 15; State Debt has 12; Sinking Fund has 12.

Incidentally, proposals pertaining to state budgetary matters are referred to the Sinking Fund subcommittee as an expedient to spread the work load.

Also being referred for consideration are what we call "public hearing" proposals and "public letter" proposals. In other words, all suggestions being brought to the attention of this committee are referred to appropriate subcommittees for study and consideration.

The subcommittees are now in the process of reviewing all proposals and it is planned that the first subcommittee proposal to our standing committee will be distributed to our members, along with the pros and cons of such proposal, on Tuesday, January 9. This will be for first consideration by our committee on Wednesday, January 10.

The subcommittees will also submit suggestion schedules of implementation along with the proposals to the committee.

At a meeting of all subcommittee co-chairmen last evening, a detailed schedule of all committee and subcommittee meetings was prepared along with a listing of the people to be invited to appear before such committee meetings. In this connection, each delegate who made a proposal that was referred to our committee is now being formally asked to appear before the subcommittees to which such proposal was referred in order to present his comments and answer questions concerning his proposal.

The hearings or interviews of delegates will be held Monday night, January 8, at 7:30 p.m. in the following rooms:

Taxation in the Senate Caucus Room,
State Debt, Room 610-D, North Office Building,
Sinking Fund, Room 614, North Office Building.

Delegates accepting this invitation should contact Miss Donna Clark in Room 611, North Office Building, on Monday at 5 p.m.

In summation, we are pleased to report that the Committee on Taxation and State Finance is well on its way to accomplishing its objectives.

PRESIDENT BRODERICK. Thank you for a very fine report, Delegate Leonard.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair now recognizes Co-Chairman Scranton of the Judiciary Committee.

DELEGATE SCRANTON. Since our last report we have had hearings on December 27 which were not only well attended but which lasted until almost midnight that evening. Likewise, there have been daily meetings of the subcommittees ever since the Convention reconvened in January.

We have had the help of one major outside consultant, Judge Hall. Yesterday a number of you heard him and

became aware that he is an expert in this field of the Missouri Plan for the selection of judges.

Today I am happy to tell you that Glenn Winters of the American Judicature Society is with us and immediately following this session will appear before all of the members of the Judiciary Committee and any other delegates who wish to hear him and to have a question and answer session with him, particularly on the subject of the selection of judges and on the administration and organization of the judiciary and likewise anybody of the public who would like to attend. That room number has been changed. It will be in Room 132 of the Finance Building, so that those of you who are not rugged like those of us from northern Pennsylvania will not have to go outside the building.

Likewise, we have had innumerable proposals and all have been assigned. Incidentally, up to and as of last evening, every one that has been assigned to the Judiciary Committee has not only been referred to subcommittee but has been thoroughly considered by said subcommittee.

At the meeting of subcommittee co-chairmen last night, we went over the docket of timing and the scheduling and I am happy to say to you, Mr. President, that the subcommittee chairmen are not only up to schedule, they are ahead of schedule. All five of them expect to have their proposals ready next week for the full committee to start discussing. In fact, one subcommittee has already completed its full report as well as its recommendation of proposals that are on the desks of the members of the Judiciary Committee this morning, so I think we are all right now.

PRESIDENT BRODERICK. Thank you very much for an excellent report, Chairman Scranton.

COMMITTEE ON ADMINISTRATION AND FINANCE

PRESIDENT BRODERICK. The Chair now recognizes the Co-Chairman of the Committee on Administration and Finance, Delegate Swope.

DELEGATE SWOPE. Mr. President, this is in the nature of a special report. At your direction, our committee reviewed the matter of meals supplied to delegates during the busy week for the committees holding public hearings between Christmas and New Year's and have unanimously agreed to the following report:

The Committee on Administration and Finance has reviewed carefully questions raised in this chamber concerning expenditure of Convention funds for meals provided Convention delegates while attending the public hearings last week.

The expenditures in question—totaling \$417.40—were incurred for group meals furnished by Servomation Mathias, Incorporated, operator of the cafeteria in the Main Capitol, as follows:

Wednesday, December 27, 41 lunches, \$108.65.

Wednesday, December 27, 35 dinners, \$198.00.

Thursday, December 28, 41 lunches, \$112.75.

The committee has received reports from the Executive Director, who authorized the expenditures in question, and it has examined the purpose, propriety, legality and budgetary provisions for the expenditures.

The unanimous decision of the committee, as evidenced by discussion and a motion passed by the members at the

meeting of January 3, 1968, was to approve the expenditures for the following reasons:

The Convention Solicitor, in consultation with other knowledgeable attorneys, rendered an opinion to the committee confirming that the expenditures for group meals, provided delegates while in attendance at officially sanctioned public hearings, are consistent with the provisions of Act No. 2, concerning payment of expenses of delegates.

The printed material entitled "Explanation of Budget Items," which was submitted to the Convention as an attachment to the budget approved by the Convention, sets forth as one of the kinds of expenditures to be provided for, "The Expenses of Delegates While Attending Public Hearings." This language is found under the expenditure item titled "Travel and Meetings." Therefore, it is clear that the expenditures in question were specifically envisioned to be provided for in the budget that has been approved by this Convention.

The purpose of the expenditure was not to provide free meals for delegates but rather to speed up their meal breaks, and to give them an opportunity to discuss the proceedings of the day. On both counts the committee agreed the expenditure proved worthwhile. In all cases—and there were a great many delegates in attendance at all four public hearings—the meals were completed in an hour or less, and delegates were able to return to the hearing room. I might add that this was a consideration owed to the witnesses, many of whom traveled long distances to testify and waited many hours for their turn on the stand. It was a courtesy to them to get them on as soon as possible. As you all know, the first hearing on December 27, opened at 9:30 a.m. and lasted until after 10:30 p.m. The second hearing opened at 9:30 a.m. and lasted until 6 p.m. Lunch was served the day of the second hearing but dinner was not served. The third and fourth hearings each lasted a half day, and neither a luncheon nor a dinner was served that day.

The committee was in agreement that the Executive Director acted properly when he scheduled the meals and, therefore, the committee approved this action. The committee was aware that the number of witnesses increased rapidly just before the opening of the hearings. While we had only 44 listed witnesses the day before the hearings, this mounted to more than 80 in this short space of time before the hearings were held—and this, along with the large number of delegates, necessitated an instant decision.

I would like to call attention to a situation which is familiar to all of you whether you are professional or business people. It is not uncommon to provide meals for employees when they are required to work odd hours—these are business lunches, business meals—it is, in fact, a common practice both in the business world and in government.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you for a very excellent report, Delegate Swope.

The Chair recognizes Co-Chairman Bloom of the same committee.

DELEGATE BLOOM. The Committee on Administration and Finance has discussed questions raised concerning Mr. Severino Stefanon, who serves the Convention as a consultant in a highly specialized field.

It is the unanimous feeling of the committee that Mr.

Stefanon performed an invaluable service for the Convention in the early weeks of its existence. And, it was the unanimous comment of the committee that it made a wise decision in agreeing to the contract with Mr. Stefanon.

Much has been made out of the fact that Mr. Stefanon worked 91 hours during the first 10 days of the Convention and was paid over \$1,100 and that he received approximately the same amount for a comparable period of time later in December.

Ninety-one hours over a period of 10 days—an average of just over nine hours a day—is not unusual, and, it is not unusual for a consultant to be paid \$13 an hour. Mr. Stefanon performed his Convention duties while on vacation from his position with the State Board of Education. The contract was drawn after consultation with officials of the board, and it was agreed that Mr. Stefanon's Convention duties would not conflict with his board duties. Mr. Stefanon is paid on a flat hourly rate of—as I mentioned earlier—\$13. This is an hourly rate; not overtime.

Mr. Stefanon's contract contains a maximum figure of \$3,600 for the three-month period of the Convention. He cannot earn any more than that.

Finally, the committee has been advised by counsel that the employment of Mr. Stefanon was in accordance with the word and intent of all applicable Pennsylvania statutes and Commonwealth personnel policies.

In view of what has been stated in this report, the committee reaffirmed its decision to contract with Mr. Stefanon, and expresses its appreciation for the services he has performed.

I wish further to report on the actions of our committee from December 21, 1967 to January 5, 1968.

The following matters were discussed and acted upon.

Staff appointments: Approved appointments by President Broderick to fill 20 vacant positions in the approved Convention staff complement;

Approved retaining of six expert consultants to assist Convention committees, each for one-day periods. Also approved the recording and reproduction of committee consultations with experts for benefit of all the delegates. Further agreed to suggest that all future committee meetings with consultants be announced in advance to encourage maximum attendance by delegates.

We ordered printed an additional supply of each of the nine reference manuals prepared for the Convention by the Convention Preparatory Committee as we found it necessary to do so.

As to delegates' expenses, we clarified the earlier committee resolution establishing the conditions and terms of reimbursement of actual expenses incurred by delegates who are members of the General Assembly, state officers or employees.

We also reviewed the policy of payment of certain expenses incurred by the delegates while attending public hearings.

We are now discussing a documentary film. We are continuing to study the propriety and the feasibility of having made a public informational and educational film portraying the activities of the Convention, pending a final report by a special subcommittee as to desirability and cost of such film. I may add, we are going to try to have that financed by sources other than the Convention moneys we are now handling.

I want to say this, and this is my own thought as co-

chairman of this Finance Committee and what has been done to date. I want to say that our committee has not performed a miracle, but the staff who has been hired here performed a miracle in getting this Convention under way and staffing it and taking care of rooms and all the necessary details to put it into the operation it is today. They are to be highly commended.

Thank you, Mr. President.

PRESIDENT BRODERICK Thank you, Chairman Bloom for a very fine report.

COMMITTEE ON ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE

PRESIDENT BRODERICK. The Chair recognizes Chairman Nelson of the Committee on Arrangement, Submission and Address to the People.

DELEGATE NELSON. Mr. President, Co-Chairman Gray and I are pleased to report that the work of the Committee on Arrangement, Submission and Address to the People is progressing according to the schedule submitted to the Convention on December 21.

PRESIDENT BRODERICK. Thank you very much, Chairman Nelson.

COMMITTEE ON RULES

PRESIDENT BRODERICK. The Chair recognizes Chairman Gabreski, Co-Chairman of the Rules Committee.

DELEGATE GABRESKI. Mr. President, the Rules Committee, chaired by Charhe Leach and myself, are happy to report that at our meeting last night the question which was referred to us as to improving any procedures with respect to expediting the proposals which are brought to the floor and do not meet the requirement of Act No. 2, was discussed. We were in total agreement that the procedures presently in the rules are adequate and satisfactory and that the President has been discharging his duties faithfully and with dispatch.

I understand that the President will be announcing a procedure that has been established to expedite the business of this Convention with regard to those proposals which may not meet the requirements of the act.

I also wish to report that the committee discussed and reviewed the various resolutions which were presented yesterday and these resolutions are being studied and taken under advisement for future report at a later date.

Thank you.

PRESIDENT BRODERICK Thank you, Chairman Gabreski, for a fine report.

COMMITTEE ON STYLE AND DRAFTING

PRESIDENT BRODERICK. The Chair recognizes Chairman Johnson of the Committee on Style and Drafting.

DELEGATE JOHNSON. I am reporting for Style and Drafting on behalf of Co-Chairman L. L. Pelletier and myself. This report is concerned with the week of January 2.

The Committee on Style and Drafting met on Wednesday, January 3, at 2 p.m. Mr. Frank P. Grad, Associate Director of the Legislative Drafting Research Fund and Director of the State Constitutional Drafting Studies Program at Columbia University, met with the committee as a consultant. He discussed the responsibility of a Com-

mittee on Style and Drafting and commented specifically on the powers incurred under our rules. He also commented on the peculiar problems of drafting constitutional provisions and emphasized the desirability of making constitutions as flexible as possible.

We were delighted that a number of members of the Committee on Arrangement, Submission, and Address to the People could join us for this meeting.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you very much, Delegate Johnson.

COMMITTEE ON LEGISLATIVE APPORTIONMENT

PRESIDENT BRODERICK. The Chair recognizes Chairman Devlin for a report of the activities of his committee since our last report which was received on December 21.

DELEGATE DEVLIN. Mr. President, they are working so very diligently with these numbers that we might get locked up for being racketeers.

We will probably have some sort of a conclusive answer before the 29th of February.

PRESIDENT BRODERICK. Thank you. That is real progress and I appreciate your making that report.

PROPOSALS REFERRED TO SUBCOMMITTEES

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, the Committee has referred the following proposals:

- No. 1091 to the Subcommittee on State Debt;
- No. 1096 to the Subcommittee on State Debt;
- No. 1098 to the Subcommittee on State Debt;
- No. 1099 to the Subcommittee on State Debt;
- No. 1105 to the Subcommittee on State Debt;
- No. 1107 to the Subcommittee on State Debt;
- No. 1092 to the Subcommittee on Sinking Fund;
- No. 1109 to the Subcommittee on Sinking Fund;
- No. 1115 to the Subcommittee on Sinking Fund.

Thank you, Mr. President.

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, the Committee has referred the following proposals:

- No. 1094 to the Subcommittees on Annexation and Boundary Changes, Home Rule and County Government;
- No. 1100 to the Subcommittee on County Government;
- No. 1102 to the Subcommittees on Local Finance and Home Rule;
- No. 1104 to the Subcommittees on Local Finance and Home Rule;
- No. 1107 to the Subcommittee on Structure and Organization;
- No. 1108 to the Subcommittee on Home Rule;
- No. 1110 to the Subcommittees on Home Rule and County Government;

No. 1112 to the Subcommittees on Structure and Organization, Annexation and Boundary Changes and Home Rule;

No. 1113 to the Subcommittees on Local Finance and Home Rule;

No. 1114 to the Subcommittees on Structure and Organization and Local Finance.

Thank you, Mr. President

JUDICIARY COMMITTEE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Judiciary Committee, Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, the Judiciary Committee has referred to Subcommittees the proposals as follows:

- No. 1093 to the Subcommittee on the Selection of Judges;
- No. 1095 to the Subcommittees on the Selection of Judges and Judicial Administration and Organization;
- No. 1097 to the Subcommittee on Judicial Administration and Organization;
- No. 1101 to the Subcommittees on Selection of Judges, Tenure of Judges, Incompatible Activities of Judges, Retirement and Post-Retirement Service of Judges and Judicial Administration and Organization;
- No. 1103 to the Subcommittees on Selection of Judges, Tenure of Judges and Judicial Administration and Organization;
- No. 1106 to the Subcommittees on Selection of Judges and Tenure of Judges.

Thank you, Mr. President.

DEADLINE FOR INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. This being the fifth day of January, it is a day of particular significance, since under the rules it is the deadline for the introduction of proposals.

I want to point out to you that that rule does not terminate your opportunity to offer suggestions, recommendations and substantive and procedural recommendations to the various committees.

Also I want to point out what the rules say, and I think the best way to do it is to read it to you. It says: "After January 5, 1968, no Delegate proposal shall be introduced, numbered or printed, except upon consent of a majority (82) of the Delegates," that you can still introduce proposals with the consent of a majority.

It says, "except that any Delegate proposal in preparation on the above date may be introduced when it is received from the Convention Drafting Bureau." Of course, any of you who have proposals that are in hand today, I would interpret that as meaning they are in the process of being prepared.

The rule also states in the second paragraph that, "this shall not prevent any delegate from thereafter submitting to the appropriate committee any suggestion for revision of the Constitution and, if so requested in writing by any delegate, said committee shall acknowledge in its Action Journal its receipt of any such suggestion." So that under rule 23, we are not precluded from proceeding with the introduction of ideas for the Constitution.

PROPOSAL RETURNED

PRESIDENT BRODERICK. I want to point out that

this morning we have to return two proposals being rejected on the grounds that they are not within the authority of our Convention.

First of all, the Chair now returns to Delegate Quiles the proposal which he introduced yesterday concerning the nonpublic school tax and appropriations. I want to add that the counsel to the Convention wrote an opinion and concluded in his opinion that this proposal was not within the authority of the Convention. A copy of that opinion is being given to Mr. Quiles with the information that he may appeal this ruling.

I want to say as the result of conferences with the Rules Committee, the Chair has determined that we should adopt this procedure in connection with appeals and proposals which, I think, will make it clearer to each and every one of you as to how an appeal may be taken from the ruling of the Chair in connection with rejected proposals.

That procedure is this: Hereafter when any proposal is returned, a copy of counsel's opinion will be attached to that proposal, and the proposer may then, at the next session under the order of business that we are now on, the order of business entitled, "Introduction of Proposals," take his appeal. I say that when and if an appeal is taken, then copies of the proposal and copies of the counsel's opinion will be distributed to all the delegates before a vote is taken to sustain or reject the ruling of the Chair.

In this way, it gives the proposer an opportunity to review counsel's opinion; it gives all the delegates an opportunity to review the opinion and the proposal before voting so that you may vote intelligently on the ruling.

The following is Counsel Opinion referring to proposal returned to Delegate Quiles:

COUNSEL OPINION No. 8

Q. Whether a proposal to add a Section to Article VIII (presently Article IX) of the Pennsylvania Constitution authorizing the General Assembly to levy taxes and make appropriations for the maintenance and support of non-public schools is within the jurisdiction of the Constitutional Convention?

A. No.

Discussion: Section 7 of Act No. 2 of 1967 authorizes the Constitutional Convention to make recommendations concerning Taxation and State Finance, now covered by part of Article IX of the Constitution. These subjects deal with the power of the State to impose taxes to carry out the functions of government under the Constitution and the management of the state's financial affairs. The instant proposal, on the other hand, merely authorizes the state legislature to exercise the taxing power for a new specific governmental purpose set forth therein, i.e., the maintenance of non-public schools. The power of the legislature to exercise the tax power to provide funds for carrying out a governmental function and the express creation of such governmental functions, where necessary, are matters which are covered by Article III of the Constitution and are not within the jurisdiction of the Convention.

The above conclusion is further supported by the fact that Sections 11, 14, 15, 29 and 30 of Ar-

ticle III expressly deal with State maintenance and support of an educational system and prohibit or limit State appropriations for the support of non-public or sectarian schools and institutions, and any proposals, such as the instant one, attempting to modify these provisions by adding Sections to Article IX are beyond the jurisdiction of the Convention. See Counsel Opinion No. 5.

MARVIN COMISKY
Counsel to Convention

By DELEGATE QUILES

A PROPOSAL

Amending article eight of the Constitution of Pennsylvania authorizing taxation and appropriations for nonpublic schools.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section 1B, a new section to read:

Section 1C. Nonpublic School Taxes and Appropriations.—The General Assembly may levy taxes and make appropriations for the maintenance and support of non-public schools to serve the educational needs of the Commonwealth.

PROPOSAL RETURNED

PRESIDENT BRODERICK. We have another one to return this morning and that is the proposal of Delegate Shrager. He introduced several proposals, as you know, and one of his proposals, the one concerning Section 5 of Article XV entitled, "Acquisition of Land," was returned because it was not within the authority of the Convention. A copy of counsel's opinion concluding that it was not within our jurisdiction has been attached to the proposal which we return forthwith.

The following is Counsel Opinion referring to proposal returned to Delegate Shrager.

COUNSEL OPINION No. 12

Q. Whether a proposal amending Section 5 of Article XV of the Constitution, which is attached hereto, is within the jurisdiction of the Constitutional Convention?

A. No.

Discussion: Section 5 of Article XV of the Constitution, as presently constituted, pertains to the acquisition by municipalities of land for highway purposes, and is clearly within the jurisdiction of the Constitutional Convention, as set forth in Section 7 of Act No. 2 of 1967, which expressly authorizes the Convention to consider amendments relating to Local Government now covered in Articles XIII, XIV, XV and part of Article IX of the Constitution. The proposal, however, provides, in addition, for the acquisition of land by the state government, as well as by municipalities. The subject of the exercise by the state government of the power of eminent domain is not with-

in the limited scope of the Convention's jurisdiction as set forth in Section 7 of Act No. 2 of 1967, and the proposal, therefore, cannot be considered by the Convention.

MARVIN COMISKY
Counsel to Convention

By DELEGATE SHRAGER

A PROPOSAL

Amending the Constitution of Pennsylvania, to eliminate provisions for condemnation of additional land and property for approaches to certain bridges and tunnels, to provide for taking by the Commonwealth or any political subdivision of land for public purposes in addition to land proposed to be retained and to dispose of such additional land subject to protective restrictions.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section five of article fifteen of the Constitution of Pennsylvania is amended to read:

Section 5. Acquisition of Land.—[The General Assembly may authorize cities to take more land and property than is needed for actual construction in the laying out, widening, extending or relocating highways or streets connecting with bridges crossing streams or tunnels under streams which form boundaries between this and any other state, but the additional land and property, so authorized to be taken, shall not be more than sufficient to form suitable building sites on such highways or streets. Nor shall the authority hereby conferred be exercised in connection with the laying out, widening, extending or relocating of any highway or street at a point more than three miles distant from the approach to any such bridge or tunnel. After so much of the land and property has been appropriated for such highways or streets as is needed therefor, the remainder may be sold or leased and any restrictions imposed thereupon which will preserve or enhance the benefit to the public of the property actually needed for the aforesaid public use.] When the public purpose for which land is taken can best be attained by acquiring more land than the Commonwealth or any political subdivision proposes to retain, the Commonwealth or any political subdivision, subject to regulations prescribed by law, may take all the land which in its judgment is needed for the attainment of such purpose and may dispose of portions thereof, subject to restrictions protective of the public purpose.

PERSONAL PRIVILEGES

PRESIDENT BRODERICK. The Chair recognizes Delegate Keller.

DELEGATE J. W. KELLER. Mr. President, I rise to a point of personal privilege.

The county commissioners of Franklin County conceded the superior jurisdiction of the Constitutional Convention. I am, therefore, present and request I be so marked.

PRESIDENT BRODERICK. You shall be so marked. I have a note to mark Delegate Amsterdam present and a signal to mark present Delegate Pott, Delegate Gerber, Delegate Shapiro, Delegate Woodring, Delegate Woodruff, Delegate Buck, Delegate Westerberg, Delegate

Aurentz, Delegate Fohl, Delegate Ruth, Delegate Scales, Delegate Murray, Delegate R. W. Miller and Delegate O'Donnell.

QUESTIONS OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Curran.

DELEGATE CURRAN. Thank you, Mr. President.

From what the Chair has just said that the delegate proposals that were placed on our desks this morning together with a copy of the counsel opinion, am I to assume that appeals have been taken from the refusal to accept these proposals or is this a matter of courtesy?

PRESIDENT BRODERICK. Which one do you have there?

DELEGATE CURRAN. I have in my possession Counsel Opinion No. 8 and Counsel Opinions Nos. 12, 13, 14 and 15.

PRESIDENT BRODERICK. They were put in, I am advised, pursuant to yesterday's suggestion. At the Rules Committee meeting last night, it was determined that instead of returning all and making copies of the proposals rejected and distributing them with opinions to all the delegates that we not do that in the future except when an appeal is taken, and you will get that after the appeal has been filed in the future.

DELEGATE CURRAN. My question is then, have appeals been taken from these proposals?

PRESIDENT BRODERICK. I do not know which proposal you have in your hand. If you can tell me whose proposal it is, I think I can answer the question.

DELEGATE CURRAN. There is no number on the proposal, Mr. President.

PRESIDENT BRODERICK. I can advise you this way then: We have two appeals that are pending; Delegate Dumbauld and Delegate Cosetti are the only two who have appealed. Does that answer your question?

DELEGATE CURRAN. These proposals here are not identified either by number or proposer.

PRESIDENT BRODERICK. That is unfortunate. In the future we certainly should have them identified. You are correct. But we do have two appeals pending, and pursuant to the ruling which I think met with consent of all the delegates, if those two appeals are still pending on Monday they will be argued at that time and copies of the proposals and copies of the opinions will be on your desks. The Chair recognizes Delegate Tate.

DELEGATE TATE. Mr. President, could you identify which of these counsel opinions, two of which I believe relate to proposals of Delegate Dumbauld, which one of those two is the one from which an appeal has been taken?

PRESIDENT BRODERICK. Delegate Tate, you say one of them is an opinion. Let me just say this: Our counsel knows which he has distributed and I am going to ask him to explain which opinions you have.

DELEGATE TATE. Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Mr. Comisky.

Mr. COMISKY. Counsel Opinion No. 15 relates to Delegate Cosetti's proposal. That is the one dealing with the Governor's power concerning the borrowing and veto power on each item.

Counsel Opinion No. 13 relates to Delegate Dumbauld's proposal that concerns the right of the legislature to levy

and appropriate certain taxes for universities and colleges.

There are two actual proposals by Delegate Dumbauld and they both relate to the same matter.

PRESIDENT BRODERICK. May I suggest that if there are still any questions in regard to those, we will be glad to have counsel answer them. Mr. Curran has a question.

DELEGATE CURRAN. Mr. President, my question is to the Chair. Are you then saying that on Monday the appeal will be taken to the floor on these two proposals and that a vote will be had at that particular time?

PRESIDENT BRODERICK. That is right. If the appeals are still pending we will vote on those appeals on Monday. I am assuming again that you have in your hand copies of the proposals and copies of the opinion. I want to request now that when they distribute these opinions and the literature you are receiving that if they also give one to the Chair it would be very helpful.

INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. We will now proceed with the introduction of proposals as our next order of business.

The Chair recognizes the delegate from Delaware, Delegate Levin.

DELEGATE LEVIN. Mr. President, I read in place and present the following proposal.

No. 1116

By **DELEGATE LEVIN**

A PROPOSAL

Amending the Constitution of Pennsylvania by limiting the imposition of a sales tax.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding at the end thereof, a new section to read:

Section . Sales Tax Limitation.—(a) No State or local sales tax may be levied on any foods, whether solid or liquid, except alcoholic beverages, or on any items of clothing actually worn and not carried as an accessory to items of clothing, nor may any State or local sales tax be levied on paper items necessary for health and sanitation, nor on any medications prescribed by a licensed physician whether it be a compounded prescription or a medication available without a prescription.

(b) No State or local sales tax may exceed five per cent unless approved by a majority of the qualified voters in a general election as prescribed by law.

Referred to Committee on Taxation and State Finance.

The Chair recognizes Delegate Thornburgh.

DELEGATE THORNBURGH. Mr. President, I read in place and present the following proposal and request the opportunity to make a brief comment:

No. 1117

By **DELEGATE THORNBURGH**

A PROPOSAL

Amending section one of article eight of the Constitution

of Pennsylvania to remove specific constitutional limitations upon exemptions from taxation and to grant the General Assembly and taxing authorities power to create exemptions.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one, article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subject, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, or any taxing authority may, by laws of general application within its jurisdiction, exempt from taxation [public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.] such classes of property as it shall, from time to time, determine

Section 2 Section two, article eight of the Constitution of Pennsylvania is repealed.

Referred to Committee on Taxation and State Finance

PRESIDENT BRODERICK You may proceed now, Delegate Thornburgh.

DELEGATE THORNBURGH Mr President, the title to this proposal is fairly self-explanatory. It would remove from the constitution the enumeration of specific constitutional tax exemptions, but would give the legislature or any other taxing authority the right to exempt classes of property from time to time. It is my feeling that the matter of tax exemption is a serious policy question which should not necessarily be petrified in the constitution, that the state and local governments as well should be given the flexibility to adjust to the changing times, needs and conditions. These exemptions should be granted, extended or removed as times dictate. The procedure for changing them, if they are constitutional, is unnecessarily involved. It would seem to me that the optimum would be to provide the elective bodies with the opportunity to grant, extend or remove exemptions and the responsibility for so doing so that the validity of these

exemptions can be examined from time to time and developed consonant with the public policy as these elective bodies might see. Thank you Mr. President

PRESIDENT BRODERICK. The Chair now recognizes Delegate Pott, from Allegheny.

DELEGATE POTT. Mr. President, I read in place and present the following resolution and request permission to speak for a few minutes.

No. 1118

By DELEGATES POTT, FOHL and GOLDMAN

A PROPOSAL

Amending the Constitution of Pennsylvania providing for tax exemption of corporate capital stock.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section 1B, a new section to read:

Section 1C. Exemption from Taxation of Corporate Capital Stock.—The capital stock of corporations shall be exempt from all direct or indirect taxes.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. Would you proceed with your statement now, Delegate Pott?

DELEGATE POTT. Mr. President, this proposal is jointly sponsored by Delegates Fohl, Goldman and myself. This proposal to exempt corporate capital stocks from taxation is not particularly designed to reduce revenue, although that goal would not find universal disfavor.

Our Commonwealth and its citizens spend millions of dollars each year to promote industrial development, yet this tax, since 1964 when our unemployment compensation fund was put on a sound and solid basis, is probably the major inhibitor of even greater industrial development.

Government encourages the investment in Pennsylvania's capital in the form of plants and tools, recognizing that such investments provide increased employment for Pennsylvanians, greater return to the State from taxes, income, sales and others. Today an investment of \$30,000 in tools is required to provide a job for one man. Why would investors, large or small, select Pennsylvania which, by capital stock taxes, immediately punishes them for their temerity in investing here in Pennsylvania? We will never know how much new industry, which acts as seed in generating countless millions of dollars of state and local taxes, was lost to our Commonwealth due to this onerous tax.

Today jobs in Pennsylvania are the prime necessity. To help solve the great problems of relief, welfare and unemployment, we must constitutionally remove this degenerative and unreasonable punitive capital tax from Pennsylvania.

Yes, Mr. President, taxes are needed, but they are much more profitably levied, if need be, on profit rather than the investment on tools of free enterprise. I suggest, and I wish to make it perfectly clear, that as a corporate official we are not against the raising of the corporate net

income tax to compensate for the deficit by the adoption of this proposal. Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. Mr. President, I read in place and present the following two proposals and desire to speak on them.

No. 1119

By DELEGATE HOOK

A PROPOSAL

Amending the Constitution of Pennsylvania providing for construction and maintenance of highways, bridges, culverts and airports by counties, municipalities and townships.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Article fourteen of the Constitution of Pennsylvania is amended by adding a new section to read:

Section . Highways and Bridges.—The General Assembly may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the counties, municipalities and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The General Assembly may provide the powers and duties of counties in relation to highways, bridges, culverts and airports and may provide for county road commissioners to be appointed or elected and their powers and duties.

Referred to Committee on Local Government.

No. 1120

By DELEGATE HOOK

A PROPOSAL

Amending the Constitution of Pennsylvania providing for excise and franchise taxes and taxes on the production of minerals.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding thereto a new section to read:

Section . Excise and Franchise Taxes; Taxes on Production of Minerals.—The General Assembly may provide for excise and franchise taxes and for the imposition of taxes upon the production of coal, oil, gas and other materials.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. Mr. President and fellow delegates, these two proposals are copied from the State of Texas and the State of Colorado, in that they give to the General

Assembly the means by which to tax by severance taxes the production of coal, oil and gas. This is done in other states. I do not believe—I have checked with legal counsel—that this is presently contained in our Constitution.

I give this as a suggestion to the Taxation and State Finance Committee to look over.

As for the second proposal, this also gives to the local government in the manner of handling certain highways in small counties and large counties the right of allowing the county commissioners to control and take care of these roads whereby certain services cannot be given by small townships that cannot afford the same. This will give the power to the county commissioners to do so.

PRESIDENT BRODERICK. The Chair recognizes Delegate Irvis.

DELEGATE IRVIS. Mr. President, I read in place and offer the following proposal. After the proposal has been filed, I ask permission of the Chair to make a brief statement.

PRESIDENT BRODERICK. The Clerk will read the title of the proposal.

THE CLERK. A proposal amending Sections 11 and 30 of Article III of the constitution of Pennsylvania to eliminate nonpreferred status of appropriations for colleges and universities.

PRESIDENT BRODERICK. The Chair recognizes Delegate Irvis.

DELEGATE IRVIS. Mr. President, as some of the delegates may be aware, this particular delegate has some small knowledge of what can happen in the General Assembly when the two political parties are in near equal balance and there is a dispute over money. All of us are aware, I am sure, in the Commonwealth of the harassing situation in which the state-related universities found themselves over a period of the last several months due to the fact that in the General Assembly there could be no general agreement as to the amount of taxes which needed to be raised and the amount of appropriations which needed to be made.

I was particularly distressed because of the inroads on the faith of the Commonwealth for we are under contract to the state-related universities and I was particularly disturbed because of the inroads on the faith of the faculties of these universities. I know that members of the faculties have seriously begun to wonder whether or not they should remain in these universities and in the Commonwealth of Pennsylvania if year after year they are going to be subjected to the same type of harassment.

The proposal which I have signed today which is also signed by minority leader of the House of Representatives, Delegate Fineman, and by Delegate Prendergast would, if accepted by the people of this Commonwealth, obviate the necessity of such worry on the part of the universities, the students, the parents of the students and the faculty of the universities. It would permit, in brief, that these universities and colleges be placed in the preferred status as far as appropriations are concerned. Consequently separate appropriation bills would not then be necessary.

I thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Indiana, Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, I read in place and present a proposal on behalf of myself and my two

fellow delegates from the 41st Senatorial District and ask, after the clerk has read it, to be permitted to make a short explanation.

PRESIDENT BRODERICK. You will be given that opportunity.

No. 1121

By DELEGATES BALDRIGE, LEACH and FILSON

A PROPOSAL

Amending the Constitution of Pennsylvania further providing for the election of justices of the peace.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eleven of article five of the Constitution of Pennsylvania is amended to read:

Section 11. Justices of the Peace.—[Except as otherwise provided in this Constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs or townships, by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the Governor for a term of six years. No township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.] Counties of the fifth, sixth, seventh and eighth class shall elect justices of the peace for five year terms. Each justice shall be elected from a contiguous and compact district consisting of townships and boroughs of at least three thousand five hundred and not over five thousand population according to the last Federal decennial census. The districts from which a justice of the peace may be elected shall not separate townships or wards or boroughs unless the township or borough involved has over five thousand population according to the last Federal decennial census. The districts from which justices of the peace are to be elected shall be apportioned among the county by the President Judge of the Court of Common Pleas of the county involved.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Indiana, Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, there has been a good deal of talk around the State within the last few years about the unnecessary office, so they say, of justice of the peace.

I suppose in some of the more urban districts they are not as necessary as we in the smaller counties consider them.

This proposal relates particularly to counties of the fifth, sixth, seventh and eighth classes, all of which are rural. Many of them have, we admit, too many JPs. This proposal changes their districts from two being elected in each municipality to one to a district of 3,500 to 5,000. If the district has over 5,000, it will be entitled

to two. This will substantially reduce the JPs in the rural counties. I respectfully point out that all three of us from the 41st District—which are four rather medium-sized rural counties, Armstrong, Jefferson, Clarion and Indiana—Delegates Leach, Baldrige and Filson, introduce this proposal as the answer. We allow the districts to be set up by the President Judge of the Common Pleas Court, and in all those counties we have only one judge. I presume if the Judiciary Committee ends up changing the name that the Committee on Style and Drafting can change the name of our court, because we think we will still have one court.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from York, Delegate Michael.

DELEGATE MICHAEL. Mr. President, I read in place and present the following proposal, and request leave for brief comment.

PRESIDENT BRODERICK. You will be given that opportunity.

No. 1122

By **DELEGATE MICHAEL**

A PROPOSAL

Amending the Constitution of Pennsylvania by further providing for the uniformity of taxation and eliminating exemptions.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws [; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation]. There shall be no exemptions.

Section 2. Section 1B, two and three of article eight of the Constitution of Pennsylvania are repealed.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes the delegate from York, Delegate Michael

DELEGATE MICHAEL. Mr. President, my proposal is quite similar to that of Delegate Thornburgh's in that it eliminates the specific listing of tax exemptions.

As Dr. Nelson mentioned this morning in his report of the Committee on Style and Drafting, Frank Grad, who has done considerable study in drafting of state constitutions and has worked with different state constitutional conventions, mentioned that one of the pitfalls in drafting a constitution is listing. Of the actual numbered proposals that have come up under this particular article, there are at least eight changing the listings of exemptions revising or providing reimbursement because of exemptions. This listing does cause a number of amendments and changes because different groups feel that they should also be included in the listing or, as in the article of the constitution where county offices are listed, changes come about during the years. For example, now we no longer need county surveyors and there are proposals for medical examiners. This proposal eliminates the listing of any exemptions.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lancaster, Delegate Forster.

DELEGATE FORSTER. Mr. President, I read in place and present the following proposal and request permission to make a brief statement.

No. 1123

By **DELEGATE FORSTER**

A PROPOSAL

Amending the Constitution of Pennsylvania by providing for apportionment of the General Assembly.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen and seventeen of article two of the Constitution of Pennsylvania are amended to read:

Section 16. Senatorial Districts.—The State shall be divided into [fifty] forty-nine senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.]

Section 17. Representative Districts.—[The members of

the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] The State shall be divided into one hundred fifty-one representative districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Representative.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Forster.

DELEGATE FORSTER. Mr. President, this proposal is aimed at making a bicameral legislature a more viable institution under the philosophy of one-man, one-vote. It specifies simply the number of Senate seats and House seats. But by omitting any reference to dividing Senate districts into Representative districts as has been suggested in several other proposals before this Convention, it makes possible Representative districts that may contain one or more parts of two or more Senatorial districts, thus providing a different representational base in the two Houses and thus, each can be a better check on the other.

PRESIDENT BRODERICK. The Chair recognizes Delegate Ruth.

DELEGATE RUTH. Mr. President, I read in place and present the following proposal and ask leave to comment.

No. 1124

By **DELEGATE RUTH**

A PROPOSAL

Amending the Constitution of Pennsylvania to forbid increases in compensation in excess of ten per cent annually for certain persons.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding, at the end thereof, a new section to read:

Section 26. Limitation of State Budget.—No budget shall be created by or on behalf of the State which includes an increase in compensation for any State official for active, inactive or retired service in excess of ten per cent annually over the existing compensation, and any law

effecting an increase beyond that enumerated above shall be void.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Ruth.

DELEGATE RUTH. Mr. President, I think the reading by the clerk as to the title is self-explanatory. It would apply to all state officials and I would like to comment as follows:

Mr. President, we are at a time in history when Pennsylvanians find themselves under an unprecedented yoke of taxes; at a time when a state budget is balanced by a record high cigarette tax imposed in desperation by stretching constitutional interpretations of majority to exclude even passive representation of my own 28th Senatorial District; at a time when, in further desperation, a sales tax is passed on questionable absentee votes; and, at a time when the same state officials, so desperate in their diligence to balance the budget, also passed separate salary and pension bills with increases without limitations. Then this is the time, I suggest gentlemen, that we delegates should stand up and be counted.

Mr. President, at such a time in history we, as delegates to this Constitution, who are dedicated to reform our taxation and finance article would be derelict in our sworn duty if we did not recognize the need for constitutional limitation on compensation of state officers who would otherwise have unlimited power to overextend the finances of the State, state officers who have demonstrated this by adopting pay raises averaging 20 per cent at a reported additional cost to the taxpayers of \$1 million annually and a pension raise averaging 20 per cent.

Therefore, Mr. President, it is imperative in looking to the future to avoid no-limit budgets or no-limit pensions and pay raises to protect Pennsylvania citizens with a constitutional percentage limitation on such self-serving practices without the costly requirement of submitting the compensation increases to the public.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Warman.

DELEGATE WARMAN. Mr. President, I read in place and present three proposals and ask to be permitted to comment on these briefly.

No. 1125

By **DELEGATE WARMAN**

A PROPOSAL

Amending the Constitution of Pennsylvania to authorize taxing authorities to exempt from real estate taxes certain residences.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt

from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation. Any taxing authority may exempt from real estate taxes the actual residence occupied by any disabled, aged or indigent person as defined by standards enacted by the General Assembly, and any person who is aggrieved by the denial of an exemption under legislation enacted under this sentence shall have the right to appeal such denial to court.

Referred to Committee on Taxation and State Finance.

No. 1126

By DELEGATE WARMAN

A PROPOSAL

Amending the Constitution of Pennsylvania, authorizing the exemption of certain persons age sixty-five or over from real estate taxes.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and resi-

dents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation. Persons sixty-five years of age or over who are the heads of households may be exempted from real estate taxes on the residence owned and occupied by them.

Referred to Committee on Taxation and State Finance.

No. 1127

By DELEGATE WARMAN

A PROPOSAL

Amending the Constitution of Pennsylvania increasing the number of senatorial districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section sixteen of article two of the Constitution of Pennsylvania is amended to read:

Section 16. Senatorial Districts; Ratio.—The State shall be divided into [fifty] fifty-one senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number [fifty] fifty-one.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK You may proceed with your statement, Delegate Warman.

DELEGATE WARMAN. Thank you, Mr. President. My first proposal adds to the existing section under which the General Assembly may exempt from taxation the actual residence owned and occupied by disabled, aged or indigent residents of Pennsylvania.

The second proposal permits an exemption from real estate taxes for property owners aged 65 years and over. Again the exemptions would apply only to the properties which the person owns and in which he or she resides. This is a consideration that we must provide for the aged citizens of our Commonwealth. These are the people who have contributed their full share to the welfare of their communities and to the Commonwealth. At 65 years their incomes decline. The Commonwealth and the vari-

ous municipalities should provide this modest relief from real estate taxes. It is a tax relief that has a clear precedent in the over-65 exemption provided under the Federal government income tax. To the individual this would be the equivalent of a significant increase in his or her social security and other income from pensions. The extra cash they would circulate would have a significant impact upon the economy of both the locality in which they live and upon the State's economy.

The third proposal to add a 51st senator would allow the State Senate to operate with a clear-cut majority. Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Luzerne, Delegate Fay.

DELEGATE FAY. Mr. President, I read in place and present to the Chair the following two proposals, and I would like to comment on one.

No. 1128

By DELEGATE FAY

A PROPOSAL

Amending the Constitution of Pennsylvania prohibiting the exemption from taxation of public utilities and their property.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section one-B thereof a new section to read:

Section 1C. Public Utilities Not to be Exempt.—No taxing authority shall exempt public utilities or their real or personal property from taxation.

Referred to Committee on Taxation and State Finance.

No. 1129

By DELEGATE FAY

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania relating to taxation and finance.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE TAXATION AND FINANCE

Section 1. Uniformity of Taxation; Exemptions.—(a) All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for general public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post or camp

of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein

(b) Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

(c) Any taxing authority may exempt persons over the age of sixty-five years from liability for increases in real estate taxes on residences owned by them and in which they actually reside, subject to such qualifications and restrictions as the General Assembly deems applicable.

(d) The General Assembly may exempt from direct taxation individuals or family units with incomes below the poverty and minimal subsistence level as may be determined by the appropriate Federal agency: Provided, however, That such appropriation shall not include exemptions from taxes on retail sales or use of commodities or services.

Section 2. Exemptions to Residents of Other States.—Taxation laws may grant exemptions or rebates to residents, or estates of residents, of other states which grant similar exemptions or rebates to residents, or estates of residents, of Pennsylvania.

Section 3. Exemption from Taxation Limited.—All laws and prior judicial decisions exempting property from taxation, other than the property enumerated in section 1, shall be void.

Section 4. Taxation of Corporations.—The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

Section 5. State Debt.—The General Assembly shall borrow or contract for debt by or on behalf of the Commonwealth for such projects or purposes as it shall deem necessary or desirable.

Section 6. The Budget.—The Governor shall submit to the General Assembly, at a time fixed by law, a budget estimate for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments and agencies of the State, as well as a general appropriation bill to authorize the proposed expenditures and a bill or bills covering requirements in the budget for new or additional revenues.

Section 7. Expenditure of Money.—(a) No money shall be withdrawn from the Treasury except in accordance with appropriations made by law, nor shall any obligation for the payment of money be incurred except as authorized by law. The appropriation for each department, office or agency of the Commonwealth for which appropriation is made, shall be for a specific sum of money and no appropriation shall allocate to any project the proceeds

of any particular tax or fund or a part of percentage thereof, except when required by the Federal government for participation in Federal programs as specified in section eight of this article, or where the Commonwealth acts as trustee for non-governmental funds.

(b) All Commonwealth and local expenditures, including salaries paid by the General Assembly, executive and judicial branches of government, shall be matters of public record.

(c) No money shall be paid by the Commonwealth, by any local governmental unit or by any taxing authority as a fee for the collection of taxes.

Section 8 Gasoline, Motor Fuel Excise, Motor Vehicle Registration, etc., Taxes; Appropriation and Use.—All proceeds from gasoline and other motor fuel excise taxes, motor vehicle registration fees and license taxes, operators' license fees and other excise taxes imposed on products used in motor transportation after providing therefrom for (1) cost of administration and collection, (2) payment of obligations incurred in the construction and reconstruction of public highways and bridges shall be appropriated by the General Assembly to agencies of the State or political subdivisions thereof; and used solely for construction, reconstruction, maintenance and repair of and safety on public highways and bridges and air navigation facilities and costs and expenses incurred for such purposes, and shall not be diverted by transfer or otherwise to any other purpose, except that loans may be made by the State from the proceeds of such taxes and fees for a single period not exceeding eight months, but no such loan shall be made within the period of one year from any preceding loan, and every loan made in any fiscal year shall be repayable within one month after the beginning of the next fiscal year.

Section 2. Article eight of the Constitution of Pennsylvania is repealed.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. You may proceed with your comments, Delegate Fay.

DELEGATE FAY. I would like to comment on the first proposal, Mr. President.

The purpose of my proposal is to more equally distribute the tax burden in the Commonwealth.

At the present time the public utilities and the public service companies are getting a free ride at the expense of the consumer and small property owners. The State is granted an exemption from property tax and sales tax while the family man with a fixed income has been hit by sales tax increases. At the local level the utilities do not carry their share of the cost of the government services such as police and fire protection, even though they are the beneficiaries of these services. This proposal will help to bring Pennsylvania into step with the other 49 States in this Union who already require utilities to carry their portion of the tax burden. Thank you.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Montgomery, Delegate Gerber.

DELEGATE GERBER. Mr. President, I read in place and present the following proposal and ask the Chair for permission to make a brief statement.

No. 1130

By DELEGATES GERBER, HOSTETLER, LEINBACH, POTT, GABRESKI, COREY, WARMAN and KAUFFMAN

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for apportionment of legislative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen, seventeen and eighteen of article two of the Constitution of Pennsylvania are amended to read:

Section 16. Senatorial Districts. Ratio.—The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as [may be,] possible within a ratio of five per cent of each other, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus [of] population exceeding [three-fifths] four-fifths of a ratio, but no county shall form a separate district unless it shall contain [four-fifths] nine-tenths of a ratio [except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.] ; a county shall be divided to conform to the ratios. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty. The senatorial districts shall be numbered on through fifty, successively in a geographical manner, beginning with the first district in Philadelphia, the odd numbered seats to run in the Presidential Election year, and the even numbered seats to run in the Gubernatorial Election year, except all districts running the year immediately following after the adoption of this Constitution, and the year immediately following the decennial census, and shall be apportioned as provided for in section nineteen of article two of this Constitution.

Section 17. Representative Districts Ratio.—[The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio.] The State shall be divided into two hundred single separate member districts of compact and contiguous territory as nearly equal in population as possible within a ratio of ten per cent of each other. There shall be four House of Representatives districts contained within each State senatorial district. Every city contain-

ing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the [county] senatorial district in which it is located [Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives,] if it does not violate the equality of a ratio. The House of Representatives districts shall be elected every two years in the even year. The House of Representatives districts ratio shall be ascertained by dividing the whole population of the State by the number two hundred. The House of Representatives districts shall be numbered one through two hundred.

Section 18. Time of Apportionment.—The General Assembly at its first session after the adoption of this Constitution, [and] immediately after each United States decennial census, shall apportion the State into senatorial and representative districts [agreeably] pursuant to the provisions of the two [next] preceding sections.

Section 2. Article two is amended by adding at the end thereof a new section to read:

Section 19 Legislative Apportionment.—(a) If the General Assembly fails to apportion itself within one hundred twenty days after (1) the adoption of this Constitution, and (2) after the certification of each United States decennial census into senatorial and representative districts pursuant to the provisions of the two preceding sections, then a commission consisting of the majority and minority leader of the Senate and House of Representatives shall prepare a report for redistricting for the State, and submit it to the General Assembly within thirty days after the expiration of the aforementioned time period. Within three months of said submission to the General Assembly, the General Assembly shall reapportion itself or accept the report of the commission, and if it fails to do either, the report of the commission shall have the force of law.

(b) If the General Assembly, and later the commission, fail to reapportion as provided therein, the Supreme Court of Pennsylvania shall apportion the Commonwealth in the senatorial and representative districts pursuant to the provisions of the two preceding sections, and for that purpose, the Supreme Court shall have original jurisdiction. To assist the court in performing this extraordinary task, the court shall appoint and fix the compensation of the master or a board of members for the purpose of taking testimony and making recommendations to the court. The court shall conclude its work within sixty days and file the reapportionments in the Office of the Secretary of the Commonwealth; the reapportionments made by the court shall have the force of law.

(c) An apportionment made by the General Assembly under subsection (a) of this section shall be reviewable on appeal within thirty days exclusively by the Supreme Court of Pennsylvania. Said appeal must be heard and decided within sixty days, and such apportionment shall become effective when the Supreme Court has finally decided the appeal, or when the last day for taking an appeal has passed and no appeal has been taken.

(d) Any apportionment made by the Supreme Court under subsection (b) of this section shall become effective immediately.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Montgomery, Delegate Gerber.

DELEGATE GERBER. This proposal provides for a General Assembly composed of 50 state Senators and 200 members of the House. Specifically, I direct my attention to the United States Supreme Court decision which rendered current New York Legislative Reapportionment Act unconstitutional as a result of the great difference between the largest and the smallest House and Senate seats.

Secondly, I direct my attention to the fact that the Senate seats of Pennsylvania should be numbered 1 through 50 consecutively rather than have the numbers throughout the State picked at random for possible political benefit to whomever was elected from those specific districts.

Thank you very much.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Delaware, Delegate Levin.

DELEGATE LEVIN. Mr. President, I read in place and present to the Chair the following proposals and wish to make a statement not necessarily brief.

No. 1131

By DELEGATES LEVIN and DESMOND

A PROPOSAL

Amending the Constitution of Pennsylvania providing for a limitation on the annexation of counties.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article thirteen of the Constitution of Pennsylvania which reads as follows is repealed:

[Section 1. No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than twenty thousand inhabitants; nor shall any county be formed of less area, or containing a less population; nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided.]

Section 2. Article thirteen of the Constitution of Pennsylvania is amended by adding a new section to read:

Section . Limitation on Annexation of Counties.—No existing county which is less than four hundred square miles shall be annexed in whole or in part to any adjoining county without first obtaining the approval of the county commissioners of the county which is to be annexed in whole or in part and the approval of seventy-five per cent of the electors of the said county voting on the question which shall be placed before the electors in a special election held for that purpose.

Referred to Committee on Local Government

No. 1132

By DELEGATE LEVIN

A PROPOSAL

Amending the Constitution of Pennsylvania providing for assistance to local governments by means of a tax to be levied by the General Assembly.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding to Article , a new section to read:

ARTICLE LOCAL GOVERNMENT

Section . Special Assistance; Ratio.—Any town, city, borough or township in which twenty per cent or more of all its real estate, both developed and undeveloped, is used or held for the benefit of and the exercise of public instruction, administration of government functions and/or the the administration of judicial functions and/or taken by the respective state, county, city, borough, town or township under the provisions of an eminent domain law, shall qualify for special assistance from the Commonwealth upon application to the General Assembly. The General Assembly shall enact all necessary laws to provide special assistance to qualifying cities, towns, boroughs, or townships by levying a uniform aid tax on the remaining cities, towns, boroughs or townships throughout the Commonwealth which shall be levied on the total assessed value of the real estate as determined by the county in which each is situated. The rate of assistance to which such qualified applicant is entitled shall be determined by the ratio which the nontaxable real estate, used for the hereinbefore stated purposes, bears to the total real estate, both taxable and nontaxable, situate within the boundaries of the city, town, borough or township making such application, and the ratio which the resulting per cent bears to the total of funds available from the special assistance fund made available by proceeds of the uniform aid tax levied as hereinbefore stated, by assignment by the General Assembly to the number of qualified applicants, a percentage rate closest to the rate of loss over the qualifying twenty per cent as possible so that the total of assigned rates to be applied shall not exceed one hundred per cent of such tax fund. Should the total of percentages over the qualifying twenty per cent exceed one hundred per cent, each qualified applicant shall have its proportionate share reduced in equal amounts so that the total of percentages shall not exceed one hundred per cent.

Referred to Committee on Local Government.

No. 1133

By DELEGATE LEVIN

A PROPOSAL

Amending the Constitution of Pennsylvania, providing for exemptions from taxation.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial [not

used or held for private or corporate profit], institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines [; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing Authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation] provided none are used or held for private or corporate profit.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Delaware, Delegate Levin.

DELEGATE LEVIN. Although my proposals speak for themselves, I wish to elaborate on the proposal dealing with Article V of the Judiciary.

At the outset, I wish to list some of my references so that my fellow delegates will not presume that the entire article is original. I have, to the best of my ability, sifted out the important points of interest in the New Jersey Constitution, the Maryland Constitution, the Board of of Judges' recommendations, the Pennsylvania Bar Association's recommendations and the Judicature Society, of which I am a member.

I have attempted to combine the best of the old and the best of the new within this total concept for a new Judicial Article, and I call your attention to the consecutive sections and their purposes.

Section 4, subsection (e) removing "En Banc" proceedings which often wastes time and money and is rarely successful since the trial judge remains a member of the tribunal.

Section 7, selection of judges plan, and Section 8, judicial nominating commission, speak for themselves.

Sections 9 and 10 both contain new ideas and suggestions based on prior suggestions.

Section 11, subsection (c), regarding retirement of judges is our own idea.

Section 12, subsections (f) and (g) pertain to physical and mental examinations being required in order to continue as a member of the judiciary.

Section 17, subsection (b) enlarges on subsection (a) already prescribed in our present constitution in order to provide more protection to a defendant in a civil suit, who certainly deserves at least part of the protection now offered to criminal defendants.

Section 18 is entirely new but of the utmost importance. Section 18, deals with qualifications of juries and covers areas completely neglected but as essential as qualifications

of judges, who must be qualified in order to practice law in the first place. With judges the question is mainly, which is more qualified; while the question for juries is, who is qualified? Are we actually granting a defendant trial by a jury of his peers in accordance with the Constitution of the State and the United States when no guidelines of requirements are demanded?

In scouring the manual graciously given to us by the Pennsylvania Bar Association, abstracting the constitution of the Commonwealth, I found only two references to juries and none to their qualifications.

Article I, subsection 6, is outside the call of Convention. Article V, subsection 27, points to the presumption that the jury is incapable of comprehending the facts of law in the case and suggests that some point in time may arrive when the law becomes too technical for the ordinary person serving as a juror to understand fully, therefore giving the opportunity to remand the case to the legal and trained competency of the trial judge.

Section 19 deals with rendering a decision within three months, for justice delayed is justice denied.

Section 20 restricts members of any organization advocating violent overthrow of the United States Government or of the Commonwealth of Pennsylvania from holding any office in our judicial system and is based on a portion of the Maryland Constitution.

The quest for justice is truly a rocky road with some of the bridges washed out. We must rebuild these bridges and clear the road ahead so that the straightaway will lead us home to a good life, and undying liberty with justice for all.

I, therefore, offer, Mr. President, this proposal as a guide to my fellow delegates to use in their sincere quest for good law, order and justice.

Proposal No. 2 pertains to the use of eminent domain within the Commonwealth of Pennsylvania. Just compensation is not a sufficient measure when a community tax base is eroded. Constitutional protection for the communities is vitally important and necessary in light of present day and future needs for the expansion of the administrative, educational and transportation facilities of the State.

I offer this proposal as a fair compromise for the taking of property in any part of our State for public use and benefit.

The other two proposals speak for themselves.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Van Sant.

DELEGATE VAN SANT. Mr. President, I have been requested by Delegates Donaldson and Kauffman to present two proposals. Then on behalf of my fellow delegates, Delegates Tully, Keller, Musselman and Markley, and also myself, I offer another proposal.

No. 1134

By DELEGATES DONALDSON and KAUFFMAN

A PROPOSAL

Amending the Constitution of Pennsylvania, authorizing the Commonwealth to loan money or pledge its credit to any individual, company, corporation or association for the purchase of facilities or equipment to control pollution of air, water or land.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section six of article eight of the Constitution of Pennsylvania is amended to read:

Section 6. State Credit not to be Pledged; Exceptions.—The credit of the Commonwealth shall not be pledged or loaned to any individual, company, corporation or association, nor shall the Commonwealth become a joint owner or stockholder in any company, association or corporation, except that the Commonwealth may loan money or pledge its credit to any individual, company, corporation or association for the purchase of facilities or equipment to control pollution of air, water or land.

Referred to Committee on Taxation and State Finance.

No. 1135

By DELEGATES VAN SANT, TULLY, M. V. KELLER, MUSSELMAN and MARKLEY

A PROPOSAL

Amending the Constitution of Pennsylvania by providing for county officers and authorizing the combination or consolidation thereof.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, [surveyors,] auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law [; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected]. The General Assembly may provide by law for the combination or consolidation of any of the county officers when it deems it advisable to do so for the best interests of county government.

Referred to Committee on Local Government.

No. 1136

By DELEGATES DONALDSON and KAUFFMAN

A PROPOSAL

Amending the Constitution of Pennsylvania permitting the General Assembly to authorize any county, city, borough, incorporated town or township to loan money or pledge its credit to any corporation, association, institution or individual for the purchase of facilities or equipment to control pollution of air, water or land.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section seven of article eight of the Constitution of Pennsylvania is amended to read:

Section 7. Municipalities not to Become Stockholders in Corporations, etc., nor Loan Credit; Exceptions.—The General Assembly shall not authorize any county, city,

borough, township or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual, except that the General Assembly may authorize any county, city, borough, incorporated town or township to loan money or pledge its credit to any corporation, association, institution or individual for the purchase of facilities or equipment to control pollution of air, water or land.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Murray.

DELEGATE MURRAY. Mr. President, I read in place and present the following proposal, and I would like to have an opportunity to speak.

PRESIDENT BRODERICK. You will be given that opportunity after the clerk reads the proposal.

No. 1137

By **DELEGATE MURRAY**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for a referendum before certain tax enactments take effect.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding, at the end thereof, a new section to read:

Section . New or Increased Taxation; Referendum.—Any act of the General Assembly which imposes a new tax or which raises an existing tax shall not take effect unless approved by a majority of the electors voting on the question in a referendum if the new tax and/or the increased tax will raise ten per cent or more revenue than that which was raised by taxation during the previous fiscal year.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Murray.

DELEGATE MURRAY. Mr. President, the proposal which I have submitted places a restriction upon the Governor and the Legislature with regard to tax increases. A few days ago the people of Pennsylvania were saddled with the highest sales tax in the United States. Had this tax increase been passed in a manner which is expected by the people—without a phantom vote or illegal vote or whatever you would like to call it—that would have been one thing, but no honest man can stand here today and say that what happened last week was truly representative government.

Patrick Henry once said, "Taxation without representation is tyranny." Well, this was taxation without representation and the people must be protected so that we never see a thing like this happen again.

My proposal would give the people the right to veto or

approve large tax increases. It is my strong feeling that the people do not want to be paying for such items as Governor's mansions, unrealistic pension plans for government officials and padded government payrolls. I was shocked to learn that the size of the state payroll has grown and grown and grown.

In 1962 there were 80,000 state employees; at the end of 1963, there were 81,950 state employees; at the end of 1964, there were 87,074 state employees; at the end of 1965, there were 92,995 state employees; at the end of 1966, there were 95,302 state employees; and one month ago there were 102,196 state employees. In the last five years, the state payroll has been increased by over 22,000 employees.

We need some kind of reforms, we need changes and we need some safeguard for the people. My fellow delegates, I ask you to join with me to give the people of Pennsylvania some kind of protection against this never-ending tax increase.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scarlett.

DELEGATE SCARLETT. Mr. President, I read in place and present the following proposal:

PRESIDENT BRODERICK. The Clerk will read the title.

The CLERK. A Proposal amending the constitution of Pennsylvania to provide for apportionment of legislative districts.

PRESIDENT BRODERICK. Do you wish to make comment, Delegate Scarlett?

DELEGATE SCARLETT. Thank you, Mr. President. No comments.

PRESIDENT BRODERICK. The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. Mr. President, I read in place and present the following proposal on behalf of all the delegates from the city of Pittsburgh.

No. 1138

By **DELEGATES BALDUS, COSETTI, WALDRON, FAGAN, CONLEY, RICHTER, THORNBURGH, D. MILLER, AURENTZ and WELSH**

A PROPOSAL

Amending the Constitution of Pennsylvania, providing for the exercise of powers of local self-government by cities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article fifteen of the Constitution of Pennsylvania is amended by adding after section one, a new section to read:

Section 1-A. Exercise of Powers of Local Self-government by Cities.—(a) Cities may exercise all residual powers of government not denied by or inconsistent with the Constitution of the United States, the Constitution of this Commonwealth, or such laws of this Commonwealth as are applicable in every part of the Commonwealth.

(b) Notwithstanding any other provision of this Con-

stitution, and in addition to any other powers granted thereby, cities shall have the exclusive right, superior to statute, to exercise any power or perform any function with respect to (i) municipal executive, legislative and administrative structure and organization, (ii) the selection, compensation, terms and conditions of service, removal and retirement of municipal personnel, and (iii) the imposition of taxes, subject to the following conditions and requirements:

(1) The members of the municipal legislative body must be chosen by popular vote.

(2) The review of administrative proceedings shall be subject to the superior authority of statute.

(3) In exercising any power or performing any function with respect to the selection, compensation, terms and conditions of service, removal and retirement of municipal personnel, cities may not: (i) reduce any rights, benefits, privileges and terms and conditions of employment and retirement provided by statute as of the date of adoption of this section so long as such statute remains in effect, or (ii) deny any right provided for any class of employees in every part of the Commonwealth by any statute enacted pursuant to the amendment of Article III, section 31 of this Constitution, approved November 7, 1967.

(4) The exercise of any power or the performance of any function with respect to the imposition of taxes: (i) shall be limited to the subject of taxation within the authority of any such cities as of the date of adoption of this section, or as hereafter authorized by the General Assembly, but such limitation shall not apply to any restrictions on the rates of taxation or on the persons or business associations taxable, subject, however, to the limitations of Section 1, Article VIII of the Constitution, and (ii) shall not include provisions for the filing and collection of municipal and tax claims or liens and for the sale of real or personal property in satisfaction thereof, or for the assessment of real or personal property and persons for taxation purposes.

(c) The powers and limitations set forth in clause (b) shall be part of any home rule charter adopted by any city.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Silverman.

DELEGATE SILVERMAN. Mr. President, I read in place and present the following proposal which is co-sponsored by Delegates Murray and Amsterdam.

I believe it is self-explanatory.

No. 1139

By **DELEGATES SHRAGER, SILVERMAN, MURRAY and AMSTERDAM**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for establishment by the Supreme Court of a merit system for nonjudicial personnel and administration thereof; and conforming the provisions dealing with the office of prothonotary of Philadelphia and register of wills with the establishment of such merit system.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections seven and twenty-two, article five of the Constitution of Pennsylvania are amended to read:

Section 7. Prothonotary of Philadelphia.—For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts to be appointed by the judges of said courts, and to hold office for three years, subject to removal by a majority of the said judges; in the manner prescribed pursuant to section twenty-nine hereof, the said prothonotary shall appoint such assistants as may be necessary and authorized by said courts; and he and his assistants shall receive fixed salaries, to be determined by law and paid by said county; all fees collected in said office, except such as may be by law due to the Commonwealth, shall be paid by the prothonotary into the county treasury. Each court shall have its separate dockets, except the judgment docket which shall contain the judgments and liens of all the said courts, as is or may be directed by law

Section 22. Orphans' Courts; Auditing of Accounts; Registers' Courts Abolished.—In every county wherein the population shall exceed one hundred and fifty thousand, the General Assembly shall, and in any other county may, establish a separate orphans' court, to consist of one or more judges who shall be learned in the law, which court shall exercise all the jurisdiction and powers now vested in or which may hereafter be conferred upon the orphans' courts, and thereupon the jurisdiction of the judges of the court of common pleas within such county, in orphans' court proceedings, shall cease and determine. In any county in which a separate orphans' court shall be established, the register of wills shall be clerk of such court and subject to its directions, in all matters pertaining to his office; in the manner prescribed pursuant to section twenty-nine hereof, he may appoint assistant clerks, but only with the consent and approval of said court. All accounts filed with him as register or as clerk of the said separate orphans' court shall be audited by the court without expense to parties, except where all parties in interest in a pending proceeding shall nominate an auditor whom the court may, in its discretion, appoint. In every county orphans' courts shall possess all the powers and jurisdiction of a registers' court, and separate registers' courts are hereby abolished.

Section 2. Article five of the Constitution of Pennsylvania is amended by adding, at the end thereof, a new section to read:

Section 29. Merit System for Nonjudicial Personnel.—The Supreme Court shall prescribe a merit system for appointment, promotion, removal, discipline and suspension of nonjudicial personnel in the judicial system and may provide for exempt categories. The Supreme Court may administer the merit system through an administrative director, or may provide for its administration by other appropriate agencies of the Commonwealth or its political subdivisions, who shall be required to render necessary assistance to the court.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Beaver, Delegate Caputo.

DELEGATE CAPUTO. Mr. President, I read in place and present two proposals with no comment.

No. 1140

By DELEGATE CAPUTO

A PROPOSAL

Amending the Constitution of Pennsylvania providing for courts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article five of the Constitution of Pennsylvania is amended to read:

Section 1. [The judicial power of this Commonwealth shall be vested in a Supreme Court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, magistrates' courts, and in such other courts as the General Assembly may from time to time establish.] Courts.—The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Superior Court, Commonwealth Courts, District Courts, Estates Courts, Family Courts, Community Courts and Magistrates' Courts. Other courts may be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Referred to Committee on Judiciary.

No. 1141

By DELEGATE CAPUTO

A PROPOSAL

Amending the Constitution of Pennsylvania providing for prohibited activities of judges.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding, after section eighteen, a new section to read:

Section 18.1. Prohibited Activities of Judges.—No justice or judge shall be engaged in the practice of law or engage in any other pursuit, employment, or activity for compensation, except that he may receive compensation as a lecturer, teacher or author, as a fiduciary of the estate of a member of his family and as a member of the National Guard or a reserve component of the Armed Forces of the United States while on inactive duty so long as such activities as are herein permissible shall not interfere with the performance of his judicial duties.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lancaster, Delegate Strickler.

DELEGATE STRICKLER. Mr. President, I read in place and present to the Chair the following proposal and request permission to make a few remarks.

No. 1142

By DELEGATES STRICKLER, SHETTIG, SILVERMAN and CLINGER

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the retirement of justices and judges and their post-retirement judicial activities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding, at the end thereof, two new sections to read:

Section 29 Retirement of Justices and Judges.—Justices and judges of all courts shall be retired at the age of seventy years. Former justices and judges shall receive such compensation as shall be prescribed by the General Assembly. No compensation shall be paid to any justice or judge who is removed from office.

Section 30. Post-Retirement Judicial Activities.—A former justice or judge may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lancaster, Delegate Strickler.

DELEGATE STRICKLER. Mr. President, this proposal is cosponsored by Delegates Clinger, Shettig and Silverman.

It provides for the retirement of justices and judges of all courts at the age of 70 years. It is compulsory retirement. It also provides that former justices and judges shall receive such compensation as shall be prescribed by the General Assembly and that no compensation shall be paid to any justice or judge who is removed from office.

Another provision takes care of the retired judges for post-retirement judicial activities and any former judge or justice may, with his consent, be assigned by the Chief Justice to render such judicial services as may be prescribed by the rule of the Supreme Court.

I would like to call to the attention of the President and the delegates that this proposal conforms with the report of the subcommittee as submitted to the Judiciary Committee.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lancaster, Delegate Forster.

DELEGATE FORSTER. Mr. President, I read in place and present the following proposal, and I would like to make a very brief statement.

No. 1143

By DELEGATE FORSTER

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the consolidation or merger of municipalities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article of the Constitution of Pennsylvania is amended by adding three new sections to read:

ARTICLE LOCAL GOVERNMENT

Section . Partial Consolidations or Mergers Prohibited.—No law shall be enacted by the General Assembly which would permit any municipality to consolidate or merge with less than all of another municipality, unless approved by a majority of electors voting in the entire unit from which a part is being consolidated or merged into another unit. No consolidation or merger of entire municipalities shall be permitted unless ratified by majority vote of the electors voting in each of the units of local government involved in such proceedings.

Section . Uniform Consolidation or Merger Laws.—All laws enacted by the General Assembly pertaining to the procedure for consolidation or merger of one municipality with another shall be uniform and they shall provide for the initiation of consolidation or merger proceedings by any municipality.

Section . Annexation Tribunal.—The General Assembly shall provide for the creation of a consolidation or merger tribunal whose decision shall be binding on the question of consolidation or merger of one municipality with another if its decision is based upon the standards for orderly community growth which shall be set by the General Assembly and if the municipalities involved cannot agree on the question of consolidation or merger after exhausting statutory provisions for consolidation or merger on two separate occasions.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lancaster, Delegate Forster.

You may now proceed with your statement.

DELEGATE FORSTER. Mr. President and fellow delegates, this proposal is aimed at furthering orderly community growth and development. It sets forth the principle of a referendum of electors to determine mergers, consolidations and changes in boundary lines which has been a feature of other proposals made to this Convention.

Its new feature is a single-purpose tribunal to resolve the issue when deadlocks occur and merger is desirable in the interest of public health, safety and welfare, such a tribunal doing the job rather than a permanent boundary line commission.

PRESIDENT BRODERICK. Thank you, Delegate Forster.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Allegheny, Delegate Huggins.

DELEGATE HUGGINS. Mr. President, I read in place and present the following proposal, with no comment.

No. 1144

By **DELEGATES HUGGINS, REDICK, JOHNSON, OTTO and FOHL**

A PROPOSAL

Amending the Constitution of Pennsylvania prohibiting the compensation of elected and appointed officers by fee.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylv-

vania is amended by adding, at the end thereof, a new section to read:

Section 26. Compensation of Elected and Appointed Officers.—No elected or appointed officers of the Commonwealth of Pennsylvania or any of its political subdivisions shall be compensated by fee.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Greene, Delegate Hook.

DELEGATE HOOK. Mr. President, I read in place and present the following proposal. I request leave to speak also.

No. 1145

By **DELEGATE HOOK**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for judicial nominating commissions.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding a new section to read:

Section . Judicial Nominating Commissions.—(a) There shall be a single Statewide Judicial Nominating Commission for the Supreme and Superior Courts and a separate Judicial Nominating Commission for each judicial district. The Judicial Nominating Commission shall be composed of the Chief Justice of the Supreme Court who shall be chairman and an ex-officio member, three members of the Bar who shall be chosen by the Bar from the Commonwealth at large and three lay citizens appointed by the Governor. The Judicial Nominating Commissions for each judicial district shall be composed of one judge appointed by the Chief Justice of the Supreme Court who shall be chairman and an ex-officio member, three members of the Bar who shall be chosen by the members of the Bar of the judicial district and three lay citizens appointed by the Governor. At no time shall more than four of the seven members of any Judicial Nominating Commission be of the same political party.

(b) The members of each Judicial Nominating Commission shall serve for terms of three years, staggered except in the case of the justice or judge on the commission, so that two members, one selected by the Bar and the other appointed by the Governor, shall be selected each year. Of the first members selected following the effective date of this section, two members, one selected by the Bar and one appointed by the Governor, shall be selected for one-year terms and two other members selected by the Bar and by the Governor respectively, shall be selected for two-year terms. Vacancies in the membership of any Judicial Nominating Commission shall be filled for the balance of the term by the same appointing power as appointed the member whose place has become vacant. No member of a Judicial Nominating Commission shall serve for more than two successive three-year terms on that commission, but he may be reappointed or reelected after a lapse of one year. Each commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of

the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization, nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. You may proceed with your statement, Delegate Hook.

DELEGATE HOOK. Mr. President, this proposal amends Proposal No. 1000, as presented by Delegate Thornburgh, in that the lawful judicial nominating commission will be composed of seven members, four members to be of the same political party and three of another party. Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Shrager.

DELEGATE SHRAGER. Mr. President, I read in place and present the following Philadelphia administration proposal and request the privilege of making a few brief remarks.

No. 1146

By **DELEGATE SHRAGER**

A PROPOSAL

Amending the Constitution of Pennsylvania, providing that certain property shall be exempt from taxation and that housing for persons of low income may be exempt as prescribed by the General Assembly, permitting political subdivisions to tax subjects concurrently taxed by the Commonwealth; and prohibiting exemption from tax for property of quasi-public corporations.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one, article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws [; but the General Assembly may, by general laws, exempt]. Exempt from taxation shall be that portion of the following property not used in profit-making activities: public property used for public purposes, actual places of religious worship, places of burial [not used or held for private or corporate profit], institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post or camp of honorably discharged soldiers, sailors and marines [; and the]. The General Assembly may, by general laws set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Exemption from tax for housing for persons of low income may be granted in whole or in part by the General Assembly as it may prescribe. In addition to their other powers to tax, political subdivisions of the Commonwealth may tax subjects that are concurrently taxed by the Commonwealth and the General Assembly shall pass no law abridging this

power to tax. The property of quasi-public corporations shall not be exempt from tax. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. You may now proceed with your statement, Delegate Shrager.

DELEGATE SHRAGER. Mr. President, the purposes were so well set forth in the reading of the title of this proposal by the clerk that I do not think I need make any further statement.

PRESIDENT BRODERICK. Thank you very much.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Westmoreland, Delegate Scales.

DELEGATE SCALES. Mr. President, on behalf of Delegate Orbin, Delegate Mangery and myself, I read in place and submit to the Chair the following two proposals. No comment is necessary at this time.

No. 1147

By **DELEGATES SCALES, ORBIN and MANGERY**

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania providing for optional plans of local government.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE

OPTIONAL PLANS OF LOCAL GOVERNMENT

Section 1. Optional Plans of Local Government.—The General Assembly shall provide by general law optional plans of governmental structure for counties, cities, boroughs, towns and townships, which may be adopted or repealed by a majority of the qualified electors of the political subdivision voting thereon. In each such case the existing plan shall be one of the options.

Referred to Committee on Local Government.

No. 1148

By **DELEGATES SCALES, ORBIN and MANGERY**

A PROPOSAL

Amending the Constitution of Pennsylvania eliminating

surveyors as county officers and the provision that the county treasurer may not succeed himself.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections one and four of article fourteen of the Constitution of Pennsylvania are amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, [surveyors,] auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law [; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected]

Section 4 Where Offices Shall be Kept.—Prothonotaries, clerks of the courts, recorders of deeds, registers of wills [, county surveyors] and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Bucks, Delegate Powell.

DELEGATE POWELL. I read in place, Mr. President, and present the following four proposals with no comment.

No. 1149

By DELEGATES POWELL and MEYER

A PROPOSAL

Amending the Constitution of Pennsylvania providing for residual powers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article fourteen of the Constitution of Pennsylvania is amended by adding after section eight a new section to read:

Section 9. Residual Powers.—The provisions of this Constitution and any act of the General Assembly concerning counties, cities, boroughs, towns, townships and school districts shall be liberally construed and shall include all powers necessary to or incident to or which may be fairly implied from those expressly conferred and are not inconsistent with or prohibited by this Constitution or any other act of the General Assembly.

Referred to Committee on Local Government.

No. 1150

By DELEGATES POWELL and MEYER

A PROPOSAL

Amending the Constitution of Pennsylvania removing the requirement that county offices be kept in the county town.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four of article fourteen of the Con-

stitution of Pennsylvania which reads as follows, is repealed:

[Section 4. Prothonotaries, clerks of the courts, recorders of deeds, registers of wills, county surveyors and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers.]

Referred to Committee on Local Government.

No. 1151

By DELEGATE POWELL

A PROPOSAL

Amending the Constitution of Pennsylvania to permit county treasurers to succeed themselves.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 1. County Officers.—County officers shall consist of sheriffs, coroners, prothonotaries, register of wills, recorder of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law [; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected].

Referred to Committee on Local Government.

No. 1152

By DELEGATES POWELL and MEYER

A PROPOSAL

Amending the Constitution of Pennsylvania removing the provision relating to accountability of municipal officers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section six of article fourteen of the Constitution of Pennsylvania which reads as follows is repealed:

[Section 6. The General Assembly shall provide by law for the strict accountability of all county, township and borough officers, as well as for the fees which may be collected by them, as for all public or municipal moneys which may be paid to them.]

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Powell.

DELEGATE POWELL. Mr. President, I read in place and present the following five proposals:

No. 1153

By DELEGATES POWELL and MEYER

A PROPOSAL

Amending the Constitution of Pennsylvania providing for revaluation of real property.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section twenty-five a new section to read:

Section 26 Revaluation.—(a) Every county shall revalue all real property within its jurisdiction upon a twenty per cent change in the population of the county, or every ten years, or whenever, in the judgment of the governing body of the county, economic conditions warrant a revaluation.

(b) The General Assembly shall provide for a State agency to revalue real property in counties wherein the real property has not been revalued within two years after the time required in subsection (a) of this section.

Referred to Committee on Taxation and State Finance.

No. 1154

By DELEGATES POWELL and MEYER

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the valuation of real property.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section twenty-five a new section to read:

Section 26 Valuation of Real Property.—For purpose of real property taxation, the valuation of real property shall be determined by all known and accepted approaches to value.

Referred to Committee on Taxation and State Finance.

No. 1155

By DELEGATES POWELL and MEYER

A PROPOSAL

Amending the Constitution of Pennsylvania providing for fiscal taxing years.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section twenty-five a new section to read:

Section 26. Fiscal Taxing Years.—All taxing units shall collect taxes on the basis of a fiscal year beginning on July 1 of each year and ending on June 30 of the following year.

Referred to Committee on Taxation and State Finance.

No. 1156

By DELEGATE POWELL

A PROPOSAL

Amending the Constitution of Pennsylvania providing for

a panel of associate judges for the hearing of real estate and condemnation appeals.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding after section four, a new section to read:

Section 4.1 Panel of Associate Judges.—The General Assembly shall establish in every county a panel composed of three associate judges for the hearing of real estate and condemnation appeals. The panel shall serve as part of and within its jurisdiction, with the same powers as the court of common pleas. One member of the panel shall be an economist, one a financier and one an attorney at law. Appeals may be taken from decisions of the panel as may be taken from the court of common pleas.

Referred to Committee on Judiciary.

No. 1157

By DELEGATES POWELL and MEYER

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the determination of the value of property.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section twenty-five a new section to read:

Section 26. Valuation Determination.—Property shall be valued using all known and accepted approaches to determining property value.

Referred to Taxation and State Finance.

PRESIDENT BRODERICK The Chair recognizes Delegate Powell.

DELEGATE POWELL. Mr. President, these five proposals were recommended by members of the Board of Assessment of Bucks County in an unofficial capacity.

The proposal dealing with determining the valuation—there is a great confusion on this point at the present time. In its recent review of the appeal of the United States Steel v. the Board of Assessment of Bucks County, the Supreme Court held that the method of valuation of real property, known as reproduction costs less depreciation, has no probated value in establishing values for assessment purposes. This, in effect, rules that the market value approach to value is the only one which can be used in the State of Pennsylvania. Under this doctrine no degree of equalization can be achieved. Forty-nine States in this Union plus at least 32 counties use this method of probated value and reproduction costs to determine the value of industrial and commercial property. The legal interpretation of the recent Supreme Court decision says that this is now disallowed.

On the reevaluation of property, the proposal reads that every 10 years an automatic reappraisal will be necessary throughout the Commonwealth, or the county, the reason being that in the past it has proved to be politically

unfeasible to accomplish revaluation because it generally results in higher assessment rates.

PRESIDENT BRODERICK. The Chair recognizes Delegate Tate.

DELEGATE TATE. Mr. President, I read in place and present the following two proposals:

No. 1158

By **DELEGATE TATE**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for judicial districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section five of article five of the Constitution of Pennsylvania is amended to read:

Section 5. Judicial Districts. Associate Judges.—Whenever a county shall contain forty thousand inhabitants it shall constitute a separate judicial district, and shall elect one judge learned in the law; and the General Assembly shall provide for additional judges, as the business of the said districts may require, but there shall be not less than one judge for every forty thousand inhabitants, based on the most recent United States census. Counties containing a population less than is sufficient to constitute separate districts shall be formed into convenient single districts, or if necessary, may be attached to contiguous districts as the General Assembly may provide. The office of associate judge, not learned in the law, is abolished in counties forming separate districts; but the several associate judges in office when this Constitution shall be adopted shall serve for their unexpired terms.

Referred to Committee on Judiciary.

No. 1159

By **DELEGATE TATE**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the retirement of justices and judges.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding, at the end thereof, a new section to read:

Section 29. Retirement of Justices and Judges.—(a) Justices and judges shall be retired for age, for physical disability and for mental disability as shall be provided by the General Assembly.

(b) Retirement benefits shall be paid to any justice or judge retired under subsection (a) of this section as shall be provided by the General Assembly.

(c) A retired judge may, with his consent, be assigned by the Chief Justice to render such temporary judicial service in any court of the Commonwealth as may be prescribed by rule of the Supreme Court.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Tate.

DELEGATE TATE. Mr. President, the first of these proposals relates to the retirement of justices and judges and their service after retirement. It suggests that justices and judges shall be retired by age, physical disability or mental disability as shall be provided by law by the General Assembly, and then provides that there shall be a system of retirement benefits and a system of service after retirement for judges.

I assume that this proposal will be referred to what may be the most zealous subcommittee of this Convention, the Committee on Retirement and Post-Retirement Service of Judges, which has already rendered its report, a copy of which I have seen. A number of the suggestions made in my proposal appear to be part of the majority recommendation in that report and some do not.

I hope that this proposal will receive consideration by that committee.

The second proposal that I have just presented relates to a suggestion that judicial districts shall have as one of their obligatory factors a population factor.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Otto.

DELEGATE OTTO. Mr. President, I read in place and present to the Chair the following proposal, with a prayer.

PRESIDENT BRODERICK. The Clerk will read the proposal.

The **CLERK.** A Proposal amending the constitution of Pennsylvania requesting the General Assembly to provide funds for the administration of an emergency consumer price control system.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Otto.

DELEGATE OTTO. I suppose this proposal could aptly be called, "Con Con Considers Consumer."

The proposal permits consumer placed controls being imposed on any items such as bread, gasoline, clothes, sugar, potatoes, milk, and so forth, only when the Governor declares that an emergency exists. When such an emergency is proclaimed by the Governor, then the General Assembly shall raise, appropriate and provide for the expenditures for this administration.

The immediate effect, when adopted and approved by the voters, would eliminate consumer price controls on milk from the jurisdiction of the present Pennsylvania State Milk Control Commission.

I have had expert legal advice on this proposal and they tell me that this falls within the purview of the Convention. I have discussed this with a number of attorneys from Allegheny County and a number of notable people up here in and out of the government. I have also tried to get the ear of the Governor for the last couple of weeks because I felt that he may want to make a comment or at least be aware of this since he would be involved with this if it were approved.

It would be disgraceful if for some questionable technical legal reason the people were deprived next April of the opportunity of voting on the discontinuance of consumer price controls, except as needed in emergency periods.

I feel it is imperative that milk controls be lifted and that the consumer be able to purchase his supplies on an

open market, based on a traditional supply and demand basis as in the past.

The proposal should permit any commission designated by the General Assembly to determine the prices dealers are to pay farmers for milk and milk products, but not completely eliminate the Milk Commission's operations.

When the Milk Commission was first established 30 years ago, it was done on an emergency basis to protect the farmers. The Milk Commission "mess" developed after they got involved in consumer price controls at wholesale and retail level.

I feel that the Constitutional Convention can render a great service to consumers by adopting and proposing this recommendation to the citizens of Pennsylvania. The stand-by provision for an emergency price-control program is necessary and is important to our survival. In fact, if polls in Western Pennsylvania mean anything, between 85 per cent and 90 per cent of the people oppose price controls as administered by the Milk Commission. Those reflected at the April election on a constitutional question could very well be influential in passing other measures recommended by the Convention.

Fourteen sponsors, including myself, have signed this proposal. I was unable to get around to too many of them. With permission of the Chair, if any delegates care to get on the proposal, we would welcome them. Arrangements can be made at the clerk's desk.

PRESIDENT BRODERICK. Thank you very much, Delegate Otto.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Blair, Delegate Nelson.

DELEGATE NELSON. Mr. President, I read in place and present, without comment, a proposal.

No. 1160

By **DELEGATE NELSON**

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for an alternate method of selection of judges.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section fifteen of article five of the Constitution of Pennsylvania is amended to read:

Section 15. Election of Judges; Term; Removal.—All judges required to be learned in the law, except the judges of the Supreme Court, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any of them on the address of two-thirds of each House of the General Assembly.

The Chief Justice of the Supreme Court may designate and assign former judges, learned in the law, who are willing so to do, who have served at least one term and who have not been defeated for reelection, to the office of judge of any court of record, to temporarily sit in the courts of any judicial district for the disposal of business under such circumstances and subject to such qualifications and conditions as the General Assembly may prescribe.

If a local judicial district does not voluntarily adopt an

appointive system for the selection of judges as provided in this Constitution, judges in such districts shall be elected. Elections for judges of courts of record, other than judges of the Supreme and Superior Courts, in districts which do not adopt an appointive system, shall be held in the following manner:

In the May primary election, a candidate will be required to circulate only one petition, which will automatically cause his name to appear on a separate ballot for the office of judge without any party designation thereon. There will be no party designation for local judicial candidates. All electors, irrespective of party membership, shall have the right to vote in the primary election for the office of judge.

In the May primary election, if any candidate for judge receives forty per cent or more of the total votes (including write-in votes) cast for the office of judge, that candidate receiving the largest total number of votes cast shall be declared elected, in which case there will be no general election for the office of judge.

If no candidate for the office of judge receives forty per cent or more of the total votes cast for the office of judge in the May primary election, then and in such case the two candidates receiving the largest number of votes cast for the office of judge will be declared nominated. These two nominees will appear on the printed ballot in the November general election without any party designation; in the November general election, the person receiving the largest number of votes (including write-in votes) will be declared elected.

In neither the primary election nor in the general election shall any judicial candidate or nominee accept any donation or contribution, other than as a political worker, from any person or party on penalty of forfeiture of his election, nor shall any political party endorse any candidate in any judicial election.

All nomination and election procedures for district judges inconsistent herewith shall be declared invalid, revoked and repealed; this shall be the sole and exclusive procedure for the nomination and election of district judges, except in Philadelphia and Allegheny counties and in those judicial districts which have voted for the proposed appointive system.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I read in place and present a proposal without further comment.

PRESIDENT BRODERICK. The Clerk will read the title.

The CLERK. A Proposal amending the Constitution of Pennsylvania by providing for trial by jury in criminal cases only.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Orbin.

DELEGATE ORBIN. Mr. President, on behalf of Delegate Seales, Delegate Mangery and myself, I read in place and present the following proposal.

PRESIDENT BRODERICK. The Clerk will read the title.

The CLERK. A Proposal amending the Constitution of Pennsylvania prohibiting the raising or levying of taxes

for any purpose or program which entails certain types of discrimination.

POINT OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes the gentleman from Philadelphia, Delegate Tate.

DELEGATE TATE. Mr. President, may I ask, just to be absolutely clear, for the Chair to clarify what I understood to be your earlier statement that proposals which were not yet down from the drafting bureau, and I have one, will be permitted to be introduced on Monday.

PRESIDENT BRODERICK. Yes, that is absolutely correct. Proposals that, according to our rules, are in the process of being prepared in the drafting bureau will be accepted when they are delivered to you by the drafting bureau.

I want to say at this time for the record that the drafting bureau sent over to us just a few moments ago proposals for Delegates Caron, Sebastian, Thomson, Rapaport, Solomon and Goldman. These proposals can be introduced on Monday if the delegates care to introduce them.

If we have no further proposals, I just want to make one comment. Frankly, I was elated with the number of proposals. I think it shows that we are here to do the job that the people of Pennsylvania want done and I am very happy at the number received.

RESOLUTIONS

PRESIDENT BRODERICK. The next item of business is resolutions. Might I ask any delegate who has a resolution, unless it is important and imperative that it be introduced today, that he hold it off until Monday because the House is waiting to come in. If you have a resolution that you want to introduce, please do not hesitate to take the microphone at the present time, but if it can wait, let us hold it.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from York, Delegate Ruth.

DELEGATE RUTH. Mr. President, I will try to make this rather brief. I rise to a point of personal privilege. On behalf of the Convention I wish to extend the personal thanks of this Convention to our pages for this week, who have done an extraordinary job amid the flood of proposals and especially to the fact that they have been doing extraordinary duty on hole punching for certain delegates. Especially for the delegates from York County I wish to give our personal thanks to Mr. Newton Culbertson and Miss Elaine Harner from Dover High School, York County. Thank you.

PAGES CONGRATULATED

PRESIDENT BRODERICK. Delegate Ruth, I think you are very much in order. The Chair has been remiss that in the past we have not called to the attention of our delegates the wonderful work being done by these pages. We are privileged to have each week a group of high school honor students. Each of them been selected by their own officials in their own school as being outstanding and worthy of the honor to act as pages, and we think we can take one second to ask them to rise and I will call their names.

Kenneth Andrews, Harrisburg Academy;
Newton Culbertson, Dover High School;
Elain Harner, Dover High School;
Janet Harshman, Hempfield High School;
Bryan Hetherington, Trinity High School;
Nancy Olshefsky, Trinity High School;
John Rice, Gettysburg High School;
Maryland Rothhopt, Gettysburg High School

Would you all stand. Let us give them a big round of applause. I think they have done a wonderful job

I see a couple of pages who have not stood. I do not have your names, but I want you to know that we appreciate you also

ANNOUNCEMENTS BY THE CLERK

PRESIDENT BRODERICK. We have an announcement by the clerk which I hope he will make in a hurry.

The CLERK. There will be a meeting at 12 noon today in Room 615 of the Main Capitol Building for all officers and standing committee co-chairmen.

Three-ring binders have been procured for distribution to each delegate to be used for filing personal copies of Convention proposals, histories and journals, all of which will henceforth be uniformly punched for storage in three-ring binders

Delegates may pick up their binders at the Convention Supply Room, Room 525, North Office Building.

PRESIDENT BRODERICK. Thank you.

REQUEST FOR RESOLUTION

PRESIDENT BRODERICK. The Chair recognizes the delegate from Delaware, Delegate Curran

DELEGATE CURRAN. Very briefly, Mr. President, I think it would also be in order at this particular time if we instruct our secretary over the weekend to prepare a resolution expressing our gratitude to the Legislative Reference Bureau for preparing the large number of proposals that we have. It would, perhaps, be in poor taste if we asked the Legislative Reference Bureau to prepare same.

PRESIDENT BRODERICK. I think that is a very fine recommendation and suggestion and I am sure that our secretary will be happy to do so. I want to say now that they have done a magnificent job in keeping up with our last minute rush

MEETING OF JUDICIARY COMMITTEE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Amsterdam.

DELEGATE AMSTERDAM. The entire Judiciary Committee will meet this morning immediately following the adjournment of this session in Room 132 of the Finance Building. I would like to call to your attention at this time that we have with us Mr. Glenn R. Winters, the Executive Director of the American Judicature Society which is headquartered in Chicago. We have asked Mr. Winters to be with us for the purpose of giving us a report and responding to questions on the part of the delegates.

Mr. Winters has been one of the resource persons for the Maryland Convention and has been the one who has been working on the Judiciary Article for that Convention. He has also worked with various conventions throughout the United States for many years, particularly in connection with the Judiciary Article.

All of the delegates are welcome to come to this meeting. It is mandatory for the members of the Judiciary Committee, notwithstanding the fact that they have a tremendous amount of work to be done. This will be a session that will be very beneficial indeed. Members of the press and the public are also invited.

PRESIDENT BRODERICK. Thank you very much, Delegate Amsterdam.

CONVENTION THANKS HOUSE OF REPRESENTATIVES FOR USE OF CHAMBER

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Bucks, Delegate Michener.

DELEGATE MICHENER. Mr. President, several delegates this morning have come to me asking if I would request you to express to the members of the Legislative Assembly of this State, as they convene for the last time prior to recess, the great debt of gratitude we feel toward these men and women for their having allowed us to use this chamber at their inconvenience, for their having allowed us to use their desks at their inconvenience, for their having cooperated with us to the full in a most trying four-week period. I think that this expression of appreciation on the part of the delegates of this Convention and it comes from five or six delegates who feel this deeply—would be appreciated by the Assembly and would represent the

true feeling that exists between these two bodies. Thank you, Mr. President.

PRESIDENT BRODERICK. I think we are all in agreement and the Chair is very happy to state on behalf of the delegates that we do appreciate the wonderful cooperation we have received from the House of Representatives. I might add that they were due to come in this morning at 10:30 and we have kept them. I want to thank the leaders who are standing by and tell them that we are sorry that we ran overtime but next week we will be able to go into the night without interfering with your progress.

Thank you.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Manderino for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE MANDERINO. Mr. President, I move that this Convention now adjourn until Monday, January 8, 1968, at 1:30 p.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Manderino and seconded by Delegate Otto that this Convention do now adjourn until Monday, January 8, 1968 at 1:30 p.m., e.s.t.

The motion was agreed to and (at 11:02 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Monday, January 8, 1968

Number 18

The Convention was called to order at 1:30 p.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND RICHARD D. ABERNETHY, pastor of St. Paul's United Church of Christ, West Hazleton, Pennsylvania, offered the following prayer:

Our Father and Our God, who calls us into the service of our fellowman, we seek Thy divine guidance and inspiration as we deliberate upon the specific tasks for which we have been chosen.

Make us acutely conscious of the rights of the majority as well as the rights of the individual.

Keep us sensitive to the dire needs of the responsibilities of government as well as the responsibilities of those who are governed.

Help us to devote our energies to the development of a State Constitution that will provide a usable and practical instrument for carrying forth the multiplicity of state programs for the benefit of those who reside within the borders of our Commonwealth.

Merge the noblest ideals of our minds in the crucible of the Father's love that we might incorporate into this document the heritage of our forefathers, blended with the advancement of our age, and set before our people a structure by which all our residents may find justice, service and freedom.

Cast aside local interests, petty or selfish goals, and broaden the vistas of our concerns as we grapple with the many demands which plead for our attention and enable us, O Lord, to resolve the perplexing problems in the best interests of all.

Send forth Thy spirit into our hearts and minds that we, as Thy children, shall show ourselves worthy of our religious heritage, reflecting in our labors the highest and purest ideals of our faith, thereby underscoring the dignity of Thy creation.

Receive, O Lord, our prayers of thanks for Thy continuing guidance in this day and the days which lie ahead as we engage in the task that confronts us, for we need the support of Thine everlasting love.

Amen.

APPROVAL OF JOURNAL POSTPONED

PRESIDENT BRODERICK. Without objection, approval of the Journal for January 5, 1968, will be postponed until printed.

The Chair hears no objection.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Secretary Michener.

SECRETARY MICHENER. Mr. President, I want to submit the following requests for leaves of absence:

The delegate from the 32nd District, **DELEGATE BUCK**, for January 8 and January 9, because he has been advised to leave the Commonwealth;

The delegate from the 37th District, **DELEGATE REA**, for January 8, because he has to be in court;

The delegate from the 50th District, **DELEGATE SCOTT**, for January 5, because of mayor's business;

The delegate from the 9th District, **DELEGATE DESMOND**, for January 8, because he has to be in court;

The delegate from the 20th District, **DELEGATE WILMARTH**, for January 8 and January 9, because of illness;

The delegate from the 7th District, **DELEGATE SHRAGER**, for January 8, because of illness;

The delegate from the 9th District, **DELEGATE HEYBURN**, for January 9, because he must attend a SEPTA meeting in Philadelphia;

The delegate from the 13th District, **DELEGATE STRICKLER**, for January 9, because he must go to Washington, D. C.

Mr. President, last week I was approached by at least eight or ten delegates wanting to know what had happened to our good friend Delegate Miller from the 16th District. We simply had a cryptic telegram saying that he was in the hospital. We called the hospital and they said they had been advised to give us no information. We called his home and we received the same reply. I thought, perhaps, he had a loathsome disease of some kind or maybe he had cracked under the strain of our sessions, but at any rate he appeared this morning in my office with his excuse and I can understand why he did not want to broadcast it. On Christmas Day he gave his 12-year-old son a sled. When the boy took it to the hill near home and was about to start down, Mr. Miller said, "Son, this is a dangerous hill. I had better show you how to do it." Need I say more?

PRESIDENT BRODERICK. Without objection, leaves of absence are granted as requested. The Chair hears none.

QUORUM CALL

PRESIDENT BRODERICK. The next order of business is the calling of the roll to determine if we have a quorum. We will now unlock the voting machine and the delegates will proceed to record their presence by voting "aye."

The roll was recorded as follows:

Allison	Filson	Lembach	Redick
Amsterdam	Fleming	Leonard	Richter
Aurentz	Fohl	Levin	Roberts
Bagenstose	Forster	Manderino	Ruth

Baldus	Fortney	Mangery	Sahli
Baldwin	Gabreski	Mattison	Seales
Bashoff	Gehrlein	McGeary	Scarlett
Benedict	Gerber	Meyer	Scott
Benfield	Goldstein	Michael	Scranton
Bloom	Gouger	Michener	Sebastian
Braham	Griffith	Miller, D.	Shettag
Broderick	Hannum	Miller, R.	Shively
Brown	Harding	Moorhead	Shoemaker
Bunting	Hatter	More	Solomon
Burkholder	Heyburn	Morton	Sprogel
Caputo	Himes	Murray	Stout
Caron	Hocker	Musselman	Strickler
Casey	Hook	Nelson	Swope
Clark	Horne	O'Donnell	Tale
Clinger	Hosteller	Orban	Thomson
Conley	Huggins	Orbin	Thornburgh
Corey	Johnson	Otto	Tomasick
Cortese	Kauffman	Pasquerilla	Tully
Cosetti	Keller, J.	Pelletier	Waldron
Cunningham	Keller, M.	Percey	Warman
Curran	Kelly	Popul	Welsh
Devlin	King	Pott	Westerberg
Dumbauld	Kline	Powell	Whitnum
Erwin	Krill	Quiles	Wilcox
Fagan	Leach	Rappaport	Woodring
Feather	Lee, L.		

PRESIDENT BRODERICK. According to the calculator we have 122 delegates present, which constitutes a quorum.

The Chair notes also the presence of the following delegates:

Baldrige	Goldman	Prendergast	Silverman
Barry	Jurolanio	Shapiro	Van Sant
Dalley	Laputka	Sharp	Woodside
Fay	Markley		

PROPOSALS REFERRED TO SUBCOMMITTEES

PRESIDENT BRODERICK. The next order of business is reports of committees.

COMMITTEE ON LOCAL GOVERNMENT

The Chair recognizes the Co-Chairman of the Local Government Committee, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, reporting for the Committee on Local Government, the following are referrals to subcommittees:

- No. 1119 to the Subcommittees on Structure and Organization and County Government;
 - No. 1131 to the Subcommittees on Annexation and Boundary Changes and County Government;
 - No. 1132 to the Subcommittee on Local Finance;
 - No. 1135 to the Subcommittee on County Government;
 - No. 1136 to the Subcommittee on Local Finance;
 - No. 1138 to the Subcommittees on Home Rule, Structure and Organization and Local Finance;
 - No. 1143 to the Subcommittee on Annexation and Boundary Changes;
 - No. 1147 to the Subcommittees on County Government, Structure and Organization and Home Rule;
 - No. 1148 to the Subcommittee on County Government;
 - No. 1149 to the Subcommittee on Home Rule;
 - No. 1150 to the Subcommittee on County Government;
 - No. 1151 to the Subcommittee on County Government;
 - No. 1152 to the Subcommittees on County Government, Local Finance and Structure and Organization.
- Thank you, Mr. President.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair recognizes the

Co-Chairman of the Committee on Judiciary, Delegate Amsterdam.

DELEGATE AMSTERDAM. I should like to report the referrals as follows:

- No. 1121 to the Subcommittees on Selection of Judges and Judicial Administration and Organization;
 - No. 1139 to the Subcommittee on Judicial Administration and Organization;
 - No. 1140 to the Subcommittee on Judicial Administration and Organization;
 - No. 1141 to the Subcommittee on Incompatible Activities of Judges;
 - No. 1142 to the Subcommittee on Retirement and Post-Retirement Service of Judges;
 - No. 1145 to the Subcommittee on Selection of Judges;
 - No. 1156 to the Subcommittee on Judicial Administration and Organization;
 - No. 1158 to the Subcommittee on Judicial Administration and Organization;
 - No. 1159 to the Subcommittee on Retirement and Post-Retirement Service of Judges;
 - No. 1160 to the Subcommittees on Selection of Judges and Incompatible Activities of Judges.
- Thank you, Mr. President.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD. Mr. President, the referrals of delegate proposals are as follows:

- No. 1116 to the Subcommittee on Taxation;
- No. 1117 to the Subcommittee on Taxation;
- No. 1118 to the Subcommittee on Taxation;
- No. 1120 to the Subcommittee on Taxation;
- No. 1122 to the Subcommittee on Taxation;
- No. 1124 to the Subcommittee on Sinking Fund;
- No. 1125 to the Subcommittee on Taxation;
- No. 1126 to the Subcommittee on Taxation;
- No. 1128 to the Subcommittee on Taxation;
- No. 1129 to the Subcommittees on Taxation, State Debt and Sinking Fund;
- No. 1133 to the Subcommittee on Taxation;
- No. 1134 to the Subcommittee on State Debt;
- No. 1137 to the Subcommittees on Taxation and Sinking Fund;
- No. 1144 to the Subcommittee on Sinking Fund;
- No. 1146 to the Subcommittee on Taxation;
- No. 1153 to the Subcommittee on Taxation;
- No. 1154 to the Subcommittee on Taxation;
- No. 1155 to the Subcommittee on Taxation;
- No. 1157 to the Subcommittee on Taxation

COMMITTEE ON LEGISLATIVE APPORTIONMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Legislative Apportionment, Delegate Fagan.

DELEGATE FAGAN. Mr. President, the Committee on Legislative Apportionment makes the following referrals:

- No. 1123 to the Subcommittee on Method of Apportionment;
- No. 1127 to the Subcommittee on Method of Apportionment;

No. 1130 to the Subcommittee on Method of Apportionment.

PRESIDENT BRODERICK. Thank you, Delegate Fagan.

WITHDRAWAL OF APPEALS

PRESIDENT BRODERICK. We want next to take up the question of appeals. We had, according to our record, three appeals pending from the rulings of the Chair in connection with proposals that were returned to the delegates.

The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. Mr. President, I would like to withdraw the appeal I raised on Thursday with this statement; it was not my intention to broaden the scope of this Convention by that appeal; however, it was my intention to deal very thoroughly with the matter of state debt. I originally presented the proposal as an amendment to Section 5 which stood alone from Section 4 and raised the question as to whether I was dealing with Article IV, Sections 15 and 16.

I am going to submit tomorrow, or as soon as drafting has prepared it, an amendment to Section 4 which places it in its proper context. Counsel has been very helpful in the preparation of this and we think it will be acceptable.

PRESIDENT BRODERICK. Thank you very much, Delegate Cosetti. The record will be marked pursuant to your request. The appeal is withdrawn.

The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Mr. President, last Thursday I simply requested clarification on when an appeal would be filed and no appeal was filed. Therefore, there is not an appeal to be withdrawn.

PRESIDENT BRODERICK. Thank you. The record will so state.

The Chair recognizes Delegate Dumbauld.

DELEGATE DUMBAULD. Mr. President, having been under the influence of a virus infection over the weekend, I should like to delay it for at least one day.

PRESIDENT BRODERICK. There is no objection from the Chair and the Chair hears none. We will put it over at least until tomorrow at the proposer's request.

The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, having just received the opinion on Friday with respect to our proposal and having gone over it over the weekend, I am not prepared to make a statement in behalf of the sponsors.

PRESIDENT BRODERICK. You are speaking now in connection with an appeal, Delegate Otto? Is that correct?

DELEGATE OTTO. In connection with the determination of an appeal.

PRESIDENT BRODERICK. Yes. In other words, you would like additional time to determine whether or not to file an appeal?

DELEGATE OTTO. No, we would like, at the present time, to make a statement as to our stand on the rejection of our proposal.

PRESIDENT BRODERICK. You may proceed.

DELEGATE OTTO. This statement is made with respect to the Chair's approval of counsel's ruling No. 14 that our proposal requiring members of the General Assembly

to be in their seats when a majority vote is cast on taxation matters does not come under the call of this Convention.

The House of Representatives has now adopted a new procedure which requires a daily roll call of its membership and members are also required to be present in the House at the time of voting. In addition, a resolution has been introduced in the House in an attempt to further correct voting procedures.

We congratulate the House on this effort. We also wish to praise the news media for its efforts in arousing the citizens of the Commonwealth into persuading the legislators that the previous absentee voting procedures were highly irregular, if not illegal. We hope that in some small way our proposal at this Convention to outlaw absentee voting in the General Assembly also helped prod the House into reforming its voting habits.

Speaking for the three sponsors of the proposal, I wish to say that we feel that the decision on our proposal was too narrow but we are heartened by the actions displayed in the House last week to correct the errors of its ways.

In view of this and because of our belief that the General Assembly "got the message," we see no need to continue debate on this subject and will not challenge the Chair's ruling.

It is approved by Delegates Henry P. Otto, Allegheny County; Peter T. Dumbauld, Somerset County; Richard L. Huggins, Allegheny County; and was joined by Franklin A. Mangery, Westmoreland County. Mr. Mangery was on the first proposal ruled out and wishes to be included as favoring this proposal and this statement.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Quiles.

DELEGATE QUILES. Mr. President, I wish to appeal from the decision of the Chair concerning the rejection of my proposal. I am asking for a floor vote.

PRESIDENT BRODERICK. You will be noted, Delegate Quiles, as having appealed from the Chair's ruling in connection with your proposal. Therefore, I want to reiterate what the procedure is: As heretofore stated, when any proposal is returned, a copy of counsel's opinion will be attached to the proposal. That was done in your case. The proposer may then at the next session, which is this session, and you are timely, make an appeal. When that appeal is taken, copies of the proposal and copies of the opinion will be distributed to all the delegates before a vote is taken to sustain or reject the Chair's ruling. Therefore, I am now asking that copies of Delegate Quiles' proposal be duplicated and distributed and copies of counsel's opinion be duplicated and distributed.

DELEGATE QUILES. Thank you, Mr. President.

PROPOSALS RETURNED

PRESIDENT BRODERICK. In connection with proposals that were introduced last Friday, the Chair, on the basis of opinions received from counsel, is returning herewith the following proposals:

A proposal to Delegate Irvis of Allegheny; a proposal to Delegate Otto of Allegheny; a proposal to Delegate Amsterdam of Philadelphia; a proposal to Delegate Levin of Delaware; and a proposal to Delegate Orbin.

Those are herewith being returned with a copy of coun-

sel's opinion. If an appeal is desired, you may so state at our session tomorrow.

It may expedite the business of the Convention if we have appeals tomorrow and then perhaps we can have the appeals set forth for argument at one time on Wednesday, because I want to make sure that we have before all delegates the proposals in question and counsel's opinion on them, and I want each and every delegate to have an opportunity to be prepared to vote.

The following are Counsel Opinion and Proposal returned to Delegate Irvis:

COUNSEL OPINION No. 9

Q. Whether a proposal to amend Sections 11 and 30 of Article III of the Pennsylvania Constitution to remove certain restrictions on State appropriations to colleges and universities is within the jurisdiction of the Constitutional Convention.

A. No.

Discussion: The Convention is limited in its jurisdiction and can only consider proposals covering the subjects and articles referred to in Section 7 of Act No. 2 of 1967. Article III dealing with legislation and the power of the State Assembly to legislate and appropriate funds to carry out governmental functions are not within the jurisdiction of the Convention. See Counsel Opinion No. 8.

MARVIN COMISKY
Counsel to Convention

By DELEGATE IRVIS

A PROPOSAL

Amending sections eleven and thirty of article three of the Constitution of Pennsylvania, to eliminate the non-preferred status of appropriations for colleges and universities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections eleven and thirty of article three of the Constitution of Pennsylvania are amended to read:

Section 11. Appropriation Bills.—The general appropriation bill shall embrace nothing but appropriations for the executive, legislative and judicial departments of the Commonwealth, for the public debt [and], for public schools and for colleges and universities. All other appropriations shall be made by separate bills, each embracing but one subject.

Section 30. Appropriations to Charitable and Educational Institutions.—No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, other than [normal schools established by law for the professional training of teachers for the public schools of the State] colleges and universities, except by a vote of two-thirds of all the members elected to each House.

The following are Counsel Opinion and Proposal returned to Delegate Otto:

COUNSEL OPINION No. 17

Q. Whether a proposal providing funds for the administration of emergency consumer price controls, which is attached hereto, is within the jurisdiction of the Constitutional Convention?

A. No.

Discussion: Section 7 of Act No. 2 of 1967 authorizes the Constitutional Convention to make recommendations concerning Taxation and State Finance now covered by part of Article IX of the Constitution. This subject deals with the power of the State to impose taxes to carry out the functions of government under the Constitution and the management of the State's financial affairs. The instant proposal, on the other hand, merely authorizes the State Legislature to exercise the taxing power for a new governmental purpose set forth therein; i.e., the administration of an emergency price control system. The power of the Legislature to exercise the tax power to provide funds for carrying out a specific governmental function and the express creation of such governmental functions, where necessary, are matters normally within the legislative function itself or which are covered by Article III of the Constitution and are not within the jurisdiction of the Convention.

MARVIN COMISKY
Counsel to Convention

By DELEGATE OTTO

A PROPOSAL

Amending the Constitution of Pennsylvania requiring the General Assembly to provide funds for the administration of an emergency consumer price control system.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding at the end thereof a new section to read:

ARTICLE VIII TAXATION AND FINANCE

Section 28. Taxation and Finance Matters Relating to Emergency Consumer Price Controls.—The General Assembly shall raise, appropriate and provide for the expenditure of funds for the administration of consumer price controls when the Governor, by proclamation, declares that an emergency exists.

The following are Counsel Opinion and Proposal returned to Delegate Amsterdam:

COUNSEL OPINION No. 19

Q. Whether a proposal amending Section 6 of Article I of the Constitution to provide for trial by jury in criminal cases only, which is attached hereto, is within the jurisdiction of the Constitutional Convention?

A. No.

Discussion: The proposal provides that "trial by jury shall be in criminal cases only and the right thereof, remain inviolate." This deletes from Section 6 of Article I the present provision that trial by jury shall be "as heretofore." In effect, the proposal eliminates the guarantee by the Bill of Rights recited in Article I of the present Constitution of the right to trial by jury in civil cases.

The jurisdiction of the Constitutional Convention is limited to those subjects set forth in Section 7 of Act No. 2 of 1967, including, inter alia, "Judicial administration, organization, selection and tenure." Under this provision, the Convention's authority with respect to the judicial field is restricted to those aspects thereof designated in the Act; namely, administration, organization, selection and tenure, and does not include the power to affect, revise or change in any way the provisions dealing with the procedure and conduct of jury trials as recited and as guaranteed in the Bill of Rights recited in Article I. It is our opinion, therefore, that the instant proposal, which does affect the right to a jury trial, is outside the delegation of powers recited in Act No. 2 of 1967 and must be rejected.

MARVIN COMISKY
Counsel to Convention

By **DELEGATE AMSTERDAM**

A PROPOSAL

Amending the Constitution of Pennsylvania by providing for trial by jury in criminal cases only.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section six of article one of the Constitution of Pennsylvania is amended to read:

Section 6. Trial by Jury.—Trial by jury shall be [as heretofore] in criminal cases only and the right thereof remain inviolate.

INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. The next order of business is introduction of proposals. The Chair wishes to state that, as a result of contacting the drafting bureau, they reported that as of 5 p.m. Friday they had received, within the deadline of Friday, a total of 51 proposals during that day. This 51, by the way, is in addition to the 14 proposals that we had received and had at the desk on Friday, which have now been returned to the delegates for submission.

I want to add, so there will be no fear, that in accordance with our rules, any proposal in the hands of the drafting bureau on Friday will be accepted from the delegate when it is returned to the delegate by the drafting bureau.

I understand they have processed, out of that 51, a total of about 20 for introduction today. That means we will have additional proposals in your hands either during this session or after this session, and they may be introduced at tomorrow morning's session. If you do not have them then, we will accept them at the Wednesday session.

Any delay occasioned by the drafting, as stated in the rules, will be taken into consideration and it will in no way prohibit the introduction of the proposals.

I want to add, therefore, the proposals will be handled just as they were before, that is all proposals received by the Legislative Drafting Bureau on Friday, may be introduced here in due course when they get to your hands.

PRESIDENT BRODERICK. The Chair recognizes Delegate Kauffman from Montgomery County.

DELEGATE KAUFFMAN. Mr. President, Delegate Gerber of Montgomery County and I have a proposal with regard to the judiciary which we received from the drafting service late on Friday. We have noticed that there must be some changes made in language and we would like to have the permission of the Chair, and of the Convention, if necessary, to have those changes made today and introduce the proposal tomorrow.

PRESIDENT BRODERICK. Unless we hear objection from the delegates, I think that is understandable. The Chair recognizes that when the proposals come out of the drafting bureau they do not always meet with the requirements of the delegates. You will be given that time.

The Chair asks the delegates that if any situation like that arises, as it has in Delegate Kauffman's instance, that that proposal be returned immediately, with the explanation, to the Legislative Drafting Bureau, because we are going to rely on their statements as to the proposals that were in their hands.

DELEGATE KAUFFMAN. Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Erie, Delegate Scarlett.

DELEGATE SCARLETT. Mr. President, I read in place and present the following proposal:

No. 1161

By **DELEGATE SCARLETT**

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for apportionment of legislative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen, seventeen and eighteen of article two of the Constitution of Pennsylvania are amended to read:

Section 16 Senatorial Districts.—The State shall be divided into not less than forty and not more than fifty senatorial districts as determined by the General Assembly of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No]

Unless division shall be absolutely necessary, no ward, borough or township shall be divided nor natural geographic boundary be crossed in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the Senate by the number [fifty] of districts.

Section 17. [The members of the House of Representatives, shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] Representative Districts.—The State shall be divided into not less than one hundred thirty-five and not more than two hundred three representative districts as determined by the General Assembly of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Representative. Unless division shall be absolutely necessary, no ward, borough or township shall be divided nor natural geographic boundary be crossed in the formation of a district. The representative ratio shall be ascertained by dividing the whole population of the State by the number of districts.

Section 18. Legislative Apportionment.—The General Assembly [at its first session] after the adoption of this Constitution, and in January following immediately after each certified United States decennial census, shall convene in Special Session to apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections. In any senatorial or representative district when the population increases or decreases by twenty-five per cent or more during the period between United States decennial censuses, the Apportionment Committees of the Senate and the House of Representatives shall apportion such district and those districts in the immediate vicinity of such district to achieve a relative balance among the districts.

If the General Assembly fails to apportion itself within one hundred twenty days of the start of the Special Session to apportion, the Supreme Court of Pennsylvania shall apportion the State into senatorial and representative districts agreeably to the provisions of this Constitution within the next following ninety days.

The districts apportioned under this Constitution shall be the districts for the primary election next following the date the districts are apportioned.

Each Senator and Representative shall serve for a term of four years, and no Senator or Representative shall serve for a shorter term on account of apportionment.

Section 2. Article two of the Constitution of Pennsylvania is amended by adding a new section to read:

Section 19. Legislative Districts.—The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator.

The State shall be divided into two hundred House of Representative districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Representative.

The General Assembly shall immediately after each United States decennial census apportion the State into senatorial and representative districts agreeably to the provisions of this section.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Chester, Delegate Thomson.

DELEGATE THOMSON. Mr. President, I read in place and present a proposal, one of the 20 the Chair referred to that came from the drafting bureau this morning:

No. 1162

By DELEGATE THOMSON

A PROPOSAL

Amending the Constitution of Pennsylvania, providing that each county, city, borough, incorporated town and township shall have the exclusive power to provide for all matters relating to wages, hours and working conditions of its employees.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding at the end thereof, a new section to read:

Section 26. Local Government Employees.—Each county, city, borough, incorporated town and township shall have the exclusive power to provide for all matters relating to the wages and hours and working conditions of its employees.

Existing laws relating to the wages and hours of employees of counties, cities, boroughs, incorporated towns or townships shall remain in force in each such political subdivision until changed by such political subdivision.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Chester, Mr. Thomson.

DELEGATE THOMSON. Mr. President and delegates, this is a proposal that was returned to me on a legal ruling from the Chair and which has been rewritten and the objections that were made by the legal department have been met in this new proposal.

PRESIDENT BRODERICK. Thank you very much, Delegate Thomson.

The Chair recognizes Delegate Levin of Delaware County.

DELEGATE LEVIN. Mr. President, I have read the opinion of counsel for the Convention, Marvin Comisky, and I wish to comply with his request of deleting section 17B. I ask permission of the Chair to resubmit this as

an individual and very specific recommendation for the judicial article. This will allow me then to have my article on judiciary accepted and thereafter I shall take an appeal from the ruling on that one item only.

PRESIDENT BRODERICK. We shall certainly permit you to do that unless there is objection.

What Delegate Levin has requested is that the proposal which he introduced last Friday and which was returned to him today because one sentence, or a short paragraph, was, in the opinion of counsel, not within the jurisdiction of the Convention, not within our authority, what I understand Delegate Levin to say is that he wants to submit that proposal without that particular position and reserve whether or not he wishes to appeal in connection with the deleted portion.

DELEGATE LEVIN. Yes.

PRESIDENT BRODERICK. Unless we hear an objection, I am sure that in light of the ruling made in connection with Delegate Kauffman's proposal, you may do the same thing.

DELEGATE LEVIN. Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Montgomery, Delegate Gerber.

DELEGATE GERBER. Mr. President, I read in place and would like to present a proposal which is also one of the 20 that came down from the Legislative Drafting Bureau, which was up there for some time last week, and no comment is necessary:

No. 1163

By **DELEGATE GERBER**

A PROPOSAL

Amending the Constitution of Pennsylvania to provide a new structure and revised duties for county government in certain counties.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 Sections one, two, three, five and seven of article fourteen of the Constitution of Pennsylvania are amended and the article is amended by adding a new section to read:

Section 1. County Officers.—County officers shall consist of county executive, sheriffs, [coroners, prothonotaries, register of wills, recorder of deeds, commissioners,] medical examiners, treasurers, [surveyors,] auditors or controllers; [clerks of the courts,] district attorneys, councilmen and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected. In counties where there are more than three legislative districts, there shall be two county councilmen for each legislative district. Each legislative district shall be divided in half according to population, and one councilman shall be elected from each half.

In counties where there are three or less legislative districts, there shall be at least six county councilmen who shall be elected by dividing the legislative district or districts into equal parts according to population.

Section 2. Election of County Officers; Terms; Vacancies.—County officers shall be elected at the municipal elections and shall hold their offices for the term of four years, beginning on the first Monday of January next after

their election, and until their successors shall be duly qualified; all vacancies not otherwise provided for, shall be filled in such manner as may be provided by law. However, one-half of the number of county councilmen for each council shall be elected for a term of four years in the year the county executive is elected, and, two years from that date, the remaining councilmen shall be elected, together with the district attorney and the controller.

Section 2.1. Powers and Duties of Certain Officers.—The county executive shall have responsibility for all activities, other than court-related activities, in the management and administration of the county. The county executive shall appoint a treasurer, who shall act as tax collector for the county and all local governmental units within the county and may appoint cabinet officers to aid him in the performance of his duties. Medical examiners are to be appointed by the local court, and shall perform the functions formerly performed by the coroners. The courts in each judicial district shall have the power to appoint a clerk of court.

Section 3. Qualifications.—No person shall be appointed or elected to any office within any county who shall not be twenty-one years old or over and shall have been a citizen of the United States and of the Commonwealth of Pennsylvania and [an inhabitant therein] a resident of the county for one year next before his appointment or election if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. Every person who is a candidate for the office of district attorney shall be a member of the Bar of the Supreme Court of Pennsylvania.

Section 5. Compensation of County Officers; Fees.—The compensation of county officers shall be [regulated by law] set and paid by the county, except that the salaries of all court appointed officers shall be set by the court and paid by the county, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants, all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him.

Section 7. [Three county commissioners and three] County Auditors.—Three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; and in the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected; any casual vacancy in the office of [county commissioners or] county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the [commissioner or] auditor whose place is to be filled.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Beaver County, Delegate Caputo.

DELEGATE CAPUTO. Mr. President, I read in place and submit the following proposal:

No. 1164

By DELEGATE CAPUTO

A PROPOSAL

Amending the Constitution of Pennsylvania providing for family courts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended, by amending section one and adding after section twenty-eight a new section to read:

Section 1. Judicial Power.—The judicial power of this Commonwealth shall be vested in a Supreme Court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, family courts, magistrates' courts, and in such other courts as the General Assembly may from time to time establish.

Section 29. Family Courts.—In every county wherein the population shall exceed one hundred and fifty thousand persons, the General Assembly shall, and in any other county may, establish a separate court to be known as the family court, to consist of one or more judges who shall be learned in the law. The family court shall have exclusive jurisdiction over all matters relating to marriage, divorce, adoption of children, juvenile matters, support of spouse and children and such other matters as the General Assembly shall confer upon it.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam from Philadelphia.

DELEGATE AMSTERDAM. Mr. President, I read in place and present the following proposal:

No. 1165

By DELEGATE AMSTERDAM

A PROPOSAL

Amending the Constitution of Pennsylvania by further providing for exemptions from taxation.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one, article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity, property owned and used by persons pursuant to redevelopment plans, and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest re-

serves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Berks County, Delegate Caron.

DELEGATE CARON. Mr. President, I read in place and present two proposals and request to speak for a few moments on them:

No. 1166

By DELEGATES CARON, BAGENSTOSE, LEINBACH, FEATHER and HORNE

A PROPOSAL

Amending the Constitution of Pennsylvania subjecting to taxation any property operated by an institution of public charity for profit.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provisions for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the

tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation. Any property operated by an institution of public charity for profit shall be subject to taxation.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Caron.

DELEGATE CARON. Mr. President, fellow delegates, there are a few other delegates who also considered this proposal with me. Unfortunately, their names are on the rear of the proposal itself, but it was people from our area.

PRESIDENT BRODERICK. If you wish to state their names at this time, you may.

DELEGATE CARON. Delegates Leinbach, Feather, Horne, Bagenstose and myself.

With reference to the suggested amendments which were upon public charity for profit, this really is to equalize the present laws and some determination by the courts where there seems to be confusion. If a noncharitable corporation operates any portion of its business for profit, that portion when it is in competition with others would be subject to taxation.

The other proposal is perhaps of greater interest to many people, but certainly for something that I do not have the answer to, but something that I have been concerned about. The matter is taxation of public utilities. I am not wholeheartedly in agreement that the public utility taxes should go to the local real estate by reason of thinking that in the future possibly an atomic plant of some type could be set completely out of the local area and in a completely rural district where taxation of a \$100 million property would be entirely different than in a downtown metropolitan area. Therefore, I suggested that the General Assembly be authorized to set up taxation, but that the proceeds must be divided between the Commonwealth and the local government in which the utility would be located in order to provide the services demanded and required by the utility in the local area.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you very much, Delegate Caron.

The Chair recognizes Delegate Cortese.

DELEGATE CORTESE. Mr. President, I read in place and present the following self-explanatory proposal:

No. 1167

By **DELEGATE CORTESE**

A PROPOSAL

Repealing article five of the Constitution of Pennsylvania relating to the Judiciary and adding a new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding after article four, a new article to read:

ARTICLE THE JUDICIARY

Section 1. Courts.—The judicial power of this Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Court of Appeals, Superior Courts and Community Courts. Other courts may be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Section 2. The Supreme Court—(a) The Supreme Court shall consist of seven justices, one of whom shall be Chief Justice of Pennsylvania. In the absence of the Chief Justice, the member of the court senior in length of service on the court shall serve in his place.

(b) The Supreme Court shall be the highest court of the Commonwealth and shall have final appellate jurisdiction. It shall have no original jurisdiction except as may be provided by acts of the General Assembly. It shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction.

(c) The Supreme Court shall have appellate jurisdiction by appeal and certiorari or writ of error in all cases as is now or may hereafter be provided by the General Assembly.

Section 3. Court of Appeals.—(a) The Court of Appeals shall consist of seven judges, except that the Supreme Court may from time to time assign additional judges from among the judges of the Superior Court to temporary service upon the Court of Appeals as the business of said court may require. The number of judges of the Court of Appeals may be changed by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court. The court may act in panels of three or more judges, and shall sit at such place and times as it shall by rule prescribe.

(b) The Court of Appeals shall have no original jurisdiction. It shall exercise such appellate jurisdiction, including such review of the actions of executive or administrative offices, boards, commissions or agencies, as may be assigned to it by the General Assembly.

(c) The judge of the Court of Appeals, senior in service, shall serve as its President Judge. In the absence of the President Judge the next member of the Court of Appeals senior in length of service on the court shall act in his place.

Section 4. The Superior Court.—(a) The Superior Court shall be the court of general jurisdiction for each judicial district. It may be divided into subdivisions known as: (1) Common Pleas, (2) Quarter Sessions, (3) Estates, and (4) Juvenile and Domestic Relations. There shall be one Superior Court for each judicial district. Initially, the number and boundaries of the judicial districts, and the number of judges to be selected from each district, shall be as at present, but the General Assembly may add such additional judges as it deems advisable. The President Judge of the Superior Court of each judicial district shall, under the direction of the Chief Justice or such associate justice as shall be deputized by him, supervise the court's judicial business, including the assignment of judges, all of whom are hereby authorized to act in all of the Superior Courts' divisions.

(b) Initially, the judges of the Superior Court shall be those presently constituting the Courts of Common Pleas, the Orphans' Courts, the County Court of Philadelphia

County, the County Court and the Juvenile Court of Allegheny County.

(c) The Superior Court shall have unlimited original jurisdiction in law and in equity in all cases except such as may be assigned exclusively to the Supreme Court or the Community Courts by law.

(d) The Superior Courts shall have such powers of review of the actions of the Community Courts and of executive or administrative offices, boards, commissions or agencies as may be provided by law.

Section 5 Judicial Nominating Commissions.—(a) There shall be a single State-wide Judicial Nominating Commission for the Supreme Court and the Court of Appeals, and a separate Judicial Nominating Commission for each of the districts in which judicial vacancies are to be filled in the manner provided by subsection (a) of the preceding section. Each such commission shall be composed of one justice or judge, three members of the Bar selected by the members of the Bar and three lay citizens. The justice or judge and the members of the Bar on each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens on each Judicial Nominating Commission shall be appointed by the Governor. Members of the Judicial Nominating Commission for the Supreme Court and the Court of Appeals shall be chosen from the Commonwealth at large and members of the Judicial Nominating Commission for a judicial district shall be chosen from persons domiciled in that district, except that where no surviving justice or judge resides in that district, the justice or judge may be chosen from outside that district.

Section 6. Terms of Judges and Justices; Chief Justice; President Judges.—(a) Justices of the Supreme Court shall serve a term of twenty-one years, and shall not be qualified to succeed themselves, and when the qualified electors of the State at large or of the appropriate judicial district have voted to retain them, judges of the Court of Appeals, and of the Superior Court shall serve for terms of ten years, and judges of the Community Courts shall serve for terms of not more than ten years as the General Assembly shall from time to time prescribe. The tenure of any judge shall not be affected by changes in judicial districts or by the reduction of the number of judges.

(b) The Chief Justice of Pennsylvania shall be the senior justice in service on the Supreme Court; and in the event two or more justices have identical seniority, the Chief Justice shall be determined from between or among them by the drawing of lots, conducted by the Secretary of the Commonwealth and certified to the Governor. A member of the court may resign the office of Chief Justice without resigning from the court.

(c) There shall be a President Judge of the Court of Appeals, and President Judges of the various Superior Courts and Community Courts, who shall be elected by a majority of the judges on each such respective court for a term of three years. A member of any court may resign the office of President Judge without resigning from the court.

Section 7 Compensation and Retirement of Judges.—(a) Justices and judges shall receive compensation paid by the Commonwealth as prescribed by law, which shall not be diminished during their terms of office.

(b) Justices and judges may be retired at such age, not less than seventy-two years as shall be provided by the General Assembly. Notwithstanding the expiration of the

term for which a justice or a judge was last elected, his retirement, resignation or removal from office for physical or mental disability, he shall receive such compensation as shall be prescribed by the General Assembly. A former judge may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

Section 8. Removal, Suspension and Discipline of Judges.—(a) Any justice or judge who shall become a candidate for an elective nonjudicial office, or who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the Bar of the Supreme Court, shall automatically forfeit his judicial office.

(b) Any justice of the Supreme Court may be retired by the Governor upon certification by the Statewide Judicial Nominating Commission, after appropriate hearing, that such justice is so physically or mentally incapacitated as substantially to prevent him from performing his duties.

(c) The Supreme Court may, in accordance with rules prescribed by it, after notice and a hearing by such tribunal as it may by rule designate or establish, retire any judge, other than a justice of the Supreme Court, who is so mentally or physically incapacitated as substantially to prevent him from performing his duties.

(d) Justices and judges shall be subject to removal by impeachment. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

(e) Any judge may also be removed from office, suspended without pay, or otherwise disciplined for misconduct in office, neglect of duty, violation of any canon of legal or judicial ethics as approved and promulgated from time to time by the American Bar Association or its successor and adopted by the Supreme Court, for conduct which shall prejudice the proper administration of justice, or such other grounds as the General Assembly may provide. Such removal or discipline shall be by the Supreme Court after notice and a hearing by such tribunal as the Supreme Court may by rule designate or establish. Proceedings for removal, suspension, or discipline may be initiated by the Supreme Court on its own motion or on petition of the Judicial Council or of any Bar association.

Section 9. Nonjudicial Duties and Prohibited Activities.—All justices and judges shall be bound by the canons of legal and judicial ethics as approved and promulgated, from time to time, by the American Bar Association or its successor and adopted by the Supreme Court.

Section 10 Administration of Courts.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts of this Commonwealth, including the temporary assignment of judges from one court or district to another.

(b) The Supreme Court shall have power to prescribe rules in all civil and criminal actions and proceedings for all courts, governing administration, practice and procedure, and the issuance of all writs necessary or appropriate in aid of the jurisdiction of the respective courts, but excluding rules of evidence and time for appeals, which powers shall remain exclusively with the General Assembly. Such rules shall have the force and effect of law and shall suspend all statutes inconsistent therewith.

Section 11 Clerks of Court, Court Personnel.—There shall be such clerks of court and such other judicial per-

sonnel as shall be necessary for the effective performance of the judicial work of the Commonwealth. The clerks of the Superior Courts, and of the Community Courts, their assistants and other nonjudicial court officers within each judicial district shall be appointed by the judges of the respective courts of that district.

SCHEDULE

That no inconvenience may arise from changes in the Judiciary article of the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared that:

1. This Judiciary article, except as otherwise provided herein, shall become effective on the thirty-first day of July of the year next succeeding its adoption; and the tenure of the Chief Justice and of justices of the Supreme Court and of judges of the Superior Court then in office shall not be affected by this article. Subject to the provisions of the retirement acts then in effect, judges of both courts shall be eligible for re-election in the manner provided in this article.

3. (a) The Courts of Oyer and Terminer and General Jail of the Chief Justice by the Statewide Judicial Nominating Commission shall become effective upon the expiration of the term, or the death, resignation or removal of the last justice of the Supreme Court in office on July 31, 1968.

3. (a) The Court of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, the County Court of Philadelphia, the County Court of Allegheny County, the Juvenile Court of Allegheny County, and the Court of Common Pleas and Orphans' Court of every judicial district are abolished and their jurisdiction and powers shall be exercised by the Superior Courts provided by this article. The tenure of judges of the abolished courts shall not be affected by the abolition of the same, and the judges thereof are hereby constituted for the remainder of their respective terms as judges of the Superior Court and shall be eligible for re-election as judges thereof in the manner provided, by this article.

(b) In recognition of the fact that the judges who now constitute the separate courts which are hereby abolished have heretofore been elected to serve only as judges of each of the separate courts, each requiring different and specialized judicial services than those required by the other separate courts, every judge now serving as a member of a separate court shall not, during the balance of his tenure (including re-election) as a judge of that court, without his consent, be transferred or assigned to any subdivision of the Superior Court in which he may be required to perform judicial duties other than those which by law are now encompassed within the jurisdiction of the separate court of which he is presently a member.

4. The Magistrates' Courts in Philadelphia County and the Aldermen's and Justices of the Peace Courts in other counties, the Traffic Court of the City of Pittsburgh, the Police Magistrates of the City of Pittsburgh, and the Traffic Court of the City of Philadelphia are abolished on the effective date of this article and the terms of office of the incumbent judges thereof shall then terminate. Subsequently the jurisdiction and powers of the aforesaid courts shall be exercised by the Community Courts until otherwise provided by rule of the Supreme Court of Pennsylvania.

5. The Board of Claims and the Board of Arbitration of Claims shall continue to exercise the jurisdiction now

provided by law until otherwise provided by the General Assembly but shall not be deemed courts forming part of the judicial system created by this article.

6. (a) The offices of clerk of the Court of Quarter Sessions of the Peace, of Oyer and Terminer, and of clerk of the Orphans' Court, and the office of prothonotary are abolished

(b) The present prothonotaries of the Common Pleas Court shall become clerks of the District Court within their respective districts for the balance of their terms, subject to the provisions of this article

(c) The presently elected clerks of the Courts of Quarter Sessions and of Oyer and Terminer shall become deputy clerks of the District Courts within their respective districts for the balance of their terms, subject to the provisions of this article

7. (a) All causes and proceedings pending in the courts of record not continued by this article, except those pending before the Board of Claims and the Board of Arbitration of Claims, shall be transferred to the District Court, or, when appropriate, to the Estates Court, which shall have authority to dispose of all actions so transferred or to enforce any judgment, order, sentence, or decree henceforth or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdiction of the transferee court and been commenced herein. All dockets, books, records, documents, or other papers in the possession of the clerks of the courts of record whose existence is not continued shall be transferred to the clerks of the District Courts, or, when appropriate, of the Estates Court.

(b) All matters pending before the Courts of Justices of the Peace, Aldermen and Magistrates, the Traffic Courts of the Cities of Philadelphia and Pittsburgh and the Police Court of the City of Pittsburgh shall be transferred to the Community Courts, which shall have the authority to dispose of all transferred actions or to enforce any judgment, order or sentence heretofore entered or imposed.

All books, records, documents and papers in the possession of any of those courts shall also be transferred to the Community Court of the appropriate judicial district.

Section 2. Article five of the Constitution of Pennsylvania is hereby repealed effective the thirty-first day of July of the year next succeeding the adoption of the foregoing article, except that as much of section two as provides for the succession of chief justices according to the priority of their commissions shall not be repealed until the expiration of the term or the death, resignation, retirement or removal of the last justice of the Supreme Court in office on July 31, 1968.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fohl.

DELEGATE FOHL. Mr. President. I read in place and present the following proposal on behalf of Delegates Pott, Powell, John Keller and myself:

No. 1168

By DELEGATES FOHL, POTT, POWELL
and J. W. KELLER

A PROPOSAL

Amending the Constitution of Pennsylvania specifying audit control for any expenditure of tax moneys.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding at the end thereof, a new section to read:

Section 26. Tax Money Expenditures to be Audited.—Any and all tax moneys expended by any branch or agency of State government, or by any body created or funded by the Commonwealth, shall be subject to normal audit control by the Auditor General as shall be provided for by law.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scales.

DELEGATE SCALES. Mr. President, I read in place and present the following proposal. No comment is necessary at this time.

No. 1169

By DELEGATES SCALES, ORBIN and MANGERY

A PROPOSAL

Amending the Constitution of Pennsylvania further providing for training courses for the minor judiciary.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section twenty-eight of article five of the Constitution of Pennsylvania is amended to read:

Section 28. Training Course for Minor Judiciary.—The General Assembly [may] shall, by general law, provide that a course of training and education be completed by justices of the peace and aldermen hereafter selected who have not been admitted to practice law in this Commonwealth. The required course of training and education shall not exceed three months' duration [, one month of] which shall be taken after their election and prior to their assuming office. [The remaining two months of training and education shall be taken immediately after assuming office. Their jurisdiction shall extend to summary offenses only prior to completion of the required course.] No justice of the peace or alderman shall assume his office until he has successfully completed such a course of training and education. Persons [who have served as justices of the peace or aldermen prior to the adoption of this amendment] elected to office prior to the time of adoption of this section, and then only for the balance of their current terms, shall not be required to take this course. The required course shall be at the cost of the Commonwealth.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Solomon.

DELEGATE SOLOMON. Mr. President, I read in place and present two proposals relating to Article XIV, section 7:

No. 1170

By DELEGATES SOLOMON, LAPUTKA and SPROGELL

A PROPOSAL

Amending the Constitution of Pennsylvania changing pro-

visions relating to the election and appointment of county commissioners and county auditors.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section seven of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 7. County Commissioners and Auditors.—Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; [and in the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected;] any casual vacancy in the office of county commissioners or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur [, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled].

Referred to Committee on Local Government.

No. 1171

By DELEGATES SOLOMON, HARDING and LAPUTKA

A PROPOSAL

Amending the Constitution of Pennsylvania changing provisions relating to the election of county commissioners and the appointment of county commissioners and county auditors.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section seven of article fourteen of the Constitution of Pennsylvania is amended to read:

Section 7. County Commissioners and Auditors.—Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; and in the election of [said officers] auditors each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected; any casual vacancy in the office of county commissioners or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur [, by the appointment of an elector of the proper county who shall have voted for the commissioners or auditor whose place is to be filled].

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Solomon.

DELEGATE SOLOMON. Mr. President, members of the Convention, this proposal relating to Article XIV, Section 7, would change the present constitution permitting all of us to vote for three county commissioners. This, in effect, would do away with the "tokenism" which presently exists in the election of three county commissioners voting for two.

The minority commissioner is a fixture; he is a drag on decent good government. He makes it possible for the

party that is in power to, perhaps, evade its responsibility by failing to provide good government.

There are several cosponsors in this matter. I do feel that this has been a pernicious practice; that it has been false in theory; it has not worked out. Our Supreme Court has stated, and this is a Luzerne County case—Mr. Laputka wishes to stand and tell us something about it—the Jennings case, which was decided in 1962, when a commissioner elected as a Democrat changed his party. Our Supreme Court said in an action quo warranto, without questioning, and so forth, on the basis of Jennings' victories at the polls that once a person assumes public office he becomes a representative of all of his constituents and not merely those who voted for him or happen to belong to his political party. In the discharge of their official duties, the three commissioners do not act as representatives of the majority or minority party, but officials in conformity.

This would bring good government to those counties who have not had good government. We do not need a so-called minority man on the commissioners who is merely a gadfly. Certainly the minority commissioner, in my observation in the past 35 years, is something akin to "the lilies of the field," he toils not, neither does he spin, and I will save you the rest of the quotation.

NORTHEAST BRADFORD JOINT SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. I think this may be a good time, if I may, to introduce some guests whom we have in the balcony today. I am advised by a note that these are 65 American History students from the Northeast Bradford Joint School at Rome, Pennsylvania.

They are the guests of Delegate Himes of Lycoming, Delegate Wilcox of Tioga and Delegate Dailey of Sullivan.

I think we should give them our cordial and warm greeting and tell them we are glad they are here with us and hope they will come back.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Tuesday, January 9, 1968, one-half hour after adjournment of tomorrow's session.

ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE, Co-Chairmen Gray and Nelson, Room 500, North Office Building, Tuesday, January 9, 1968, immediately after tomorrow's session.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, entire committee, respective offices, Monday, January 8, 1968, 10 minutes after adjournment of today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, entire subcommittees, respective offices, Monday, January 8, 1968, immediately after today's session; all co-chairmen of subcommittees, Penn Harris Hotel, Dutch Room, Monday, January 8, 1968, at 6:30 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, entire committee, Monday, January 8, 1968, immediately after today's session; Taxation Subcommittee, Senate Caucus Room, delegate hearings, Monday, January 8, 1968, at 7:30 p.m., e.s.t.; State Debt, Room 610 D, North Office Building, delegate hearing, Monday, January 8, 1968, at 7:30 p.m., e.s.t.; Sinking Fund, Room 614, North Office Building, delegate hearing, Monday, January 8, 1968, at 7:30 p.m., e.s.t.

ANNOUNCEMENT BY DELEGATE NELSON

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Arrangement, Submission and Address to the People, Delegate Nelson.

DELEGATE NELSON. Mr. President, tomorrow, January 9, 1968, immediately following the plenary session, there will be an important meeting of the Committee on Arrangement, Submission and Address to the People in room 500, North Office Building.

We are asking that all the members of this committee give priority to this meeting tomorrow over any other meetings they have scheduled at that time.

Immediately following the meeting to which I have just referred, the whole committee and the officers of the Convention will retire to the Penn Harris Motor Hotel for luncheon being hosted by Secretary Michener. Transportation will be provided.

PRESIDENT BRODERICK. Thank you, Delegate Nelson.

ANNOUNCEMENT BY DELEGATE LEONARD

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD. Mr. President, I would like to remind the delegates that this evening at 7:30, we will have delegate hearings, in effect, for those delegates who have presented proposals that were referred to the Taxation and State Finance Committee. Delegates who wish to appear before the subcommittees to answer questions of the subcommittee members and also to make further comment themselves should contact the secretary of our committee in room 611, North Office Building.

The session tonight at 7:30, the Taxation subcommittee will be in the Senate Caucus Room; the State Debt will be in room 610 D of the North Office Building and Sinking Fund will be in room 614, North Office Building.

PRESIDENT BRODERICK. Thank you, Delegate Leonard.

ANNOUNCEMENT BY SECRETARY MICHENER

PRESIDENT BRODERICK. The Chair recognizes the secretary, Secretary Michener.

SECRETARY MICHENER. Mr. President, five delegates to this Convention are unique in that they are not assigned to any substantive committee, nor are they chairmen of any of the last four committees.

They are Delegate Michael of the 28th District; Delegate Tully of the 31st District; Delegate Huggins of the 45th District; Delegate Buck of the 32nd District and Delegate Levin of the 28th District.

They have united into an ad hoc committee known as the "Five U's," the Union of Unassigned, Undesignated and Unwashed Urchins. They feel somewhat left out, although they are participating very vigorously. I notice they put in a lot of proposals.

On Wednesday at 12 noon, they are going to have a luncheon at the Maverick Restaurant. They are going to bring in a proposal explaining how everything would be a lot further ahead if they had been assigned to some of these committees.

PRESIDENT BRODERICK. Without hearing their proposal, I agree that it would.

ANNOUNCEMENT BY DELEGATE AMSTERDAM

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Philadelphia, Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, the subcommittees of the Judiciary Committee will meet immediately following this session in their regular committee rooms, with the exception of Subcommittee C. Subcommittee C will not convene until half an hour after this meeting has been completed.

I also want to call to the attention of the members of the Judiciary Committee the fact that there will be a meeting this evening at 7:30 p.m., in the Minority Caucus Room, which is Room 332 of this building.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Amsterdam.

ANNOUNCEMENT BY PRESIDENT BRODERICK

PRESIDENT BRODERICK. The Chair would now request that the chairmen of the four committees, Judiciary, Legislative Apportionment, Taxation and State Finance and Local Government call at the desk for the proposals that were introduced and referred here at today's session.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Barry.

DELEGATE BARRY. Mr. President, I missed the roll call. Would you record me as being present?

PRESIDENT BRODERICK. Yes. By the way, if there are any other delegates who came in after the roll call,

if you will kindly state your name you will be recorded present for today's session.

The Chair notes the presence of Delegates Dailey, Baldrige, Sharp, Silverman, Leach, Laputka, Fay and Jirolanio.

POINT OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Otto.

DELEGATE OTTO. Just a question, Mr. President.

On Counsel's opinion No. 17 on the proposal returned, am I correct in assuming that tomorrow we can give you a decision on whether or not we shall appeal this opinion of counsel?

PRESIDENT BRODERICK. Yes, you are correct on that.

We want everyone to have an opportunity to study them and report the next day.

ADJOURNMENT

The Chair recognizes Delegate Percey for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE PERCEY. Mr. President, I move that this Convention do now adjourn until Tuesday, January 9, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Percey and seconded by Delegate Hocker that this Convention do now adjourn until Tuesday, January 9, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 2:35 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Tuesday, January 9, 1968

Number 19

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

PRESIDENT BRODERICK. Prayer today will be offered by the Reverend James B. Trost, Saint Andrews Episcopal Church, State College, Pennsylvania.

REVEREND TROST: May I ask you, please, as part of the prayer to remember that I will be with you throughout the rest of this week; that I think, as an Episcopalian priest, the role of prayer is not to tell God what He already knows, but actually to pray and ask His help.

Could I ask this one thing further in the prayer, that this is your prayer not mine. I have not come to pray over you but with you. I ask, please, that you say amen at the end of the prayer, hopefully, which means in Hebrew, so be it or I agree.

Let us pray.

We thank Thee, O Lord, for Your continued blessings to all of us in this western part of the world, especially for our residents in this Commonwealth. We thank You for the pioneers, even in the time of such revision as this; for pioneers who open the way; for those who lay the foundations of our national and state life; for the separation of church and state, yet one nation and state under Your love, rule and order.

Grant that those gathered here for the specially elected task of revision of our Constitution, and for all of us in due order, that we may ever dedicate ourselves to the unfinished work that others so nobly advanced; giving increased devotion to the cause for which they gave their last full measure of devotion that government of the people, by the people, and for the people shall not perish from this earth.

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let our delegates strive on to finish the work that we are all in, to bind up wounds, to care for all who need care and to do all which may achieve and cherish a good government of love, justice and freedom. This we pray in the name of God and the Father of us all. Amen.

CORRECTION TO JOURNAL

PRESIDENT BRODERICK. The Chair wishes to call attention to the fact that the Journal for December 1, page 7, has incorrectly stated that remarks were made by Delegate Braham which were made by Delegate Banes. Delegate Banes has called this to our attention and we will proceed to have it corrected.

If there are any other errors observed at any time, we will be happy to see that they are corrected.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

DELEGATE MICHENER. Mr. President, I want to submit the following requests for leaves of absence:

The delegate from the 43rd District, **DELEGATE AURENTZ**, for January 12. She must go to Pittsburgh on business;

The delegate from the 43rd District, **DELEGATE MILLER**, for January 12, who must also go to Pittsburgh on business;

The delegate from the 45th District, **DELEGATE BANES**, asked me to point out that he was absent on January 8 because of reorganization and asked for an ex post facto excuse.

Mr. President, I have a special problem here and I do not know how to handle it.

DELEGATE SHAPIRO of the 12th District and **DELEGATE GOLDMAN** of the 37th District were here yesterday. They spent almost the full afternoon working with us, but they did miss the roll call. I ask that they be recorded as present yesterday.

PRESIDENT BRODERICK. Are there any objections to the leaves requested? The Chair hears none, and the leaves as requested are granted.

QUORUM CALL

PRESIDENT BRODERICK. Our next order of business is the calling of the roll to determine whether a quorum is present. The voting machines are being unlocked and the delegates will proceed to record their presence by voting "yea."

The roll was recorded as follows:

Aberman	Devlan	Krill	Redick
Allison	Dumbauld	Laputka	Reynolds
Amsterdam	Erwin	Leach	Richter
Aurentz	Fawcett	Lee, L.	Roberts
Bagenstose	Fay	Leinbach	Ruth
Baldryge	Feather	Leonard	Sahli
Baldus	Filson	Levin	Scales
Baldwin	Fleming	Manderino	Scarlett
Banes	Fohl	Mangery	Scott
Barry	Forster	Markley	Seranton
Bashoff	Fortney	Mattioni	Sebastian
Benedict	Gabreski	McGeary	Shapiro
Bensfield	Gehrlin	Michael	Sharp
Bloom	Gerber	Michener	Shettig
Braham	Goldman	Miller, D.	Shively
Broderick	Goldstein	Miller, R.	Shoemaker
Brown	Gouger	Moorhead	Shrager
Bunting	Gray	More	Solomon
Burkholder	Griffith	Morton	Spiegel
Cain	Hannum	Murray	Stout
Caputo	Harding	Nelson	Swope
Caron	Hatter	Orban	Tate

Casey	Henderson	Orbin	Thomson
Clark	Hocker	Otto	Thornburgh
Clinger	Hook	Pasquerilla	Tully
Conley	Hosteller	Pellatier	Waldron
Covey	Huggins	Percey	Warman
Cortese	Jroianio	Popl	Welsh
Cosetti	Johnson	Poff	Westerberg
Cunningham	Keller, J.	Powell	Whitum
Curran	Keller, M.	Quiles	Wilcox
Dalley	Kelly	Rappaport	Woodring
Desmond	Kline	Rea	

PRESIDENT BRODERICK. According to the calculator, we have 131 delegates present, which constitutes a quorum.

The Chair notes also the presence of the following delegates:

Butera	Kauffman	Meyer	Tomascik
Camardella	King	O'Donnell	Van Sant
Donaldson	Lee, K.	Prendergast	Woodside
Fineman	McGlynn	Silverman	

PROPOSALS REFERRED TO SUBCOMMITTEES

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair recognizes Chairman Scranton of the Judiciary Committee.

DELEGATE SCRANTON. The Judiciary Committee has referred the following proposals:

- No. 1164 to Subcommittee E;
- No. 1167 to Subcommittees A, B, C, D and E;
- No. 1169 to Subcommittee A.

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes Chairman Pasquerilla of the Local Government Committee.

DELEGATE PASQUERILLA. Mr. President, the Committee on Local Government has referred the following proposals:

- No. 1162 to the Subcommittee on Home Rule;
- No. 1163 to the Subcommittee on County Government;
- No. 1170 to the Subcommittee on County Government;
- No. 1171 to the Subcommittee on County Government.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, the Committee on Taxation and State Finance rerefers the following proposals:

- No. 1165 to the Subcommittee on Taxation;
- No. 1166 to the Subcommittee on Taxation;
- No. 1169 to the Subcommittee on Sinking Fund.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Montgomery, Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, I rise on a matter of personal privilege.

This Convention was very kind to me and my family in its expressions on the occasion of the very sorrowful news that reached me on the opening day of this Convention of the death of my father.

I think it only proper, therefore, that this Convention

share with me some much more joyful news which I received on Friday of last week. Shortly after the Convention session closed, I was informed that my son, Paul, and my daughter-in-law, Carolyn, have been blessed with the birth of a baby girl, Helen Gail Shapiro. Since I received this news while I was in my office in Governor Scranton's Public Utility Commission Building, I might say, in the lexicon of the Judiciary Committee, that I have been "grandfathered in office."

Although this is my first grandchild and perhaps I am the first delegate to this Convention to be "grandfathered in office," this is not the first such occasion in my family. It so happens that 27 years ago, while my father was serving in the Senate of Pennsylvania, he received some very similar news, and it so happens that a number of his fellow Senators gave vent to some comment on it which appears in the Journal of the Senate of Pennsylvania. Among them were Congressman Dent, then a Senator in Pennsylvania.

I ask the privilege, Mr. President, of having recorded in our Journal for today a brief excerpt from the Journal of the Senate of Pennsylvania on April 28, 1914.

Thank you.

PRESIDENT BRODERICK. You will be granted that privilege unless we hear objection. I am sure there is none. May I state, on behalf of your fellow delegates, congratulations.

DELEGATE SHAPIRO presented the following excerpt for the Convention Journal:

LEGISLATIVE JOURNAL—SENATE

Monday, April 28, 1914

QUESTION OF PERSONAL PRIVILEGE

Mr. CHAPMAN. Mr. President, I rise to a question of personal privilege.

The PRESIDENT. The Senator from Warren, will state his question of personal privilege.

Mr. CHAPMAN. Mr. President, search for youth, for a renewal of the springy step and the flashing eye is as old as the hills. Old Ponce de Leon hunted in vain for that fountain that once bathed in would bring the blush of youth and the fire that has burned in his veins. But he failed in his quest. But our friend from Philadelphia, the paragon of orators and debater de luxe, Senator Harry Shapiro, has attained what old de Leon sought. He has received word that he is a Grandpa. Ah, the magic of it, how his head has risen, how he smiles and how his eyes flash with pride and joy. I know just how he feels, it is the voice of experience that speaks, for not long ago I too took the plunge into the Spring of Grandpaship and emerged younger than for years, and at peace with all the world. What a sensation it is to know that a baby has entered the world and that we are Grandpa. It may be a real event to become a Dad but when you attain the sublime degree of a Grandpa, then you have drained the cup of joy and the world holds no greater gift.

The birth of a grandchild is one of the most extraordinary and beautiful provisions of nature which God has made for securing the continuance

of human happiness to the very end of life, that we can renew through association with grandchildren the pleasure which for ourselves alone, which long since through repetition and safety, lost their charm, which have utterly and entirely lost their power to affect the mind even in middle life, regain their powers and magic charm and call up vividly all the old emotions even to the heart of decrepit old age, when it seeks these enjoyments in companionships and sympathy with grandchildren beloved. Let one in declining years, whose time passes heavily away and supposes nothing can awaken interest in his mind, or give him pleasure, have the pleasure of the birth of a grandchild, he can again enjoy the pleasures which he thought had forever gone.

QUESTION OF PERSONAL PRIVILEGE

Mr. SHAPIRO. Mr. President, I rise on a question of personal privilege.

The PRESIDENT. The gentleman from Philadelphia will state his question of personal privilege.

Mr. SHAPIRO. Mr. President and members of this Senate, the Senator from Warren, Dr. Chapman, was good enough to call attention to the fact that in the past week I have aged considerably by having become a grandfather. I can not forgo the opportunity of thanking him for the very beautiful way in which he brought the subject to your attention and at the same time convinced me that there was really more about being a grandfather than I had understood. I think you will all be interested in knowing that the only time the child will awake is for personal privilege.

Mr. DENT. Mr. President, apropos of the subject just discussed by the gentleman from Philadelphia, Mr. Shapiro, and also by the Senator from Warren, Dr. Chapman, I happened to run across a little poem in my scrapbook and with the indulgence of the Senate I would like to read it.

The PRESIDENT. If there is no objection the gentleman from Westmoreland may proceed.

Mr. DENT. Mr. President, I think it expresses the sentiment of the gentleman from Philadelphia very well. It is entitled "I Saw So Many Things" and reads as follows:

I Saw So Many Things

I saw so many things today:
A group of children out at play.
A dewdrop on a bright red rose.
A line of flapping, new washed clothes.
A robin singing to his mate.
A squirrel perched upon a gate.
A golden sunset in the sky,
A fragrant breeze that passed me by,
But fairer than these beauty charms
Was the new babe held in my arms!

COMMITTEE REPORTS

PRESIDENT BRODERICK. We proceed to the next

order of business which is the report of committees. Are there any committee chairmen who wish to make committee reports? The Chair hears none

APPEALS PENDING

PRESIDENT BRODERICK. We now move to the next item of business which is the return of proposals and the right of appeal.

Number one, the Chair is most happy to report that there are no proposals to be returned today as a result of yesterday's introductions. We have had at least one great day.

The one proposal that was not assigned yesterday, the proposal of Delegate Caron of Berks, has been assigned to the Committee on Taxation and Finance

One other statement in regard to appeals. We have two appeals pending, one appeal by Delegate Dumbauld and the appeal by Delegate Quiles. As we announced yesterday, and as a result of requests, these appeals will be discussed and voted on at tomorrow's session, Wednesday. All delegates should have received copies of the written opinions of counsel on Delegate Dumbauld's proposal, which I think is Opinion No. 13, and copies of the opinion of counsel in connection with Delegate Quiles' proposal, I believe the number of that opinion is No. 8. If anyone does not have copies of these opinions or copies of the proposals, please ring your page and we will see that you receive them in order that this matter may be voted on at tomorrow's session.

PROPOSALS RETURNED

Yesterday it was necessary for the Chair to return proposals to Delegates Irvis, Otto, Orbin, Amsterdam and Levin.

The Chair, at this time, asks if there are appeals to be taken in connection with these returns?

APPEALS ENTERED

PRESIDENT BRODERICK. The Chair recognizes Delegate Levin.

DELEGATE LEVIN. Mr. President, I have taken the advice of the learned counsel, Mr. Comisky, and have deleted from my proposal, article 17-B. I wish to reintroduce the article in total, with the provision that I can take an appeal on 17-B only.

PRESIDENT BRODERICK. Do I understand then that you are stating an appeal in connection with 17-B?

DELEGATE LEVIN. Yes, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, it is our intention to have an appeal on the consumer price proposal. I have polled the majority of the sponsors and that was their decision.

PRESIDENT BRODERICK. Thank you, Delegate Otto. We recognize, therefore, that this morning appeals have been filed by Delegate Levin on the limited matter which he has stated, and by Delegate Otto in connection with his proposal which was returned yesterday.

I do not think that it is necessary, but, out of an abundance of caution, I wish to state that when a proposal is returned, we return to the delegate a copy of the opinion.

Then, at the next session—just as happened this morning—the proposer may take an appeal. If his appeal is then taken, we will have copies of the opinion duplicated, as well as copies of the proposal distributed. We will have these appeals argued after the delegates have had time to have the proposal and the opinion on their desks.

DEADLINE FOR INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. We are still receiving delegate proposals which were submitted to the drafting bureau on or before January 5, last Friday.

According to telephone information received from the drafting bureau as of this morning, they have acted on and finished the preparation of 30 of the 51 proposals which they had received on Friday. That means there are still proposals being worked on by the drafting bureau.

Unless there is some objection, and I want you to know the Chair is not intending to cut off any proposals, but I think we should set up at least a tentative deadline. Unless there is some reason, we will set Thursday of this week, January 11, as the last day for the acceptance of proposals. You can always introduce proposals during our entire session at any time with a vote of a majority. But in order to set up a deadline, I think it fair that we set up Thursday because those of you who have not yet received your proposals will receive them back from the drafting bureau today and will be able to introduce them tomorrow and Thursday.

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. In connection with the appeals and the opinions that have been furnished to us, Counsel Opinion No. 13 refers to Opinion No. 8 and Opinion No. 9 and we have not been furnished, to my knowledge, with copies of Opinion No. 9. Similarly, Opinion No. 8 makes reference to Opinion No. 5 and I believe we have not received copies of those opinions. I wonder if we might have copies of Opinion No. 5 and Opinion No. 9?

PRESIDENT BRODERICK. Yes, we will see that copies of those opinions are distributed to the delegates as quickly as possible. May I request that we get those copies distributed as quickly as we can, even perhaps today, because these matters are going to be argued on appeal tomorrow and I want everybody to have the full information. If there is any way that our staff can expedite it, I now make the request for getting those opinions distributed.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Kauffman.

DELEGATE KAUFFMAN. Mr. President, I think that you have already granted my request by mentioning my name on the record. I simply wanted it noted that I was present since I came in right after the roll call was taken.

PRESIDENT BRODERICK. We are happy to note your presence.

PROPOSALS INTRODUCED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Berks, Delegate Caron.

DELEGATE CARON. Mr. President, I read in place and present the following proposal:

No. 1172

By **DELEGATES CARON and BAGENSTOSE**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the taxation of property owned or used by public utilities and the division of the proceeds of such taxation.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation. The General Assembly may provide for the imposition of taxes on property owned or used by public utilities and for the division of the proceeds of such taxation between the Commonwealth of Pennsylvania and local governments in which the utilities are situated.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Sharp.

DELEGATE SHARP. Mr. President, I read in place and present the following proposal:

No. 1173

By **DELEGATE SHARP**

A PROPOSAL

Repealing article five of the Constitution of Pennsylvania relating to the Judiciary and adding a new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding after article four a new article to read:

ARTICLE THE JUDICIARY

Section 1. Judicial Power.—The judicial power of the Commonwealth shall be vested in a unified judicial system, which shall consist of a Supreme Court, Superior Court, Districts Courts, Community Courts and such Minor Judiciary Courts of original jurisdiction as may, from time to time, be established by law. District and Community Courts may be divided and subdivided by law or by judicial rules established by the Supreme Court on geographical and on functional bases.

Section 2. Jurisdiction of Courts.—(a) The Supreme Court shall have appellate jurisdiction in all cases arising under this Constitution and of the Constitution of the United States and in all other cases as provided by law. It shall also have original jurisdiction in cases involving the apportionment of the General Assembly and in all other cases as provided by law.

(b) The Superior Court shall have appellate jurisdiction and all other courts of the State shall have original jurisdiction as provided by law, which jurisdiction shall be uniform in all geographical departments or districts of the same court. The jurisdiction of functional divisions or subdivisions shall be as provided by law or by judicial rules established by the Supreme Court.

(c) No law or rule shall be effective to create special rules as to venue because the case involves the Commonwealth or any of its agencies or officials.

Section 3. Supreme Court.—(a) The Supreme Court shall consist of seven Justices, one of whom shall serve as Chief Justice. The Governor shall appoint a Justice to serve as the Chief Justice whenever a vacancy occurs in this office.

(b) The Chief Justice of the Supreme Court shall be the administrative head of the entire unified judicial system within the Commonwealth. He may assign judges from one geographical department or functional division of a court to another department or division of that court, and may assign judges who possess proper qualifications for temporary service from one court to another.

(c) The Supreme Court by general rule shall prescribe the circumstances under which the Superior Court may act in panels of three or more judges.

(d) The Chief Justice shall name an administrative director, whose appointment shall be approved by the Supreme Court, to supervise the administrative operation of the entire Commonwealth judicial system.

Section 4. Superior Court.—(a) The Superior Court shall consist of nine judges or such other number as may be approved by a two-thirds vote of the General Assembly and by the Governor.

(b) Additional judges from among the judges of the District Courts may be assigned by the Supreme Court to temporary service upon the Superior Court as the business of the Superior Court may require.

(c) One judge of the Superior Court shall serve as President Judge. In the event of a vacancy, the Governor shall appoint one of the judges of the Superior Court to serve as its President Judge.

(d) The Superior Court shall have no original jurisdiction. It shall exercise such appellate jurisdiction, including such review of the actions of executive or administrative offices or agencies, as may be assigned to it by law or by general rule of the Supreme Court. When no court has been designated by law or by general rule of the Supreme Court, any appeals permitted by law shall be taken to the Superior Court.

Section 5. District Courts.—(a) There shall be one District Court for each judicial district. Initially, the number and boundaries of the judicial districts and the number of judges to be selected for each district shall be as at present, but changes in the foregoing may be made as the General Assembly may deem advisable.

(b) District Courts may exercise jurisdiction over arraignments, fixing of bail, imprisonment, fines and civil actions and such other matters as may be established by law or by rules of the Supreme Court.

(c) One judge shall serve as President Judge of each District Court. In the event of a vacancy, the Governor shall appoint one of the judges of a District Court to serve as its President Judge.

(d) Branch Courts of District Courts shall be established and shall be known as Community Courts, the number and location of which shall be fixed in accordance with general rules established by law or established by the Supreme Court.

(e) The judges of the Community Courts shall be District Judges, assigned on a permanent or temporary basis to the Community Courts in accordance with rules established by the Supreme Court.

(f) The President Judge of a District Court may name commissioners to serve as officers of the District and/or Community Courts. The qualifications of commissioners shall be determined by rule of the Supreme Court. Commissioners, if named, shall be empowered to establish arraignments and fix bail for civil and such minor criminal offenses as may be designated by law or under rules of the Supreme Court.

Section 6. Other Minor Judiciary Courts.—(a) The General Assembly may establish a Minor Judiciary Court System to operate in the less populated areas of the Commonwealth. The location of any court of the Minor Judiciary System thus established shall be determined by the Supreme Court; its functions shall be administered by the Supreme Court, and, at the discretion of the Supreme Court, may be replaced by a Community Court.

(b) The Chief Justice of the Supreme Court may designate the President Judge of a District Court to administer Minor Judiciary Courts that may be established within his district.

(c) Judges of the Minor Judiciary Courts shall be limited in duty to establish arraignment and fix bail for civil and such minor criminal offenses as may be designated under rules of the Supreme Court.

Section 7. Elections.—(a) All justices of the Supreme Court and judges of all courts shall be elected to office on a nonpartisan basis. In the event that a vacancy (or vacancies) exist in any court, it (they) shall be filled at the next scheduled regular primary or general election provided that the vacancy (or vacancies) exists at least thirty days prior to the election date.

(b) Each justice of the Supreme Court and judge of the Superior Court shall be elected to serve a lifetime term by the qualified voters of the Commonwealth at large.

(c) Each judge of the District Court shall be elected to serve a lifetime term by the qualified voters of his district.

(d) Each judge of the Minor Judiciary Court shall be elected to serve a ten year term by the qualified voters living within the area over which his court shall have jurisdiction. He may be elected to serve additional terms.

(e) The terms of justices of the Supreme Court and of judges of all courts in the Commonwealth are subject to the provisions of sections nine, ten and eleven (d) of this article.

Section 8. Qualifications.—(a) No person shall be deemed qualified for election to become a justice of the Supreme Court, a judge of the Superior Court, or a District Court unless he (she) is a citizen of Pennsylvania, is under the age limit established by the General Assembly for mandatory retirement, and has first been admitted to the Bar of the Supreme Court of the Commonwealth.

(b) In the event that the General Assembly establishes a Minor Judiciary Court System, a candidate for election to the office of judge of a Minor Judiciary Court shall be a citizen of Pennsylvania, a resident of the area over which the particular court to which he seeks election has jurisdiction, under the age limit established by the General Assembly for mandatory retirement, and shall meet other standards for qualifications that shall be established by the General Assembly.

Section 9. Termination.—Any justice of the Supreme Court or judge of the Superior Court, District Court or Minor Judiciary Court who files nominating petitions for an office other than for another judicial position or for reelection to his present office and fails to withdraw the petitions prior to the final legal date set by law for so doing, thereby becoming a candidate for that office, shall immediately terminate his judicial office.

Section 10. Retirement.—The General Assembly may establish an age for mandatory retirement of all justices of the Supreme Court and judges of the Superior, District and Minor Judiciary Courts. In this event, the General Assembly may act to permit any justice or judge who has reached this retirement age to accept temporary assignments from the Chief Justice of the Supreme Court for special duty on any District or Minor Judiciary Court provided that in no case shall any justice or judge who has reached retirement age be named a President Judge of any court.

Section 11. Judicial Review Commission.—(a) A Judicial Review Commission shall be appointed by the Governor, which will consist of the Deans of each of the law schools operating within the Commonwealth, and an equivalent number of Commonwealth citizens who are not lawyers. The Lieutenant Governor will also be a member and serve as chairman of this commission.

(b) The term of office for all members of the Judicial Review Commission shall be coterminus with that of the Governor.

(c) The Judicial Review Commission shall be empowered to review performance and performance records of all justices and the judges within the court system of the Commonwealth.

(d) Upon the approval of two-thirds of the members of the Judicial Review Commission, certification shall be made to the Governor that a justice of the Supreme Court or a judge of any court in the Commonwealth is not performing his judicial duties or is not capable of performing

his judicial duties. Upon such certification, unless the Governor within ten days vetoes action, the justice or judge so named shall be deemed unqualified and his term of office shall immediately cease.

Section 12. Financing.—The Chief Justice shall submit an annual consolidated budget for the entire unified judicial system and the total cost of the system shall be paid by the Commonwealth. The General Assembly may provide by law for the reimbursement to the Commonwealth of appropriate portions of such cost by political subdivisions.

Section 13. Rules Making Power.—(a) The Supreme Court shall make and promulgate rules governing the practice and procedure in civil and criminal cases in all courts.

(b) No rule promulgated by the Supreme Court shall be inconsistent with law.

(c) Rules established by the Supreme Court may be changed by the General Assembly by a majority vote of both Houses and approval by the Governor.

Section 14. Other Duties.—Justices and judges shall not be assigned any duties to make appointments of officials to serve on any board or for any office other than for service in a court.

Section 15. Civil Service.—The General Assembly shall prescribe a merit system for appointment, promotion, removal, discipline and suspension of all nonjudicial personnel in the entire Commonwealth judicial system.

Section 16. Remuneration.—(a) Salaries of all justices and judges and all allowances for their personal expenditures shall be established by the General Assembly. In no event shall the level of remuneration be reduced during a term in office.

(b) No system for collection of fees or for collection of a percentage of a judgment shall be permitted in any court.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK The Chair recognizes Delegate Levin.

DELEGATE LEVIN. Mr. President, apparently there is some confusion on the proposal. I, therefore, read in place and present the following proposal to the Chair:

No. 1174

By **DELEGATE LEVIN**

A PROPOSAL

Repealing article five of the Constitution of Pennsylvania relating to the Judiciary and adding a new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding after article four a new article to read:

ARTICLE THE JUDICIARY

Section 1. Courts.—The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Superior Court, District Courts, Estates Courts, and Magistrates' Courts. Other courts may

be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall consist of seven justices, one of whom shall be Chief Justice of Pennsylvania. In the absence of the Chief Justice, the member of the court senior in length of service on the court shall serve in his place.

(b) The Supreme Court shall be the highest court of the commonwealth and shall have final appellate jurisdiction. It shall have no original jurisdiction except as may be provided by Acts of the General Assembly. It shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction.

(c) Appeals may be taken to the Supreme Court:

(1) In causes determined by the Superior Court involving a question arising under the Constitution of the United States or this State;

(2) In causes where there is a dissent in the Superior Court;

(3) In cases of judgments imposing sentences of death or life imprisonment;

(4) By certiorari or writ of error in all cases as is now or may hereafter be provided by the General Assembly.

Section 3. Superior Court.—(a) The Superior Court shall consist of seven judges, except that the Supreme Court may from time to time assign additional judges from among the judges of the District Court or the Estates Court to temporary service upon the Superior Court as the business of the Superior Court may require. The number of judges of the Superior Court may be changed by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court. The Court may act in panels of three or more judges, and shall sit at such places and times as the Supreme Court shall by rule prescribe.

(b) The Superior Court shall have no original jurisdiction. It shall exercise such appellate jurisdiction, including such review of the actions of executive or administrative offices, boards, commissions or agencies, as may be assigned to it by the General Assembly.

(c) The judge of the Superior Court, senior in service, shall serve as its President Judge. In the absence of the President Judge the next member of the Superior Court senior in length of service on the court shall act in his place.

Section 4. District Courts.—(a) The District Court shall be the court of general jurisdiction for each judicial district. It shall be divided into subdivisions known as (a) Civil Suits, (b) Criminal Cases, (c) Commonwealth Suits, and (d) Juvenile and Domestic Relations. There shall be one District Court for each judicial district. Initially, the number of and boundaries of the judicial districts, and the number of judges to be selected from each district, shall be as at present, but the General Assembly may add such additional judges as it deems advisable. The President Judge of the District Court of each judicial district shall, under the direction of the Chief Justice or such associate justice as shall be deputized by him, supervise the court's judicial business, including the assignment of judges, all of whom are hereby authorized to act in all of the District Court's divisions.

(b) Initially, the judges of the District Court shall be those presently constituting the Courts of Common Pleas,

the Orphans' Courts, the County Court of Philadelphia County, the County Court and the Juvenile Court of Allegheny County.

(c) The District Court shall have unlimited original jurisdiction in law and in equity in all cases except such as may be assigned exclusively to the Supreme Court or the Magistrates' Courts by law.

(d) The District Courts shall have such powers of review of the actions of the Magistrates' Courts and of executive or administrative offices, boards, commissions or agencies as may be provided by law.

(e) Wherever heretofore practiced, by law or rule of court, "En Banc", proceedings of the District Court are abolished, and the right of appeal from a judgment of the District Court, whether by judge or jury, shall be to the Superior Court.

Section 5. Magistrates' Courts.—(a) Each city, town, borough, and township shall elect one Magistrate for each ten thousand persons, or fraction thereof, in the city, town, borough or township, at the municipal election by the qualified voters in such manner as shall be directed by law. No person shall be elected to such office unless he shall have resided within the city, town, borough or township for one year prior to his election.

(b) A judge of Magistrates' Court shall be elected for a term of six years and subject to conditions set forth hereinafter under section 12 and section 21.

(c) Magistrates' Courts shall have limited jurisdiction which shall be prescribed by the Supreme Court.

(d) Magistrates shall be compensated only by a set schedule of fees as shall be agreed upon by the members of the Magistrates' Courts in each county in and for each county, and must be approved by the District Court thereof.

(e) All fines and penalties collected by the Magistrates' Courts shall be paid into the County Treasury.

(f) The schedule of fees may be revised from time to time with the District Court's approval.

Section 6. Qualifications of Judges and Commissioners.—(a) Justices and judges shall be citizens of the Commonwealth. Unless in any judicial district there are less than six qualified lawyers willing to accept appointment to fill a vacancy, judges of the District Courts and Estates Courts shall be residents of the judicial districts for which they shall be selected and shall reside in the districts in which they serve. All justices and judges of the District Courts, Superior Courts and Supreme Court shall be members of the bar of the Supreme Court.

(b) The President Judge of the District Court of each judicial district shall, in accordance with rules prescribed by the Supreme Court appoint commissioners for the district to accept bail, issue warrants, or otherwise assist the judges of the Magistrates' Court of the district in the performance of their judicial duties within the district as the Supreme Court may by rule prescribe.

(c) Commissioners shall be citizens of the Commonwealth and residents of the judicial districts for which they shall be appointed. They shall possess such additional qualifications and shall be subject to such restrictions as hereinafter set forth under section 13 as to their activities outside their official duties.

Section 7. Method of Selection of Judges.—(a) Whenever a vacancy occurs by death, resignation, retirement, removal from office, expiration of a term of office, or crea-

tion of an additional judgeship, in the office of the justice of the Supreme Court, of the judge of the Superior Court, judge of the District Court, or judge of the Estates Court, the vacancy shall be filled by appointment from a panel of persons qualified for the office, nominated by a Judicial Nominating Commission established and organized as hereinafter provided.

(b) In the case of a justice of the Supreme Court or a judge of the Superior Court, a statewide Judicial Nominating Commission shall nominate six names of qualified persons to both the Governor and the Chief Justice of the Supreme Court from which they shall jointly select one which shall be appointed to fill any vacancy on the Supreme Court or the Superior Court. If the Governor and the Chief Justice shall fail to make the appointment within sixty days, the Governor and the Chief Justice shall jointly make known to the members of the Supreme Court and the Superior Court the names of the two persons which they have chosen without any reference whatsoever as to which person is recommended by whom. The appointment shall then be made by a majority vote of the remaining members of the Supreme Court and the Superior Court, by each casting a secret ballot for one of the two names submitted to them by the Governor and the Chief Justice. In the event of a tie vote, the statewide nominating commission shall cast one deciding vote to make the appointment.

(c) In all other cases the appropriate Judicial Nominating Commission shall nominate to the Governor, the Chief Justice of the Supreme Court and the President Judge of the District Court in which the vacancy exists, the names of three persons qualified for the office and residing within the judicial district in which the vacancy exists unless there are within the district less than six lawyers qualified for the office who are willing to accept appointment in which case the Judicial Nominating Commission shall nominate as aforesaid three lawyers qualified for the office regardless of their residence. If none of the persons so nominated is acceptable to the Governor, he shall so notify the Judicial Nominating Commission within sixty days of his receipt of the nominations. Upon receipt of such notification, or upon expiration of such sixty day period without such notification if no appointment has been made, the Judicial Nominating Commission shall nominate a second panel of three other persons. If the Governor, Chief Justice, and the President Judge of the District Court are unable to agree upon the appointment within sixty days, the appointment shall be made by a majority vote of the members of the Judicial Nominating Commission.

(d) Each justice or judge appointed in the manner prescribed by subsection (a) of this section shall hold office for a term ending the first Monday of January following the next municipal election day more than twenty-four months following his appointment. Not less than one hundred twenty days before the expiration of the term of office of a justice or a judge appointed as aforesaid or not less than one hundred twenty days before the expiration of the term of office of an elected justice or judge entitled to succeed himself, the justice or judge may file in the office of the official in charge of statewide elections, a declaration of candidacy for retention to succeed himself. If he does not file such declaration, a vacancy shall exist at the end of his term to be filled by appointment as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on separate ju-

dicial ballots or in a separate column on voting machines, in either case without party designation, at the municipal election immediately preceding the expiration of his term of office. If a majority of the votes cast are against retaining the justice or judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment as herein provided. If a majority of votes cast are in favor of retaining a justice or a judge, he shall serve for the full term of office provided herein, unless sooner removed. At the expiration of each term any justice or judge shall be eligible for retention in office in the manner provided herein, subject to only the retirement laws then in force.

(e) In judicial districts in which judges are not to be selected in the manner prescribed by subsection (a) of this section, vacancies in the office of judge of the Magistrates' Courts, occurring by death, resignation, retirement, removal from office, or creation of an additional judgeship shall be filled by appointment as herein provided until the first Monday of January succeeding the first municipal election which shall occur three or more months after the happening of the vacancy. In all such districts elections of judges for full terms to fill vacancies however caused shall be held on municipal election days.

Section 8. Judicial Nominating Commissions.—(a) There shall be a single statewide Judicial Nominating Commission for the Supreme and the Superior Courts, and separate Judicial Nominating Commissions for each judicial district. Each such commission shall be composed of nine members, three of which shall be appointed by the Governor, three selected by the members of the bar, and three elected by the qualified voters of the State at large and of the judicial districts, respectively. The three members selected by the bar must be members of the bar; the three elected by the qualified voters as herein provided must be lay citizens; the three appointed by the Governor may be either members of the bar or lay citizens. Until the next regular general or municipal election is held, the position of the three members to be elected by the voters shall be filled by the three elected representatives of each judicial district which are senior in service. Members of the Judicial Nominating Commission for the Supreme Court and the Superior Court shall be chosen from the Commonwealth at large, and members of the Judicial Nominating Commission for a judicial district shall be chosen from that district.

(b) The members of each Judicial Nominating Commission shall serve for terms of three years, staggered so that three members, one selected by the bar and one appointed by the Governor and one elected member shall be selected each year. Of the first members selected following the effective date of this section three members, one selected by the bar, one appointed by the Governor, and one elected member shall be selected for one year terms and three other members, one selected by the bar, one by the Governor, and one elected member, respectively, shall be selected for two year terms. Vacancies in the membership of any Judicial Nominating Commission shall be filled for the balance of the term by the same appointing power as appointed the member whose place has become vacant. Any vacancy in membership of an elected member shall be filled for the balance of the term by appointment of the Governor. No member of a Judicial Nominating Commission shall serve for more than two succes-

sive three year terms on that commission but he may be reappointed or reelected after a lapse of one year. The members of each commission shall elect one member to serve as chairman for a term of one year, but no person shall serve as chairman for more than three years in succession. Each commission shall act only with the concurrence of a majority of all its members.

(c) During the terms of office for which members of the Judicial Nominating Commissions have been chosen, they shall not hold any office in a political party or organization, nor, except for the members who are justices or judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the commission, but shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

Section 9. Appointments by the Governor and by the Chief Justice.—The Governor and the Chief Justice shall have full responsibility for all appointments made by them, respectively, under this article. They shall make such appointments solely on the basis of merit regardless of the political affiliations of the appointees. The Governor's and Chief Justice's appointments under this article shall not require the consent of the Senate. Nor shall an appointment jointly made by the Governor, Chief Justice and any President Judge of any District Court.

Section 10. Tenure of Judges; Method of Selection of Chief Justices, President Judges and Presiding Judges.—(a) Justices of the Supreme Court shall serve a term of twenty-one years, and shall not be qualified to succeed themselves, and when the qualified electors of the state-at-large or of the appropriate judicial district have voted to retain them, judges of the Superior Court, and the District Courts shall serve for terms of not more than ten years as the General Assembly shall from time to time prescribe. The tenure of any judge shall not be affected by changes in judicial districts or by the reduction of the number of judges.

(b) The Chief Justice of Pennsylvania shall be the senior justice in service on the Supreme Court; and in the event two or more justices have identical seniority, the Chief Justice shall be determined from between or among them by the drawing of lots, conducted by the Secretary of the Commonwealth and certified by the Governor. A member of the Court may resign the office of Chief Justice without resigning from the Court.

(c) There shall be a President Judge of the Superior Court, and President Judges of the various District Courts, who shall be the senior judges in service on each such respective court; and in the event two or more judges of any court have identical seniority, the President Judge shall be determined from between or among them by the drawing of lots, conducted by the Secretary of the Commonwealth and certified to the Governor. A member of any Court may resign the office of President Judge without resigning from the Court.

Section 11. Compensation and Retirement of Judges.—(a) Justices and judges shall receive compensation paid by the Commonwealth as prescribed by law, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth.

(b) Justices and judges may be retired at such age, not less than seventy-two years as shall be provided by the

General Assembly. Notwithstanding the expiration of the term for which a justice or a judge was last elected, his retirement, resignation or removal from office for physical or mental disability, he shall receive such compensation as shall be prescribed by the General Assembly. A former judge may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

(c) Attainment of age seventy-two alone shall not suffice as grounds for compulsory retirement, nor shall failure to attain age seventy-two, alone, be a restriction against initiation of proceedings, as hereinafter provided, to compel retirement of any justice or judge.

Section 12. Removal, Suspension and Discipline of Judges.—(a) Any justice or judge who shall become a candidate for an elective nonjudicial office, or who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the bar of the Supreme Court, shall automatically forfeit his judicial office.

(b) A justice of the Supreme Court may be retired by the Governor upon certification by a statewide Judicial Nominating Commission, after appropriate hearing, that such justice is so physically or mentally incapacitated as substantially to prevent him from performing his duties.

(c) The Supreme Court may, in accordance with rules prescribed by it, after notice and hearing by such tribunal as it may by rule designate or establish, retire any judge, other than a justice of the Supreme Court, who is so mentally or physically incapacitated as substantially to prevent him from performing his duties.

(d) Justices and judges shall be subject to removal by impeachment. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

(e) Any judge may also be removed from office, suspended without pay, or otherwise disciplined for misconduct in office, neglect of duty, violation of any canon of legal or judicial ethics adopted by the Supreme Court, conduct which shall prejudice the proper administration of justice, or such other grounds as the General Assembly may provide. Such removal or discipline shall be by the Supreme Court after notice and a hearing by such tribunal as the Supreme Court may by rule designate or establish. Proceedings for removal, suspension, or discipline may be initiated by the Supreme Court on its own motion or on petition of the Judicial Council or of any bar association.

(f) Upon reaching age sixty-five, each justice or judge shall annually pass a physical and mental examination which shall be uniform for all justices and judges and in accordance with specifications as prescribed by the General Assembly. The General Assembly shall employ the assistance of at least, but not restricted to, one specialist each in internal medicine, cardiology, circulatory and respiratory ailments, geriatrics and psychiatry, and any other areas of medicine as it shall deem necessary to prescribe such specifications. The General Assembly shall appoint a Medical Advisory Committee to supervise such medical examinations.

(g) Each justice or judge upon attainment of age sixty-five, and each year thereafter, shall submit to the Governor a qualifying certificate from the Medical Advisory Committee in order to remain in office each year.

Section 13. Nonjudicial Duties and Prohibited Activ-

ities.—All justices and judges shall be bound by the canons of legal and judicial ethics as promulgated and approved, from time to time, by the American Bar Association or its successor and adopted by the Supreme Court.

Section 14. Administration of Courts.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts of this Commonwealth, including the temporary assignment of judges from one court or district to another, but in judicial districts containing populations in excess of five hundred thousand a judge of the District Court or of the Estates Court shall not be assigned to a district other than his own without the consent of the President Judge of his court. The powers of administration vested in the Supreme Court shall be exercised by the Chief Justice, or by the associate deputized by him, in accordance with rules prescribed by the Supreme Court. The Chief Justice shall appoint an administrative director and staff, who shall assist the Chief Justice or the associate justice deputized by him, in supervising the administrative operations of the judicial system and shall serve at his pleasure.

(b) The Supreme Court shall have power to prescribe rules in all civil and criminal actions and proceedings for all courts, governing administration, practice and procedure, and the issuance of all writs necessary or appropriate in aid of the jurisdiction of the respective courts, but excluding rules of evidence and time for appeals, which powers shall remain exclusively with the General Assembly. Such rules shall have the force and effect of law and shall suspend all statutes inconsistent therewith.

Section 15. Clerks of Court, Court Personnel.—(a) There shall be such Clerks of Court and such other non-judicial personnel as shall be necessary for the effective performance of the judicial work of the Commonwealth. The clerks of the Superior Court, and of the District Courts, their assistants and other nonjudicial court officers within each judicial district shall be appointed by the judges of the respective courts of that district.

(b) Any person employed as a Clerk of any Court, or performing any duties relating to practice, procedure, administration, jurisdiction and implementation of the Courts, shall be considered an Officer of the Court and subject to the procedure set forth in section 12 regarding removal and discipline, as that to which justices and judges are subject for causes set forth in subsection (e) therein, and answerable to the Judicial Qualifications Commission therein established. No person performing any such related duties shall be exempt from such procedure by reason of any other offices, duties, or appointments held by him, and the General Assembly shall repeal any existing laws not consistent with this provision.

Section 16. Judicial Council.—(a) The Supreme Court shall establish a Judicial Council consisting of such number of members and selected in such manner as the Supreme Court may by rule prescribe.

(b) The Judicial Council shall conduct studies for improvement of the administration of justice and for law reform, and shall make reports and recommendations to the Supreme Court and to the General Assembly at intervals of not more than two years. The Judicial Council shall perform such other duties as may be prescribed in this article or assigned to it by rule of the Supreme Court.

Section 17. Dispensing with Jury Trials in Civil Cases.—The parties, by agreement filed, may in any civil case dispense with trial by jury, and submit the decision of such

case to the court having jurisdiction thereof, and such court shall hear and determine the same; and the judgment thereon shall be subject to writ of error as in other cases.

Section 18. Qualifications of Jury; Selection of Juries; Duties of Trial Judge; Rights of Parties to Venue; Rights of Witnesses.—(a) Persons to serve on juries shall be selected at random from registered voters of the district in which the Court presides. No person shall qualify for jury duty who is not twenty-one years of age or over and who has not been graduated from an academically approved school equal to a high school as approved by the Commonwealth of Pennsylvania. No person shall serve on a jury who has any physical or mental illness which may prevent full comprehension of the evidence to be considered or the judge's charge as to applicable laws.

(b) Formal application for jury duty shall be neither required nor practiced. Failure to serve when called to jury service, unless for good and sufficient cause, shall be cause for fine by the Court or other penalty as may be prescribed by the General Assembly.

(c) No person who has been convicted of any crime punishable by imprisonment shall serve on a jury.

(d) Juries may not be judges of the law but shall determine the facts.

(e) It shall be the duty of the trial judge to instruct the jury regarding all laws applicable to the issues but the Court may pass upon the sufficiency of the evidence, which shall be subject to review by an appellate court.

(f) Either party to an action before the District Courts shall have as right, if requested, a change of venue.

(g) Any witness in any action before any court who has already been sworn to tell the whole truth, shall have as right, if invoked, refusal to answer a question in part if such answer shall, by its limitations, tend to mislead or misinform the court or jury, provided the witness is willing and able to answer the question in its entirety. Otherwise, refusal to answer must be stated as predicated on the Fifth Amendment of the Constitution of the United States or witness shall, at the discretion of the Court, be subject to penalties under the rules of Court or as prescribed by the General Assembly.

(h) It shall be the duty of the Trial Judge to protect all parties from improper remarks of any officer of the Court during the trial and summation to juries which could, by their nature, prejudice the Court or jury. Failure to do so shall constitute grounds for a new trial as of right.

Section 19. Judges to Render Decisions Within Three Months of Argument or Submission.—The judges of the respective courts of this Commonwealth shall render their decisions, in all cases argued before them, or submitted for their judgment, within three months after the same shall have been so argued or submitted.

Section 20. Members of Certain Organizations Ineligible to Hold Office of Appointment to Judiciary, any Judicial Committee, or Agency Associated with the Administration of Justice.—No person who is a member of an organization that advocates the overthrow of the Government of the United States or of the Commonwealth of Pennsylvania through force or violence shall be eligible to hold any office of appointment, or any position of trust in the administration of the duties of any part or agency of the judiciary and its administration of justice.

Section 21. Training Courses for Minor Judiciary.—The

General Assembly shall, by general law, provide that a course of training and education be completed by magistrates hereafter selected who have not been admitted to the practice of law in this Commonwealth. The required course of training and education shall consist of a basic course of study of at least three months' duration, and a program of training and education continuing for the entire term of office if the General Assembly shall so decide. One month of the basic course of training and instruction shall be taken after their election and prior to their assuming office. The remaining two months of the basic course of training and education shall be taken immediately after assuming office. Jurisdiction of Magistrates shall extend to summary offenses only prior to completion of the required basic course. Persons who have served as Magistrates, justices of the peace, or aldermen prior to the adoption of this amendment shall not be required to take the basic course. The required courses of training and instruction shall be at the cost of the Commonwealth.

Section 22. Implementation of This Article.—The General Assembly shall enact all laws which may be necessary to implement the provisions of this article.

Section 2. Any provision of any section or subsection of article five which is inconsistent with the provisions as herein set forth is repealed.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Levin.

DELEGATE LEVIN. I just wish to thank you, Mr. President, and counsel, for the good advice you offered. Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Huggins.

DELEGATE HUGGINS. Mr. President, I read in place and present the following proposal and would like to make a few remarks:

No. 1175

By **DELEGATES HUGGINS and REDICK**

A PROPOSAL

Amending the Constitution of Pennsylvania changing the number of county commissioners.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section seven, article fourteen of the Constitution of Pennsylvania is amended to read:

Section 7. County Commissioners and Auditors.—(a) [Three] Five county commissioners [and three county auditors] shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and [eleven] seventy-one and every fourth year thereafter; and in the election of said officers each qualified elector shall vote for no more than [two] three persons, and the [three] five persons having the highest number of votes shall be elected. [; any] The person receiving the highest tabulation shall be chairman.

(b) Three county auditors shall be elected in each county where such officers are chosen, in the year one thousand

nine hundred and seventy-one and every fourth year thereafter; and in the election of said auditors each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected.

(c) Any casual vacancy in the office of county commissioners or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.

Referred to Committee on Local Government

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Huggins.

DELEGATE HUGGINS. I think one of the major problems that we face in some of the larger counties and, for that matter, in most of the counties of the Commonwealth is that we limit our commissioners to three, hoping, of course, always for a minority commissioner where we get not honestly a minority viewpoint in the county commissioners' office.

It is the attempt of this stepped-up proposal to think in terms of the future of the Commonwealth, that the larger counties would benefit as well as other counties by having a larger number of commissioners elected by the people, with the chairman being also elected by the people since the number one person having the highest votes would be chosen by them. I feel that we need to think this way in terms of the future where we are not really sure what our population is going to be and what the needs of the people will be in our county government. It is for this reason that I have submitted this proposal.

PRESIDENT BRODERICK. Thank you, Delegate Huggins.

The Chair recognizes the delegate from Westmoreland, Delegate Scales.

DELEGATE SCALES. Mr. President, I read in place and submit to the Chair the following two proposals:

No. 1176

By **DELEGATES SCALES, THORNBURGH, WALDRON, COREY, GEHRLEIN and COSETTI**

A PROPOSAL

Amending the Constitution of Pennsylvania further providing for liquidation of debts of political subdivisions.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section ten of article eight of the Constitution of Pennsylvania is amended to read:

Section 10. [Any county, township, school district or other municipality incurring any indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years.] Liquidation of Indebtedness of Political Subdivisions.—Any county, city, borough, incorporated town, township, school district or other political subdivision incurring any indebtedness shall, at or before the time of so doing, adopt a covenant, which shall be binding upon it so long as any such indebt-

edness shall remain unpaid, to make payments out of its sinking fund or any other of its revenues or funds at such time and in such annual amounts, specified in such covenant, as shall be sufficient for the payment of the interest thereon and the principal thereof when due. All such indebtedness shall mature within the time limits prescribed by the General Assembly for debt of such type, and if no limit is so prescribed for debt of such type, the limit shall be thirty years.

Referred to Committee on Local Government.

No. 1177

By **DELEGATES SCALES, THORNBURGH, TATE, ORBIN and MANGERY**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the giving of financial assistance or leasing of property by certain political subdivisions for public service, industrial or commercial enterprises.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section seven of article eight of the Constitution of Pennsylvania is amended to read:

Section 7. Political Subdivisions not to Become Stockholders in Corporations, etc., nor Loan Credit; When Financial Assistance Permitted.—The General Assembly shall not authorize any county, city, borough, township or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual: Provided, however, That the General Assembly may provide standards by which counties, boroughs, cities and townships may give financial assistance or lease property to public service, industrial or commercial enterprises if it shall find that such assistance or leasing is necessary to the health, safety or welfare of the Commonwealth or any of its political subdivisions.

Referred to Committee on Local Government.

PRESIDENT BRODERICK The Chair recognizes the delegate from Westmoreland, Delegate Scales.

DELEGATE SCALES. Mr. President, the first proposal is cosponsored by Delegates Thornburgh, Waldron, Corey, Gehrlein, Cosetti and myself.

This proposal very simply eliminates as a constitutional requirement the necessity that an annual tax be levied when debt is undertaken by a political subdivision. In its place it substitutes what we think is a more workable and more practical solution for the last part of the 20th century, namely, a covenant entered into by the local municipality that is borrowing the money. It is axiomatic that this proposal must be studied in connection with the provisions this Convention makes in connection with authorities, authority financing and debt limits for local government. In addition, the proposal gives the legislature the discretion to establish other periods than the present 30-year period for the retirement of general obligation financing.

The second proposal is sponsored by Delegates Thornburgh, Tate, Orbin, Mangery and myself.

This second proposal, while retaining the present provisions of Section 7, Article VIII, that a municipality may not be a stockholder in a private corporation, nevertheless, goes further and gives to the legislature the discretion to set standards by which local government may make grants, subsidies, loans and leases in the public interest for various commercial and industrial enterprises.

Thank you, Mr. President

PRESIDENT BRODERICK. The Chair recognizes the delegate from Fayette, Delegate Warman

DELEGATE WARMAN. Mr. President, I read in place and present the following proposal to the Chair:

PRESIDENT BRODERICK The Clerk will read the title.

The **CLERK.** A Proposal amending Section 3 of Article II of the Constitution of the Commonwealth of Pennsylvania changing the terms of members of the General Assembly.

PRESIDENT BRODERICK You may proceed, Delegate Warman.

DELEGATE WARMAN. Delegate Shettig and I talked over the fact that the terms of the members of the House and Senate are not long enough. We feel that if the members of the House were given a four-year term and the members of the Senate a six-year term, they could spend more time on legislative matters instead of politicking and trying to get reelected.

Another thing, in this day and age it takes a lot of money to run for election. Therefore, the legislators would be in better position to spend more time here to act upon legislation. That would be my comment, Mr. President.

PRESIDENT BRODERICK The Chair now recognizes Delegate Popil of Lackawanna.

DELEGATE POPIL. Mr. President, I read in place and present a proposal

No. 1178

By **DELEGATES POPIL, PERCEY, POTT and POWELL**

A PROPOSAL

Amending the Constitution of Pennsylvania by providing for State indebtedness.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four of article eight of the Constitution of Pennsylvania which reads as follows is repealed:

ARTICLE VIII TAXATION AND FINANCE

* * *

[Section 4. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any

debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.]

Section 2 Article eight of the Constitution of Pennsylvania is amended by adding a new section to read:

* * *

Section . State Debt.—(a) State debt can be incurred when authorized by statute for any one of the following purposes:

(1) To suppress insurrections, riots, or civil disorders, or

(2) To rehabilitate areas affected by disasters, or

(3) To implement unexpended authority approved by the electors prior to the adoption of this article, or

(4) For capital projects or highway construction, or

(5) To provide temporary financing through the issuance of tax anticipation notes.

(b) State debt can also be incurred for any other purpose when authorized by statute and the question whether the debt shall be incurred has been submitted to the electors and approved by a majority of those voting on the question.

(c) No debt or other obligation shall hereafter be created by or on behalf of this Commonwealth by Commonwealth authorities or agencies the repayment of which shall be from Commonwealth revenues either by direct payment or through leases or any other contractual obligations unless the debt is repayable solely from revenues derived from designated projects or to leases and contractual obligations entered into by the Commonwealth in the course of the ordinary conduct of government.

The foregoing provision shall not apply to debts created by Commonwealth authorities for capital improvements heretofore authorized by the General Assembly.

(d) The General Assembly may authorize by statute the issuance of general obligation bonds or notes for the purpose of assuming refunding any debt heretofore incurred by any Commonwealth authority and which is currently payable from Commonwealth revenues under leases to the Commonwealth, and it may from time to time authorize by law the issuance of refunding bonds or notes to pay any direct debt of the Commonwealth.

(e) All debts of the Commonwealth shall be evidenced by its general obligation bonds or notes which, except for tax anticipation notes, shall be bonds with serial maturities or notes payable installments over a period of time which shall be provided by law.

(f) All bonds or notes issued by the Commonwealth for capital improvements shall mature within a period not to exceed the estimated usefulness of the property or improvement for which they are issued and revenue shall be provided to pay the interest and retire the principal of such bonds or notes within this period.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK You may proceed, Delegate Popil.

DELEGATE POPIL Mr. President, my proposal recommends that we eliminate the present restriction in state debt, and, instead, give the legislature the authority to go ahead and expend moneys for capital outlays and other necessities. At the same time, I propose to eliminate the

General State Authority; however, to retain the authorities which are self-sustaining, and also to retain the Public School Building Authority. Thank you.

PRESIDENT BRODERICK Your proposal has been referred to the Committee on Taxation and Finance.

The Chair now recognizes Delegate Tate.

DELEGATE TATE Mr. President, I read in place and present the following proposal and request that I be permitted to make a brief statement.

No. 1179

By **DELEGATES TATE and CONLEY**

A PROPOSAL

Amending the Constitution of Pennsylvania to allow the Commonwealth or any local taxing authority to loan its credit, extend direct grants or loans or give other financial assistance to certain entities in certain cases.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section seven, a new section to read:

Section 7.1. Assistance to Public Service Enterprises.—The General Assembly may by general law provide that the Commonwealth or any local taxing authority may loan its credit, extend direct grants or loans or give other financial assistance to any individual, corporation or association for the purpose of encouraging private investment and participation in the fields of health, welfare, education, job training, employment, public safety, recreation, crime prevention, low and moderate income housing, community development, economic development or reconstruction, or renewal of rehabilitation of obsolete or blighted areas whenever a public purpose will be served by so doing

Referred to Committee on Taxation and State Finance

PRESIDENT BRODERICK You may now proceed with your statement, Delegate Tate.

DELEGATE TATE Thank you, Mr. President. This proposal is sponsored by Delegate Conley and myself. It is a variation of a proposal which was introduced by Delegate Baldus last week. What it proposes is that the General Assembly, by general law, may provide that the Commonwealth or any local taxing authority may loan its credit, extend direct grants and loans or give other financial assistance to any individual, corporation or association for the purpose of encouraging private investment and participation in certain fields such as health, welfare, education, community development, recreation and others, so long as a public service will be served by so doing.

The primary difference between this proposal and that submitted last week by Delegate Baldus is that tax exemptions are not included in this proposal as one means of giving assistance. It is the opinion of Delegate Conley and myself that a proposal such as this could be a big step in a major contribution by the Commonwealth of Pennsylvania to the war on poverty and other associated causes.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, I read in place and present a proposal.

PRESIDENT BRODERICK. The Clerk will read the title.

The **CLERK.** A Proposal amending the Constitution of Pennsylvania changing provisions relating to indebtedness and expenditure of funds.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, this proposal attempts to put Pennsylvania on a pay-as-you-go basis for its financing.

In the past, we have seen problems arising within our legislature in the formation of a haphazard tax structure. We have seen problems of becoming increasingly indebted with no seeming end to all of these problems.

The proposal that I have introduced would attempt to put the State on a pay-as-you-go basis by means of permitting the legislature to spend or to appropriate for its normal operating expenses only those revenues received from income taxes. Any excess of such income taxes, along with all taxes collected by the State, would then be permitted to retire funded indebtedness.

In this manner, I believe, we would keep the legislature concerned with preserving and maintaining a lower base under which they would operate so that they could have more funds available to create capital expenditures and their retirement.

I think this would create a healthy atmosphere for the State; it would put it on a pay-as-you-go basis, and most importantly, I believe it would eliminate the creation of any new authorities in the future.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Goldman.

APPEAL WITHDRAWN

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Quiles.

DELEGATE QUILES. Mr. President, I have been advised by legal counsel whom I have consulted that legal advice by the Convention counsel was sound. For this reason, I would like to withdraw my appeal from the Convention.

PRESIDENT BRODERICK. Thank you, Delegate Quiles. As I understand your statement, you wish to withdraw the appeal which you filed in connection with the Chair's ruling on your proposal.

DELEGATE QUILES. That is right, Mr. President.

PRESIDENT BRODERICK. Thank you. It will be marked "withdrawn."

The Chair recognizes the delegate from Westmoreland, Delegate Scales.

DELEGATE SCALES. Mr. President, I read in place and present the following proposal:

No. 1180

By **DELEGATE SCALES**

A PROPOSAL

Amending the Constitution of Pennsylvania further pro-

viding for the acquisition of land for highway construction.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section five of article fifteen of the Constitution of Pennsylvania is amended to read:

Section 5. [The General Assembly may authorize cities to take more land and property than is needed for actual construction in the laying out, widening, extending or relocating highways or streets connecting with bridges crossing streams or tunnels under streams which form boundaries between this and any other state, but the additional land and property, so authorized to be taken, shall not be more than sufficient to form suitable building sites on such highways or streets. Nor shall the authority hereby conferred be exercised in connection with the laying out, widening, extending or relocating of any highway or street at a point more than three miles distant from the approach to any such bridge or tunnel. After so much of the land and property has been appropriated for such highways or streets as is needed therefor, the remainder may be sold or leased and any restrictions imposed thereupon which will preserve or enhance the benefit to the public of the property actually needed for the aforesaid public use.] Acquisition of Land for Highway Construction.—The General Assembly may authorize the acquiring or taking in fee by any county, city, borough, or township, of more land and property than is needed for the actual construction in the establishing, laying out, widening, extending, or relocating of public highways and streets; provided, however, that the additional land and property so authorized to be acquired or taken shall be no more in extent than would be sufficient to form suitable building sites abutting on such highway or street. After so much of the land and property has been appropriated for such public highway or street as is needed therefor, the remainder may be held and improved for any public purpose or purposes or may be sold or leased for value with or without suitable restrictions, and in case of any such sale or lease the person or persons from whom such remainder was taken shall have the first right to purchase or lease the same upon such terms as the said county, city, borough, or township is willing to sell or lease the same.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Scales.

DELEGATE SCALES. Mr. President, this proposal involves what has become popularly known as the doctrine of excess condemnation, although the term "excess condemnation" is actually a misnomer, in my opinion.

The proposal would permit the legislature, in its discretion, to establish laws providing that counties, boroughs, cities and townships would be permitted to condemn more land than is actually necessary for the immediate construction purposes of a condemnation project.

The proposal is limited in three principal ways. In the first place, the condemnation provisions would involve only highway condemnations.

Secondly, the excess part of this condemnation would be limited to building lot sites abutting the highway that is being condemned.

In the third place, the original owner of the property prior to the condemnation, the fee owner, would have the first right of refusal on resale and redevelopment by the condemning authority.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Orbin.

DELEGATE ORBIN. Mr. President, I read in place and present the following proposal:

No. 1181

By DELEGATES ORBIN, SCALES, MANGERY and OTTO

A PROPOSAL

Amending the Constitution of Pennsylvania providing for exemptions from local real estate taxes for persons sixty-five years of age or over.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—(a) All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

(b) Any real estate owned by a person sixty-five years of age or older, which is used as the residence of such person shall be exempt from all local real estate taxes. The General Assembly shall by general law provide for the carrying out of this subsection.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Orbin.

DELEGATE ORBIN. Mr. President, I think this pro-

posal should be given some very serious consideration, because today we find our senior citizens in dire circumstances and they find it necessary in many instances to sell their homesteads because they cannot afford the upkeep and the high taxation.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Orbin.

TERMINAL DATE FOR PROPOSALS

PRESIDENT BRODERICK. If your proposal was in the drafting bureau on Friday, you will still have the opportunity tomorrow. Do not forget that we have set up a terminal date and that the last day will be Thursday, for the introduction of proposals.

RESOLUTIONS

PRESIDENT BRODERICK. The next order of business is resolutions.

The Chair recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER. Mr. President, in the course of our work it has become apparent to many if not all of us, that the task we undertake in this Convention deals with the foundation of our Pennsylvania law, but does not necessarily include the superstructure. It is more and more evident as we proceed that we do intend and will find our eventual offspring to be a document of great vision for the future. Prayerfully this will be so. It is also true that in our deliberations we are wisely intending to open wide some doors in government which heretofore were blocked by the debris of a century of archaic legislation and to create also new apertures to the future which we may well leave closed and locked, turning the keys over to the on-going officials of the government of our great Keystone State.

We have often heard reference to the infinite wisdom of the legislature—the ultimate and supreme justice of the courts—and the capable administration of the various executive branches of our government—and accepting this to be true, we undoubtedly will conclude our work without superseding the prerogatives of those stalwarts of our State. It appears that this Convention will quite properly and confidently rely upon others to carry forward the task of meeting the problems of society, using our product only as a foundation on which to build.

Mr. President, I am sure that thus far I have merely stated what all of us know and you may ask, for what purpose I take the floor.

Mr. President, we have all been most impressed by and most grateful for the vast effort and careful distillation of the preparatory committees' gleaning of facts, suggestions and comments. Without this work, we may not have been able to undertake our task at all with any hope of conclusion—at least in so short a time. In our 90-day life as a Convention, we too shall have distilled a great deal of knowledge—lending to the process and using as a catalyst our talents and experience. We have and are continuing to produce and assemble reports and minutes, the quantity of which may prohibit any future student ever to completely digest.

In order, therefore, Mr. President, that the reasons for our product are better understood and so that the legislature may, in its infinite wisdom, better carry forward what we have intentionally left for them to do, and so that a

simple and direct statement of the alternative destination from the point of our departure may easily be found and understood, I have prepared and present to the Chair a resolution, which I ask this Convention to consider as its content is best accomplished concurrently as we conceive our offspring.

RESOLUTION

DELEGATE SHOEMAKER presented the following resolution:

WHEREAS, a Constitution is not a complete body of law in itself but is a foundation on which the law is built; and,

WHEREAS, this Convention desires to assist the future generations in building upon its revisions of that foundation;

BE IT RESOLVED, That each substantive committee of this Convention be responsible for the preparation of a short and concise statement of explanation summarizing the intention of its recommendations or lack thereof; that said statement include recommendations for supplemental legislation in alternatives if divergent views have support;

AND BE IT FURTHER RESOLVED, That the summary when complete be compiled and delivered to the executive, legislative and judicial branches of government, as appropriate, when the Convention adjourns and the electorate has approved the sections prepared by this Convention.

PRESIDENT BRODERICK. Delegate Shoemaker's resolution is referred to the Committee on Rules.

BIRTHDAY GREETINGS

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lackawanna, Delegate Scranton.

DELEGATE SCRANTON. Mr. President, some diligent member of this august body presented me last night with a very interesting piece of information, namely, that more delegates to this Convention were born in the month of January than in any other month of the year.

It was his proposal that we give them accolades for their birthdays as they came along, but there are so many of them that this seemed a little out of order. But it might be of interest to the Convention as a whole to know that two of their officers, Mr. Orban had a birthday on Sunday, which we missed because we were not in session, marking the epitome of middle-age, 55 years; and Mr. Casey, our first vice president, has a birthday today, his 35th year, marking the epitome of youth.

PRESIDENT BRODERICK. I think it would be appropriate for all of us to say "Happy Birthday" to the wonderful officers and we wish them many, many more. I think you have received the sentiments of all delegates in that expression of the Chair.

The Chair recognizes Delegate Orban, the 55-year-old officer.

DELEGATE ORBAN. I would like to correct the President and the delegate. It is 56, please.

PRESIDENT BRODERICK. I thought I should clarify which of the delegates was 56. We have not heard Delegate Casey's age.

LEAVE OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Secretary Michener.

SECRETARY MICHENER. Mr. President, a very cryptic communication has reached my desk, upon which we need action right away.

The Co-Chairman of one of our most distinguished committees, indeed one of our most distinguished members, Gustave Amsterdam, from the 7th Senatorial District, apprises me of the fact that he must leave this Commonwealth tomorrow on important matters of State. All I can say is that I hope he gets back because we need him here.

PRESIDENT BRODERICK. Did he say which State?

SECRETARY MICHENER. He did not say which State.

PRESIDENT BRODERICK. Thank you

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Camardella. For what purpose does the gentleman rise?

DELEGATE CAMARDELLA. I rise to a question of personal privilege

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE CAMARDELLA. Mr. President, I was not here at the roll call. I would like to be recorded as present, please.

PRESIDENT BRODERICK. You shall be recorded as present.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Room 500, North Office Building, Tuesday, January 9, 1968, immediately after today's session.

ARRANGEMENT, SUBMISSION AND ADDRESS TO PEOPLE, Co-Chairmen Gray and Nelson, Room 286, second floor of Main Capitol Building, Tuesday, January 9, 1968, immediately after today's session.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, House Majority Caucus Room, Main Capitol Building, Tuesday, January 9, 1968, immediately after today's session.

LEGISLATIVE APPORTIONMENT, Composition of Legislature Subcommittee, Co-Chairmen Jiroldanio and Markley, Tuesday, January 9, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, entire committee, Senate Majority Caucus Room, Tuesday, January 9, 1968, immediately after today's session; subcommittees will meet following.

STYLE AND DRAFTING, Co-Chairmen Johnson and Pelletier, dinner meeting, Penn Harris Hotel, Dutch Room, Tuesday, January 9, 1968, at 6:30 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, entire committee, Tuesday, January 9, 1968, immediately after today's session.

ANNOUNCEMENT BY DELEGATE SCRANTON

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lackawanna, Delegate Scranton.

DELEGATE SCRANTON. At the time of our meeting, we will hear from Carl Rolewick, who is assistant director of the administrative office of the Illinois courts. We welcome any other delegates who might be interested. We have heard a great deal about the problem of the magistrate, which is an acute one. We have heard a great deal about the problem of selection of judges, which is equally acute to this Convention, but perhaps the most important single judiciary problem is the administration of our courts and the administration of justice in Pennsylvania.

Illinois, in 1962, changed their entire system of administration and they now have a unified system. This is the young man who is administering it. He is a very up-to-date and a very alert individual, and I would hope that all of you will come to hear him, and more important, to pepper him with questions, because this is of immediate importance to us. We, incidentally, are making this a demand of the Judiciary Committee, immediately following this session in the House majority caucus room on the first floor.

PRESIDENT BRODERICK. Thank you, Delegate Scranton.

ANNOUNCEMENT BY DELEGATE MANDERINO

PRESIDENT BRODERICK. The Chair recognizes Delegate Manderino, Co-Chairman of the Committee on Local Government.

DELEGATE MANDERINO. Mr. President, the entire Committee on Local Government was rather surprised to hear the chairman of the Judiciary Committee announce that they are using the House majority caucus room. That had been permanently assigned to the Local Government Committee, and we were told yesterday afternoon that it was not available today but we were not told why.

However, we now learn we have been assigned the Senate majority caucus room and we are happy for the elevation. The entire Local Government Committee will meet immediately following this session in the Senate majority caucus room 156 in the Main Capitol Building, the entire committee. Following that the respective subcommittees will meet, and we would like the Judiciary Committee to know that the seats are warm in the House majority caucus room.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton for his rejoinder.

DELEGATE SCRANTON. Somebody in the office of the Speaker of the House must have extrasensory perception, because we did not request it until this morning.

PRESIDENT BRODERICK. Thank you.

ANNOUNCEMENT BY DELEGATE JIROLANIO

PRESIDENT BRODERICK. The Chair recognizes the delegate from Northampton, Delegate Jiroianio.

DELEGATE JIROLANIO. Mr. President, there will be an important meeting of the Committee on Composition of Legislature, at which meeting, gentlemen who are members of this committee, a vote will be taken on the matter that has been assigned to us. I sincerely request that every member of this committee be present because we are going to take a vote and you had better be there. We

are here to do business and we are going to do business this morning, not next week or last week.

PRESIDENT BRODERICK. Delegate Jiroianio, may I ask whether that meeting you have just announced is immediately after our session, or did you set a time? I want it clear so we will have everybody present.

DELEGATE JIROLANIO. Immediately after the adjournment of this Convention, we will meet within a period of 10 minutes.

PRESIDENT BRODERICK. Thank you for that announcement.

QUESTIONS OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Meyer.

DELEGATE MEYER. I would like to be recorded present, Mr. President.

PRESIDENT BRODERICK. You will be so recorded, Delegate Meyer.

The Chair recognizes the delegate from Philadelphia, Delegate McGlynn.

DELEGATE MCGLYNN. I have the same request, Mr. President.

PRESIDENT BRODERICK. You will be recorded present.

The Chair recognizes the delegate from Philadelphia, Delegate King.

DELEGATE KING. I would like my presence recorded.

PRESIDENT BRODERICK. You will be recorded. The train must have been a little slow from Philadelphia today.

ANNOUNCEMENTS BY CLERK

The CLERK. There will be a meeting of the officers and standing committee co-chairmen tomorrow, Wednesday, January 10, 1968, at 12:15 p.m. in Room 615, Main Capitol Building. Room 615 is on the fifth floor of the south wing of the Main Capitol Building.

The location of the Sinking Fund Subcommittee of the Committee on Taxation and State Finance has been moved from Room 610 E to Room 614, North Office Building. Delegates who were housed formerly in Room 614 will be located hereafter in Room 610 E, also in the North Office Building.

PRESIDENT BRODERICK. Thank you.

ANNOUNCEMENT BY PRESIDENT BRODERICK

PRESIDENT BRODERICK. I think you all have on your desks the additional opinions of counsel that were requested by Delegate Shapiro, is that correct? If not, we have them up here.

I want to thank the staff for returning so expeditiously and having those distributed.

QUESTIONS OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Luzerne, Delegate Tomascik. For what purpose does the delegate rise?

DELEGATE TOMASCIK. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The delegate will state it.

DELEGATE TOMASCIK. Mr. President, I was not here during the electronic roll call and I desire the clerk to record my presence, please.

PRESIDENT BRODERICK. We shall have your presence recorded.

The Chair recognizes the delegate from Philadelphia, Delegate Silverman.

DELEGATE SILVERMAN. I have the same request.

PRESIDENT BRODERICK. You shall be recorded as present.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Popil for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE POPIL. Mr. President, I move that this Convention do now adjourn until Wednesday, January 10, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Popil and seconded by Delegate Tully that this Convention do now adjourn until Wednesday, January 10, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 10:30 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Wednesday, January 10, 1968

Number 20

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND JAMES B. TROST, pastor of Saint Andrew's Episcopal Church of State College, Pennsylvania, offered the following prayer:

Most gracious God, we humbly beseech You, as for the people of this Commonwealth in general, so especially for our elected delegates here assembled; that you will direct and prosper all their consultations, both as a body and in committees and in subcommittees. Also in their social gatherings to the advancement of Thy glory; the good of Thy church even though it might reflect change to the present order, the safety, honor and welfare of Thy people, that all things may be ordered and settled by their endeavors, upon the best and surest foundations, that peace and happiness, truth and justice, freedom and opportunity may be established among us all for generations. This we pray in Thy Name, which is love. Amen.

CORRECTIONS TO JOURNAL

PRESIDENT BRODERICK. The next order of business is the correction to the Journal. I ask if there are any corrections to the Journal. This is the time in our proceedings when corrections should be requested. I might add, as has often been announced by our secretary, the transcript of our proceedings, as soon as it is finished, is placed in the office of our secretary where it remains for two days where you may inspect it and then offer your suggestions for corrections.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, I want to submit the following requests for leaves of absence, in spite of the fact that my revered colleague from Bucks County, with whom I campaigned vigorously to be a member here, said as I went by, "Why bother to get a live mike; nobody listens to you anyway."

The delegate from the 7th District, DELEGATE AMSTERDAM, for January 10, because of leaving the Commonwealth;

The delegate from the 12th District, DELEGATE FAWCETT, for January 8, because of transportation problems;

The delegate from the 18th District, DELEGATE CLARK, for January 15, because of community service;

The delegate ex officio, DELEGATE PRENDERGAST, for January 10, because of illness;

The delegate from the 33rd District, DELEGATE BARON, for January 10, because of illness;

The delegate from the 50th District, DELEGATE SCOTT, for January 11, because of League of Cities' meeting;

The delegate from the 3rd District, DELEGATE QUILES, for January 11, 12, and 13, on account of business.

PRESIDENT BRODERICK. Without objection, leaves as requested by Secretary Michener are granted. The Chair hears no objection.

QUORUM CALL

PRESIDENT BRODERICK. In order to establish our quorum, the voting machine is now unlocked and the delegates will be asked to record their presence by voting "aye."

The roll was recorded as follows:

Aberman	Fagan	Kelly	Richter
Allison	Fawcett	Krull	Sahli
Aurante	Fay	Laputka	Scales
Bagenstose	Feather	Leach	Scarlett
Baldridge	Filson	Lee, L.	Scott
Baldwin	Fleming	Leinbach	Scranton
Banes	Fohl	Leonard	Sebastian
Barry	Forster	Levin	Shapiro
Bashoff	Fortney	Manderino	Sharp
Benedict	Gabresh	Mangery	Shettig
Benfield	Gehrlein	Mankley	Shively
Bloom	Gerber	Mattioni	Shoemaker
Braham	Goldman	McGeary	Shrager
Broderick	Goldstein	Meyer	Solomon
Brown	Gouger	Michener	Sprogel
Bunting	Griffith	Miller, D.	Stout
Burkholder	Hannum	Miller, R.	Strickler
Camardella	Harding	Moorhead	Stroup
Casey	Hatter	Morton	Swope
Clark	Henderson	Murray	Thomson
Clinger	Heyburn	Muselman	Thornburgh
Corey	Humes	Nelson	Tomascik
Cortese	Hocker	Orbin	Tully
Cosetti	Hook	Pelletier	Van Sant
Croop	Horne	Percey	Waldron
Cunningham	Hostetler	Popil	Warman
Curran	Huggins	Pott	Welsh
Dalry	Jordanio	Powell	Westerberg
Desmond	Johnson	Rappaort	Whitum
Devlin	Kauffman	Rea	Wilcox
Dumbauld	Keller, J.	Redick	Wilmarth
Erwin	Keller, M.	Reynolds	Woodring

PRESIDENT BRODERICK. Our electric roll call tabulator shows that we have 129 delegates present.

The Chair notes we have in addition the following delegates who have come in and we will record their presence:

Butera	Fineman	Michael	Roberts
Cain	Gray	More	Ruth
Caputo	Kline	O'Donnell	Silverman
Caron	Lane	Orban	Tate
Conley	McGlynn	Otto	Woodside

QUESTIONS OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Tate. For what purpose does the gentleman rise?

DELEGATE TATE. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE TATE. I think you just took care of the matter to which I would have brought your attention. I would like the record to show my presence, please.

PRESIDENT BRODERICK. The gentleman's presence will be noted.

The Chair recognizes the delegate from Philadelphia, Delegate More. For what purpose does the gentleman rise?

DELEGATE MORE. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE MORE. I would like to be marked as being present.

PRESIDENT BRODERICK. The gentleman will be marked as present.

The Chair recognizes the delegate from Allegheny, Delegate Otto. For what purpose does the gentleman rise?

DELEGATE OTTO. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE OTTO. I would like to be recorded on the record as being present.

PRESIDENT BRODERICK. The gentleman will be so recorded.

The Chair recognizes the delegate from Monroe, Delegate Roberts. For what purpose does the gentleman rise?

DELEGATE ROBERTS. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE ROBERTS. I would like the record to show that I am present.

PRESIDENT BRODERICK. The gentleman will be recorded as present.

LEAGUE OF WOMEN VOTERS WELCOMED

PRESIDENT BRODERICK. I have been advised that in the rear of our chamber today we have some guests who are members of the League of Women Voters from the Butler area. Ladies, if you will stand, I am sure we will give you a real cordial greeting this morning.

PROPOSALS REFERRED TO SUBCOMMITTEES

PRESIDENT BRODERICK. The Chair now asks the chairmen of our committees to which proposals were referred yesterday to report their reassignments to the subcommittees.

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair first recognizes the delegate from Westmoreland, Chairman Manderino.

DELEGATE MANDERINO. Mr. President, reporting from the Committee on Local Government, the following proposals were referred to subcommittees:

No. 1175 to the Subcommittee on County Government;
No. 1176 to the Subcommittee on Local Finance;
No. 1177 to the Subcommittee on Local Finance;
No. 1180 to the Subcommittee on Local Finance.
PRESIDENT BRODERICK. Thank you, Chairman Manderino.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Lackawanna, Chairman Scranton.

DELEGATE SCRANTON. Mr. President, the Judiciary Committee has referred the following proposals:

No. 1173 to Subcommittees A, B, C, D and E;

No. 1174 to Subcommittees A, B, C, D and E.

May I ask a question, sir?

On this business of more proposals, how many more are to come?

PRESIDENT BRODERICK. Chairman Scranton, we do not know exactly how many more proposals we have to be introduced because the drafting service has prepared around 30 or 40 that have not been introduced. Many of our delegates have had proposals prepared that they are carrying around in their pockets, as it were, and perhaps someone else has introduced the same proposal or perhaps they have changed their minds.

I have been advised by the drafting bureau that, as of this morning, they expect to have delivered to the delegates all the proposals which were in their hands on or before January 5. In accordance with the Chair's previous announcement, tomorrow is the last day for offering proposals, which I think will give everybody ample opportunity to get their individual proposals in. Did I answer your question?

DELEGATE SCRANTON. Yes. It would certainly help if we could get just as many of them as quickly as we can because, quite frankly, there is a little bit of a stall right now, which is nobody's fault, but the subcommittees which have been preparing proposals for the full committee are rather stymied by the Drafting Bureau because of the proposals of the individual delegates. The quicker we get these now, the better it would be, sir.

PRESIDENT BRODERICK. Thank you, Chairman Scranton.

I certainly agree. However, in accordance with the Chair's previous announcement, we will certainly give all delegates until Thursday, but that is a deadline that we will observe, unless for some unexplainable reason a delegate could not get his proposal in today or tomorrow. Of course, this does not cut off the individual delegate's proposals because, under the rules, your proposals may then be introduced after Thursday by a majority vote. As long as the question was brought up, this does not shut off any recommendations, any proposals, that you may wish to offer directly to committees for consideration.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair now recognizes the Chairman of our Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD. Mr. President, we referred proposals as follows:

No. 1172 to the Subcommittee on Taxation;
No. 1178 to the Subcommittee on State Debt;
No. 1179 to the Subcommittee on State Debt;
No. 1181 to the Subcommittee on Taxation.

PRESIDENT BRODERICK. Thank you, Chairman Leonard.

COMMITTEE ON LEGISLATIVE APPORTIONMENT

PRESIDENT BRODERICK. The Chair recognizes Chairman Fagan.

DELEGATE FAGAN. Mr. President, I would like to make a referral to the Committee on Legislative Apportionment.

No. 1161 to Subcommittee A on Method of Apportionment.

PRESIDENT BRODERICK. Thank you, Chairman Fagan.

We have now had our reassignments of proposals.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. I think the next order of business would be reports of committees.

The Chair now asks if there are any committees that would like to make a report at this time?

The Chair hears none, so we now move to our next order of business which is the important business of this period of the Convention, the introduction of proposals.

PROPOSAL RETURNED

PRESIDENT BRODERICK. The Chair this morning regrets that he must return one proposal which was submitted on Tuesday, January 9, by Delegate Warman of Fayette. According to the opinion of counsel which this chair received, this proposal is not within the authority of the Convention, the Chair, therefore, now rules that it must be returned.

In order to again clarify our procedure when any proposal is returned, a copy of the proposal is returned to the delegate together with a copy of the opinion of counsel. Of course, after you have seen the opinion of counsel you may come in tomorrow and state whether or not you wish to take an appeal from the Chair's ruling, and so you are protected. If you do determine that you would like to appeal, we will then reproduce the proposal and the opinion of counsel and we will set the time for the hearing of the appeal.

The following are Counsel Opinion and Proposal returned to Delegate Warman:

COUNSEL OPINION No. 7

Q. Whether a proposal amending Section 3 of Article II of the Pennsylvania Constitution increasing the terms of Members is within the jurisdiction of the Constitutional Convention.

A. No.

Discussion: The Convention is one of limited jurisdiction and is restricted to those subjects set forth at Section 7 of Act No. 2 of 1967. With respect to Article II of the present Constitution, Section 7 only authorizes the Convention to consider recommendations concerning the apportion-

ment of the State legislature now contained in Section 16, 17 and 18 and does not empower the Convention to consider any proposal concerning the other provisions of this Article.

MARVIN COMISKY
Counsel to Convention

A PROPOSAL

Amending section three of article two of the Constitution of the Commonwealth of Pennsylvania, changing the terms of members of the General Assembly.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section three of article two of the Constitution of the Commonwealth of Pennsylvania is amended to read:

Section 3. Terms of Members—Senators shall be elected for the term of [four] six years and Representatives for the term of [two] four years.

APPEALS

PRESIDENT BRODERICK. As you know, appeals were taken yesterday by Delegate Otto and Delegate Levin. These appeals will be discussed and voted upon at tomorrow's session, Thursday, January 11, 1968.

All delegates should have received copies of the written opinions of counsel in connection with Delegate Otto's proposal—and that counsel opinion, I am advised, is No. 17—and Delegate Levin's proposal. The counsel opinion on Delegate Levin's proposal is Opinion No. 20.

I want to say if any of the delegates are missing either of the opinions, No. 17 or No. 20, or missing the proposals to which those opinions refer, if they will kindly notify the pages or raise your hands, we will get copies to you immediately, because tomorrow we will take a vote on the ruling of the Chair in connection with those two proposals, Delegate Otto's and Delegate Levin's appeals.

APPEAL OF DELEGATE DUMBAULD

PRESIDENT BRODERICK. The Chair has now reached the time for consideration of our first appeal, I would say, from the Chair's ruling. That is the appeal that has been filed by Delegate Dumbauld.

The Chair at this time takes up the appeal of Delegate Dumbauld, and I wish to state that the subject for discussion on the appeal is whether the proposal is within or without the authority of this Convention. If it comes within the authority of the Convention and you so feel, you will so vote. The Chair will then assign it to the appropriate committee for consideration.

If you feel that the Chair's ruling has been correct and you vote to sustain it, then, of course, the proposal will remain in the hands of the delegate.

I want to point out that in the debate which may take place, the merits of the proposal itself are not at issue. They are not before the Convention, and the Chair will be required to rule any discussion concerning the merits of the proposal itself out of order, because our only question is, does this proposal come within the authority which the legislature and the people have granted to us?

I will state the question first, Delegate Dumbauld. The

question is, shall the decision of the Chair, the President, be the judgment of the Convention?

I am going to take up what we refer to as your proposal No. 1 and I want to read that proposal so we will know which one we are voting on.

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section five, a new section to read:

Section 5.1. Basis for Appropriations to Schools of Higher Education.—The General Assembly shall, in all appropriations to community colleges and State-related colleges and universities, base the amount of appropriations on the proportionate number of students in the school.

This is proposal No. 1 of Delegate Dumbauld, which is the one we will take up first on appeal. You have received the opinion of counsel, I am sure, and the Chair will not read the opinion of counsel, because you have it. I want to state that it was on the basis of that opinion of counsel that the Chair based its ruling.

Before we proceed—and I am not trying to delay this, but I think it is important that we have the ground rules clearly in front of us—I would like to read to you Rule 9, section 2. That rule provides: "The President shall decide all questions of order, subject to appeal by the Convention. No debate shall be allowed on questions of order unless there be an appeal." I might interpose, there has been. "On every appeal he shall have the right to state his reason for his decision." I have done that; it is based on the opinion of counsel. "In case of such appeal no member shall speak more than once unless by permission of the Convention." That means that if any member wants to speak more than once, he would have to have approval of the Convention.

"On the question of appeal," as stated in the rules I am reading, "a majority (82) of the Delegates shall be necessary to override a decision by the President."

The Chair recognizes the delegate from Somerset, Delegate Dumbauld.

DELEGATE DUMBAULD. Mr. President and members of the Convention, first might I ask that my two proposals be considered as one, and may I point out, Mr. President, that they have no connection with nor are they related to any type of proposal already before this body pertaining to aid for any parochial or any type of religious school.

PRESIDENT BRODERICK. May I ask you to yield for one second?

You have requested that we consider both of the proposals at one time. Does any delegate have objection to considering both of the proposals at one time?

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes the delegate from Columbia, Delegate Percey.

DELEGATE PERCEY. Mr. President, I rise to a point of order. You said 82 votes would be required. Is it not a majority of the members present which would be required?

PRESIDENT BRODERICK. Under rule 9, section 2, it says, and I quote again, "On the question of appeal a majority (82) of the Delegates," it reads 82 of the delegates, "shall be necessary to override a decision by the Presi-

dent." I am quoting directly from the rules, so I do not have to consult our parliamentarian.

Is there any objection to considering both at the same time? I just want you to know that the Chair has no objection. I note no objection, so I will read the second proposal so they will know proposal No. 2, on which we are voting.

This proposal states:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section five, a new section to read:

Section 5.1. Limitation of State Appropriations.—The General Assembly shall not appropriate State funds to any post-secondary schools other than community colleges and State-related colleges and universities.

That is proposal No. 2, and to make it clear, the appeal being taken, we are going to consider them both as one in a package. You have the opinions in connection with both; you know the Chair based its ruling in connection with both on the opinions of counsel. Let me just say again that the merits of both of these proposals are not the issue before the Convention at this time, and the Chair will be required to rule out of the discussion or debate, any discussion on the merits of Delegate Dumbauld's proposals.

The only question before us—and I state it again in connection with both—is, shall the decision of the President, the Chair, be the judgment of the Convention?

The following are Counsel Opinion and Proposals returned to Delegate Dumbauld:

COUNSEL OPINION No. 13

Q. Whether two proposals amending Article VIII (now Article IX) of the Pennsylvania Constitution and pertaining to appropriation of State funds to colleges are within the jurisdiction of the Constitutional Convention?

A. No.

Discussion: The power of the General Assembly to maintain an educational system and to colleges is presently covered in Sections 11, 14, 29 and 30 of Article III relating to legislation which are not within the limited authority of the Pennsylvania Constitution, as set forth in Section 7 of Act No. 2 of 1967. The Convention cannot extend its jurisdiction in this respect, indirectly, by providing for such appropriations in Article VIII of the Constitution, relating to Taxation and State Finance. See Counsel Opinions 8 and 9.

MARVIN COMISKY
Counsel to Convention

The Chair recognizes Delegate Dumbauld. You may proceed without interruption.

DELEGATE DUMBAULD. Thank you, Mr. President, I was going to read them, but you have already done that.

It is my firm conviction that the power to tax should also have the same power to limit the spending of this tax.

For quite a few years I have been disturbed by the large amounts of moneys, these non-preferred appropriations,

which have been made to private schools and universities. Here are some of the examples:

In a very recent year we gave millions to the University of Pennsylvania, which is not a state school. At this time their enrollment consisted of 5,683 Pennsylvania students, 6,041 from other States, and 681 from foreign countries. In addition to this, we subsidized the University of Pennsylvania Veterinary School to the extent of \$3,000 per student per year, and many of these students commuted from the State of New Jersey.

Our legislature also made generous appropriations to the Philadelphia School of Osteopathy, the Jefferson Medical College, the Woman's Medical College, Drexel Institute and many others with a very large out-of-state enrollment. Just several years ago, Mr. President, over in neighboring Carlisle, the appropriation to the Dickinson School of Law was \$70,000 and just a week or so ago I saw that it was up to \$95,000. This occurs, Mr. President, when our 13 state colleges and Indiana University of Pennsylvania are turning away thousands of students every year because they have no classrooms or dormitories. Therefore, it would appear that in Harrisburg we had some discrimination in the selection of schools to receive tax funds.

PRESIDENT BRODERICK. May I interrupt for a second to remind you that I am not trying to inhibit you in any way in your presentation, but many of your statements that you have just made have been on the issue of the merits of the proposals and not on the question of whether or not the ruling of the Chair was correct or incorrect.

Thank you.

DELEGATE DUMBAULD. Thank you, Mr. President.

It is to be seriously doubted whether the present legislature had the power to call a limited constitutional Convention restricted to just the consideration of certain portions designated by the legislature. If my two proposals do not fall within the limited call, they certainly fall within other articles of the constitution and the constitution can impose restriction on the legislature as to the method and recipients of tax moneys.

Therefore, Mr. President, it is my conviction that the power to tax should also have the power to limit the spending of this tax, and that is my appeal.

Thank you.

PRESIDENT BRODERICK. May I ask if there is anyone who wishes to be heard on the question. The question is: Shall the decision of the Chair be the judgment of the Convention in connection with the ruling out of the two proposals on the basis of the opinions of counsel that they did not come within our authority?

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Rappaport.

DELEGATE RAPPAPORT. Is a vote of "aye" a vote to uphold the Chair?

PRESIDENT BRODERICK. Those voting "aye" shall vote to sustain the Chair. Those voting "no" shall vote to override the ruling of the Chair. As I answered in connection with Delegate Percy's question, under the rules there must be 82 "no" votes to override the Chair.

May I ask, are we ready to vote? The question remains, shall the decision of the Chair be the judgment of the

Convention? All those who vote "aye" shall vote to sustain the ruling of the Chair; those voting "no" shall vote to override the ruling. The Parliamentarian has reminded me that we are voting on both proposals offered by Delegate Dumbauld. We will now unlock the voting machines and proceed to vote.

The roll was recorded as follows:

YEAS—131

Aberman	Fagan	Krill	Richter
Allison	Fawcett	Laputka	Roberts
Aurentz	Fay	Leach	Sahl
Bagenstose	Feather	Leo, L.	Scates
Baldridge	Filson	Leimbach	Scarlett
Baldus	Fineman	Leonard	Scott
Baldwin	Fleming	Levin	Scranton
Banes	Fohl	Manderino	Sebastian
Barry	Forster	Mangery	Shapiro
Bashoff	Fortney	Markley	Sharp
Benedict	Gabreski	Mattinol	Shively
Benfield	Gehrlein	McGeary	Shoemaker
Bloom	Gerber	McGlynn	Shrager
Braham	Goldman	Meyer	Silverman
Broderick	Goldstein	Michael	Sprogel
Brown	Griffith	Michener	Strickler
Bunting	Hannum	Miller, D.	Stroup
Burkholder	Harding	Miller, R.	Swope
Butera	Hastler	Moorhead	Tate
Camardella	Heyburn	More	Thomson
Caron	Humes	Morton	Thornburgh
Casey	Hoecker	Murray	Tomasick
Clark	Hook	Musselman	Tully
Chinger	Horne	Nelson	Van Sant
Conley	Hostetler	Orban	Waldron
Corey	Huggins	Pelletier	Welsh
Cortese	Jucelano	Popil	Westerberg
Croop	Johnson	Pott	Whitum
Curran	Kauffman	Powell	Wilcox
Dailley	Keller, J.	Rappaport	Wilmarth
Desmond	Keller, M.	Rea	Woodring
Devlin	Kelly	Redick	Woodside
Erwin	Kline	Reynolds	

NAYS—12

Caputo	Gouger	Otto	Solomon
Cosetti	Henderson	Percy	Stout
Dumbauld	Orbin	Shettag	Warman

NOT VOTING—20

Amsterdam	Cunningham	King	Pechan
Barron	Donsldson	Lane	Prendergast
Brennan	Donolow	Lee, K.	Quiles
Buck	Gray	O'Donnell	Rovner
Cahn	Irvis	Pasquerilla	Ruth

The majority of the delegates having voted in the affirmative, the ruling of the Chair is sustained.

RULING OF CHAIR UPHELD

PRESIDENT BRODERICK. On the question, according to our tabulator, the electric roll call, "yeas" are 131, "nays" 12. The ruling of the Chair is sustained in connection with Mr. Dumbauld's two proposals.

PROPOSAL DEADLINE

PRESIDENT BRODERICK. I think we have made this announcement in connection with the Chair's answer to Delegate Scranton's question, but I think it is important, before we start receiving proposals, to again remind you that the last day for acceptance of proposals will be tomorrow unless, of course, pursuant to the majority's vote.

I have been advised, and I have repeated, that all proposals which were filed with the Convention Drafting Bureau on or before January 5 have been now delivered by this time, and if they have not, they will be delivered

during this session. They said they would have them out this morning without question, so tomorrow will be our last day.

In making these rulings, the Chair has no intention whatsoever of preventing any delegate from introducing his proposal because it is these proposals that are going to help make this a successful Convention.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Silverman.

DELEGATE SILVERMAN. Mr. President, may I be marked present?

PRESIDENT BRODERICK. Yes, you may be marked present.

The Chair recognizes Delegate Orban.

DELEGATE ORBAN. Mr. President, I would like to be marked present. I was floating around the chamber at the time of the vote.

PRESIDENT BRODERICK. Thank you. The gentleman will be marked present.

INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, I read in place and present the following proposal:

No. 1182

By **DELEGATE GOLDMAN**

A PROPOSAL

Amending the Constitution of Pennsylvania changing provisions relating to indebtedness and expenditure of funds.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four, article eight of the Constitution of Pennsylvania is amended to read:

Section 4. [No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars; Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.] Limitation of State Debt.—The General Assembly shall have the right to incur indebtedness for general expenditures of an amount equal to the income tax collected by the State for the preceding calendar year and not in excess thereof, and, in addition thereto, any excess sums of such income taxes collected together with all other forms of taxes collected by the State for the preceding calendar year shall be available for expenditures for capital improvements, and no other sum shall be so allocated or expended. No authority for the expenditures of any sums of money for whatever reason shall hereafter

be created by either the General Assembly or any political subdivisions thereof.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, I read in place and present the following proposal, which is my last one, I promise. I would like to comment on the proposal.

PRESIDENT BRODERICK. Delegate Otto, you will be given that opportunity. We are going to see that the record notes "applause."

No. 1183

By **DELEGATES OTTO, SAHLI, SCALES, ORBIN, HUGGINS, SCOTT, DUMBAULD, HOOK, MANGERY, COREY, WALDRON, GRIFFITH, CROOP and GOUGER**

A PROPOSAL

Amending the Constitution of Pennsylvania to require the distribution of proceeds from the gross receipts tax on certain corporations to local taxing districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

Taxes upon all corporations for profit shall be uniform except that public utilities, in lieu of local taxes, shall pay the gross receipts tax imposed by the act of June 1, 1889 (P. L. 420), to the Commonwealth, or any act imposing a gross receipts tax in substitution therefor, to be

distributed to local taxing districts in such manner as the General Assembly shall prescribe.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Otto.

DELEGATE OTTO. The proposal that I am introducing at this time contains the signatures of 14 of our delegates. The proposal deals with requiring the Commonwealth to refund the gross 20 mill receipt tax received from the public utilities to the local political subdivisions.

The proposal requires the General Assembly to distribute the moneys collected from this tax in an equitable manner. The General Assembly can do this by using a per capita refund method and also giving additional refunds to municipalities having offices and plants in their confines.

I estimate that approximately \$30 million per year would be returned to local communities where it logically belongs. The refund program could be similar to that in effect for refunding gasoline taxes as permitted under the present Constitution under Taxation and Finance.

The proposal also includes a provision that the levying of these taxes would preclude any local taxes on public utilities. I also emphasize that the public is paying sales taxes to the state on services rendered them by the public utilities. An imposition of another state tax such as the gross receipts tax is unfair to the Commonwealth.

I also point out that local communities, in many instances, share and maintain right-of-ways used by public utilities and also provide protection to the plants and properties. Because of these reasons, I think that this particular proposal should be passed on in committee.

PRESIDENT BRODERICK. Thank you, Delegate Otto.

The Chair recognizes the delegate from Montgomery, Delegate Gerber.

DELEGATE GERBER. Mr. Chairman, I read in place and would like to present the following proposal:

No. 1184

By **DELEGATES KAUFFMAN and GERBER**

A PROPOSAL

Repealing article five of the Constitution of Pennsylvania relating to the Judiciary and adding a new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding after article four, a new article to read:

ARTICLE THE JUDICIARY

Section 1. Courts.—The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Superior Court, a Commonwealth Court, County Courts, and Justice of Peace Courts. Other courts may be established by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall consist of nine justices. Each justice shall be appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate, and shall, except as hereinafter provided, hold their offices during good behavior. One justice shall be designated by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate, to be Chief Justice of Pennsylvania. In the absence of the Chief Justice, the member of the court senior in length of service on the court shall serve in his place.

(b) The Supreme Court shall be the highest court of the Commonwealth and shall have final appellate jurisdiction. It shall have no original jurisdiction except as may be expressly provided in this Constitution. It may assume jurisdiction of actions pending in any other court at any stage of the proceedings. It shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction. Appeals from final judgments of the County Court shall lie as of right directly to the Supreme Court only in cases of judgments imposing sentences of death or life imprisonment. In all other cases, appeals permitted by law shall be as expressly provided in this Constitution and if not so provided, then assigned by the Supreme Court to such court, including the Superior Court, and the Commonwealth Court, as the Supreme Court shall by rule prescribe.

Section 3. Superior Court.—(a) The Superior Court shall consist of fifteen judges and shall act in three panels of five judges each to be designated by the President Judge of the Superior Court from time to time and sit at such places and times as the Supreme Court shall by rule prescribe. Each judge shall be appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate and shall, except as hereinafter provided, hold their offices during good behavior. One judge shall be designated by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate, to be President Judge of the Superior Court. In the absence of the President Judge the member of the Superior Court senior in length of service on the court shall act in his place. The number of judges of the Superior Court may be increased by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

(b) The Superior Court shall have no original jurisdiction. It shall exercise appellate jurisdiction over all appeals from the County Courts except as limited by section 2 (b). When no other court has been designated by this Constitution, appeals permitted by law shall be taken to the Superior Court.

Section 4. Commonwealth Court.—(a) The Commonwealth Court shall consist of nine judges. Each judge shall be appointed by the Governor, by and with advice and consent of two-thirds of all the members of the Senate, and shall, except as hereinafter provided, hold their offices during good behavior. One judge shall be designated by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate, to be President Judge of the Commonwealth Court. In the absence of the President Judge, the member of the Commonwealth Court senior in length of service on the court shall act in his place. The court shall sit at such places and times as the Supreme Court shall by rule prescribe. The number of judges of the Commonwealth Court may

be increased by the General Assembly but only upon prior certification of the necessity therefor by the Supreme Court.

(b) The Commonwealth Court shall have original jurisdiction in any matter that by law would now be heard by the Board of Claims, the Board of Arbitration of Claims, the Board of Finance and Revenue and of the Commonwealth Court as heretofore constituted. It shall exercise appellate jurisdiction over all appeals from any administrative agency of the Commonwealth and from all election contests. It may assume jurisdiction of election contests pending in any court at any stage of the proceedings.

Section 5. County Courts.—(a) There shall be one County Court for each judicial district and there shall be at least one judge for each sixty thousand persons in such district. Each district shall have a President Judge who shall be the member of the court senior in length of service on the court. The President Judge of the County Court of each judicial district shall, under the direction of the Chief Justice or such associate justice as shall be deputized by him, supervise the court's judicial business, including the assignment of the court's judges with the district. The number of judges in each judicial district may be increased by the General Assembly.

(b) In all districts the County Courts shall have unlimited original jurisdiction in all cases except such as may be assigned exclusively to the Justice of Peace Courts by this Constitution.

(c) The County Courts shall have such powers of review of the actions of the Justice of Peace Courts as may be provided by rule of the Supreme Court.

(d) The County Courts may exercise their jurisdiction through such appropriate divisions, including civil, criminal, estate and juvenile as the Supreme Court shall by rule prescribe. There shall be a Presiding Judge for each division which may be created in any districts to be designated by the President Judge of the district.

(e) Whenever a vacancy occurs by death, resignation, removal from office, or creation of an additional judgeship in the office of judge of the County Court, the Governor shall fill the vacancy from a list of persons qualified to hold such office submitted by a panel of seven citizens who are qualified electors of the judicial district. Four members of such panel shall be members of the Bar and shall be selected by the members of the Bar of the judicial district in the manner and in accordance with rules prescribed by the Supreme Court, and three shall be laymen appointed by the Governor. No more than four members of any such panel shall be members of the same political party. The panel shall submit a list of names of those deemed by the panel to be qualified to the Governor. Any member of a Bar in such judicial district may submit his name for consideration to such panel. Such panel shall cease to exist upon the submission of the list of names to the Governor.

(f) Upon the expiration of a term of office of a judge of the County Court a panel of seven citizens shall be appointed in the same manner as prescribed in subsection (e) of this section for the appointment of a panel in the case of a vacancy. Any member of a Bar in such judicial district may submit his name for consideration by such panel. The panel shall submit a list of names of those deemed by the panel to be qualified to the County Board of Elections. The County Board of Elections shall accept

nomination petitions, in compliance with any law governing such elections, only from those persons who have been designated as qualified on the list submitted by such panel. Such panel shall cease to exist upon the submission of the list of names to the County Board of Elections. All such judges shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they so long behave themselves well.

(g) The number and boundaries of the judicial districts shall be as at present except that where more than one county constitutes a judicial district no county of such district shall be separated from the other counties of such district by a county that is not a part thereof.

Section 6. Qualifications of Justices of the Supreme Court and Judges.—Justices of the Supreme Court and judges shall be citizens of the Commonwealth. Judges of the County Courts shall be residents of the judicial districts for which they shall be appointed or elected and shall reside in the districts in which they serve. All justices and judges shall be members of the Bar of the Supreme Court.

Section 7. Appointment of Justices of the Supreme Court and Judges.—Whenever two or more vacancies exist on the Supreme Court, the Superior Court or the Commonwealth Court at the same time for any such court, the Governor, in the exercise of his power to appoint such justices or judges, shall not fill more than a simple majority of such vacancies with persons who are all members of the same political party.

Section 8. Justice of Peace Courts.—(a) All existing courts not of record are abolished and shall be superseded by Justice of Peace Courts in counties other than the County of Philadelphia in which case the County Court of Philadelphia shall exercise such jurisdiction as shall be prescribed by this Constitution for such Justice of Peace Courts. The Justice of Peace Courts shall be courts of such limited jurisdiction and shall exercise their jurisdiction through such appropriate divisions as prescribed by this Constitution.

(b) The number of justices of peace constituting the Justice of Peace Courts shall be determined for each judicial district by the General Assembly. Justices of peace of the Justice of Peace Court for each judicial district shall be elected for a term of six years as prescribed by the General Assembly. The President Judge of the County Court for each judicial district shall designate the places within the district where the Justice of Peace Court for that district shall sit, subject to review by the Supreme Court.

(c) In all districts the Justice of Peace Courts shall have jurisdiction of civil causes in an amount to be established from time to time by the General Assembly; of all summary offenses; of all powers of a committing magistrate over misdemeanors; of the power to accept bail; of the power to issue warrants; and such geographic jurisdiction as shall be established from time to time by the General Assembly.

(d) Justices of peace who are not members of the Bar of the Supreme Court shall successfully complete a course of training and education as prescribed by the General Assembly. The required course of training and education shall not exceed three months' duration, one month of which shall be taken after their election and prior to their

assuming office. The remaining two months of training and education shall be taken immediately after assuming office. Their jurisdiction shall extend to summary offenses only prior to completion of the required course. Persons who have served as justices of peace or aldermen prior to the adoption of this article shall not be required to take this course. The required course shall be at the cost of the Commonwealth.

Section 9. Compensation and Retirement of Judges.—

(a) Justices, judges and justices of peace shall receive compensation paid by the Commonwealth as prescribed by law, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth. No such compensation shall be related to, directly or indirectly, any fees, fines, penalties or costs of any kind.

(b) Justices, judges and justices of peace shall be retired at seventy years of age, as shall be provided by the General Assembly. Notwithstanding the expiration of the term for which a justice, judge or a justice of peace was last elected, his retirement, resignation or removal from office for physical or mental disability, he shall receive such compensation as shall be prescribed by the General Assembly. A former justice or judge who is not more than seventy-five years of age may, with his consent, be assigned by the Chief Justice to render such judicial service as may be prescribed by rule of the Supreme Court.

Section 10. Removal, Discipline and Compulsory Retirement of Judges.—(a) There shall be a Judicial Qualifications Commission to be composed of two judges of the Superior Court, and three judges of the County Courts from different Judicial Districts, to be selected by the Supreme Court; two members of the Bar to be selected by the members of the Bar; and two lay citizens to be selected by the Governor. The judges and the members of the Bar shall be selected in the manner and in accordance with rules prescribed by the Supreme Court.

The members of the Judicial Qualifications Commission shall serve for terms of four years, the selection of the first members following the effective date of this section to be staggered as follows: one judge of the Superior Court, one member of the Bar, and one lay member shall be selected for two-year terms, and one judge of the Superior Court, one member of the Bar, and one lay member shall be selected for four-year terms; one judge of the County Court shall be selected for a term of two years, one for a term of three years, and one for a term of four years. A vacancy in the membership of the Commission shall be filled for the balance of the term by the same appointing power as selected the member whose place has become vacant. No member of the Commission shall serve for more than one full four-year term on the Commission, but he may be reappointed or reelected after a lapse of one year. The members of the Commission shall elect one member to serve as Chairman for a term of one year. The Commission shall act only with the concurrence of a majority of all its members.

During the terms of office for which members of the Judicial Qualifications Commission have been chosen, they shall not hold any office in a political party or organization nor, except for the members who are judges, shall they hold any public office or appointment for which they receive salary or other compensation. They shall not be compensated for service on the Commission, but shall be

reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In accordance with the procedure prescribed in subsection (c) of this section, any justice, judge or justice of peace may be removed from office or otherwise disciplined for misconduct in office, neglect of duty, failure to perform his duties, violation of any canon of legal or judicial ethics adopted by the Supreme Court, or other conduct which prejudices the proper administration of justice; and any justice, judge, or justice of peace may be retired for disability seriously interfering with the performance of his duties, which is, or is likely.

(c) The Judicial Qualifications Commission shall keep itself as fully informed as may be of facts and circumstances relating to justices, judges or justices of peace, in so far as the same may bear upon any of the grounds for removal, discipline, or compulsory retirement; shall receive complaints or reports, formal or informal, from any source pertaining to such matters and shall make such preliminary investigations as it may determine.

The Judicial Qualifications Commission may, after such investigation as it deems necessary, order a hearing to be held before it concerning the removal, discipline or compulsory retirement of a justice, judge, or a justice of peace or the Commission may in its discretion request the Supreme Court to appoint three special masters, who shall be justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the Commission. The commission's orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the Commonwealth Court except when such hearing involves a judge of such court, then in the Supreme Court.

If, after hearing or after considering the record and report of the masters, the Commission finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline, or compulsory retirement, as the case may be, of the justice, judge or justice of peace.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline, or compulsory retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for compulsory retirement, the justice, judge or justice of peace shall thereby be retired with the same rights and privileges as if he retired under section 9 (b) of this article. Upon an order for removal, the justice, judge or justice of peace shall thereby be removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the Judicial Qualifications Commission or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the Commission or the masters shall be privileged; provided that, upon being filed by the Commission in the Supreme Court, the record loses its confidential character.

The Supreme Court shall by rule provide for procedure under this section before the Judicial Qualifications Commission, the masters, and the Supreme Court.

No justice or judge shall sit as a member of the Commission or the Supreme Court in any proceedings involving his own removal, discipline, or compulsory retirement.

(d) Any justice, judge or justice of peace who shall be convicted of misbehavior in office by a court of competent jurisdiction, or who shall be disbarred as a member of the Bar of the Supreme Court, shall automatically forfeit his judicial office.

(e) This section is alternative to and cumulative with the provisions for impeachment for misbehavior in office contained in Article VI, sections 4, 5 and 6. No justice or judge against whom impeachment proceedings are pending shall exercise any of the duties of his office until he has been acquitted.

Section 11. Nonjudicial Duties and Prohibited Activities.—(a) No duties, other than judicial duties, shall be imposed by law upon any court or upon any of the justices, judges or justices of peace thereof, nor shall any power of appointment be conferred upon any court or upon any justice, judge or justice of peace thereof except such as relates to the exercise of the judicial power of this Commonwealth or the administration of the courts as provided in this article.

(b) No justice, judge or justice of peace shall directly or indirectly make any contribution to or hold any office in a political party or organization, nor while retaining judicial office shall he become a candidate at either a primary or general election for any office other than a judicial office, except that any justice, judge or justice of peace may contribute to the political campaign of a member of his family.

(c) No justice or judge shall practice law or engage in any other employment for compensation, except that he may receive compensation as a lecturer, teacher or author, as an officer of a nonprofit professional organization, as a fiduciary of the estate of a member of his family, and as a member of the National Guard or a reserve component of the Armed Forces of the United States while on inactive duty.

Section 12. Administration of Courts.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts of this Commonwealth, including the temporary assignment of judges from one district to another, but in judicial districts containing populations in excess of five hundred thousand a judge of the County Court shall not be assigned to a district other than his own without the consent of the President Judge of his court. The powers of administration vested in the Supreme Court shall be exercised in accordance with rules prescribed by the Supreme Court. The Supreme Court shall appoint an administrative director and staff, who shall assist the Chief Justice or the associate justice deputized by the Supreme Court in supervising the administrative operations of the judicial system and shall serve at their pleasure.

(b) The Supreme Court shall have power to prescribe rules in all civil and criminal actions and proceedings for all courts, governing administration, practice and procedure, including rules of evidence, appeals, appellate jurisdiction including time for appeals, and the issuance of all writs necessary or appropriate in aid of the jurisdiction of the respective courts. These rules shall have the force and effect of law and shall suspend all statutes inconsistent therewith.

Section 13. Clerks of Court, Court Personnel.—(a) There shall be such clerks of court and such other nonjudicial personnel as shall be necessary for the effective performance of the judicial work of the Commonwealth.

The clerks of the County Courts, their assistants and other nonjudicial court officers within each judicial district shall be appointed by the judges of the respective courts of that district, until such time as the Supreme Court shall otherwise provide in accordance with rules prescribed by it.

(b) The Supreme Court may prescribe a merit system for appointment, promotion, removal, discipline, and suspension of nonjudicial personnel in the judicial system and may provide for exempt categories. The Supreme Court may administer the merit system through an administrative director, or may provide for its administration by other appropriate agencies of the Commonwealth or its political subdivisions, who shall be required to render necessary assistance to the court.

Section 14. Judicial Council.—(a) The Supreme Court shall establish a Judicial Council consisting of such number of members and selected in such manner as the Supreme Court may by rule prescribe.

(b) The Judicial Council shall conduct studies for improvement of the administration of justice and for law reform, and shall make reports and recommendations to the Supreme Court and to the General Assembly at intervals of not more than two years. The Judicial Council shall perform such other duties as may be prescribed in this article or assigned to it by rule of the Supreme Court.

Section 15. Implementation of this Article.—The General Assembly shall enact all laws which may be necessary to implement the provisions of this article.

SCHEDULE

That no inconvenience may arise from changes in the Judiciary article of the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared that:

1. This Judiciary article, except as otherwise provided herein, shall become effective on the thirty-first day of December of the year of its adoption; and the tenure of the Chief Justice and of justices of the Supreme Court and of judges of the Superior Court then in office shall not be affected by this article.

2. The Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, Orphans', the County Court of Philadelphia, the County Court of Allegheny County, the Juvenile Court of Allegheny County, the Court of Common Pleas of every judicial district are abolished, and their jurisdiction and powers shall be exercised by the County Courts provided by this article. The tenure of judges of the abolished courts shall not be affected by the abolition of the same, and the judges thereof are hereby constituted for the remainder of their respective terms as judges of the County Court in their present respective judicial districts and shall be eligible for reelection as judges thereof in the manner provided by section 5 (f).

3. The Magistrates' Courts in Philadelphia County and the Aldermen's and Justices of the Peace Courts in other counties, the Traffic Court of the City of Pittsburgh, the Police Magistrates of the City of Pittsburgh, and the Traffic Court of the City of Philadelphia are abolished on the effective date of this article and the terms of office of the incumbent judges thereof shall then terminate. Subsequently the jurisdiction and powers of the aforesaid courts shall be exercised by the Justice of Peace Courts, as created by the General Assembly, in counties other than

Philadelphia wherein such jurisdiction shall be exercised by the County Court of Philadelphia.

4. The Board of Arbitration of Claims is abolished on the effective date of this article and the terms of office of incumbent members thereof shall then terminate. The Board of Claims and the Board of Finance and Revenue are abolished on the effective date of this article. Subsequently the jurisdiction and powers of the aforesaid boards shall be exercised by the Commonwealth Court.

5. (a) The offices of clerk of the Court of Quarter Sessions of the Peace, of Oyer and Terminer, and of clerk of the Orphans' Court, and the office of prothonotary are abolished.

(b) The present prothonotaries of the Common Pleas Court shall become clerks of the County Court within their respective districts for the balance of their terms, subject to the provisions of this article.

(c) The presently elected clerks of the Courts of Quarter Sessions and of Oyer and Terminer shall become deputy clerks of the County Courts within their respective districts for the balance of their terms, subject to the provisions of this article.

6. (a) All causes and proceedings pending in the courts of record not continued by this article, except those pending before the Board of Claims, the Board of Arbitration of Claims and the Board of Finance and Revenue, shall be transferred to the County Court, which shall have authority to dispose of all actions so transferred or to enforce any judgment, order, sentence, or decree henceforth or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdiction of the transferee court and been commenced therein. All dockets, books, records, documents, or other papers in the possession of the clerks of the courts of record whose existence is not continued shall be transferred to the clerks of the County Courts.

(b) All causes and proceedings pending before the Board of Claims, the Board of Arbitration of Claims or the Board of Finance and Revenue, shall be transferred to the Commonwealth Court, which shall have authority to dispose of all causes so transferred or to enforce any order henceforth or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdiction of the Commonwealth Court and had been commenced therein. All dockets, books, records, documents, or other papers in the possession of any such board shall be transferred to the clerks of the Commonwealth Court.

(c) All matters pending before the Courts of Justices of the Peace, Aldermen and Magistrates, the Traffic Courts of the Cities of Philadelphia and Pittsburgh and the Police Court of the City of Pittsburgh shall be transferred to the Justice of Peace Courts, or the County Court of Philadelphia as the case may be, which shall have the authority to dispose of all transferred actions or to enforce any judgment, order or sentence heretofore entered or imposed.

All books, records, documents and papers in the possession of any of those courts shall also be transferred to the Justice of Peace Courts of the appropriate judicial district or the County Court of Philadelphia, as the case may be.

Section 2. Article five of the Constitution of Pennsylvania is hereby repealed effective the thirty-first day of December of the year of the adoption of the foregoing article, except that as much of section two as provides

for the succession of chief justices according to the priority of their commissions shall not be repealed until the expiration of the term or the death, resignation, retirement or removal of the last justice of the Supreme Court in office on July 31, 1968.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes the gentleman from Montgomery, Delegate Gerber.

DELEGATE GERBER. Thank you, Mr. President.

Delegate Kauffman and myself from the 17th district, Montgomery County, have made an effort without appearing, and hopefully we do not appear, to be presumptuous in so doing, to try to take the best from all of the proposals that we have seen of the Pennsylvania Bar plan, our present plan for selection of judges and administration of justice, the American Judicature Society, and various others, and to come up with what we hope and what we honestly think, as a package, is the best of what we have seen in accommodation for justice in Pennsylvania. We hope that the Judiciary Committee, though receiving this rather late in the period for accepting proposals, will give this serious consideration. The reason it is coming in late is because we have taken so much time to work on it and to study all of the other proposals, too.

Thank you very much.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, I read in place and present the following proposal. This is in behalf of Mr. Amsterdam, who is not here today. He wanted it facilitated so that we could get as many of the proposals in as possible. I have no comment to make on it, but I am wondering if you would allow him to do so if he wishes to tomorrow when he will be back.

PRESIDENT BRODERICK. The Chair hears no objection to Delegate Amsterdam making a comment tomorrow in connection with today's proposal.

No. 1185

By **DELEGATE AMSTERDAM**

A PROPOSAL

Amending the Constitution of Pennsylvania to grant to local governmental units the power to cooperate for certain purposes.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding a new article to read:

ARTICLE

LOCAL GOVERNMENTAL UNITS

Section 1. Cooperation Between Local Governmental Units.—Any local governmental unit of this State may contract and cooperate with other local governmental units or with other states or their local governmental units, or with the United States, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the

manner provided by law, by vote of a majority of the qualified electors voting thereon in each local governmental unit affected, provided that the governmental units so cooperating are contiguous and that their number does not exceed ten.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Indiana, Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, on behalf of myself and Delegate Tomascik, I introduce this proposal in place. No comment will be necessary.

No. 1186

By **DELEGATES BALDRIGE and TOMASCIK**

A PROPOSAL

Amending the Constitution of Pennsylvania making changes relating to legislative apportionment.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eighteen of article two of the Constitution of Pennsylvania is amended and new sections are added after said section, to read:

Section 18. [The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.] **Legislative Reapportionment Commission.**—A Reapportionment Commission, consisting of five members, shall be appointed as follows:

(1) The majority leader of the State Senate, the minority leader of the State Senate, the majority leader of the House of Representatives and the minority leader of the House of Representatives, either themselves or by a deputy appointed by them, shall be four of the members.

(2) The fifth member, who shall be chairman, shall be a citizen other than a State official appointed by a majority of the Pennsylvania Supreme Court at a regular session.

(3) The names of the five appointees must be certified to the Secretary of the Commonwealth at a date prior to sixty days before the Federal decennial census is to be certified under Federal law.

Section 19. **Preliminary Meeting.**—At the earliest possible date after appointment and certification, the Chairman of the Reapportionment Commission as set forth in section 18 above, shall call the Reapportionment Commission into meeting and they shall make preliminary preparations and arrangements to carry out their duties.

Section 20. **Report of Commission.**—No later than sixty days after the figures of the Federal decennial census have been submitted to the Reapportionment Commission, they shall file a report with the Secretary of the Commonwealth, dividing the State into senatorial districts and representative districts.

Section 21. **Expenses of Commission.**—The General Assembly shall appropriate sufficient funds to staff the Reapportionment Commission and pay expenses of the members during their time of service.

The members of the Reapportionment Commission shall be entitled to such further emolument for their services as the General Assembly from time to time shall decide, but no part of their emolument shall be paid to them until they file report nisi.

In the event the Reapportionment Commission does not file a report nisi within sixty days of receipt of the certified figures of the census, unless time be extended by the Supreme Court, for cause shown they shall forfeit all rights for emolument and the Supreme Court shall immediately proceed on its own motion to reapportion the Representatives and Senators by districts.

Section 22. **Exceptions; Final Plan.**—The Reapportionment Commission and all aggrieved parties shall have a period of thirty days from filing report nisi to file exceptions to the report or make corrections therein.

After said period of thirty days in which to file exceptions, the commission shall have a further period of thirty days to file a revised final apportionment plan if there were exceptions filed.

Section 23. **Appeals.**—All aggrieved parties shall have the right to file an appeal directly to the Pennsylvania Supreme Court. If no exceptions or appeals are filed in said thirty days, the Reapportionment Commission's final plan shall have the force of law and the districts therein provided shall be those used in the next election to the General Assembly of Pennsylvania.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Scales.

DELEGATE SCALES. Mr. President, I read in place and submit the following three proposals. No comment is necessary at this time.

No. 1187

By **DELEGATES SCALES, ORBIN, MANGERY and HOOK**

A PROPOSAL

Amending the Constitution of Pennsylvania prohibiting the exemption from taxation of public utilities and their property.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section one-B thereof a new section to read:

Section 1C. **Public Utilities Not to be Exempt.**—No taxing authority shall exempt public utilities or their real or personal property from taxation.

Referred to Committee on Taxation and State Finance.

No. 1188

By **DELEGATES SCALES, ORBIN and MANGERY**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for consolidation and boundary changes of certain local governmental units.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding a new article to read:

**ARTICLE
LOCAL GOVERNMENT**

Section 1. Consolidation; Boundary Changes.—No law shall be enacted by the General Assembly which would prevent any county, city, borough, incorporated town or township or any part thereof from being consolidated with any other county, city, borough, incorporated town or township, nor shall any law be enacted by the General Assembly which would prevent the boundary of any county, city, borough, incorporated town or township from being changed, provided that a majority of the electors voting on the question in each county, city, borough, incorporated town, or township affected by the proposed consolidation or boundary change vote in favor thereof.

No county, city, borough, incorporated town or township or any part thereof shall be consolidated with any other county, city, borough, incorporated town or township nor shall the boundaries of any county, city, borough, incorporated town or township be changed unless the proposal to consolidate or change boundaries is submitted to the electorate, and a majority of the electors voting on the question in the county, city, borough, incorporated town or township voting on the proposal vote in favor thereof.

Section 2. Submission of Proposal.—The General Assembly shall provide by general laws the method of submitting the proposal to the electorate. The General Assembly shall include in its laws governing the method of submitting the proposal to the electorate, alternative procedures for the initiating of consolidation and boundary changes by the local governmental units involved and by the registered voters of the respective local governmental units.

Referred to Committee on Local Government.

No. 1189

By **DELEGATES SCALES, ORBIN and MANGERY**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for tenure of judges.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections two and fifteen of article five of the Constitution of Pennsylvania are amended to read:

Section 2. Supreme Court.—The Supreme Court shall consist of seven judges, who shall be elected by the qualified electors of the State at large. They shall hold their offices for the term of [twenty-one years] their natural lives, if they so long behave themselves well [, but shall not be again eligible]. The judge whose [commission shall] term first [expire] began shall be chief justice, and thereafter each judge whose [commission shall] term first [expire] began shall in turn be chief justice.

Section 15. Election of Judges; Term; Removal, Retirement.—All judges required to be learned in the law [, except the judges of the Supreme Court,] shall be elected

by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of [ten years] their natural lives, if they shall so long behave themselves well; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any of them on the address of two-thirds of each House of the General Assembly. All judges shall retire at the age of seventy years.

After a judge has served for a period of ten years, his name shall be placed on the ballot at that general election and the qualified electors of his judicial district shall cast their ballots on the question of whether the judge should be retained in office. If a majority of those voting, vote that he shall be retained, he shall remain in office for another ten years when another similar vote shall be taken. If a majority of those voting, vote that he shall not be retained, he shall retire and another election shall be held to fill the vacancy so created.

The Chief Justice of the Supreme Court may designate and assign former judges, learned in the law, who are willing so to do, who have served at least one term and who have not been defeated for reelection, to the office of judge of any court of record, to temporarily sit in the courts of any judicial district for the disposal of business under such circumstances and subject to such qualifications and conditions as the General Assembly may prescribe.

Section 2. The amendments contained in this proposal shall not apply to judges now in office.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, I read in place and present two proposals and request the right to comment on both.

No. 1190

By **DELEGATES GOLDMAN and GERBER**

A PROPOSAL

Amending the Constitution of Pennsylvania changing provisions relating to compensation and fees of county officers and the accountability of municipal officers for moneys paid to them.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections five and six of article fourteen of the Constitution of Pennsylvania are amended to read:

Section 5. Compensation of County Officers; Fees.—The compensation of county officers shall be regulated by law, and all county officers [who are or may be salaried] shall pay all fees which they may be authorized to receive, into the treasury of the county or State, as may be directed by law. [In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him.] All such county officers shall be paid by salary.

Section 6. Accountability of Municipal Officers.—The

General Assembly shall provide by law for the strict accountability of all county, municipal and township [and borough] officers, [as well as for the fees which may be collected by them, as] for all public or municipal moneys which may be paid to them.

Referred to Committee on Local Government.

No. 1191

By **DELEGATES GOLDMAN and OTTO**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for powers of counties and local governments.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article thirteen of the Constitution of Pennsylvania is amended by adding, at the end thereof, a new section to read:

Section 2. Counties; Powers.—Every county within this Commonwealth shall have the authority to assume responsibilities for governmental functions for the purpose of extending itself and for such other municipal governmental functions of its own local governments located within its boundaries as such local government problems shall extend beyond the geographical boundaries of the local governments. All other powers not designated to the Commonwealth or to the counties shall be inherent in the individual local governments.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, the first proposal that was introduced, I believe, is almost self-explanatory. It relates to the elimination of types of fees that have been paid to the county officers in the past. I have provided for the elimination of this type of fee system or percentage of receipts received and placed it entirely on a salary basis which, I believe, is much more appropriate in this day and age.

The second proposal goes to the powers of county government in its relation to the local communities composing this county. I have proposed that, in view of our present-day problems with issues before these various local communities which cross boundary lines, the counties be given the power to act as a management organization, perhaps, in behalf of these common problems to local communities, but that all other issues coming before a local community shall be solely within that power of the local community with complete vesting of power in them.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. Mr. President, I read in place and present the following proposal:

No. 1192

By **DELEGATES COSETTI, BALDUS and FOHL**

A PROPOSAL

Amending the Constitution of Pennsylvania further regulating State debt.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four of article eight of the Constitution of Pennsylvania is amended to read:

Section 4. [No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.] State Debt.—(a) No debt shall be created by the State unless:

(1) The debt has been authorized by statute, and

(2) It is incurred to suppress insurrection, to rehabilitate areas affected by disaster, to supply short term casual deficiencies of revenue by the issuance of tax anticipation notes payable in the fiscal period in which they are issued, or to implement unexpended authority voted by the electors prior to the adoption of this article, or

(3) The debt is for capital improvements or for the assumption of obligations issued by an authority or instrumentality of the State, and the annual debt service on such debt together with all other existing annual debt service, including interest, repayment of principal, and authority rentals for non-self-supporting debt, shall not exceed four per cent of the sum of the tax revenues of the previous three fiscal years; or shall not exceed six per cent of the sum of the tax revenues of the previous three fiscal years' tax revenues unless such debt is approved by two-thirds vote of the General Assembly, or

(4) The debt is for any purposes including those specifically enumerated in this section, separately specified in the statute and the question whether the debt shall be incurred has been submitted to the electors and a majority of those voting on the question shall have voted in the affirmative.

(b) All debt of the State, its authorities and instrumentalities for capital improvements shall mature within a period not to exceed the usefulness of the capital improvements for which they are issued, which shall not exceed forty years. The estimated period of usefulness shall be stated in the statute authorizing the project, and when so stated shall be conclusive.

(c) All laws, authorizing the borrowing of money by and on behalf of the State, or any of its authorities or instrumentalities, shall specify the purpose, program, project, facility or improvement for which the money is to be used, and the money so borrowed shall be used for the purpose, program, project, facility or improvement specified and no other. The Governor shall have the power to disapprove, in whole or in part, any purpose, program, project, facility or improvement specified in any bill authorizing the borrowing of money and the part or parts of the bill disapproved shall be void.

Section 2. Section five of article eight of the Constitution of Pennsylvania is repealed.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Huggins.

DELEGATE HUGGINS. Mr. President, I read in place and present the following proposal:

No. 1193

By DELEGATES HUGGINS, MATTIONI, PELLETIER, HOSTETLER and TULLY

A PROPOSAL

Amending the Constitution of Pennsylvania requiring the use of computers in apportioning the legislative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eighteen of article two of the Constitution of the Commonwealth of Pennsylvania is amended to read:

Section 18. Legislative Apportionment.—The General Assembly [at its first session after the adoption of this Constitution, and], immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections by submitting the apportionment data to analysis by an electronic computer. The report obtained from the computer analysis shall be submitted to the General Assembly for study for a period of two months. If no action is taken by the General Assembly to determine the legislative districts within a period of four months after the computer analysis is submitted to it, the optimum apportionment suggested by the computer analysis shall be implemented by the Governor as the boundaries of the legislative districts.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Huggins.

DELEGATE HUGGINS. I think all of us will admit we are trying to write a Constitution for the future. Based on all of the arguments in this session which arose over the past years about reapportionment when people are giving up their political bread and butter, there might be a good nonbiased way of apportionment following each census. I think beyond the horse-and-buggy attitude that we have toward one another within the confines of a political body that the computer, with all of its many problems, certainly could be fed data which people will not digest as quickly as a machine.

It is the reason for this proposal, Mr. President, that I think we, in the context of a Convention such as this, should think about the future and the apportionment that might be necessary based on population.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Shrager.

DELEGATE SHRAGER. Mr. President, I read in place and present the following Philadelphia administration proposal, together with Delegates Silverman, Murray, Rappaport, Tate, Bashoff, Aberman, Kelly and Fineman. No comment is necessary.

No. 1194

By DELEGATES SHRAGER, SILVERMAN, MURRAY, RAPPAPORT, TATE, BASHOFF, ABERMAN, KELLY, FINEMAN, GRAY, CAMARDELLA, MATTIONI and McGLYNN

A PROPOSAL

Amending the Constitution of Pennsylvania to eliminate provisions for condemnation of additional land and property for approaches to certain bridges and tunnels, to provide for taking by any political subdivision of land for public purposes in addition to land proposed to be retained and to dispose of such additional land subject to protective restrictions.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section five of article fifteen of the Constitution of Pennsylvania is amended to read:

Section 5. Acquisition of Land.—[The General Assembly may authorize cities to take more land and property than is needed for actual construction in the laying out, widening, extending or relocating highways or streets connecting with bridges crossing streams or tunnels under streams which form boundaries between this and any other state, but the additional land and property, so authorized to be taken, shall not be more than sufficient to form suitable building sites on such highways or streets. Nor shall the authority hereby conferred be exercised in connection with the laying out, widening, extending or relocating of any highway or street at a point more than three miles distant from the approach to any such bridge or tunnel. After so much of the land and property has been appropriated for such highways or streets as is needed therefor, the remainder may be sold or leased and any restrictions imposed thereupon which will preserve or enhance the benefit to the public of the property actually needed for the aforesaid public use.] When the public purpose for which land is taken can best be attained by acquiring more land than any political subdivision proposes to retain, any political subdivision, subject to regulations prescribed by law, may take all the land which in its judgment is needed for the attainment of such purpose and may dispose of portions thereof, subject to restrictions protective of the public purpose.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Montgomery, Delegate Gerber.

DELEGATE GERBER. I read in place and would like to present the following proposal. No comment is necessary.

No. 1195

By DELEGATE GERBER

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for the government of local governmental units other than counties and other than the cities of Philadelphia and Pittsburgh.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding after article fourteen, a new article to read:

ARTICLE
LOCAL GOVERNMENT

Section 1. Forms of Government.—There shall be two forms of government for all local governmental units except counties and cities of the first class and cities of the first class A, which shall retain all powers heretofore granted to them. All local governmental units with a population less than ten thousand shall be called towns, and shall be governed by five councilmen who shall be elected from five districts of the town, divided equally according to population. The councilmen shall serve terms of four years. In the year before the presidential election year, three councilmen shall be elected and in the year before the gubernatorial election year, two councilmen shall be elected.

All local governmental units with a population of ten thousand or more shall be called cities, and shall be governed by an elected mayor, and ten councilmen who shall be elected from ten districts of the city, divided equally according to population. The councilmen shall serve terms of four years. In the year before the presidential election year five councilmen shall be elected, and in the year before the gubernatorial election year, five councilmen shall be elected. The mayor and comptroller shall be elected for a term of four years. The mayor shall be elected the year before the presidential election year. The comptroller shall be elected the year before the gubernatorial election year.

Section 2. Salaries.—Salaries of all elected and appointed town and city officers shall be set and paid by each town and city.

Section 3. Powers and Duties of Officers.—The council of each town, and the mayor and council of each city shall have all administrative and substantive powers of office necessary and appropriate for governing, as determined by the General Assembly.

Section 4. Accountability of Officers.—All officers of towns and cities shall be strictly accountable to the people for all money collected by them. The General Assembly shall further provide by law for such accountability.

Section 2. Article fifteen of the Constitution of Pennsylvania is repealed effective January 1, 1969.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Juniata, Delegate Hostetler.

DELEGATE HOSTETLER. Mr. President, the proposal which I wish to present I do not think needs any explanation, and no comment is necessary, so I read in place and present the following proposal:

No. 1196

By DELEGATES HOSTETLER, GERBER and GOUGER

A PROPOSAL

Amending the Constitution of Pennsylvania providing for apportionment of legislative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen, seventeen and eighteen of article two of the Constitution of Pennsylvania are amended to read:

Section 16. Senatorial Districts; Ratio.—The State shall be divided into [fifty] forty senatorial districts of compact and contiguous territory as nearly equal in population as may be possible so that the district with the greatest population shall not exceed the district with the least population by more than ten per cent, and each district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No] Unless division shall be absolutely necessary, no ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number [fifty] forty.

Section 17. [The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] Representative Districts; Ratio.—Each senatorial district shall be divided into four representative districts of compact and contiguous territory as nearly equal in population as may be possible so that the district with the greatest population shall not exceed the district with the least population by more than ten per cent, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no ward, borough or township shall be divided in the formation of a representative district. The representative ratio shall be ascertained by dividing the whole population of the State by the number one hundred and sixty.

Section 18. [The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.] Legislative Apportionment.—(a) Immediately following

each United States census, an Apportionment Commission shall be established. Such commission shall consist of eleven members who are citizens of the Commonwealth and eligible to vote; two of whom shall be appointed by the Majority Leader of the Senate, two by the Minority Leader of the Senate, two by the Majority Leader of the House of Representatives, and two by the Minority Leader of the House of Representatives; the Governor, who shall be chairman of the commission and the two former Governors who served in such office immediately prior to the incumbent Governor. If either of such former Governors shall be deceased or unavailable for service for any other reason, the Chief Justice of the Supreme Court shall appoint any citizen of the Commonwealth eligible to vote in his place. Such commission shall meet within three months of any such census and shall within one hundred and twenty days from the first day the commission meets promulgate a plan to reapportion the Senate and the House of Representatives. If there are any deviations from the requirement of equality of population as provided in sections sixteen and seventeen of this article in such plan, the commission shall accompany its plans with a statement explaining its reasons for such deviation.

(b) Such plan of the commission shall then be published in two newspapers of general circulation in each of the senatorial districts one time within thirty days from the promulgation of such plan by the commission. Such publication shall contain a map of the State showing the overall apportionment and, in the individual area where published, a map showing the apportionment covering the area normally served by such newspapers. The plan of the commission shall have the force of law upon compliance with the requirements of publication established by this subsection.

(c) Upon the application of any qualified voter, the Supreme Court in the exercise of original jurisdiction shall review the plan and shall have jurisdiction to force compliance with the requirements of this Constitution.

(d) In the event the commission has failed to promulgate any plan within the time period provided, the Supreme Court, in the exercise of original jurisdiction, shall make one or more orders establishing such a plan, provided, however, in this case, the Supreme Court shall appoint a board of seven special masters chosen by lot from the judges of the trial or district courts of the Commonwealth. This Board of Masters shall within ninety days make recommendations to the Supreme Court on the reapportionment plan of the Senate and the House of Representatives. Such plan established by the Supreme Court shall then be published in compliance with the provisions for publication prescribed in subsection (b) of this section. If the plan established by the Supreme Court in any way deviates from the plan submitted by the Board of Masters, the Supreme Court must publish its reasons for making its changes along with the plan prepared by the Board of Masters. The plan established by the Supreme Court shall have the force of law upon compliance with the requirements of publication established by subsection (b) of this section and by this subsection.

(e) No apportionment of either the Senate or the House of Representatives shall be valid unless such apportionment shall provide that a majority of each body shall rep-

resent at least forty-nine per cent of the population of the Commonwealth.

Referred to Committee on Legislative Apportionment.

PRESIDENT BRODERICK. The Chair recognizes the delegate from York, Delegate Michael.

DELEGATE MICHAEL. Mr. President, I read in place and present the following proposal without comment:

No. 1197

By **DELEGATE MICHAEL**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for removal of certain local governmental elective officers.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE LOCAL GOVERNMENT

Section 1. Removal of Nonconstitutional Elective Officers.—In addition to any other procedure provided by the General Assembly if any nonconstitutional local governmental officer misbehaves in office in a manner amounting to more than misconduct constituted by mere errors of judgment, the court of quarter sessions, of the county in which the political subdivision is located, upon complaint in writing by five per cent of the registered electors of the political subdivision, may issue a rule upon such officer to show cause why his office should not be declared vacant and another appointed in his stead. Such rule shall be made returnable not less than two weeks from its date of issue. Upon hearing, and proof that the facts alleged in the complaint are true, the court may declare the office vacant and appoint another in his stead, to hold office during the term of the officer deposed, or to make such other order as to the court may seem just and proper.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Orbin.

DELEGATE ORBIN. Mr. President, on behalf of Delegate Mangery and myself, I am pleased to read in place and present the following proposal and no comment is necessary:

No. 1198

By **DELEGATES ORBIN and MANGERY**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for exemptions from local real estate taxes for persons of low income.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended to read:

Section 1. Uniformity of Taxation; Exemptions.—(a) All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

(b) Any real estate which is owned by a person of low income and which is used as the residence of such person shall be exempt from all local real estate taxes. The General Assembly shall by general law provide for the carrying out of this subsection.

Referred to Committee on Taxation and State Finance.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Gray. For what purpose does the gentleman rise?

DELEGATE GRAY. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE GRAY. In reference to Delegate Michael's proposal or resolution, I think that the group of delegates present here ought to applaud her, because she is the first woman to present one since I have been on the floor and she did not have any comment.

PROPOSALS REFERRED

PRESIDENT BRODERICK. The Chair at this time wishes to make an announcement in connection with two proposals that were heretofore assigned to committees. They are Proposal No. 1179 and Proposal No. 1091. Each of these proposals was referred by the Chair to the Committee on Taxation and State Finance. They do also pertain to taxation and state finance in connection with local government; therefore, pursuant to the request of the Local Government Committee as well as the acquiescence of the Committee on Taxation and State Finance, they are also

going to be referred to Local Government for joint consideration.

PROPOSALS INTRODUCED

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Luzerne, Delegate Tomascik.

DELEGATE TOMASCIK. Mr. President, I read in place and present to the Chair two proposals, one of which is on legislative apportionment and the other one affects the minor judiciary. Since they are both self-explanatory and their intent is clear, I do not care to make any comment at this time.

No. 1199

By DELEGATE TOMASCIK

A PROPOSAL

Amending the Constitution of Pennsylvania making changes relating to legislative apportionment.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen, seventeen and eighteen of article two of the Constitution of Pennsylvania are amended to read:

Section 16. Senatorial Districts.—The State shall be divided into [fifty] forty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district.] The senatorial ratio shall be ascertained by dividing the whole population of the State as ascertained by the most recent United States decennial census by the number [fifty] forty.

Section 17. [The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two-hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district

to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] Representative Districts.—The State shall be divided into one hundred sixty representative districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one representative. The representative ratio shall be ascertained by dividing the whole population of the State as ascertained by the most recent United States decennial census by the number one hundred sixty.

Section 18. [The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.] Legislative Apportionment.—(a) Immediately following each decennial United States census, a commission, consisting of the Lieutenant Governor, who shall be chairman, and the Majority and Minority Leader of the Senate and of the House Representatives, shall prepare a plan for re-districting the State and submit it to the General Assembly within ninety days after certification of the United States decennial census. Within thirty days after the plan is submitted to it, the General Assembly shall reapportion itself or accept the report of the commission, and if it fails to do either, the report of the commission shall have the force of law.

(b) Any aggrieved party may appeal any apportionment made by the General Assembly under this section to the Supreme Court of Pennsylvania which shall have exclusive jurisdiction. Any such apportionment shall become effective when the Supreme Court has finally decided the appeal or when the last day for taking an appeal has passed and no appeal has been taken.

Referred to Committee on Legislative Apportionment.

No. 1200

By DELEGATE TOMASCIK

A PROPOSAL

Amending the Constitution of Pennsylvania revising the provisions relating to justices of the peace and aldermen.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections eleven and twenty-eight of article five of the Constitution of Pennsylvania are amended to read:

Section 11. Justices of the Peace; Aldermen; Term; Residence; Number; Compensation, etc.—Except as otherwise provided in this Constitution, justices of the peace or aldermen shall be elected in the several [wards, districts,] cities, towns, boroughs or townships, by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the Governor for a term of six years. [No township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. In

cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.] Each city, town, borough and township shall elect one justice of the peace or alderman for each five thousand persons, or fraction thereof, in the city, town, borough or township. Justices of the peace and aldermen shall be paid an annual salary as the General Assembly shall determine which shall constitute their entire compensation. All fees levied by a justice of the peace or alderman shall be paid over to the Department of Revenue monthly and audited annually. All fines collected by a justice of the peace or alderman shall be paid over to the Commonwealth or political subdivision as provided by law.

Section 28. Training Course with Examination for Minor Judiciary.—The General Assembly [may] shall, by general law, provide that a course of training and education [be completed] with examination be satisfactorily completed as hereinafter provided by justices of the peace and aldermen hereafter selected who have not been admitted to practice law in this Commonwealth. The required course of training and education with examination, which shall be prescribed by the Department of Public Instruction shall not exceed three months' duration, one month of which shall be taken after their election and prior to their assuming office. The remaining two months of training and education shall be taken immediately after assuming office. Satisfactory completion of the course shall include passing an examination with a grade of seventy per cent or better as given and certified by the Department of Public Instruction. A vacancy shall occur when any person fails such examination a second time. Their jurisdiction shall extend to summary offenses only prior to satisfactory completion of the required course. Persons who have served as justices of the peace or aldermen prior to the adoption of this amendment shall not be required to take this course. The required course shall be at the cost of the Commonwealth.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Philadelphia, Delegate Mattioni.

DELEGATE MATTIONI. Mr. President, I read in place and present two proposals, without comment:

No. 1201

By DELEGATE MATTIONI

A PROPOSAL

Amending the Constitution of Pennsylvania providing for local government units.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding, after Article XIII, a new article to read:

ARTICLE XIII-A

LOCAL GOVERNMENT UNITS

Section 1. Local Government Unit.—The county unit shall be the basic local government unit in the Commonwealth, except where the geographic boundaries of a city

coincide with those of the county, in which case the basic unit shall be the city. Where the geographic boundaries of the city and the county coincide, there shall be no duplication of responsibilities, and the city government shall supersede that of the county.

Section 2. Taxing Power.—There shall be only one taxing authority in each county which shall have the power to levy and collect such taxes as may be provided for by the General Assembly. No other local government unit shall have the power or authority to levy and collect taxes.

Section 3. Distribution of Taxes.—The county shall return to its local government units such revenues as are necessary and required for the maintenance and operation of local government services. Revenues provided to local government units shall be distributed by the county taxing authority in a uniform manner based solely upon population.

Section 4. Consolidation.—The General Assembly shall, by general law, provide for the consolidation of local government units into natural political and geographical units except where this function is delegated to the county units. When possible, such units shall consolidate the whole of existing local government units.

Section 5. Classification; In General.—The General Assembly shall, by general law, provide for the classification of local government units, and the government thereof; and, in every case where the geographical boundaries of a city and of a county are identical, the city shall, pursuant to such exceptions and restrictions as the General Assembly may provide, be empowered to enact a charter for the purposes of local government autonomy. The General Assembly may, by general laws, provide for the autonomy of other local government units, except in so far as the taxing power is concerned, in which case sections two and three shall apply.

Section 6. Classification; Cities and Townships.—The General Assembly shall classify local government units into cities and townships only, according to well defined classes, according to geographical limits and population.

Section 7. Classification; Counties.—The General Assembly shall provide for the structure of county government, and may classify counties by population for such purpose. Every county shall have the right, by local county-wide referendum, to enact a charter providing for its own local autonomy and self-government; and, the General Assembly may enact general laws governing such referendum, and providing for uniform organization of county charters and county government.

Section 8. Local Government Officers.—Except as otherwise expressly provided in this Constitution, all local government officers shall be county, city or township officers. In enacting laws for the establishment and maintenance of local government units, the General Assembly shall, in so far as possible, give full recognition to the separation between the executive and legislative branches of government. The judges of the several courts provided in Article V of this Constitution shall be State officers. Employees of the courts of general jurisdiction, and of the community courts shall be county or city officers or employees, as the case may be. The General Assembly shall, by general laws, provide for the employment and promotion of such officers and employees on a merit system. Where the county or city has enacted a charter for its own self-government, such officers and employees shall be integrated into the plan or program

provided for all other local government employees, provided the same is based upon a merit system.

Section 9. Joint Action by Counties.—The General Assembly may enact uniform mandatory procedures for handling problems which require joint action by two or more counties, and shall provide uniform procedures for the annexation or consolidation of counties or parts of counties into different county or city units. Such procedures shall ensure that the interests of the residents of all of the several counties affected are adequately safeguarded and protected.

Referred to Committee on Local Government.

No. 1202

By **DELEGATES MATTIONI and HUGGINS**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for the judicial system.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is repealed.

Section 2. The Constitution of Pennsylvania is amended by adding a new article to read:

ARTICLE THE JUDICIARY

Section 1. Judicial Power.—The judicial power of the Commonwealth shall be vested in one Supreme Court, an Intermediate Appellate Court, and in such inferior courts as are hereinafter designated, and in such other inferior courts as the General Assembly may from time to time establish.

Section 2. Original Jurisdiction of Supreme Court.—The Supreme Court shall have no original jurisdiction, except as otherwise expressly provided in this Constitution.

Section 3. Appellate Jurisdiction of Supreme Court.—The Supreme Court shall have final appellate jurisdiction in all matters, cases and controversies within the judicial power of the Commonwealth, both as to law and fact, with such exceptions and under such regulations as the General Assembly shall make.

Section 4. Intermediate Appellate Court.—There shall be one Intermediate Appellate Court which shall have no original jurisdiction but which shall have appellate jurisdiction in all matters, cases and controversies within the judicial power of the Commonwealth, both as to law and fact, with such exceptions and under such regulations as the General Assembly shall make.

All appeals shall first be heard by the Intermediate Appellate Court.

Section 5. Divisions of Intermediate Appellate Court.—The Intermediate Appellate Court shall be divided into such divisions, and sit at such places as may be determined by the General Assembly, but, each such division shall be comprised of not less than three judges.

Section 6. Courts of General Jurisdiction.—There shall be one court of general jurisdiction in each county, which shall be divided into not less than three divisions, for civil, criminal and probate matters. The General As-

sembly may provide for further divisions of the court of general jurisdiction into a family court division, a juvenile court division, and such other divisions as it may from time to time establish.

Section 7. Judges; Qualifications; Terms.—The judges of the Supreme Court, the Intermediate Appellate Court and the courts of general jurisdiction shall be learned in the law. The judges of the Supreme Court, and of the Intermediate Appellate Court shall hold their office during the term of ten years; the judges of the courts of general jurisdiction shall hold their offices during the term of six years; and, they shall be elected as hereinafter provided.

Section 8. Community Courts.—The General Assembly shall provide for community courts which shall have criminal jurisdiction over all summary criminal offenses, and over all police court matters, and civil jurisdiction in all claims for damages in such amounts as the General Assembly shall determine. The county wherein community courts are located shall, by local referendum, determine whether the judges of the community courts shall be learned in the law. The judges of the community courts shall hold their office during the term of four years; and, they shall be elected as hereinafter provided.

Section 9. Compensation; Fees.—All of the judges of the courts herein provided for, shall receive such compensation as may be provided for by the General Assembly, and all employees of the several courts shall receive such compensation as may be provided by ordinance of the county. All fees, fines, penalties, costs or other charges of whatever nature and kind paid to the community courts shall be paid over to the county treasury forthwith.

Section 10. Election of Judges.—The judges of the Supreme Court and of the Intermediate Appellate Court shall be elected at a Statewide election. The judges of the courts of general jurisdiction and of the community courts shall be elected by countywide elections in the county wherein they are to serve. The judges shall be residents of the Commonwealth of Pennsylvania, and in the case of judges of the courts of general jurisdiction and community courts, shall be residents of the county wherein they are to serve.

Section 11. Nominating Commissions.—The General Assembly may create nominating commissions for the selection of candidates for the Supreme Court, Intermediate Appellate Court and the community courts. The members of the commissions shall not be officials of any political party, nor have been so within the five years next preceding their appointment or election to the commissions. The General Assembly shall provide for minority party representation thereon.

The nominating commissions shall function under such regulations as the General Assembly shall determine; but, in no event, shall any person who possesses the qualifications to hold judicial office be prevented from seeking election to any judicial office.

Section 12. Designation of Political Parties on Ballots.—Candidates for judicial office shall be placed on the appropriate ballots together with the designation of his political party affiliation.

Section 13. Prohibition Against Being Candidate for Other Offices.—No judge of any court of this Commonwealth shall become a candidate for any other political office, including becoming a candidate for a different judicial office, except for reelection to the judicial office he

presently holds unless he shall first resign from his office as judge.

Section 14. Retirement and Removal of Judges.—The General Assembly shall provide for the mandatory retirement of judges from their office, and for the retirement or removal from office of any judge who because of illness, injury, disease, incompetency, corruption, dishonesty, or any other cause or thing which shall render such judge incapable or unfit to perform the duties of his office.

Section 15. Grievance Committees.—The General Assembly shall provide for grievance committees in each judicial district to hear all complaints or charges made against judges.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Philadelphia, Delegate Murray.

DELEGATE MURRAY. Thank you, Mr. President. I read in place and present the following proposal with the request to make a brief statement.

No. 1203

By **DELEGATES MURRAY and RAPPAPORT**

A PROPOSAL

Amending the Constitution of Pennsylvania abolishing the offices of alderman, justice of the peace and magistrate; and providing for a system of community courts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article five of the Constitution of Pennsylvania is amended by adding after section twenty-seven, a new section to read:

Section 27.1. Community Courts.—(a) All existing courts not of record shall be superseded as hereinafter provided by Community Courts which shall exercise the same jurisdiction as now exercised by such existing courts not of record except in civil cases wherein the jurisdiction shall be with cases not exceeding one thousand dollars. Such jurisdiction may by general law be changed by the General Assembly from time to time.

(b) There shall be one Community Court for each Representative District based upon the current plan of legislative apportionment. Each such court shall consist of five judges who shall be elected for a term of six years, in compliance with any law governing such elections, except no political party shall be entitled to more than three candidates at any such election. The five judges of each such court shall elect one of them to be the President Judge who shall be responsible for the administration of such court and who shall appoint a records clerk and such other employees as prescribed by law.

(c) All such judges shall be citizens of the Commonwealth. They shall be at least thirty years of age and a qualified elector and resident of the district from which they are elected for at least two years prior to such election. All such judges shall either be members of the bar of the Supreme Court or shall have served for not less than two years as an alderman, justice of the peace, magistrate or similar judicial officer in Pennsylvania.

(d) All such judges shall receive compensation paid by

the Commonwealth as prescribed by law which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth. The records clerks and such other employees shall be compensated as prescribed by law.

(e) All fees, fines and penalties in such courts shall be paid to the Commonwealth and be applied towards the salaries and expenses of such courts.

SCHEDULE

That no inconvenience may arise from changes in the Judiciary article of the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared that:

1. This Judiciary article, except as otherwise provided herein, shall become effective January 1, 1969.

2. The initial election of judges of the Community Courts shall take place at the municipal election to be held in November, 1969.

3. The Magistrates' Courts in Philadelphia County and the Aldermen's and Justices of the Peace Courts in other counties, the Traffic Court of the City of Pittsburgh, the Police Magistrates of the City of Pittsburgh, and the Traffic Court of the City of Philadelphia are abolished on December 31, 1969, and the terms of office of the incumbent judges thereof shall then terminate. Subsequently the jurisdiction and powers of the aforesaid courts shall be exercised by the Community Courts.

4. All matters pending before the Courts of Justices of the Peace, Aldermen and Magistrates, the Traffic Courts of the Cities of Philadelphia and Pittsburgh and the Police Court of the City of Pittsburgh shall be transferred to the Community Courts, which shall have the authority to dispose of all transferred actions or to enforce any judgment, order or sentence heretofore entered or imposed.

All books, records, documents and papers in the possession of any of those courts shall also be transferred to the Community Court of the appropriate judicial district.

Section 2. Sections eleven, twelve, thirteen and twenty-eight of article five of the Constitution of Pennsylvania are repealed, effective December 31, 1969.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. You may now proceed with your statement, Delegate Murray.

DELEGATE MURRAY. Thank you, Mr. President.

The proposal which I have just entered abolishes the justice-of-the-peace, magistrate and alderman systems of Pennsylvania. There are approximately 5,000 of these individuals. It replaces them with a community court system of five judges per legislative district. This would be about 1,015 judges.

The community court judges, under my proposal, would be elected for a six-year term on a bipartisan basis with each political party limited to three of the five judges, thus guaranteeing minority representation in the court system. The judges would be salaried and supplied with the court facilities they need. Their salaries would be set by the legislature.

I do not feel that the commission type of justice is desirable or breeds honesty, and I think this would definitely

be an important factor that they should be salaried and not commissioned.

The requirements for this office would be: Thirty years of age and learned in the law, or two years' prior minor judicial experience. This would allow the abolished office holders to be eligible to run for the new court system if that would be the desire of the people in their areas.

Also, Mr. President, their jurisdiction in civil cases would be increased to \$1,000, and this, in effect, would serve as a small claims' court in their communities.

This system is based on placing the judges where the people are. Since the legislative districts today have approximately 50,000 to 60,000 in population, we would be spreading them across the State in the actual areas where the population is, thus equalizing a court system from one end of the State to the other. Thank you.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Devlin.

DELEGATE DEVLIN. Mr. President, I read in place and present the following proposal, and I would like to make a comment, if you please.

No. 1204

By **DELEGATE DEVLIN**

A PROPOSAL

Amending the Constitution of Pennsylvania by providing a judicial system for Philadelphia.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding a new article and division to read:

ARTICLE JUDICIARY

Division

Judiciary in Philadelphia

Section 1. The Courts—The judicial power shall be vested in a Superior Court, a Municipal Court, a Traffic Court and such other courts as may be established by the General Assembly.

Section 2. The Superior Court; Jurisdiction and Qualifications of Judges.—There shall be a Superior Court which shall have unlimited original jurisdiction of all cases except such as are assigned by this article to the Municipal Court and Traffic Court. The Superior Court shall exercise jurisdiction through separate divisions created hereunder and such other divisions as the General Assembly shall provide. All judges of the Superior Court shall be learned in the law and members of the Bar of the Supreme Court of Pennsylvania.

(a) Estates Division. There shall be an Estates Division of the Superior Court which shall be composed of six judges. The Estates Division shall exercise the jurisdiction heretofore exercised by the Orphans' Court, except that matters pertaining to marriage licenses and birth certificates shall be within the jurisdiction of the Family Court Division. The Estates Division shall also exercise concurrent jurisdiction in equity cases with the Trial Division.

(b) Family Court Division. There shall be a Family Court Division of the Superior Court which shall be composed of twenty judges. The Family Court Division shall exercise jurisdiction in the following matters:

(1) Domestic Relations:

(i) Marriage Licenses;

(ii) Desertion or nonsupport of wives, children and indigent parents, including children born out of wedlock;

(iii) Proceedings for custody of children;

(iv) Divorce and annulment and property matters relating thereto.

(2) Juvenile Matters:

(i) Dependent, delinquent and neglected children and children suffering from epilepsy, nervous or mental defects under eighteen years of age or such other age as the General Assembly may establish;

(ii) Incurable, runaway and disorderly minors eighteen to twenty years of age;

(iii) Preliminary hearings in criminal cases where the victim is a juvenile.

(3) Adoptions

(4) Birth certificates

(c) Trial Division. There shall be a Trial Division of the Superior Court which shall be composed of sixty judges. The Trial Division shall exercise unlimited jurisdiction in all cases except such as are assigned by this article to the Estates and Family Court divisions and to the Municipal and Traffic Court. The Trial Division shall have all the jurisdiction presently held by the Court of Common Pleas, General Jail Delivery and Quarter Sessions of the Peace and Oyer and Terminer except as otherwise expressly provided therein.

(d) Chief Judge; Administrative Judges. There shall be a Chief Judge of the Superior Court who shall be the administrative head of the court and who shall supervise the courts' judicial business.

The Chief Judge shall be elected for a term of four years by a majority vote of the Superior Court judges and shall be eligible to succeed himself for any number of terms.

Each division of the Superior Court shall be presided over by an Administrative Judge who shall be elected for a term of four years by a majority vote of the judges of that division, and who shall be eligible to succeed himself for any number of terms. Said Administrative Judges shall have the duties of assisting the Chief Judge in supervising the judicial business of the court and shall be responsible to him. Subject to the foregoing, the Judges of the Superior Court shall formulate regulations defining the duties of the Administrative Judges.

The first Chief Judge and Administrative Judges under this Constitution shall be elected immediately upon the assumption of the office by the full complement of judges provided by this article. The Chief Judge shall have the power to assign judges from each division to each other division when required to expedite the business of the court: Provided, however, That no judge in office at the time of the effective date of this Constitution shall be assigned without his consent to exercise jurisdiction other than that which he then exercises.

(e) Clerks of Court; Court Administrators. There shall be a chief clerk and deputy clerk of the Estates Division; a chief clerk and deputy clerk of the Family Court Division; a chief clerk for civil matters and a chief clerk

for criminal matters in the Trial Division; and a chief writ serving officer and deputy writ serving officer. The chief clerk for criminal matters of the Trial Division shall also act as the chief clerk of the Municipal Court. The chief writ serving officer shall be in charge of service and execution of all manner of process out of the Municipal Court as well as the Superior Court. The officials named aforesaid shall be appointed for a term of four years by the Chief Judge of the Superior Court, who may also determine appropriate titles of said officials. The offices of clerk of the Court of Quarter Sessions of the Peace, Oyer, and Terminer, Register of Wills, Sheriff, clerk of Orphans' Court and Prothonotary are hereby abolished. The Chief judge shall also appoint such administrators and deputy administrators as are necessary for the efficient dispatch of the business of the court.

(f) Powers of the General Assembly. The General Assembly shall have the power to increase the number of judges of the Superior Court, alter the jurisdiction of the court or its divisions, create new divisions, and alter the administrative structure of the courts.

Section 3. The Municipal Court. — (a) Composition; Qualifications of Judges. There shall be a Municipal Court composed of twenty-two judges. Each of the judges who shall be appointed after the effective date of this Constitution must be learned in the law and must be admitted to practice before the Supreme Court of Pennsylvania, except that these qualifications shall not apply to any person who holds the office of magistrate on the effective date of this Constitution to the limit of the balance of their current term and one additional six year term.

(b) Jurisdiction. The Municipal Court shall have jurisdiction in the following matters:

(1) Committing magistrates jurisdiction in all criminal matters.

(2) Jurisdiction over all summary offenses, except summary offenses under the motor vehicle laws.

(3) Jurisdiction over all criminal offenses for which no prison term may be imposed or which are punishable by a term of imprisonment of not more than two years, and indictable offenses under the motor vehicle laws for which no prison term may be imposed or punishable by a term of imprisonment of not more than three years.

(4) Jurisdiction of matters arising under the landlord and tenant laws.

(5) Jurisdiction of all civil claims involving less than five hundred dollars.

(6) Jurisdiction as commissioners to preside at arraignments, fix and accept bail, issue warrants and perform duties of similar nature.

(7) Under clause (3) of this subsection the defendant shall have no right of trial by jury, but shall have the right of appeal for trial de novo to the Trial Division of the Superior Court.

Under clause (5) of this subsection the parties shall have no right of trial by jury but shall have the right of appeal for a trial de novo to the Trial Division of the Superior Court, the purpose of the clause (5) being the establishment of an expeditious small claims procedure whereby it shall not be necessary for litigants to obtain counsel. The limited grant of civil jurisdiction under clause (5) is intended to be coextensive with the civil jurisdiction of the Trial Division of the Superior Court.

(8) The grant of jurisdiction under clauses (3) and (5)

of this subsection may be exercised only by those judges learned in the law and admitted to practice before the Supreme Court of Pennsylvania.

(c) Appeals from Municipal Court. All appeals from Municipal Court shall be to the Trial Division of the Superior Court in accordance with rules to be promulgated by the Supreme Court.

(d) Chief Judge. There shall be a Chief Judge of the Municipal Court who shall be appointed by the Chief Judge of the Superior Court for a term of four years, shall serve at said Superior Court Chief Judge's pleasure and who shall be eligible to succeed himself for any number of terms. The Chief Judge of the Municipal Court shall be the administrative head of said court and shall supervise the judicial business of the court. He shall promulgate all administrative rules and regulations and make all judicial assignments. The Chief Judge of the Superior Court may assign judges of the Municipal Court learned in the law to sit from time to time in the Superior Court, where required to expedite the business of the court.

Section 4. The Traffic Court. (a) Composition and Jurisdiction. There shall be a Traffic Court composed of six judges. Said court shall have exclusive jurisdiction of all summary offenses under the motor vehicle laws and such other duties as the General Assembly may assign to it concerning driver education and training, and pertaining to driver's licenses.

(b) Qualifications of Judges; Chief Judges. The judges of Traffic Court need not be learned in the law. There shall be a Chief Judge of the Traffic Court who shall be appointed by the Governor for a term of four years, and shall serve at his pleasure, and who shall be eligible to succeed himself for any number of terms. Said Chief Judge shall be the executive and administrative head of the Traffic Court and shall supervise the judicial business of the court. He shall promulgate all administrative rules and regulations, and make all judicial assignments.

Section 5. Powers of General Assembly; Municipal Court and Traffic Court.—The General Assembly shall have the power to increase the number of judges of the Municipal Court and Traffic Court and to alter the jurisdiction of same and to alter the administrative structure thereof.

Section 6. Powers of Supreme Court; Procedural Rule Making.—The Supreme Court of Pennsylvania shall make and promulgate all Rules of Practice and Procedure governing the judicial business of the Superior Court and Municipal Court and such other courts as the General Assembly may create, including rules of evidence, appeals and appellate jurisdiction including time for appeals. This provision shall not prevent the said courts from making rules for the conduct of their business not inconsistent with the Rules of the Supreme Court. Any grant of power to the Supreme Court or the Chief Justice thereof over executive or administrative matters of the courts of the other judicial districts of the Commonwealth shall not be deemed to affect the Courts of Philadelphia.

Section 7. Citizenship and Residence of Judges.—All judges shall be citizens of the Commonwealth and residents of Philadelphia.

Section 8. Selection and Tenure of Judges.—(a) Selection. Whenever a vacancy occurs by death, resignation, removal from office, expiration of a term of office or creation of an additional judgeship, in the office of the Judge of the Superior Court, Municipal Court, Traffic Court or

judge of such other court as the General Assembly may create, the vacancy shall be filled by appointment by the Governor with the advice and consent of two-thirds of the Senate. In the case of appointment to the Superior Court, appointment shall be to a specific division of that court.

(b) Tenure. Each judge appointed in the manner prescribed in subsection (a) of this section shall hold office for a term ending the first Monday of January following the next municipal election day more than twelve months following his appointment. Not less than one hundred twenty days before the expiration of the term of office of a judge appointed by the Governor or not less than one hundred twenty days before the expiration of the term of office of an elected judge entitled to succeed himself, the judge may file in the office of the official in charge of Statewide elections, a declaration of candidacy for retention to succeed himself. If he does not file such declaration, a vacancy shall exist at the end of his term to be filled by appointment by the Governor as herein provided. If a judge files a declaration, his name shall be submitted to the electors on separate judicial ballots or in a separate column on voting machines, in either case without party designation, at the municipal election immediately preceding the expiration of his term of office, to determine on the question whether he shall be retained in office. If a majority of the votes cast are against retaining the judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment by the Governor as herein provided. If a majority of the votes cast are in favor of retaining a judge, he shall serve for the following term of office, unless sooner removed:

Superior Court Judges: Ten years

Municipal Court Judges: Six years

Traffic Court Judges: Six years

The terms of office of judges may be modified from time to time by the General Assembly.

At the expiration of each term any judge shall be eligible for retention in office in the manner provided herein, subject only to the retirement laws then in force.

Section 9. Retirement; Removal, Discipline; Nonjudicial and Prohibited Activities.—The general provisions of the Judicial article of this Constitution pertaining to retirement, removal and discipline of judges shall apply to the courts in Philadelphia.

Section 10. Compensation.—Judges shall receive compensation paid by the Commonwealth as prescribed by the General Assembly, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth. Compensation of judges in different divisions of the same court shall in all cases be the same.

Section 11. Court Personnel.—There shall be such clerks of court and such other nonjudicial personnel as shall be necessary for the effective performance of the judicial work of the courts of Philadelphia. Except as otherwise herein specifically provided in subsection (e) of section 2 and subsection (b) of section 4 the clerks of court, their assistants and other nonjudicial court personnel shall be appointed by the judges of the respective courts, or by judges of the respective divisions of the said court where a court is composed of various divisions, in accordance with regulations adopted by the judges of these courts or divisions.

Section 12. Implementation of this Article.—The General Assembly shall enact all laws which may be necessary to implement the provisions of this article.

SCHEDULES

That no inconvenience may arise from changes in the Judiciary article of this Constitution and in order to carry the same into complete operation, it is hereby declared that:

Schedule 1. The Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, the County Court of Philadelphia, the Courts of Common Pleas of Philadelphia are hereby abolished and their jurisdiction and powers shall be exercised by the courts created by the article. The tenure of judges of the abolished courts shall not be affected by the abolition of same, and the judges thereof are hereby constituted for the remainder of their terms as judges of the Superior Court in the following divisions:

Orphans' Court Judges—Estates Division

Common Pleas Judges—Trial Division

County Court Judges—Family Court Division

Said judges shall be eligible for reelection as judges in the manner provided in this article.

Schedule 2. The Magistrates Courts and Board of Magistrates in Philadelphia and the Philadelphia Traffic Court as presently constituted are abolished on the effective date of this article. The tenure of judges of the abolished courts shall not be affected by the abolition of same and the judges thereof are hereby constituted for the remainder of their respective terms as judges of the Municipal Court or Traffic Court as the Governor shall determine and designate after the effective date of this article. As judges of the Traffic Court they shall be eligible for reelection as judges thereof in the manner provided for in this article. As judges of the Municipal Court, except if learned in the law, they shall be eligible for reelection for only one term. The jurisdiction and powers of the abolished courts shall be exercised by Municipal Court, Traffic Court and Superior Court as provided in this article.

Schedule 3. All causes and proceedings pending in the courts not continued by this article, shall be transferred to the appropriate court created in this article, which shall have authority to dispose of all actions so transferred or to enforce any judgment, order, sentence, or decree henceforth or heretofore imposed with the same force and authority as if such actions had originally been within the jurisdiction of the transferee court and been commenced herein. All dockets, books, records, documents, or other papers in the possession of the clerks of the courts whose existence is not continued shall be transferred to the clerks of the appropriate court.

Schedule 4. Until there are a sufficient number of judges learned in the law serving in the Municipal Court to handle the jurisdiction conferred upon that court by clause (3) of subsection (b) of section 3 of this article, the Trial Division of the Superior Court shall have concurrent jurisdiction over such matters, the assignment of cases to the respective courts to be determined by rule promulgated by the Chief Judge of the Superior Court.

Referred to Committed on Judiciary.

PRESIDENT BRODERICK. You may proceed with your statement and remarks, Delegate Devlin.

DELEGATE DEVLIN. Thank you, Mr. President. Fellow delegates, I am presenting to this Convention perhaps one of the most important proposals that I, as a political leader, and indeed you know it, can imagine. Perhaps at first you would say that any political leader who would present a proposal would have to be suspect. I bare my soul in this proposal and I let you judge whether there are political motivations or motivations of a party leader who is interested in providing the best management, the best government, for the people in his particular county or his State.

There is no question that the levels of government which we enjoy in the legislature, in the executive and in the judicial branch come under the purview of the people. There is no doubt in your mind that each one of these levels undergoes a change from time to time in order to bring about greater services for the people; hence we are here; hence our constitution, both on a national, state and, indeed in my city, on a local level, has been under changes many times.

There has been a tremendous amount of impetus given to the Judiciary Article. There has been a tremendous amount of black talk by some of the people about our judicial system that has shaken my very foundation. I am very proud of the judicial system of Pennsylvania, and I am extremely proud of the conduct of our judges and the administration of justice in Pennsylvania. I do not lend myself to those groups of people who use such brash terms as "tearing things out by the roots," or that our judges are incompetent, or that our justice is antiquated. We, the people, made it that way; we, the people, are changing it. The black talk that we are exercising throughout this Commonwealth upon our judicial system is weakening the faith of the people in one of the most important branches of our government.

The Philadelphia judicial system needs to be revised and repaired. There is no question that justice delayed is justice denied. We are operating in a new social and economic climate, different than 1873 and 1918 or 1919. There is no doubt in mind that when you have to wait five and a half or six years to have a case tried before the tribunals of Philadelphia, this system needs to be repaired and it needs to be helped. The onus and responsibility is not, as some people have said time and time again, upon the jurists of Philadelphia; the onus is upon perhaps our ineptness in not being able to treat the subject as we should treat it by creating more courts and by updating ourselves periodically.

In our judicial system of Philadelphia we have been operating under a special provision of the State Constitution, both for the courts of record and for the magisterial courts. Many of you people feel, and justifiably so, and you tell me as a friend—and indeed I have many friends here and I appreciate your bluntness in telling me—that Philadelphia always wants to be treated separately. I do not come before you to ask for separate treatment for Philadelphia; I ask you to take a review of what we are proposing here today; I ask you to take a look at our social and economic climate of a city of two million-plus people, with all the problems that a congested and highly, densely populated area bring, and then you make the decision and see if it is the same as Lawrence County or Elk County or Pike County or even Allegheny County, and I will bow to your judgment.

The judicial system of Philadelphia is divided into three courts of record. We have the Orphans' Court with six judges; we have the Common Pleas Court with 30 judges; and we have the County Court with 20 judges. We have one court, not of record, the magistrates' court with 28 magistrates. After talking with distinguished members of the Pennsylvania Bar, distinguished members of the Philadelphia Bar, one of whom is our general counsel for this wonderful Convention, talking to members of the bench of all three of the courts and talking to common people who understand, lay people who understand, the needs for repair of the judicial system—I claim no authorship of this, but I do thank all of those who have worked so diligently in bringing this together—we would like to take our three courts of record and put them into one single court, a name we are not married to—the name on the proposal is a name of convenience—but one court, and take these courts and separate them into three divisions: the estates division, or the orphans' court division, if you so choose, the trial division and the family division, and have one chief administrative judge who will supervise these courts. He will be empowered to supervise them so that he will have flexibility with his judges, will be able to manipulate his courtrooms and be able to speed up justice in this great city of ours.

We ask that this judge be chosen by his peers, and this, I think, is what we normally do in any committee or any group. We ask that the peers in each division pick their administrative judge whom they can work with and work through to the chief judge of what we will call the superior court in this case.

We know we have problems. We have judges who are sitting in the Orphans' Court who never have tried a civil case or a criminal case in the past 10 or 15 years. We feel that to arbitrarily take these men who serve in the Orphans' Court and send them down to hear a civil case or a criminal case would be a flagrant violation of the principles of law. It would be an injustice to the defendant to stand before a man who has been away for a number of years from the decisions and opinions that have been handed down and who would not be able to cope day by day with the law that is needed to adjudicate a case properly. We know we have judges who have found a niche in expertism in the family court. To take those people up to the trial division, again, would be harmful to the system of justice. We know these idiosyncrasies, if you please, are certainly human problems we have with our jurists.

In making one court we provide that none of these judges may serve in another division of the court unless they express their desire or give their consent.

But any new judge who is appointed to a vacancy in any of these divisions, a young man who has been practicing in all fields of law, would come under the jurisdiction of the chief judge and would serve in any division where needed, thereby creating an evolution within the court system, and not a revolution. I think government should evolve and things should happen slowly and maturely rather than take a blanket decision and make judges do what they cannot do simply because they carry this wonderful title.

We feel that the magistrate system of Philadelphia, and may I say parenthetically, I am not here to defend the magistrate system of Philadelphia; nor am I here to condemn it, the magistrate system of Philadelphia is only in

being because the constitution provides for it. But I am saying that the constitution is antiquated in this area; I am saying that the majority of our magistrates in Philadelphia are as fine men—and they are all men—as anyone sitting in this distinguished hall. But looking at it as a practical matter, the magisterial system does not serve the needs of justice in Philadelphia. Parenthetically again, you cannot compare the magistrate system either in its organization or in its justice to justices of the peace in any of the other 66 counties. I do not, under any circumstances, intend to compare the two.

I want you to bear with me. The magistrate system we wish to abolish and replace with a municipal court extends the jurisdiction of this court to cover civil cases up to \$500 and criminal cases up to two years' imprisonment. For that you need men trained in the law; that is common sense. There are many distinguished people who like myself are here with a few degrees behind their names who could not administer justice because we are not trained in that particular science or that particular art. They must be trained in the law.

Why do we want to do this? Just to get rid of the magistrates and appease people? No, not at all. As I mentioned, in our trial division, in our common pleas court, you wait five and a half to six years to have a case tried. There is a backlog of cases of approximately 27,000 people waiting to have their cases adjudicated. In the criminal division it is somewhere around three and a half to four years on criminal cases to be tried. There are many people in jail, who do not have the funds to get out, waiting a year and a half or longer for their case to come up in court. This is not good government; it is not good management; and it is not the way a judicial system should operate if we have any concern about good government.

What has caused this backlog? Several things. The legislature in its inimitable way—and I do not think it will ever change and I enjoy it and I do not think it should—is slow to move. We ask for new judges; they say, that is a political patronage job and we have to look with suspicion upon that. You must wait for three or four years before you will get a new judge, although the volume of cases will increase, and all of our lawyers will agree that it is increasing. But the legislature moves very slowly.

In order to alleviate that end of it, we feel that a great number of cases that go into the common pleas court today, because they cannot be handled by our present magistrate system, can be handled by this municipal court. Your number of cases in populated areas like Philadelphia are tremendous. Some of you people are not bothered by rackets; you are not bothered by bootleg whiskey or liquor violations; you are not bothered very much by simple assault or summary offenses. My goodness, we have in some neighborhoods, enough cases that would keep some of your courts operating for a least a month. This is just one day, usually a Friday night.

If we can cut back on these petty cases and keep them out of the trial division of our new court that we are proposing, then our judges—and we are asking for more judges—then our judges can go to work in that unified court system and begin to eat into the backlog, which they have a moral obligation to do. We must help them to do it.

We propose—and I say this not as a politician but as a citizen—when we ask a person to run for public office and support him, and to put it in the vernacular, he is a great

guy during a campaign, we run him all around the town, once he is elected to that public office, without any courtesy or any feeling for that public office, rip him out, destroy his tenure, to say, your entry into public life is short-lived, buddy. We do not care if you are 54 years of age, I cannot do that nor support any bill that would provide for that type of brutality to any public servant.

We feel, again, evolution in the judicial branch is as important as evolution in the human society. We propose that our five magistrates who are not lawyers and trained in the law be given this extended jurisdiction and that our lay magistrates will sit on these benches under the present magisterial jurisdiction for their present term and for one additional term, which will guarantee them their tenure, their pension, or what have you.

Immediately you would say that this could take many, many years. Many, many years in the life of a judicial system is like the passing of seconds to the human being. Believe it or not, our magistrates turn over very rapidly. Since I have been city chairman, we have had 14 new magistrates. I would say to you that within a period of four to six years the municipal court would be manned by men trained in the law and, at the very most, the longest any one could stay on the bench would be for 12 years.

We propose to take the traffic court, which handles 1.5 million cases a year, out of the courts of record and set it up as a specific traffic division in our county, manned by lawmen. Certainly you do not need a PhD degree to determine a \$2.50 parking fine, guilt or innocence, nor whether a person went through a red light. We intend to put into this traffic division some other responsibilities that are now enjoyed by the Department of Revenue in driver education, driver training and driver safety. In the streets of Philadelphia we need it because of the congested area and because of the congested populace.

We propose that these men will be elected and they will serve for a term of six years. This will take care of some of the lay magistrates—six of the lay magistrates—that are now on the bench.

We also propose that the present system of selecting judges be retained. I would like to explain to you some of the things that you do not know about the Philadelphia election system—its peculiarities, you may say—the mores that have evolved over the years. We have great faith in the appointment of judges by Governor Leader, Governor Lawrence, Governor Scranton and Governor Shafer. All the appointments that have come down from those four distinguished Governors have been excellent appointments. Never once has the Philadelphia Bar or the Pennsylvania Bar, in those some sixteen years, pointed the black hand of law at any one of those judicial appointments; they are excellent. The record of appointment of judges in Philadelphia by the Governors has been proven by the very fact that I just mentioned.

We also have, in Philadelphia, a unique sitting-judge principle. The sitting-judge principle in Philadelphia, over the last 35 or 40 years, has really been a godsend to everybody. If a man is appointed he is considered a sitting judge and in the next election he is supported without argument by both political parties. I have never seen a judge in a Philadelphia campaign, nor should they, because I do not know on what they would campaign. That sitting-judge principle has been violated twice in my memory, in 1953 and in 1967, and they were flukes.

We propose that when a man is appointed he serve

until the next municipal election—this could be as little as 13 months or as much as 23 months—and then his name goes on the ballot without party label and the people are asked to vote “yes” or “no.” It is then incumbent upon me, as a political leader of the Republican Party, to justify my position of why I am opposed to that judge. I had better have sound legal grounds because that is how we make the judgment. You can rest assured that this would put the onus and responsibility to elect the judges upon the political leaders. That judge will then serve for 10 years, and at the end of the 10 years the same thing would repeat itself. We feel in this way we judge the men we put on the bench, through the appointment of the Governor, on their judicial competence and that alone.

Perhaps this may come as a shock to many people, and as I said before, when a politician makes a statement and has a proposal, most people raise their eyes and say, I wonder what he has behind his head. I have nothing behind my head, but I have something in my heart. I have something in my heart for over 60,000 people who will wait five years, on the average, to have their cases heard in our Philadelphia courts. I have a feeling that I have a responsibility to my party and to my people and to this Convention to do everything in my power to improve the judicial system of Philadelphia.

Why do I want to treat it separately? Simply because there is not one judicial district in Pennsylvania that you can compare either in its organization or its work load to that of Philadelphia. I do not want to create a hiatus by trying to make uniformity or conformity the principle upon which we should build a judicial system. If we do, we may all find ourselves in a strait jacket and what we will get out of here, like a lot of things that come out of our distinguished legislators, it looks good, it sounds good, but it does not work.

I have indulged myself with a great deal of your precious time and for this I am very grateful, and I am very thankful for the kind and, certainly, undivided attention you have given my problem.

I thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Tomascik.

DELEGATE TOMASCIK. Mr. President, I read in place and offer to the Chair a proposal relating to taxation and finance which is self-explanatory, and I do not desire to make any comment at this time.

PRESIDENT BRODERICK. The Clerk will read the title:

The **CLERK.** A Proposal adding a new article to the Constitution of Pennsylvania relating to taxation and finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Lee.

DELEGATE L. B. LEE. Mr. President, I read in place and offer the following proposal. I request leave to make remarks concerning the same.

No. 1205

By **DELEGATE L. B. LEE**

A PROPOSAL

Amending the Constitution of Pennsylvania to provide for

the adoption of a system for selecting judges of certain courts by referendum.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections five and fifteen of article five of the Constitution of Pennsylvania are amended to read:

Section 5. Judicial Districts. Associate Judges.—Whenever a county shall contain forty thousand inhabitants it shall constitute a separate judicial district, and shall [elect] select one judge learned in the law; and the General Assembly shall provide for additional judges, as the business of the said districts may require. Counties containing a population less than is sufficient to constitute separate districts shall be formed into convenient single districts, or, if necessary, may be attached to contiguous districts as the General Assembly may provide. The office of associate judge, not learned in the law, is abolished in counties forming separate districts; but the several associate judges in office when this Constitution shall be adopted shall serve for their unexpired terms.

Section 15. Election of Judges; Term; Removal.—All judges required to be learned in the law, except the judges of the Supreme Court, shall be elected by the qualified electors of the respective districts over which they are to preside, [and] except that at any time upon petition of at least five per cent of the qualified electors in any judicial district, a referendum shall be held at the next regularly scheduled primary or general election to determine whether the system of selecting judges of the several courts of original jurisdiction shall be changed and, if so, what system shall be adopted. Such referendum shall contain as options to the present system, other methods of selection, describing any appointing authority and any timetables for implementation of the option. All judges, except judges of the Supreme Court, shall hold their offices for the period of ten years, if they shall so long behave themselves well; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any of them on the address of two-thirds of each House of the General Assembly.

The Chief Justice of the Supreme Court may designate and assign former judges, learned in the law, who are willing so to do, who have served at least one term and who have not been defeated for reelection, to the office of judge of any court of record, to temporarily sit in the courts of any judicial district for the disposal of business under such circumstances and subject to such qualifications and conditions as the General Assembly may prescribe.

Referred to Committee on Judiciary.

PRESIDENT BRODERICK. The Chair recognizes Delegate Lee.

DELEGATE L. B. LEE. This proposal is based on the supposition that judges of our judicial districts are voted upon and elected on the basis of their individual qualifications. This same statement cannot be said of the judges who are elected on a statewide basis and whose fortunes often tend to rise and fall on the relative appeal of a Presidential or gubernatorial candidate.

This proposal retains the present position of electing local judges but adds a so-called home-rule provision

whereby a percentage of voters in any given judicial district may petition for a referendum to change the election process in that district. This gives any judicial district now or in the future an opportunity to vote upon and change the election process, if such change is so warranted.

Thank you, Mr. President.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Shrager. For what purpose does the gentleman rise?

DELEGATE SHRAGER. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE SHRAGER. Mr. President, I want to add the following names to the proposal I previously introduced, and these are all delegates from Philadelphia: Delegate Gray, Delegate Camardella, Delegate Maitioni and Delegate McGlynn.

PRESIDENT BRODERICK. That shall be done, Delegate Shrager.

DELEGATE SHRAGER. This is an answer to the distinguished delegate from Philadelphia, Delegate Devlin. I should like to remind the distinguished delegate from Philadelphia, especially since visiting with us today are members of the League of Women Voters, that in addition to the good men serving as magistrates in Philadelphia to whom he referred, there is one very good woman, namely, Ann Clark.

PRESIDENT BRODERICK. We will let the record be so corrected.

PROPOSAL DEADLINE MET

PRESIDENT BRODERICK. I want to repeat that tomorrow will be the last day for the introduction of proposals without the consent of a majority. I think the delegates will be interested to know that as of the last proposal received and assigned, Delegate Lee's proposal, we have assigned to committee 205 proposals. The Chair would like to say that I think you are doing a magnificent job, because those proposals are going to serve as the basis to stimulate opinion in committee for our final committee proposals, which we hope to be voting on very shortly.

QUESTIONS OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate McGlynn. For what purpose does the gentleman rise?

DELEGATE MCGLYNN. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE MCGLYNN. Mr. President, I would like to be recorded as being present this morning.

PRESIDENT BRODERICK. The gentleman will be so recorded.

The Chair recognizes Delegate Cain.

DELEGATE CAIN. Mr. President, I wish to have my presence noted.

PRESIDENT BRODERICK. Your presence will be noted.

Delegate Gray, you have been recorded as present.

APPEAL ENTERED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Orbin.

DELEGATE ORBIN. Mr. President, on behalf of Delegates Scales, Mangery and myself, I wish to appeal the decision of the Chair on the proposal we submitted last Friday. We received counsel's opinion yesterday and we would like to appeal.

PRESIDENT BRODERICK. We will note that you have appealed counsel opinion number what, Delegate Orbin?

DELEGATE ORBIN. No. 18.

PRESIDENT BRODERICK. Referring to your proposal, Delegate Orbin, just tell me what the general gist of it is.

DELEGATE ORBIN. It concerns amending the Constitution prohibiting the raising or levying of taxes or money for any purpose or program which entails certain types of discrimination in the healing arts.

PRESIDENT BRODERICK. Thank you. We will note your appeal, Delegate Orbin, I have been advised that your appeal should have been taken yesterday, but the Chair will accept your appeal in the interest of giving everyone his day in court.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate McGeary.

For what purpose does the gentleman rise?

DELEGATE McGEARY. I rise to a point of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE McGEARY. I have in my hand here a transcript of a presentation before the Committee on Judiciary by the Honorable Harry Hall and Mr. Glenn Winters. I read it last night. I happen to be one who is in favor of some of the recommendations of the Bar Association on judiciary. I happen to be opposed to some and some I am not sure about. I merely wanted to say that I think this is a very valuable and useful document and I would like to compliment the Judicial Committee for making it available to the delegates.

PRESIDENT BRODERICK. On behalf of the Judicial Committee, I will thank you for that compliment. We think that transcript has been distributed to all of the delegates. If any of the delegates have missed a copy, we will supply them with it.

Thank you for your comment, Delegate McGeary of Centre.

RESOLUTION

PRESIDENT BRODERICK. The Chair recognizes Delegate Aberman, from Philadelphia.

DELEGATE ABERMAN. Mr. President, as I have sat over the past six weeks and waited for the sound of the rapids—and I use a bad analogy probably—I feel like a man who is going down a river that is of a three-month duration. I know that about the end of the second month I am going to hit some very rough and white water because we are going to be innudated with all sorts of critical policy, critical considerations relating to the future of the Commonwealth.

I feel myself rapidly becoming very apprehensive of my

ability to become a complete delegate. When I say a complete delegate, I mean a delegate who is aware of all that is transpiring in this large and very active Convention. I myself, individually, just as all of the rest of you are, am actively engaged in a daily discussion within my particular substantive standing committee and my particular subcommittee. At the same time—and I can imagine this, and I am sure it is true—other subcommittees of standing committees are working just as hard considering all sorts of alternative proposals and all sorts of alternative considerations.

Unfortunately, I feel that there are areas in this Convention that are slipping beyond my grasp in the sense that I am not being kept up-to-date. This is not meant to be critical, this is not meant to be dissatisfied. But simply, I think that in about three weeks from now when a proposal comes on this floor for first consideration, I would like to know more about how that proposal was formed and how it took shape rather than waiting until it appears on my desk as the proposal of the standing committee and then trying to look beyond the words and behind the words in an attempt to find out what led to those words.

I think that the rules we have clearly provided for all reports, Mr. President, on the floor of the Convention in the morning. However, just as Dean McGeary stood up this morning and said that the booklet which was distributed by the Judicial Committee helped to frame the frame of reference for him to make his judgments, I think that we should receive certain written information. Whether it be on a daily basis—and my resolution asks for that, but I realize that we cannot quite do that. Since we now have the staff available, I think we should take advantage of the staff to provide us with written reports as to what is transpiring in every standing committee. The next three weeks, prior to the date of the first proposal, are going to be the critical three weeks, the battle, the logrolling. Everything that is going to go on, we should be aware of. We cannot be there physically; it has now become a physical impossibility. I, as a member of my subcommittee, sat from 11 a.m. yesterday morning until 7 o'clock and then on Style and Drafting from 7 o'clock to 9:30. There were three other committees meeting and I do not have any idea what happened yesterday and I think I should because when I come to vote, I was elected here to vote on all of these issues.

Another thing I think is critical, based on what I have seen in the newspapers in the city of Philadelphia, is that somehow or other we should create a better presentation in the press. This is not a critical point yet, but I think that the committee reports should be made available on a more formal basis to the newspapers. I think the impression is that all we do is meet from 9:30 in the morning until 11 o'clock in the morning, and that is all we do. Certainly all of us bear witness, by the bags under our eyes and the pains in our backs and certain other parts which I will not for the moment mention, that we are here far longer than 11 o'clock in the morning.

I think that the officers and the Rules Committee should make provisions for a more formal briefing session. The press must create the climate upon which the people will vote in April, and we cannot do it starting February 28. The background must be presented in the press and the news media of this Commonwealth now because the people will not understand what has come out.

With all of this, Mr. President, I would like to introduce the following resolution:

January 10, 1968

RESOLVED, That this Convention shall in the period of time prior to the presentation of any proposal for first consideration, require that:

a. All Standing Committees shall hereafter submit to each Delegate written reports on a daily basis which shall set forth the format and policy considerations then being considered by the Committee in the formulation of its final proposals, and

b. A formal procedure be established for the delivery of information to the news media concerning the activities and preliminary recommendations of the various Standing Committees, and the background for such deliberations.

ALAN I. ABERMAN

PRESIDENT BRODERICK. The Chair recognizes Delegate Aberman.

DELEGATE ABERMAN. I feel, Mr. President, that with these proposals, I would request the Rules Committee to either adopt them formally as rules or simply institute an informal arrangement so we could better serve the Commonwealth and solve our problems and perform our duties. Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Aberman. Your proposal will be immediately referred to the Rules Committee for its consideration.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Clarion, Delegate Leach.

DELEGATE LEACH. Mr. President, I rise to a question of personal privilege.

PRESIDENT BRODERICK. Would you kindly state it?

DELEGATE LEACH. It should take me a minute and 12 seconds to advise the purpose of my remarks and to correct for the record of this Convention certain statistical information presented by one of the delegates at yesterday's meeting.

PRESIDENT BRODERICK. You may proceed.

DELEGATE LEACH. We are all delighted, I am certain, to learn the milestones reached this month by our two distinguished vice presidents. However, we noted an error by Vice President Orban, and the error which Vice President Casey could have noticed raised a question in the minds of Delegates Laputka, Gabreski, Morton and Murray as to the source and authenticity of the statistical information submitted by the delegate in question.

I quote, sir, from the Journal of yesterday's meeting. "Mr. President, some diligent member of this august body presented me last night with a very interesting piece of information, namely, that more delegates to this Convention were born in the month of January than in any other month of the year."

Accordingly, sir, the request was made of the research group assigned to the Rules Committee, asking them to ascertain the true facts on this subject. After an all-night session the research group just handed to me the follow-

ing results: In fact, they find that, contrary to the statement made by Delegate Scranton, more delegates to this Convention were born in the month of September than in any other month, and, as one of those born in that month, I am pleased to have the record corrected. Thank you, sir.

PRESIDENT BRODERICK. We will have this correction noted in the record.

The Chair recognizes the co-chairman of the Committee on Local Government, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, I would like to say, as one born in November, that I think Delegate Michener and Delegate Leach should focus more on quality than on statistical quantity concerning matters of the Convention.

RESOLUTION

PRESIDENT BRODERICK. The Chair recognizes the delegate from Franklin, Delegate Keller.

DELEGATE J. W. KELLER. Mr. President and fellow delegates, I have a resolution that is cosponsored by Delegate Robert Fohl of the 40th District, if I may comment briefly on the matter.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE J. W. KELLER. Yesterday I had the opportunity of appearing before the Legislative Apportionment Committee to discuss a proposal I had presented. That committee, the members and counsel, questioned me quite properly on the matter of the one-man, one-vote rule and the equally illusory and contradictory requirement of contiguous and compact districts.

I feel that no reasonable or realistic and acceptable legislative apportionment can be achieved while the States continue to labor under the uncertain opinions of the United States Supreme Court.

I, therefore, present for myself and Delegate Fohl this resolution:

In the Constitutional Convention, January 10, 1968

RESOLVED, That this Convention of Constitutional Delegates respectfully petitions the Congress of the United States to call a convention for the purpose of proposing the following article as an amendment to the Constitution of the United States.

ARTICLE

Section 1. Nothing in this Constitution shall prohibit any state which shall have a bicameral Legislature from apportioning the membership of one House of such Legislature on factors other than population, provided that the plan of such apportionment shall have been submitted to and approved by a vote of the electorate of that state.

Section 2. Nothing in this Constitution shall restrict or limit a state in its determination of how membership of governing bodies of its subordinate units shall be apportioned.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of three-fourths of the several states within seven years

from the date of its submission to the states by the Congress; and be it further

RESOLVED, That if Congress shall have proposed an amendment to the Constitution identical with that contained in this resolution prior to June 1, 1965, this application for a convention shall no longer be of any force or effect; and be it further

RESOLVED, That a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States and to each member of the Congress from this State.

JOHN W. KELLER
ROBERT P. FOHL

PRESIDENT BRODERICK. The Chair will refer this resolution to the Committee on Rules for its study and report to the floor.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Butler, Delegate Brown.

DELEGATE BROWN. Mr. President, I have no resolution, but I would like permission to read a letter that I have just received.

PRESIDENT BRODERICK. You may proceed.

DELEGATE BROWN. I would like to submit Judge Kiester's statement to the Chair and I will read you the letter that accompanies it. It says:

Dear Mrs. Brown:

Enclosed is a copy of my statement and remarks to the Judiciary Committee of the Constitutional Convention. I believe you must be greatly enjoying your work of the Convention.

Sincerely,

GEORGE P. KIESTER, Judge
50th Judicial District
Pennsylvania

I would like to have these remarks turned over to the Judiciary Committee, if I could, and I would like to also say, they do not necessarily reflect my own opinions.

PRESIDENT BRODERICK. Thank you, Delegate Brown. Pursuant to your request, if I understand you correctly, you would like that letter and the enclosures referred to the Committee on Judiciary?

DELEGATE BROWN. That is correct, Mr. President.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Room 500, North Office Building, Thursday, January 11, 1968, immediately after tomorrow's session.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, all subcommittees, Wednesday, January 10, 1968, immediately after today's session, House Majority Caucus Room, Thursday, January 11, 1968, immediately after tomorrow's session.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Dav-

lin and Fagan, Room 609, Wednesday, January 10, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, County Government, Structure and Organization, Annexation and Boundary Changes, subcommittees, respective rooms, Wednesday, January 10, 1968, immediately after today's session; Local Finance Subcommittee, respective room, Wednesday, January 10, 1968, at 12:30 p.m., e.s.t.; Home Rule subcommittee, respective room, Wednesday, January 10, 1968, at 2 p.m., e.s.t.

RULES, Co-Chairmen Gabreski and Leach, Room 351, Main Capitol Building, Wednesday, January 10, 1968, at 5 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, Sinking Fund and State Debt subcommittees, Wednesday, January 10, 1968, immediately after today's session; Taxation subcommittee, Wednesday, January 10, 1968, at 1 p.m., e.s.t.; standing committee, Senate Caucus Room, Wednesday, January 10, 1968, at 3:30 p.m., e.s.t. and 7:30 p.m., e.s.t.

ANNOUNCEMENT BY DELEGATE SCRANTON

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Judiciary Committee, Delegate Scranton.

DELEGATE SCRANTON. Tomorrow we will have the fourth and the last of our outside experts for the Judiciary Committee and for any other delegate and the public to hear. This is Judge William Burnett of the State of Colorado, where they have put into being a new and, as far as I know, completely different system concerning the magistrates than any that has so far been proposed to this Convention.

In Colorado they have had this system for a few years, and this is a judge of such a court. I think it would be of extreme interest, not only to the members of the Judiciary Committee, but to all of us to hear same as to what he has to say.

With regard to Delegate McGeary's comment, of which we of the Judiciary Committee are most appreciative, I bring to your attention that there will be a similar type of information from the colloquy we had yesterday with Mr. Rolewick of the Illinois courts.

In commenting on Delegate Devlin's comments this morning about Philadelphia and the very interesting comments he had to make, I think it would be particularly of interest to those from Philadelphia to hear what Mr. Rolewick has to say about a similar situation in Cook County, Chicago.

All subcommittee meetings will follow immediately upon the adjournment of this one and the important Judiciary Committee tomorrow immediately after the morning's session in the House majority caucus room at the behest of the Local Government Committee, for which we are tremendously grateful.

Mr. President, may I ask a question? Is there any other delegate who has a proposal which will be forthcoming tomorrow or thereafter which covers the entire judicial article?

We have had a number of these. They have been very helpful, but we are interested to know whether there are any more of this sort forthcoming so we can get to our work.

PRESIDENT BRODERICK. The Chair would like any delegate who has a proposal which he intends to introduce tomorrow, the last day, if it affects the entire judicial article, would you kindly raise your hand?

DELEGATE SCRANTON. Thank you very much, Mr. President.

PRESIDENT BRODERICK. We received no response to the inquiry.

ANNOUNCEMENT BY PRESIDENT BRODERICK

PRESIDENT BRODERICK. The Chair wishes to remind the co-chairmen of all the standing committees that there will be a meeting of the co-chairmen and the officers of the Convention at 12:15 in room 615, which is on the fifth floor of the Main Capitol Building in the south wing.

You should not have as much trouble finding it this week as we did last week.

I am advised that your proposals are ready here at the desk to be picked up by our co-chairmen. These are the proposals which were assigned today.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Tully for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE TULLY. Mr. President, I move that this Convention now adjourn until Thursday, January 11, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Tully and seconded by Delegate D. Miller that this Convention do now adjourn until Thursday, January 11, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 11:20 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Thursday, January 11, 1968

Number 21

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

Prayer was offered by the chaplain for the week, the Reverend James B. Trost, Saint Andrews Episcopal Church, State College, Pennsylvania.

REVEREND TROST. Almighty and loving God, we approach Thee this day in prayer, mindful of and grateful for Your goodness through the past years in our generation and those of our history, or our heritage. We come to Thee equally mindful of the fact that You are our hope for years to come, the hope of subsequent generations. We are mindful of these gratitudes and hopes.

We live in the reality too that, as we do not live in hell neither do we live in Utopia, rather we citizens of this Commonwealth live in a megalopia and medley of the media. From this position of stark reality we beseech You to give guidance to those of this duly elected body, which is on its last day of initial proposals for consideration, that these delegates may continue to give consideration honestly and with integrity before expressed, as citizens of this Commonwealth, to the end that we may revise, with due respect and gratitude to past generations, the foundations of our government.

This we dare to ask, for as You were Creator of the world at the very beginning, so does Your creation continue today and in this manner. To You, Who taught us to love and serve Thee with our hearts, our souls and our minds, we pledge allegiance through serving our fellow citizens in this way, thus, serving You, the Creator of us all. Amen.

CORRECTIONS TO JOURNAL

PRESIDENT BRODERICK. As announced every day, if there are any corrections to be made to the Journal, they should be suggested at this place in the proceedings. The transcripts are in the office of our Secretary, where you may, if you wish, examine them, and if they contain errors, such errors will be corrected before they go to the printer.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, I want to submit the following requests for leaves of absence:

The delegate from the 33rd District, **DELEGATE BAR- RON**, for January 11. A trial in which he is involved

has been continued. It is a manslaughter case and he asks the indulgence of this assembly;

The delegate from the 39th District, **DELEGATE ORBIN**, must be absent on Monday, January 15, for a staff meeting;

The delegate from the 20th District, **DELEGATE ROBERTS**, for January 11, because of business;

The delegate from the 50th District, **DELEGATE JOHNSON**, must return to his college to administer mid-term examinations. We have a very attractive offer from his students to keep him here, but I think, in the interest of higher education, we'd better let him go;

The delegate from the 47th District, **DELEGATE CAPUTO**, on January 15. He must be in court;

The delegate from the 8th District, **DELEGATE KELLY**, asks to be excused on January 15, because he must take his son back to military service.

PRESIDENT BRODERICK. Are there any objections to the leaves requested by the delegates?

The Chair hears no objection, and the leaves are granted.

QUORUM CALL

PRESIDENT BRODERICK. We will now proceed with the roll-call vote to determine our quorum. At this time we unlock the voting machine and ask the delegates to vote "aye" to record their presence.

The roll was recorded as follows:

Aberman	Erwin	Laputka	Redick
Allison	Fagan	Leach	Reynolds
Amsterdam	Fawcett	Lee, K.	Richter
Aurentz	Fay	Lee, L.	Ruth
Bagenstose	Feather	Lembach	Sahl
Baldridge	Filson	Leonard	Scarlett
Baldus	Forster	Levin	Scranton
Baldwin	Fortney	Manderino	Sebastian
Barry	Gabreski	Mungery	Shapiro
Benedict	Gehrmann	Markley	Shetgig
Benfield	Gerber	Mattioni	Shively
Bloom	Goldman	McGeary	Shoemaker
Braham	Goldstein	Meyer	Shrager
Broderick	Gouger	Michael	Solomon
Brown	Griffith	Michener	Spogell
Bunting	Hammum	Muller, D.	Stout
Burkholder	Harding	Muller, R.	Strickler
Canardella	Hatler	Moorhead	Swope
Caputo	Henderson	More	Tate
Caron	Heyburn	Morton	Thomson
Casey	Hynes	Murray	Thornburgh
Clark	Hocker	Muselman	Tomascik
Clinger	Hook	Nelson	Tully
Conley	Horne	Orban	Van Sant
Corey	Hoshteller	Orbin	Waldron
Cortese	Huggins	Otto	Warman
Croop	Johnson	Pelletier	Welsh
Cunningham	Kauffman	Percey	Westerberg
Curran	Keller, J.	Popil	Whitum
Dailey	Keller, M.	Powell	Wilcox
Desmond	Kelly	Rappaport	Wilmarth
Devlin	Krill	Rea	Woodring
Dumbauld			

PRESIDENT BRODERICK. The electronic roll call shows we have 129 delegates present, which constitutes a quorum.

The Chair notes also the presence of the following delegates:

Cain	Gray	O'Donnell	Scales
Cosetti	Jrolanio	Pott	Sharp
Fineman	King	Prendergast	Woodside
Fohl	McGlynn	Rovner	

PROPOSALS REFERRED TO SUBCOMMITTEES

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, the Committee has referred the following proposals:

- No. 1091 to the Subcommittee on Local Finance;
- No. 1179 to the Subcommittee on Local Finance;
- No. 1185 to the Subcommittees on Structure and Organization, Home Rule and County Government;
- No. 1188 to the Subcommittee on Annexation and Boundary Changes;
- No. 1190 to the Subcommittees on Structure and Organization and County Government;
- No. 1191 to the Subcommittees on Home Rule and County Government;
- No. 1194 to the Subcommittee on Local Finance;
- No. 1195 to the Subcommittees on Structure and Organization, Home Rule and Local Apportionment;
- No. 1197 to the Subcommittee on Structure and Organization;
- No. 1201 to the Subcommittees on Structure and Organization; Annexation and Boundary Changes, Local Finance, Home Rule and County Government.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Judiciary, Delegate Scranton.

DELEGATE SCRANTON. Mr. President, the Committee has referred the following proposals:

- No. 1184 to Subcommittees A, B, C, D and E;
- No. 1189 to Subcommittees B, C and D;
- No. 1200 to Subcommittees A, B and E;
- No. 1202 to Subcommittees A, B, C, D and E;
- No. 1203 to Subcommittees A, B and E;
- No. 1204 to Subcommittees A, B, C and E;
- No. 1205 to Subcommittees A, B, C and E.

COMMITTEE ON LEGISLATIVE APPORTIONMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Legislative Apportionment, Delegate Fagan.

DELEGATE FAGAN. Mr. President, the Committee has referred the following proposals:

- No. 1186 to the Subcommittee on Composition of the Legislature;
- No. 1193 to the Subcommittee on Method of Apportionment;

No. 1196 to the Subcommittee on Method of Apportionment;

No. 1199 to the Subcommittee on Method of Apportionment.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, the Committee has referred the following proposals:

- No. 1183 to the Subcommittee on Taxation;
- No. 1187 to the Subcommittee on Taxation;
- No. 1198 to the Subcommittee on Taxation;
- No. 1182 to the Subcommittee on State Debt;
- No. 1192 to the Subcommittee on State Debt.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. Our next order of business is committee reports. Today is the day we receive the reports of the chairmen of the various committees reporting to the Convention the activities of their committees since the last report. The Chair is now ready to recognize any co-chairman who is prepared to give his report.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, the Committee on Taxation and State Finance respectfully reports that each of its three subcommittees has been diligent during this past week, has held meetings during the morning, afternoon and evening hours of each day and is in the process of making reports to the standing committee on some or all of the proposals which have been considered.

The Subcommittee on Taxation—Delegate Gerber and Delegate Pott Co-Chairmen—indicates that agreement has been tentatively reached on the manner in which all exemptions might be treated excepting exemptions, if any, of public utilities.

I might add parenthetically, that the standing committee met last evening and agreed on a sense vote on all of the measures reported by the subcommittee excepting subparagraph six on which it has momentarily come to a halt, but will be reconsidered immediately following the adjournment of this session.

The Subcommittee on State Debt—Delegate Hocker and Delegate Popil Co-Chairmen—has been working on the difficult and important question of debt and borrowing restrictions. Deletion of the \$1 million maximum debt limitation appears to be inevitable, otherwise the alternatives lie somewhere between no restrictions at all on state debt and vest complete authority in the legislature on the one hand and constitutional amendment on the other. The latter case would virtually divest the legislature of all prerogatives in the field of debt.

A number of intermediate positions are being considered, such as, legislative enactment with the approval of the electorate by the establishment of the debt limit based

upon an agreed percentile of the operating items of the budget for a year or other period of time. Another proposal is by legislative enactment by a vote of both Houses considerably in excess of the required constitutional majority.

Complimentary to the question of state debt is that of finance planning generally and the planning of state credit under certain circumstances.

The Subcommittee on Sinking Fund—Delegate Percy and Delegate Wilcox Co-Chairmen—is considering the desirability of the continuance of a sinking fund, budgeting and other matters which relate to state fiscal affairs. The feasibility of a constitutional mandate upon the Governor to submit a budget to the legislature is under consideration.

Each of the three subcommittees anticipates making a full and final report to the standing committee before the conclusion of the week of January 15, 1968.

This report has been respectfully submitted by Robert L. Leonard and Carleton T. Woodring, Co-Chairmen.

PRESIDENT BRODERICK. The Chair, on behalf of your fellow delegates, wishes to compliment you on a very excellent, comprehensive report as to the activities of the Committee on Taxation and State Finance.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Judiciary, Delegate Scranton.

DELEGATE SCRANTON. Mr. President, the meetings of the subcommittees have continued daily and progress is being made. In fact, the subcommittees are now ahead of schedule. Subcommittee D has presented its proposal to the full committee. The four other subcommittees will do so the early part of next week or before the end of today.

Full committee meetings have been held to discuss Subcommittee D's proposal, some general discussion of major questions, such as the method of selection of judges and especially to listen to and question authoritative experts.

Judge Hall of Missouri discussed the Missouri plan in considerable detail; Mr. Winters of the American Judicature Society covered the Judicial Article in toto, especially the method of selection of judges in the administration and organization of the judicial system.

This past week we were fortunate to have Mr. Carl Rolewicz, who is the Assistant Director of the Administrative Office of the Illinois courts, where they have a unified system of judicial administration. This was an especially valuable session, so much so that the subcommittees requested his presence at their meetings in the afternoon, in addition to his presentation and the question and answer session in the morning.

Forty-six proposals have been referred to the Judiciary Committee and rereferred to the subcommittees. Each and every one is being thoroughly considered.

The thinking of the committee is beginning to jell. For example, the committee generally prefers a judicial article which is as simple and flexible as possible, not too specific, hopefully avoiding one of the defects of the Constitution of 1874.

The full committee will meet daily next week to discuss the proposals from all the subcommittees. At these ses-

sions, the formulation of the full committee's proposal will be started.

The Judiciary Committee has found it difficult to segmentize its total task. The proposals of each subcommittee bear directly on the substantive matters assigned to all the others; in fact, the interrelationship is acute. Consequently, it is our tentative conclusion that the committee, in bringing proposals to the floor of the Convention, will probably do so as one complete judicial article and not in segments.

I hesitate to make specific comments at this time when the subcommittees have not finished their work, but perhaps it can be said that the more important questions besetting the full committee are the following: One, the method of selection of judges, two, the minor judiciary; and three, a unified judicial system.

PRESIDENT BRODERICK. Thank you, Chairman Scranton, for another excellent report as to the accomplishments of your Judiciary Committee.

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, I present a report of the Local Government Committee for the period of January 8 to January 11.

During this period, the work of the committee continued in the subcommittees. During this period, 26 meetings were held. The total meetings since the appointment of the committee is 102. Four additional consultants have appeared by invitation, making a total of 36 consultant appearances.

The subcommittees are all now in the final process of formulating specific recommendations to the standing committee. Although general trends have begun to appear, it would be improvident at this time to outline specific positions since final action by the subcommittees has not occurred, except in the case of the Subcommittee on Annexation and Boundary Change and the Subcommittee on Local Apportionment. Although these committees have made final recommendations, they are scheduled to meet for consideration of any additional proposals referred to them.

The Subcommittee on Annexation and Boundary Change has recommended to the standing committee that a provision be placed in the Constitution concerning municipal mergers, consolidations and boundary changes. Their recommendation includes requirements of uniformity in all classes of local government and calls for a majority vote of the electors of the entire unit affected. Proceedings for mergers, consolidations and boundary changes may be initiated, according to their recommendations, by any unit of local government and the approval of the governing body of the municipality shall not be a requirement. These recommendations are policy recommendations and the final specific language of the recommendation will be determined when the standing committee meets.

Local Apportionment has likewise recommended that the Constitution contain a provision requiring those units of local government which elect members of the governing body by wards and districts to reapportion themselves periodically. Again the final specific language of this recommendation has not been decided.

We should like to caution that mentioning these recommendations in summary form is not intended to indicate that the language used in this report is the language used in the recommendation. It is merely, in the case of these two subcommittees, to keep the assembly informed of the general conclusions of these subcommittees.

In the case of the other subcommittees, it is difficult to report at this time inasmuch as final recommendations have not been received by the standing committee. We can say that very serious consideration is being given by the other subcommittees to the problem of Home Rule and the residual problems. There are affirmative views in this direction, but just to what units of local government it should apply and where the cutoff point should be are still matters that are giving these subcommittees serious concern and consideration continues along these lines. We hope, however, that between now and Monday final votes will be taken on these matters.

The Subcommittee on Local Finance did complete its work last evening; however, we have not had a written report as yet. We expect to receive that today and by Monday we will have information concerning that.

The total number of proposals referred to the Committee have been 81 and these in turn have been referred to the appropriate subcommittees. Structure and Organization has received 25 referrals; Annexation and Boundary Changes has received 14; Local Finance has received 26; Home Rule has received 29; County Government leads the list with 40, Local Apportionment has received 7 referrals.

The final recommendations to the standing committee from all subcommittees are due by this Monday afternoon, January 15. At this time it is expected that this deadline will be met by all subcommittees.

Next week, then, the week of January 15 to January 19, the recommendations of the subcommittees will be analyzed by all subcommittee co-chairmen for the purpose of determining overlapping or conflicting recommendations.

The final proposals should be ready for consideration by the entire standing committee during the week of January 22. It appears that the schedule of the committee is being maintained and the work of the committee is progressing as originally hoped.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Chairman Manderino. I am sure your fellow delegates agree that that is another excellent committee report.

COMMITTEE ON LEGISLATIVE APPORTIONMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Legislative Apportionment, Delegate Fagan.

DELEGATE FAGAN. Mr. President and fellow delegates, reporting for the Legislative Apportionment Committee, Subcommittees A and B have continued their consideration of all proposals that have been submitted. It has been our position that the delegates who do submit proposals can best do it personally. I have put in writing what they have had to report to us verbally. Actually, we spent the best part of this week listening to delegates so that our subcommittees can more firmly grasp exactly what their intentions are on this particular question.

Our Subcommittee B, Composition of the Legislature, completed its work this past Tuesday. It was necessary

to complete its recommendations before Subcommittee A, Method of Apportionment, could actually get into full consideration of what their final deliberations and final decisions will be.

I feel that as far as our committee is concerned after we receive the rest of the proposals today and the beginning of next week, our standing committee can meet and we will be in a position by the end of next week to submit to the Convention floor the entire recommendations of the Committee on Legislative Apportionment.

PRESIDENT BRODERICK. Let me congratulate you, Chairman Fagan, for another good report. I think that the delegates sense from each one of these reports that we are shortly arriving at D-Day when we will have presented to the floor the committee proposals and proceed to get down to the work of determining what our recommendations are to the people. We appreciate the fact that in these four committee reports we have heard so far this day, the committees' reporting of proposals to the floor is going to be upon us perhaps next week.

COMMITTEE ON ADMINISTRATION AND FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Administration and Finance, Delegate Bloom.

DELEGATE BLOOM. Mr. President, the Committee on Administration and Finance met on Tuesday, January 9, 1968.

A report was received from a special subcommittee appointed to study the desirability and feasibility of preparing a documentary film as an historical and educational record of the Convention. Proposals and bids from three film production firms were studied. Further discussion and action thereon was deferred until a subsequent meeting, which is scheduled today, immediately after this assembly, in Room 500 of the North Office Building.

Several staff appointments, recommended by the President, to fill vacancies in authorized positions, were approved.

Extensive discussions were held with the officers and the Executive Director concerning the needs and methods of establishing effective controls over the attendance and utilization of Convention employees. Such controls are currently being extended and strengthened, with the objective of assuring maximum effective use of the Convention's manpower resources. And may I ask and request all of the delegates to cooperate with us in this one matter.

I wish to thank you.

PRESIDENT BRODERICK. Thank you very much for a very fine report, Chairman Bloom.

COMMITTEE ON RULES

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Rules Committee, Delegate Gabreski.

DELEGATE GABRESKI. Mr. President, the Rules Committee met last night and it considered the three resolutions that were referred to the Rules Committee this past week. Each of these resolutions was discussed at length, and it was the consensus of the committee that a report be deferred to a later date. We are speaking of the resolutions of Delegates Keller, Shoemaker and Aberman.

It was the opinion of the Rules Committee that Delegate Aberman's resolution, requesting a daily report, would place an onerous burden upon the committee chairmen and subcommittee chairmen. At this time the rules provide for periodic reports by committee chairmen and these are presently submitted in generalities.

It was suggested and unanimously adopted as a matter of policy by the substantive committee chairmen to make more detailed weekly reports in the future and you have heard the first reports in this real substantive manner today. We realize that the initial reporting of activities was somewhat superficial and did not totally meet the needs and demands of the delegates to this Convention. As a matter of further information, the rules provide that each of the committees and subcommittees maintain daily journals and these, in short, are available to any delegate who may seek or desire them.

This is in answer to the full detailed request of Delegate Aberman as to the progress and continuing activities of the committee functions of this Convention. These daily journal entries would certainly give the rationale of the propositions and arguments as to the substantive matters being considered by each subcommittee and committee.

Also, in answer to Delegate Aberman's resolution, we felt his resolution was well taken with regard to disseminating information to the news media, and this is the intention of this Convention.

The procedures as presently outlined and as presently contained in the Rules are being followed, and we respectfully would like to call to the attention of each delegate to this Convention that there are procedures now in existence for the dissemination of information, and our Information Officer is Mr. Peter Coleman. This, of course, is in further clarification and amplification of Delegate Aberman's request for full information to be disseminated to the news media.

We would further like to report that all of the resolutions referred to the Rules Committee are being studied and investigated for a report to be presented to the Convention at a later date.

We thank you.

COMMITTEE ON STYLE AND DRAFTING

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Style and Drafting, Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, the Committee on Style and Drafting met on Tuesday, January 9, and discussed in some detail the procedure to be followed when its work load increases and, parenthetically, we hope that that will be very shortly, Mr. President.

The evaluation of all proposals will be requested from the Convention Drafting Bureau and the research staff of the Convention. The committee will also establish subcommittees to review particular measures and to make recommendations to the whole committee.

Considerable concern was expressed by several committee members that more attention be paid at an early date to the matter of schedules. It was agreed that the four substantive committees should be encouraged to ask their staffs to explore this problem more fully. Individual members of the Committee on Style and Drafting will also urge in their respective committee assignments early and careful consideration of the matter of schedules.

There was general agreement that the four substantive committees also be encouraged to bring matters to the floor of the Convention as soon as possible and that the Committee on Style and Drafting have committee proposals at the earliest possible moment.

The question was raised whether the record of the Committee on Style and Drafting should not be in detail so as to be helpful to the courts in establishing the intent of the Convention.

There was general agreement that the officers of the Convention provide additional consultants for the committee if qualified individuals can be found.

It was agreed that the next meeting of the committee would be on Tuesday, January 16, at 7:30 p.m. The agenda for this meeting will include reports on the progress of proposals in the substantive committees and a final consideration of a proposal in regard to reapportionment of local legislative bodies.

PRESIDENT BRODERICK. Thank you, Delegate Pelletier, for another excellent report.

COMMITTEE ON ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Arrangement, Submission and Address to the People, Delegate Nelson.

DELEGATE NELSON. Mr. President, the Committee on Arrangement, Submission and Address to the People is pleased to report that its labors are progressing in accordance to the schedule heretofore submitted to the Convention.

PRESIDENT BRODERICK. Thank you, Chairman Nelson.

The Chair now recognizes the delegate from York, Delegate Ruth.

DELEGATE RUTH. Thank you, Mr. President. I am wondering if the delegates could be provided with copies of the reports of the four substantive committees so that we would be able to more fully study the good reports that they have submitted?

PRESIDENT BRODERICK. I think that is an excellent request and I am going to, therefore, ask right now that our staff obtain these reports and make copies and they will be on your desks when you return for the next session.

PROPOSAL DEADLINE EXTENDED

PRESIDENT BRODERICK. We now move to the introduction of proposals, which we have decided would be extended during the period of this week in connection with proposals which had been in the hands of the Convention Drafting Bureau on last Friday. Today, as you know, is the last day.

First of all, before we take up the proposals, the Chair is pleased to again announce that we have no proposals to return in connection with those that were submitted yesterday, all of such proposals having been within the authority of the Convention, and all of these proposals have been assigned except one. That was the proposal of Delegate Tomascik of Luzerne, and that is now being assigned to the Committee on Taxation and State Finance.

APPEAL WITHDRAWN

PRESIDENT BRODERICK. The next order of business

in connection with proposals is appeals, and I now call on Delegate Levin who, I understand, has a statement in connection with his appeal that he has made and which is pending for consideration.

The Chair recognizes Delegate Levin.

DELEGATE LEVIN. Mr. President, after due consideration, I wish to advise the Chair that I am withdrawing the appeal of the President's decision based on Opinion No. 20 rendered by the learned counsel, Mr. Comisky.

Thank you, sir.

PRESIDENT BRODERICK. Thank you, Delegate Levin, and your appeal will be marked withdrawn.

APPEAL UNDER CONSIDERATION

PRESIDENT BRODERICK. We now come to the other appeal that was scheduled for discussion for today, and that is the appeal of Delegate Otto. Today, according to the agenda, this appeal will be discussed and voted upon.

I want to point out that all delegates should have received copies of the written opinion of Convention's counsel on the Otto proposal, which is Counsel Opinion No. 17, and I understand that you have also received copies of the opinion or opinions rendered by other counsel in connection with this same proposal. On the assumption that you have had the opportunity to study these, the Convention is now ready to consider the appeal of Delegate Otto.

I might make this statement: The subject for discussion on this appeal is simply whether the proposal comes within the authority of this Convention or whether it is without our authority. Of course, if this Convention determines that the proposal comes within our authority, then it would be assigned to the appropriate committee. If it is not within our authority, of course, the ruling of the Chair would be sustained.

As we stated yesterday, the merits of the proposal are not before the Convention at this time. The Chair in making its ruling to return this proposal in no way reflects upon the merits of any particular proposal; it is simply a question of a legal opinion on which the Chair has based its decision.

The question that we have before us, before we recognize Delegate Otto, is, shall the decision of the Chair, the President, be the judgment of the Convention?

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto. For what purpose does the gentleman rise?

DELEGATE OTTO. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE OTTO. Mr. President, before we get into the appeal, I would like to make a short statement.

PRESIDENT BRODERICK. Certainly, but first let me read the proposal so the delegates will know and be refreshed as to the proposal itself.

In Section 1, it says Article VIII of the Constitution of Pennsylvania is amended by adding at the end thereof a new section to read:

Article VIII, Taxation and Finance, Section 28, taxation and finance of matters relating to emergency consumer price controls. The General Assembly shall raise, appropriate and provide for

the expenditures of funds for the administration of consumer price controls when the Governor by proclamation declares that an emergency exists.

That is the proposal that we have before us. You have received copies of opinions of the Convention's counsel. Again, I state it was based on that opinion that the Chair rendered its determination.

If I may state the ground rules before calling on Delegate Otto so we will know what they are, it says in Rule 9, Section 2, of your rules, which you probably have before you, that the presiding officer "shall decide all questions of order, subject to appeal by the Convention. No debate shall be allowed on questions of order unless there be an appeal." I want to add to that, the appeal was timely taken by Delegate Otto. "On every appeal he shall have the right to state his reason for his decision. In case of such appeal no member shall speak more than once unless by permission of the Convention."

The Chair recognizes Delegate Otto.

DELEGATE OTTO. Thank you, Mr. President.

Fellow delegates, I do not consider myself an authority on the Constitution of Pennsylvania. However, I recall during my four years as a member of the State House of Representatives being asked in this very room, on numerous occasions, to vote on the constitutionality of important bills that came before us.

I presented this proposal, spelling out the steps to be taken with respect to the state controls of consumer prices when and if the Governor declares an emergency exists. Certainly, in this nuclear era a standby control of this nature would be practicable and sensible.

I realize the legislature, in its wisdom and no doubt in its desire to protect its own built-in prerogatives, wanted to preclude the possibility of this Convention upsetting any of their "apple carts." Thus they prohibited us from considering any changes in the Constitution's legislation article. Such foresight prevented our correcting weak absentee voting procedures and questionable methods of arriving at majority votes on new tax measures.

The legislature's action, which later won approval by the voters, makes it necessary to confine ourselves to the limited articles of the Constitution when considering this appeal. According to my advisors, the proposal in question, which has been adjusted many times now, clearly fits into the taxation and finance section of the Constitution. Yesterday fellow Delegate Harold Goldman, an attorney and a backer of this proposal, met with the Chair's counselor and at one stage it appeared that with a few changes in language, the proposal would be acceptable. Within a half hour, it blew up again.

I call the attention of the delegates to Section 18, the article under Taxation and Finance, which permits, as does our proposal, a procedure to be followed by the General Assembly in providing funds for a designated purpose. In this case, the purpose is the distribution of gasoline taxes and motor license fees to the agencies of the State or political subdivisions thereof.

Provisions to create debt for the payment of bonuses to World War II and Korean veterans, also are included in the taxation and finance article.

Similarly, funds for Project 70 are included in the taxation and finance section which spells out clearly the powers of the General Assembly.

It is no wonder Marvin Comisky, counsel to the Convention, qualifies his Opinion No. 17 when he admits:

"The power of the legislature to exercise tax power to provide funds for carrying out a specific governmental function and the express creation of such governmental functions, where necessary, are matters normally"—and emphasis added by me—"within the legislative function itself."

Because of Comisky's admission when he uses the word "normally," there are examples such as the ones I referred to, that are already in our Constitution under the taxation and finance article, I certainly think the Convention would be making an unconscionable mistake if it failed to accept this proposal for at least further consideration, by whatever committee is assigned this duty.

If the Convention fails to permit this proposal to move forward, in my opinion, we are moving from a "limited" convention into the position of a "super limited" Convention.

If you believe, as a delegate, that consumer goods should be purchased in an open market with prices determined in the American way, based on the theory of supply and demand, and feel that the only time that price controls on consumer goods are necessary is during the time of an emergency, then I would urge your support of this proposal.

In addition to that, last night in the Pittsburgh Press there was a very significant article with respect to the happenings in this Convention, and I think I should refer to them briefly so that you will know what the exposure is in Allegheny County and Western Pennsylvania on the happenings here in the Convention.

The article is entitled: "Off Limit Tag Hinders Con Con."

"Here are the 16 proposals—covering a multitude of human problems—that have been rejected since Con Con opened December 1." And then they list the 16 proposals.

They wind up by saying: "Some of these conflict with others, but they were the brain children of delegates and all of them went down the drain."

So, fellow delegates, I call this to your attention. I realize that when this is all over we all are going to have a selling job, and I want to be part of the selling team, but I certainly do not want to be in the limited position that some of these proposal rejections are placing us in today.

Thank you very much, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Otto.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Allegheny, Delegate Huggins.

DELEGATE HUGGINS. Mr. President, I rise to make a statement of personal privilege in regard to the foregoing statements made by Delegate Otto in regard to this measure I cosponsored.

PRESIDENT BRODERICK. You may make your statement, Delegate Huggins.

DELEGATE HUGGINS. Before this Convention was really born a great deal of criticism was heaped upon everything that it was hoping to accomplish. In the early days of the Convention criticism was still pretty relevant and pretty real surrounding everything that was said.

If I might make a homily, Aesop said a long time ago that there was a man and his boy walking a road with a

donkey. Someone came by and heaped some criticism on them because they were walking while the donkey did not have any load. So the man and his son got on the donkey. A little farther on someone else came up and chewed them out again because they were making the donkey carry such a terrible burden. The father, being very dignified, asked the son to get off, and he rode. A little farther, as you, of course, guessed, someone else heaped on some criticism. By now they were rather disconcerted about all of this criticism. The father said, what are we going to do with that donkey? Someone came by and suggested that they give the poor beast a ride. They laid the donkey down and tied its feet and put a pole between its four legs and proceeded to carry it. By this time they were crossing a bridge, and someone else came by and laughed hysterically at them because they were carrying a beast of burden and it was not doing any good for anyone. They laid the donkey down and just stood there, wondering what to do. The donkey, being scared to death, kicked and fell from the bridge, landing in the water below, where it drowned.

To a great extent consumer price controls are this way. We use our political hot potatoes whenever it is expedient for us in running for an office, but I think that we as a Convention, limited or otherwise, by receiving a mandate from the people to rewrite the entire section on taxation and finance, certainly have precluded any ruling that you have made as the Chair, based on the opinion by Mr. Comisky.

It is my concern that we as a Convention produce something which is going to be satisfying and palatable for the people and not something that is just another burden, with all of the nice language, wondering what in the world we are supposed to do with it. The dream for the future is a very real dream, but I think we had better unshackle that beast and get on with the business for which we are here.

It is for this reason and out of real concern that I think we, as delegates to the Convention, limited or otherwise, have one mandate—people. It is for this reason that the proposal was offered.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President and fellow delegates, I would like to speak for a few minutes concerning this particular proposal. I was one of the cosponsors of the proposal and also a cosponsor of an amendment that was submitted thereto.

Let me first state that I have identified myself with the original proposal and the amendment for the reason that I strongly believe that it is well within the purview of the consideration of this Convention. For the benefit of those delegates who have not heard my feelings concerning the conduct of this Convention, let me clearly state that for the record that I strongly adhere to the principle that we are permitted, as delegates, to discuss only those issues which are germane to its limited call. I further strongly believe that if we attempt in any manner to prescribe the way in which the legislature shall operate then we have again exceeded our authority.

I would like to read the proposed amendment to this proposal which I have in my possession, but which has not as yet been submitted. The amendment to this proposal would read as follows:

All proceeds from tax and other revenues may be expended for any purpose as the General Assembly may from time to time appropriate, provided, however, that no such appropriations shall be made for the purpose of consumer price controls unless the Governor shall have first proclaimed there to be an emergency therefor.

In my opinion, the purpose of this Constitution is to set a general, broad framework of policy or opinion under which the legislature will then enact laws so as to best carry out this declared intention. This Convention would be well advised to keep basic principles in mind in all of its deliberations, in respect to our general framework obligation. But we must also accept these principles with the attitude of courage to put down into words what is the actual policy or intention of the people of this State. We must accept our demanded challenge to write a firm policy of ideology within a framework of progressive theories within which the legislature can then accept its challenge and implement these theories into actual laws and regulations under which our citizens will conduct their daily lives. I even suggest that we are empowered and have a duty and an obligation to establish the manner in which government will affect the daily lives of our citizens and the mutual responsibilities and obligations of each to the other.

I fully understand that this basic obligation of mine and, I believe, of the rest of the delegates, has put upon me the basic first obligation of finding that this particular proposal falls within the framework of Article VIII of the Constitution, namely, that dealing with taxation. In dealing with Article VIII we are specifically precluded from discussing the wording of Section 1, having to do with the uniformity of taxes, and Section 13, dealing with the gasoline taxes and motor license fees. What this proposal has suggested is that, as a basic policy, we are declaring within the Constitution that our legislature shall not accept any theory of consumer price-fixing as a regulatory practice over the people unless it shall first have been declared necessary by the Governor in the form of an emergency mandate.

I suggest that the Federal Government has long accepted this theory and immediately after World War II removed all such legislative enactments, but the Federal Government still maintains the framework under which such laws could again become enacted in the event of another such emergency. I merely ask that this Convention adopt as part of the basic theory of our lives and obligations to government this same, exact theory.

In private discussions yesterday with Mr. Comusky, concerning this proposal and the related amendment, it has been suggested that we will be limiting the legislature in the expenditure of its funds by inserting this proposal.

I would like to suggest that the entire now existing Article VIII does exactly the same thing. Let me cite just a few of them:

Section 2 limits the legislature from allowing exemptions.

Section 3 limits the legislature from allowing exemptions to corporations.

Section 4 limits the legislature from creating state debts.

Section 5 limits the legislature from state loans.

Section 6 limits the legislature from pledging the state credit,

Section 7 limits municipalities from becoming stockholders.

Section 8 limits municipal debt.

Section 9 limits the legislature from assuming municipal debts.

Section 10 obligates municipalities to create funds for retirement of debt and limits the number of years the indebtedness can last.

Section 11 provides for a mandatory state sinking fund.

I could go on through every single section of Article VIII, but in some manner all direct or state that the legislature or municipalities are mandated to do something or prevented from doing something with their funds. Within this same section of taxation there are stated sections, Section 18—which we cannot consider—Sections 19, 21, 22, 23, 24 and 25, which are enactments of legislative intent to a specific issue. These sections deal with everything from veterans' bonuses to Project 70 funds, to conservation appropriations and to special assessments for transit facilities for the City of Philadelphia. I fail to see how much more specific and depriving to legislative authority a situation can be than these sections, with all of which we have the authority to deal. For example, we could very simply eliminate from the Constitution all provisions for funds to be spent on water and air pollution, on Project 70, funds for the preservation of our natural beauty and the creation of recreational areas, on the elimination of bonuses to veterans and the hospitalization and rehabilitation of war veterans. But the people of Pennsylvania have mandated in the past that these issues and problems are part of our society. They have mandated that government accept this ideology as part of our basic framework of obligations of government, and have so written them into our Constitution and into Section 8 of our Constitution, dealing with taxation.

Let it be very clearly understood that I do not in any manner whatsoever intend this Constitution and, most specifically, this proposal to take up the task of legislation. I believe legislation clearly and undeniably belongs with the legislature. But I also firmly believe that we must write out a philosophy or ideology of government that will take a direction towards effective administration and government of and with its people.

The proposal offered suggests no more than what I believe to be the obligation of the delegates. To suggest that we will be accused of legislating is without merit since the proposal still provides for the enactment of any laws dealing with consumer price controls, but only when the Governor declares an emergency to exist so as to demand this type of regulation. I doubt if there is any delegate here who does not believe this type of proposal to be substantively correct.

I also full well realize that there are many delegates who believe very strongly that by introducing this proposal, and allowing it to come in after the Chair and its counsel have ruled it out, will open this Convention to any other possible proposals which have been previously turned down. I also realize that almost all of the delegates want to keep this Convention strictly construed as to its powers, and I stand as one of the strongest adherents to this policy. I also believe, however, that this proposal is clearly distinguishable from the other proposals offered, and, in fact, I voted in favor of rejecting those other proposals.

The theory for my beliefs is based upon the actual con-

tents of each of these proposals. The proposals previously offered were attempts to limit the legislature and deprive it of its functions to declare the manner in which state funds were to be expended. I agree that this is clearly a legislative type of proposal and would fall into Article III of the constitution which we cannot consider. However, the proposal that we now have before us does not deprive the legislature of any of its functions at all. As a matter of fact, it clearly provides that the legislature and Governor shall have the power to perform the acts necessary to preserve proper government. It provides that the legislature shall have the continued right to perform its obligations and simply states a declared intent of the people that governmental price-fixing and the use of state funds for that purpose shall not be the normal way of life for our citizens, and we declare specifically within the tax section that our publicly raised moneys shall not be used in this manner unless under an emergency situation. I believe that this proposal specifically belongs in the taxation article and not in the section dealing with the powers of the legislature. We are talking about the public moneys of the people being used for certain purposes and not merely of the power of a legislature to establish laws and govern the people. We are actually going much further than merely attempting to establish rules under which the legislature will function. We are setting up rules governing and stating the manner in which public funds will be used.

Mr. President and fellow delegates, I am going to turn from my notes now for the summation.

I have to recognize, along with my very strong feelings in regard to this proposal, that there is a very fine, thin line of distinction particularly within the section of taxation which proposals are proper and which proposals are not proper.

Mr. Comisky and I spent a bit of time yesterday, on two different occasions, discussing this proposal and also the amendment, and quite frankly I do recognize his point of view and I do recognize that there may well be an issue here that is very, very close. This does not minimize, however, or in any manner attempt to take away from my beliefs my own thought that this clearly falls over that line and belongs within the Constitution.

I also recognize very strongly the possibility that by introducing this proposal we may be opening a whole "Pandora's box," which is clearly not my intention.

It is for the two reasons which I have just stated—one, a very honest difference of opinion as to what belongs in the Convention and what does not and, also, with the possibility that it could open the "Pandora's box," which I do not want to happen, that I am going to suggest to Mr. Mr. Otto that he withdraw his appeal and that I, in turn, will withdraw my support for it. Thank you.

PRESIDENT BRODERICK. Thank you, very much, Delegate Goldman.

The Chair now recognizes Delegate Manderino.

DELEGATE MANDERINO. Mr. President, delegates to the Convention, I rise to speak in favor of sustaining the Chair's decision in relation to this appeal.

I think the argument that has just been made is very persuasive in that it states that we are concerned here with a very fine line of distinction. I should like, however, to bring this to the attention of the Convention. The

real theory of this proposal is that the Convention can limit the expenditure of public funds for purposes that the public does not wish the funds expended. I agree; I think that is the intention as stated. If we were to analyze that, the provision is saying, although it is not worded that way, that no public funds raised by taxation or otherwise shall be used for certain purposes unless an emergency exists. I am not speaking as to my sympathies with the objective of this proposal. As a matter of fact, I suppose I am quite sympathetic to the objective it attempts to achieve.

I should like to point out, though, that any proposal can be framed in that manner. For instance, how about a proposal that would say, under the taxation article, "No moneys raised by taxation shall be expended to pay legislators unless they are elected for a four-year term"? That has clearly been ruled outside the purview of the Convention, and yet we could frame it under the taxation article that no moneys shall be expended unless the legislator is elected for a four-year term. We would simply be saying that the people do not want their money spent to pay legislators who are not going to be here for four years straight under the same election. We could have a provision under taxation that read this way: "No public moneys shall be expended to pay a Governor unless he has been elected by 70 percent vote of the people." That is an expression of opinion that we do not want to spend public moneys for a certain purpose unless certain conditions are met, which is what this proposal does. We do not want to spend public moneys unless a certain condition exists and an emergency to do certain things.

If you use that reasoning then the call of this Convention is wide open. I think we can frame anything in this Constitution in terms that no public moneys shall be expended for a certain purpose unless a condition is met. We could have a clause in the taxation article that no public moneys or tax moneys shall be expended to pay the light bills in the capitol unless all bulbs used are manufactured by "X" company. It is a prohibition on how the people want their moneys expended, but I would suggest that framing proposals in that manner, if it were to lead to the interpretation that it is merely a statement as to how we want public moneys expended, would, in effect, open the door to any proposal whatsoever.

Now it may be that constitutional lawyers would interpret the fine line that way. However, I think the intent, when the question was placed on the ballot and the people voted and approved, was that this was a limited Constitutional Convention to deal with certain subjects. It is true that Article VIII or Article IX, with the new numbering, cover a lot of subjects. I would imagine if the Convention were staying within the purview of those subjects such as Project 70 or the Korean War Bonus that we probably would be within the call of the Convention. But to state that because Article IX contains specific provisions such as permission of expenditure of Project 70 funds or conservation or the Korean War Bonus, means that in the negative we would be in order to consider a proposal that prohibits the expenditure of funds for any purpose means that the door, I think, can be opened to anything.

Proposals have been ruled out of order. I would suggest that we could take each one of them and frame it in this language that the legislature shall expend funds only under these conditions or that no public funds should

be expended for such purposes unless conditions are met. I give the original example that we could say that no public funds shall be expended unless a Representative is elected for four years and a Senator for six years and unless the House of Representatives is cut to 22 members. That is merely a prohibition against the expenditure of public funds for a certain purpose.

For this reason, I think, feeling very strongly that the Convention should stay within its call and feeling very strongly that although fine lines may exist, we must make decisions on the fine lines that the sustaining of the appeal would indicate that we will not open up "Pandora's box," as has been referred to, and that we would stay within the call of the Convention without any question at all.

Thank you, Mr. President

PRESIDENT BRODERICK. The Chair now recognizes Delegate Goldman

DELEGATE GOLDMAN. May I make this one statement in clarification? In summation I stated that I was withdrawing support for this appeal. The reason for my withdrawal of that support is not based on the fact that I do not thoroughly believe it. I am convinced of my own position. The reason I am withdrawing is for exactly the same reasons that Mr. Manderino has just suggested, that to allow this in where there is an honest dispute, an honest difference of opinion, and where this honest difference of opinion could create and could cause other issues to come in which I am convinced do not belong within the Convention. Therefore, I am willing to withdraw my support in behalf of this appeal. It is simply that I do not want to see this Convention become a wide open, unlimited Convention, but that it should remain strictly limited.

PRESIDENT BRODERICK. Thank you for your statement, Delegate Goldman.

The Chair again recognizes Delegate Otto.

DELEGATE OTTO. Just a question. Are we still on personal privilege, rather than on the question of appeal?

PRESIDENT BRODERICK. We are arguing the appeal now and, frankly, the Chair is going to have to ask you if the appeal is still before us in view of the statements made by Delegate Goldman. I recognize you to speak as to whether the appeal is still pending. If it is, we will take a vote on it if all the delegates have been heard.

DELEGATE OTTO. Mr. President, I notice that Delegate Huggins is up for a point. I yield to the gentleman.

PRESIDENT BRODERICK. The Chair recognizes Delegate Huggins.

DELEGATE HUGGINS. Thank you, Mr. President. I appreciated to some degree what Delegates Goldman and Manderino said. However, I was born and raised in a small town where the company man put the fear of the devil in everybody else. They were afraid of doing or saying anything for fear of retribution.

I am not afraid of the company man here and I think that the people do have a voice. I would say this to the delegates who are opposed to it: I do think they are concerned where their money is spent; I do think they are concerned where it is going; and I do think it is an issue in this Convention. I will not withdraw my support for it and I want you to know, Mr. President, that I appreciate the company man up and down the line, but the premise of running for the Convention was based on

the fact that people were tired of what the company man was saying they wanted. Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Huggins

The Chair now recognizes the delegate from York, Delegate Ruth

DELEGATE RUTH. Mr. President for those delegates who do not happen to have a copy of the Constitution in front of them, I would like to point out what I think are a few discrepancies in the approach that is being taken by those supporters of the appeal. I wish to preface my remarks, however, that in principle I am in full support of the idea and the thought behind the proposal. However, I think we must restrict our consideration, as was pointed out by the Chair, strictly on whether or not this comes within the limitation.

It has been suggested that there are certain sections of Article VIII or Article IX that do cover these types of things. The gasoline tax was one of those which was suggested. I would refer to that Section 18 and tell you that the gasoline tax only determines how that tax will be distributed. The other sections concerning the bonding issues, soldiers' bonuses or Project 70 all specifically state in the prefacing that in addition to those limitations, the limitations of Section 4, whether it were a limitation of \$1 million to be spent or debt limitations, it allows the debt to be increased for certain purposes, for the Korean bonus and for Project 70. There is no suggestion that this is to be a debt increase to cover milk in any way. This is the true intent and purpose of these sections, and I suggest that they are not to be misinterpreted as allowing this to come without the limitations of the call.

I would also point out that in our sworn duties by the Act, every delegate here had to sign an affidavit that, "If elected, he will faithfully observe the limitations and the requirements imposed upon this Convention."

PRESIDENT BRODERICK. Thank you, Delegate Ruth. Are there any other delegates who wish to be heard before we vote on this appeal?

APPEAL WITHDRAWN BY DELEGATE OTTO

The Chair recognizes Delegate Otto for a statement in regard to the appeal.

DELEGATE OTTO. Mr. President, a matter of information. If I can recall the roll call today, there were 131 of 163 delegates present.

PRESIDENT BRODERICK. May I check. We have the roll call.

When the electric roll call was taken, the tabulation shows we had 129 delegates present. I have seven plus 10 others who have already indicated their presence. We would have to take another tabulation of those who were not present for the call, but there are over 140 delegates present. You may proceed.

DELEGATE OTTO. The purpose for the question was, based on the figure that I had mentioned, would mean that in order to get 82 votes to pass a ruling, a count which we are after, we would need in the neighborhood of 60 per cent of the vote present. It is a very difficult question. We know there are some for it and we know there is some objection.

Over and above that, I have great confidence in our counsel on this question. He and I have debated the merits of this proposal over the holidays. In the very beginning, not knowing exactly how I was going to term

this proposal, he was opposed to the idea. Later when he saw that I made some improvements and suggestions, he agreed that in his opinion it did fall within the confines as far as his personal opinions were concerned. I have a great respect for our Delegate Goldman's opinion, it carries a lot of weight with me. Not being a legal man I must, therefore, stick with my counselor. As much as it hurts me, I am going to subscribe to Delegate Goldman's suggestion, and I will withdraw the question.

PRESIDENT BRODERICK. As I understand your statement, Delegate Otto, the appeal shall be marked "withdrawn." The only statement the Chair wishes to make, and this is simply to clarify, in no instance where a proposal has been returned was it returned on the basis of the merits of that proposal. The Chair in no instance considered the merits of whether this would be good or bad for the people of Pennsylvania.

I think you will all be happy to know that we have had over 200 proposals that have been assigned and approximately a dozen of them have been returned on the basis they did not fall within the authority of the Convention. Of those that have been returned, in no instance were any returned on the basis of merit or in consideration of the merits. There were some good ones and some bad ones that had to be returned.

The Chair recognizes the delegate from Allegheny, Delegate Huggins.

DELEGATE HUGGINS. I would say, Mr. President, that both of the other gentlemen who were here on the line this morning graciously submitted to withdrawing their proposal. Since Delegate Otto was the chief sponsor, I will accept this. I can still be an objector. I in no way withdraw, but in no way will I upset the apple cart of the status quo.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Huggins.

ORBIN APPEAL SCHEDULED

PRESIDENT BRODERICK. An appeal was taken yesterday, Wednesday, by Delegate Orbin of Westmoreland, and he introduced a proposal again in connection with Article VIII. Discussion and vote on that appeal will take place at our session on Monday. If you have not already received copies of the opinion and the proposal, you may raise your hand and they will be distributed.

Counsel opinion No. 18 is the opinion pertaining to Delegate Orbin's proposal. This will give you all the opportunity to make a determination in the next day or so.

CORRECTION TO PROPOSAL TITLE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lackawanna, Delegate Scranton.

DELEGATE SCRANTON. In the copies that have been sent to us of Delegate Orbin's proposal, am I correct in stating the last sentence says, "which discriminates between licensed professions that comprise the healing arts"?

PRESIDENT BRODERICK. "Comprise" is the word. We thank you for your excellent proofreading.

LAST DAY FOR INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. This is the last day for in-

roduction of proposals. The proposals we will receive this morning are proposals which were in the hands of the Convention Drafting Bureau on January 5.

The Chair wishes to point out that hereafter, in accordance with our rules, the introduction of any new delegate proposal will require an "aye" vote of 32 members of the Convention which, of course, is the majority. This is in accordance with Rule 23, on page 38, of your rules.

Again in accordance with the rules, the delegates may always, without submitting their proposals to the floor, submit their suggestions and recommendations to the appropriate committees, so that they are not being precluded from participating by offering suggestions and recommendations.

INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. The Chair recognizes Delegate Tomascik.

DELEGATE TOMASCIK. Mr. President, I read in place and offer the following proposal:

No. 1206

By **DELEGATE TOMASCIK**

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania relating to taxation and finance

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS.

Section 1. A new article is added to the Constitution of Pennsylvania to read:

ARTICLE TAXATION AND FINANCE

Section 1. Uniformity of Taxation; Exemptions--(a) All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for general public purposes, actual place of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public charity and real and personal property owned, occupied, and used by any branch, post or camp of honorably discharged soldiers, sailors, and marines, and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein.

(b) Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation.

(c) Any taxing authority may exempt persons over the age of sixty-five years from liability for increases in real estate taxes on residences owned by them and in which they actually reside, subject to such qualifications and restrictions as the General Assembly deems applicable.

(d) The General Assembly may exempt from direct taxation individuals or family units with incomes below the poverty and minimal subsistence level as may be determined by the appropriate Federal agency: Provided, however, That such appropriation shall not include exemptions from taxes on retail sales or use of commodities or services

(e) No taxing authority shall exempt the property of a public utility from local real estate taxes

Section 2. Exemptions to Residents of Other States.—Taxation laws may grant exemptions or rebates to residents, or estates of residents, of other states which grant similar exemptions or rebates to residents, or estates of residents, of Pennsylvania.

Section 3. Exemption from Taxation Limited.—All laws exempting property from taxation, other than the property enumerated in section one, shall be void.

Section 4. Taxation of Corporations.—The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

Section 5. State Debt.—The General Assembly shall borrow or contract for debt by or on behalf of the Commonwealth for such projects or purposes as it shall deem necessary or desirable.

Section 6. The Budget.—The Governor shall submit to the General Assembly, at a time fixed by law, a budget estimate for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments and agencies of the State, as well as a general appropriation bill to authorize the proposed expenditures and a bill or bills covering requirements in the budget for new or additional revenues.

Section 7. Expenditure of Money.—(a) No money shall be withdrawn from the Treasury except in accordance with appropriations made by law, nor shall any obligation for the payment of money be incurred except as authorized by law. The appropriation for each department, office or agency of the Commonwealth for which appropriation is made, shall be for a specific sum of money and no appropriation shall allocate to any project the proceeds of any particular tax or fund or a part or percentage thereof, except when required by the Federal government for participation in Federal programs as specified in section eight of this article, or where the Commonwealth acts as trustee for nongovernmental funds.

(b) All Commonwealth and local expenditures, including salaries paid by the General Assembly, executive and judicial branches of government, shall be matters of public record.

Section 8. Collection of Taxes.—(a) All taxes may be collected at the State or a regional level with distribution to local governments of the amounts to which they are entitled.

(b) No money shall be paid by the Commonwealth, by any local governmental unit or by any taxing authority as a fee for the collection of taxes.

Section 9. Gasoline, Motor Fuel Excise, Motor Vehicle

Registration, etc., Taxes; Appropriation and Use.—All proceeds from gasoline and other motor fuel excise taxes, motor vehicle registration fees and license taxes, operators' license fees and other excise taxes imposed on products used in motor transportation after providing therefrom for (1) cost of administration and collection, (2) payment of obligations incurred in the construction and reconstruction of public highways and bridges shall be appropriated by the General Assembly to agencies of the State or political subdivisions thereof, and used solely for construction, reconstruction, maintenance and repair of and safety on public highways and bridges and air navigation facilities and costs and expenses incident thereto, and for the payment of obligations incurred for such purposes, and shall not be diverted by transfer or otherwise to any other purpose, except that loans may be made by the State from the proceeds of such taxes and fees for a single period not exceeding eight months, but no such loan shall be made within the period of one year from any preceding loan, and every loan made in any fiscal year shall be repayable within one month after the beginning of the next fiscal year.

Section 2. Article eight of the Constitution of Pennsylvania is repealed.

Referred to Committee on Taxation and State Finance

PRESIDENT BRODERICK. The Chair recognizes Delegate Corey.

DELEGATE COREY. Mr. President, I read in place and present the following proposal and would like the opportunity to make a brief comment

No. 1207

By DELEGATES COREY and KAUFFMAN

A PROPOSAL

Amending the Constitution of Pennsylvania authorizing legislation on an area basis

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding after article fourteen a new article to read:

ARTICLE XIV-A REGULATION OF AREAS

Section 1. Area-wide Regulations.—The General Assembly may enact statutes granting selected powers to local governments within a given geographic area and designating the classes of local government subject to said legislation, provided, however, that a geographical area must encompass one or more counties.

The General Assembly shall not, under authority of this section, abolish any county, city, borough, town, township or school district.

Referred to Committee on Local Government

PRESIDENT BRODERICK. The Chair recognizes Delegate Corey.

DELEGATE COREY. Mr. President, this proposal would empower the legislature to enact special laws on

a regional or on an areawide basis. The reasoning is simply this: Many of the problems and the opportunities facing local government are not necessarily on a statewide basis nor are they limited to any one class of government. Thus, when a regional need does exist, the legislature could enact laws pertaining to all classes of government falling within that particular geographical region. I might add that the proposal does not grant the General Assembly the authority to abolish any particular class of local government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, last evening when I returned to Harrisburg, I heard that my proposal for regional cooperation had been introduced by my illustrious Co-Chairman of the Committee on Judiciary and the strangeness of the anomaly struck me most forcibly.

As we all know, just last month we were exposed to the phenomenon whereby a lady legislator from Philadelphia did more by being absent to insure the reform of her beloved legislature than she could have ever hoped to do if she had been present. In the same spirit, it will undoubtedly be said that Delegate Amsterdam did more by his absence from this Convention floor on January 10 to achieve that essential regional cooperation that will guarantee the salvation of his beloved Southeastern Pennsylvania than he could ever have achieved by being present.

For years efforts to achieve regional benefits in our region were considered as coming too fast and going too far and were repulsed by designating these efforts as the "Green grab"—so named because of the espousal of a very dear departed friend of mine, Congressman Bill Green.

Our current effort to solve this most important problem will be immeasurably assisted by the proposal introduced on my behalf yesterday by Delegate Scranton of Scranton. I hope that our friends of the fourth estate will appropriately label the proposal "The Scranton Embrace" so that our outstretched arms will find ready acceptance instead of disdainful objection. If this happens, Southeastern Pennsylvania and the other regions of the State will owe one more debt of gratitude to our great former Governor.

I thank you, sir.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lackawanna, Delegate Scranton.

DELEGATE SCRANTON. Mr. President, any time that I can help the city of Philadelphia, I am more than anxious to do so, but unfortunately for Philadelphia, perhaps more unfortunately for me, I did not sign the proposal.

PRESIDENT BRODERICK. I am advised by the clerk that no one signed that proposal.

We are, therefore, happy to note the return of Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I hand up a signed proposal.

PRESIDENT BRODERICK. Thank you. The rules have now been fulfilled.

The Chair recognizes the delegate from Allegheny, Delegate Cosetti.

DELEGATE COSETTI. I read in place and present the following proposal, Mr. President:

No. 1208

By **DELEGATES COSETTI and RAPPAPORT**

A PROPOSAL

Adding a new article to the Constitution of Pennsylvania granting residual powers of government to counties and municipalities

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS

Section 1. A new article is added to the Constitution of Pennsylvania to read.

ARTICLE LOCAL GOVERNMENT

Section 1. Residual Governmental Powers of Counties and Municipalities.—(a) Every county, city, borough, town and township may exercise all the residual powers of government which are not denied to it by this Constitution.

(b) Every county, city, borough, town and township shall have the right to incorporate into a charter such residual powers and such limitation on the use of such powers as are desired locally.

(c) When such charter has been adopted by a majority vote of the electors voting it shall be superior to statute unless such statute is applicable to all cities, boroughs, towns, townships and counties.

(d) If a conflict of powers exists between any county and a municipality thereof, if not resolved by mutual agreement, the General Assembly shall resolve such conflict by statute.

Referred to Committee on Local Government.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Redick.

DELEGATE REDICK. Mr. President, I read in place and present the following proposal and after its reading, I wish to make a few remarks.

No. 1209

By **DELEGATES REDICK, HUGGINS and MATTIONI**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for partial exemption from real estate taxes of certain persons age sixty-seven, or over.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section 1B a new section to read:

ARTICLE VIII TAXATION AND FINANCE

Section 1C. Real Estate Tax Exemptions.—The General Assembly may, by general law, provide for the partial exemption from annual real estate taxes imposed by the Commonwealth of Pennsylvania or any of its political subdivisions on the residence owned and occupied by citizens

and residents of this Commonwealth who are sixty-seven years of age, or over, and who have an annual net income from all sources of not more than four thousand five hundred dollars. The real estate tax exemption shall not reduce the real estate taxes to less than one hundred dollars. The exemption hereby authorized shall be exclusive of any other exemption from real estate tax to which such person is entitled.

Referred to Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Redick. You may now proceed with your statement.

DELEGATE REDICK. Thank you, Mr. President.

I present this proposal last because it concerns some of our fellow citizens who all too often remain last in our thoughts so far as tax burdens are concerned.

A review of statistics has shown the most trying period for our senior citizens without large, independent retirement income or other means of resources begins at about the age of 67.

With a sense of sincere humanity toward our senior citizens and in further recognition of their many contributions to the Commonwealth and our country and to help those who may be in need to remain citizens of dignity, Delegate Huggins from Allegheny, Delegate Mattioni from Philadelphia and myself offer to this Convention this proposal, which is aimed at reducing the tax burden for senior citizens at the age of 67.

God bless you and thank you, Mr. President.

PRESIDENT BRODERICK. Yours is the last proposal. I might add for the information of the delegates, it is Proposal No. 209 and it has been assigned to the Committee on Taxation and State Finance.

Before we drop the gavel for the last proposal that will be received without the majority vote of those present, are there any more?

The Chair declares that no further proposals will be received without the majority vote.

Again, I want to compliment all our delegates for what I think have been excellent, outstanding, wonderful proposals, 209 of them, showing our deep concern and interest to give Pennsylvania the best Constitution.

PERMISSION TO ADD SPONSOR

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Cortese.

DELEGATE CORTESE. Mr. President, my distinguished colleague, Delegate Herbert Cain from Philadelphia, added his signature to the proposal which I presented on Monday, namely, Proposal No. 1167.

I now ask that his name be added as a cosponsor to that proposal.

PRESIDENT BRODERICK. The Chair will see that his name is added as a cosponsor.

DELEGATE CORTESE. Thank you, sir.

HAZLETON AREA SCHOOLS WELCOMED

PRESIDENT BRODERICK. I want to call the attention of the delegates to the fact that we have visitors here from the Hazleton Area Schools with their teachers, Mr. King and Mr. Beltrami. They are the guests of Delegates Laputka, Fay and Tomascik, all from Luzerne County.

May I ask my fellow delegates to give them the warm, cordial greeting that indicates we are happy they are with us today.

HONORARY PAGES RECOGNIZED

PRESIDENT BRODERICK. May I now take advantage of another pleasant function, that is, the introduction of our honorary pages. The Convention, as you know, is very fortunate every week to have a group of honor students to serve as pages. I want to remind you again that these students are selected by their school officials because of their outstanding school record. I would like to introduce them to you and have them rise as I call their names. I suggest that you hold your applause until we arrive at the end of the list of the introductions. They are:

Barbara Doughman and John Mikoloff, Harrisburg, Central Dauphin High School;

Susan Fisher of Millerstown and Harry Willow of Liverpool, Greenwood High School;

Joanne Alfano and Jacinto Gochoco of York, York Catholic High School;

Barbara Snyder of Carlisle and Michael Gracey of Mount Holly Springs, Carlisle High School;

Lana Roelko of Wellsville and Steward Kauffman of Dillsburg, Northern High School;

Susan Manbeck and Michael Hortner, Pine Grove, Pine Grove High School;

Linda Schies of Jonestown and George Deaven of Ono, Northern Lebanon High School;

Diane Emig and Scott Koons of York, Central York High School.

Let us give them a round of applause.

We want you to know that you have made your contribution in providing a better Constitution for Pennsylvania. On behalf of my fellow delegates, I thank you.

RESOLUTIONS

PRESIDENT BRODERICK. We have taken care of introduction of proposals. Are there any resolutions to come before the Convention?

The Chair hears no response.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE. Co-Chairmen Bloom and Swope, Room 500, North Office Building, Thursday, January 11, 1968, immediately after today's session.

JUDICIARY. Co-Chairmen Scranton and Amsterdam, full committee, House Majority Caucus Room, Thursday, January 11, 1968, immediately after today's session; full committee, House Majority Caucus Room, Monday, January 15, 1968, at 7:30 p.m., e.s.t.

LEGISLATIVE APPORTIONMENT. Co-Chairmen Devlin and Fagan, Method of Apportionment subcommittee, Room 609, Thursday, January 11, 1968, immediately after today's session.

TAXATION AND STATE FINANCE. Co-Chairmen Leonard and Woodring, standing committee, Senate Majority Caucus Room, Thursday, January 11, 1968, immediately after today's session.

ANNOUNCEMENT BY DELEGATE SCRANTON

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Judiciary, Delegate Scranton.

DELEGATE SCRANTON. The meeting held today in the House majority caucus room, at the pleasure of the Local Government Committee again, is to question and listen to the answers by Judge William Burnett of the Denver County Court of Colorado.

Judge Burnett is three men in one. He represents three things that the Judiciary Committee is tackling now forcefully. One, he is a member of the Statewide Qualifications Committee for the Judiciary, which is being considered as an introduction to our judicial system.

Two, he is the presiding judge of the County Court of Denver, which was the first established to take the place of the justices of the peace.

Third, he is a member of the Judicial Nominating Commission in the State of Colorado, so he represents three of the things that are now besetting our committees.

I hope that all the members of the Judiciary Committee will come, and secondly, that any other delegates who are interested in these particular three subjects which will beset us all shortly will come also.

PRESIDENT BRODERICK. Thank you, Delegate Scranton.

ANNOUNCEMENT BY DELEGATE MANDERINO

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, we did not take a tally on the committee's schedule, but I think announcements were made to the Local Government subcommittees at their meetings yesterday afternoon and evening, so they will follow whatever decisions were arrived at yesterday.

Thank you.

PRESIDENT BRODERICK. Thank you very much, Delegate Manderino.

ANNOUNCEMENT BY SECRETARY MICHENER

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, several delegates have asked that this Convention give them notice as to how they should handle the \$2,500 salary which they get for this Convention and the weekly mileage insofar as income tax is concerned.

They have brought to me about four different interpretations which they have been given, and I would assume that each of those four was wrong. We have asked our counsel to find out exactly how this matter should be handled, and a statement in writing will be forthcoming to the Convention, I would suppose, not within the coming week but probably the week after this. In the meantime, I would not form any hard and fast rules on the basis of the advice I have heard.

Secondly, as Secretary of the Convention, it is my responsibility ultimately to see that the records are properly kept. In line with what Delegate Pelletier alluded to this morning, the time will come in future years when courts and researchers in the law may very well want to study our records to see how an individual proposal

which might finally pass into our Constitution was arrived at.

I would remind all delegates, and particularly all chairmen of substantive committees and subcommittees, that the documents pertaining to your work will become the property of the State. They are not personal property. Although complete records have not been kept in every instance, very good and helpful ones have been kept. We should see to it that these pass into the hands of the official historian of this Convention. He has already circulated letters to many of the chairmen, and I would beg you to attend most carefully to his proposals.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

ANNOUNCEMENTS BY PRESIDENT

PRESIDENT BRODERICK. The Chair wishes to announce that the proposals assigned this morning are right here and requests the chairmen of the committees to pick up those proposals.

We have another announcement. I understand that Proposal No. 1186 has not been printed. As soon as it is, it will be distributed. If it was printed, we did not have sufficient copies because some delegates have not received copies.

I am also advised that Proposal No. 1209 has not been printed.

The Chair recognizes Chairman Leach of the Committee on Rules.

DELEGATE LEACH. In line with the Secretary's observations about the historian for the Convention, would it be in order for the Convention to know who he is, where he can be found and what he looks like? Are the delegates interested? Apparently not.

PRESIDENT BRODERICK. Before consideration of the adjournment resolution, the Chair would like to make this statement. Yesterday the officers met with the chairmen of the committees and at that time it was discussed that today we would receive all of our delegate proposals, and we have. That phase of our work has been completed. We have ascertained that there will not be any committee proposals ready for introduction this week, but we expect them next week. Therefore, it was suggested that the adjournment—and I say again suggested—that the adjournment resolution today provide that we return on Monday at 1:30. I was asked to announce, and I shall, that this in no way precludes committee chairmen or subchairmen from holding committee meetings at any time they desire—this afternoon, tomorrow, any time over the weekend—if that is their desire.

I wish to make it clear, therefore, that if this body determines that we should adjourn today until Monday, this does not preclude committee chairmen from calling committee meetings.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. Mr. President, I rise to a point of personal privilege.

I have lost my briefcase over in the North Office Build-

ing If anybody sees a brown attache case about the size of Delegate Corey's, open it up and see if it is mine. I would appreciate it

Thank you very much.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE MORTON. Mr. President, I move that this Convention now adjourn until Monday, January 15, 1968, at 1:30 p.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Morton and seconded by Delegate Miller from Lehigh that this Convention do now adjourn until Monday, January 15, 1968, at 1:30 p.m., e.s.t.

The motion was agreed to and (at 11:19 a.m., e.s.t.) the Convention was adjourned

JOURNAL

Volume 1

Monday, January 15, 1968

Number 22

The Convention was called to order at 1:30 p.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND FREDERICK R. BRADEL, pastor of the Good Shepherd Roman Catholic Church of Camp Hill, Pennsylvania, offered the following prayer:

We are come, O God; we are come before Thee, hindered, indeed, by our many and grievous sins, but especially gathered together in Thy name. Come unto us and be with us, enter our hearts. Teach us what we are to do and whither we ought to tend. Show us what we must accomplish so that with Thy hope we may be able to please Thee in all things. Suffer us not to disturb the order of justice, Thou Who lovest equity above all things. Let not ignorance draw us into devious paths nor partialities sway our minds; neither let respect of riches or persons pervert our judgment, but unite us to Thee effectually by the gift of Thine holy grace that we may be one in Thee and may never forsake the truth

Inasmuch as we are gathered together in Thy name, so may we in all things hold fast to justice, tempered by pity that so in this life our judgment may in no wise be at variance with Thee, and in the life to come, we may attain to everlasting rewards for deeds well done. Amen

APPROVAL OF JOURNALS

PRESIDENT BRODERICK The Chair recognizes the delegate from Allegheny, Delegate Banes, in connection with a correction that has been made in the Journal.

DELEGATE BANES Mr. President, inasmuch as I called the President's attention to a correction pertaining to the first day's Journal, and, in my opinion, the Journal now is correct, I should like to move that further reading of the Journal for December 1 be dispensed with and that the Journal be approved as corrected.

PRESIDENT BRODERICK It has been moved by the delegate from Allegheny, Delegate Banes, that further reading of the Journal for December 1 be dispensed with and the Journal be approved for that date.

The motion has been seconded by the delegate from Dauphin, Delegate Hocker.

On the question,

Will the Convention approve the Journal for December 1?

It was approved.

PRESIDENT BRODERICK The Chair recognizes Delegate Banes.

DELEGATE BANES I might say, inasmuch as the

Chair did not comment, that the little slip which has been placed on your desk is the correction, if you will please insert it on your first day's Journal

PRESIDENT BRODERICK That is on page 7 in the right-hand column of the Journal for December 1.

DELEGATE BANES On page 7, that is the proper correction.

PRESIDENT BRODERICK Thank you, Delegate Banes. Now we call up the Journal for December 4

The Chair recognizes the delegate from Allegheny, Delegate Banes

DELEGATE BANES Mr. President, I move that further reading of the Journal for December 4 be dispensed with and that this Journal also be approved.

PRESIDENT BRODERICK It has been moved by Delegate Banes from Allegheny that the further reading of the Journal of December 4 be dispensed with and the Journal be approved.

The motion is seconded by the delegate from Cambria, Delegate Pasquercilla

On the question,

Will the Convention approve the Journal for December 4 1967?

It was approved

PRESIDENT BRODERICK Tomorrow, in accordance with the procedure now established, we will call up for approval the Journals of December 5, 6 and 7.

May I remind you that our Journals, when the notes are transcribed, are placed in our Secretary's office and they remain there for two days, after being transcribed. You can go to the Secretary's office and read them over and check them over and any errors, please call to the attention of the Chair. Those errors will be corrected before we move for the approval of the Journal of that date.

In order to facilitate this, may I ask our Secretary, Secretary Michener, if when he gives his report, perhaps the leaves of absence, that he could report to the Convention the Journals that are in his office at that time, so that those delegates who have matters on that date can go and check the Journal for that particular date. This would, I think, expedite the approval of the Journals and make it easier for our fellow delegates to check the entries in the Journal.

LEAVES OF ABSENCE

PRESIDENT BRODERICK The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER Mr. President, I want to submit the following requests for leaves of absence:

The delegate from the 43rd District, DELEGATE THORNBURGH, for January 15, because of bad weather;

The delegate from the 14th District, **DELEGATE LA-PUTKA**, for January 15, because of bad weather;

The delegate from the 45th District, **DELEGATE STOUT**, for two days, on account of death in his family;

The delegate from the 45th District, **DELEGATE BARRY**, for January 15, because of bad weather;

The delegate from the 49th District, **DELEGATE GEHRLEIN**, for January 15, because of bad weather;

The delegate from the 2nd District, **DELEGATE ABERMAN**, for January 12 through January 16, because of business;

The ex-officio Delegate, **DELEGATE KLINE**, for January 15, because of bad weather.

The delegate from the 14th District, **DELEGATE FAY**, for January 15, because of bad weather;

The delegate from the 14th District, **DELEGATE TOM-ASCIK**, who must be in court this day;

The delegate from the 13th District, **DELEGATE BURKHOLDER**, for January 17, on account of business;

The delegate from the 6th District, **DELEGATE BASHOFF**, January 15, he must be in court.

PRESIDENT BRODERICK Thank you, Secretary Michener.

Unless the Chair hears objection, in accordance with our procedure, those leaves will be approved. The Chair hears no objection, therefore the leaves requested are approved.

JOURNALS IN SECRETARY'S OFFICE

PRESIDENT BRODERICK The Chair recognizes Delegate Michener.

DELEGATE MICHENER Mr. President, in conformance with the request you just made, I did happen to look at my desk before I came over and the only Journal that is there at present is the Journal for January 4. I will report the arrivals of the others as they come in.

QUORUM CALL

PRESIDENT BRODERICK Our next order of business will be the calling of the roll to determine if a quorum is present. The Chair now unlocks the voting machine and the delegates are requested to record their presence by voting "aye" on your machines.

The roll was recorded as follows:

Allison	Fawcett	Leach	Quiles
Amsterdam	Feather	Lee, L.	Rappaport
Aurenitz	Filson	Leimbach	Rea
Bagenstose	Fineiman	Leonard	Reynolds
Baldrige	Fleming	Levin	Richter
Baldus	Fohl	Manderino	Roberts
Baldwin	Forster	Mangery	Rovner
Banes	Gabreski	Markley	Ruth
Barron	Gerber	Mathum	Scales
Bashoff	Goldstein	McGeary	Scott
Benedict	Gouger	Meyer	Seranton
Benfield	Gray	Michener	Sebastian
Bloom	Griffith	Muller, D.	Shetig
Broderick	Hannum	Muller, R.	Shively
Buck	Harding	Moorehead	Shoenaker
Bunting	Hatter	More	Shrager
Burkholder	Henderson	Morton	Silverman
Camardella	Heyburn	Murray	Sprogel
Caron	Humes	Muselman	Strickler
Casey	Hocker	Nelson	Swope
Clark	Hook	Orban	Tate
Corey	Horne	Orban	Thomson
Croop	Hostetler	Pasquerilla	Tully
Cunningham	Huggins	Pelletier	Van Sant
Curran	Ivis	Percey	Westerberg
Dailey	Kauffman	Popil	Whittum
Desmond	Keller, J.	Pott	Wileox

Devlin	Keller, M.	Powell	Wilmarth
Dumbauld	Kelly	Prendergast	Woodring
Erwin	Kroll		

PRESIDENT BRODERICK The electronic roll call tabulator indicates that we have 118 delegates present.

The Chair also notes the presence of the following delegates:

Braham	McGlynn	O'Donnell	Welsh
Clinger	Michael	Sahl	Woodside

PROPOSALS REFERRED TO SUBCOMMITTEES

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA Mr. President, the Committee on Local Government announces the referral of the following proposals:

No. 1207 to the Subcommittees on Structure and Organization, Home Rule and County Government;

No. 1208 to the Subcommittees on County Government, Structure and Organization and Home Rule.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD Mr. President, I note in reviewing the history of proposals that we had not referred, at least there is no record of the referral of, two proposals, which I would like to state now.

No. 1206 to the Subcommittees on Taxation, State Debt and State Finance;

No. 1209 to the Subcommittee on Taxation.

COMMITTEE REPORTS

COMMITTEE ON ADMINISTRATION AND FINANCE

PRESIDENT BRODERICK The Chair recognizes Delegate Swope.

DELEGATE SWOPE Mr. President, I would like to observe parenthetically that you are on your way. You have now had an incident at the Farm Show Building that seems to be a basic requisite for any public figure to get along.

I would like to report, Sir, on a matter with which you are familiar. At the very first meeting of the Committee on Administration and Finance, there being two certified public accountants members of that Committee, of which I am one, we brought up the question of an eventual audit of the accounts of this Convention. I might say to you that this question has recurred from time to time at our meetings and there is not any doubt, of course, that an audit will be prepared. The audit report cannot possibly be made until the Convention has concluded its work and until all of the bills against the Convention will have been presented and paid.

Whenever this audit is made, it will, of course, be made available; it will be sent to all the members of this Con-

vention; it will be made available to all interested offices and officers of the government of Pennsylvania, the legislative bodies and the public through all the publicity media that can be used to channel the report to the attention of the citizens of Pennsylvania.

I thank you, Mr. President.

INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. We now move to our next order of business which is the introduction of proposals. Of course, the last day having passed when proposals can be introduced without the vote of the delegates, we will now require the vote of delegates in order to introduce proposals.

APPEAL No. 3

PRESIDENT BRODERICK. In connection with proposals that were heretofore introduced at our last session, the Chair is happy to report that there are no returns. I might add that there will be no new appeals because the last return was made on January 10 and the time for taking appeals in connection with that return has now expired. We now have assigned all proposals. We have at this time one appeal that is pending that we scheduled for discussion, debate and vote today. That is the appeal of Delegate Orbin from Westmoreland.

This is an important part of our session, as you know. By this time all delegates should have received copies of the written opinion of counsel for the Convention, and that opinion which applies to Delegate Orbin's proposal, the one in question, is counsel opinion No. 18. I assume that all of you have copies of this and have had an opportunity to study it. We will now consider the appeal of Delegate Orbin.

As I pointed out before, when we reached this stage of appeals, the subject for discussion is solely whether the proposal comes within the authority of the Convention. If it comes within the authority of the Convention and you so determine by your vote, your presiding officer will assign it to the proper committee. If it is determined that the Chair is upheld that it is without the authority of the Convention, then the Chair's ruling will be sustained.

Again I want to caution the delegates who speak on this proposal including the proposer, that the merits of the proposal itself have not been considered by the Chair, are not before the Convention at this time, and the Chair will be required to rule any discussion in connection with the merits themselves out of order.

The question in connection with this appeal is: Shall the decision of the President be the judgment of the Convention? You all have the proposal. I would like to read to you the proposal that we are considering so there is no misunderstanding. It is a short proposal by Delegate Orbin of Westmoreland.

The following are Delegate Orbin's Proposal and Counsel Opinion thereon:

A PROPOSAL

Amending the Constitution of Pennsylvania prohibiting the raising or levying of taxes or money for any purpose or program which entails certain types of discrimination.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Article eight of the Constitution of Pennsylvania is amended by adding after section one, a new section to read:

Section 1A. Raising or Levying Taxes or Money—Taxes or moneys may not be raised or levied in any manner for any purpose or program which entails discrimination because of race or religion or, in the field of health, which discriminates between licensed professions that comprise the healing arts.

COUNSEL OPINION No. 18

Q. Whether a proposal adding Section 1A to Article VIII of the Pennsylvania Constitution, which is attached hereto, is within the jurisdiction of the Constitutional Convention?

A. No.

Discussion: The proposal provides that "taxes and monies may not be raised or levied in any manner for any purpose or program which entails discrimination because of race or religion or, in the field of health, discriminates between licensed professions that compromise the healing arts." Section 7 of Act No. 2 of 1967 authorizes the Constitutional Convention to make recommendations concerning Taxation and State Finance now covered by part of Article IX of the Constitution. This subject deals with the power of the State to impose taxes to carry out the functions of government under the Constitution and the management of the State's financial affairs. The instant proposal, on the other hand, prohibits the State Legislature from exercising the taxing power for a governmental purpose which discriminates in the manner prescribed. The power of the Legislature to exercise the tax power to provide funds for carrying out governmental functions whether discriminatory or not, are matters normally within the legislative function itself or which are covered by Article III of the Constitution and are not within the jurisdiction of the Convention.

MARVIN COMISKY
Counsel to Convention

PRESIDENT BRODERICK. Before we recognize Delegate Orbin in connection with his appeal I want to again read to you Rule 9, section 2, which provides the groundwork for an appeal:

"The President shall decide all questions of order subject to appeal by the Convention. No debate shall be allowed on questions of order unless there be an appeal." I might add that an appeal was taken. "On every appeal he shall have the right to state his reason for his decision. In case of such appeal, no member shall speak more than once unless by permission of the Convention. On the question of the appeal?"—I again remind you—"a majority, that is 82 votes of the delegates, shall be necessary to override the decision of the Chair."

The Chair recognizes Delegate Orbin in connection with his appeal.

DELEGATE ORBIN. Mr. President, before talking on this subject at hand, I would like to yield the floor to Delegate Scales for his remarks.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Scales.

DELEGATE SCALES. Mr. President, Mr. Orbin has asked me to address a few brief remarks on this question, and I am very happy to oblige him.

As the Chair has stated, the issue before the Convention is certainly not the merits of this particular proposal any more than the issue last week involved the merits of Mr. Otto's Milk Control Commission proposal. The issue today is virtually identical with the issue that was before us last week, the issue of Article III and Article VIII, the taxing articles of the Constitution. At great length from my friend, Mr. Goldman, we heard a very persuasive argument as to why these particular proposals should fall within the scope of this Convention.

I was very shocked last week to find that the proposal of Mr. Otto was withdrawn from consideration on the appeal. I would say that I know my friend, Mr. Orbin, has no intention of withdrawing his appeal at this time.

I will not bore the Convention with a reiteration of the remarks of Mr. Goldman, but I would like to say very briefly that Article VIII does provide the vehicle by which this Convention can consider this type of proposal.

As I understand the reasons given by counsel to the Convention for the rejection of these proposals, the reason is that the proposal cannot be considered because it is based on the assumption that all matters of appropriation fall within the jurisdiction of the General Assembly and, therefore, rightly belong under Article III of the Constitution. Well, of course, if this supposition is correct, then we would find that all matters having to do with the appropriation of tax moneys would be in Article III of our Constitution. But instead we find that Section 11 of Article VIII directs moneys to be appropriated to a state sinking fund. We find also that Section 18 of Article VIII specifically controls the appropriation of other tax moneys. Sections 21, 22, 23, 24 and 25 allow the Commonwealth to create a debt and to issue bonds for moneys and then proceeds to spell out further how these moneys shall be appropriated and how they shall be used.

Although Article III does place appropriations and the regulation of appropriations in the hands of the legislature, Article VIII also deals with the appropriation of funds raised by taxes or by incurring debt.

It seems to me, Mr. President, that it takes more wisdom than I have alone or that the counsel to this Convention has alone, and, perhaps, takes the wisdom of this collective body to determine whether or not the scope of this Convention is broad enough to include these kinds of taxing proposals.

We heard a great deal of talk last week about the problem of company men. Over the weekend I attempted to find a definition of company men, what a company man is, and I think the only conclusion I could come to was that I was not in the body of company men. I think, perhaps, that company men are something like the problem of equality. We have often heard that some people are more equal than others and I am inclined to believe that some of us are more company-minded than others.

I do not share the fear of some of the delegates to this Convention that we will open Pandora's box; I do fear, and I fear very sincerely for the rights of the public in the sense that if we do not take a liberal interpretation of these taxing articles, we are going to foreclose discus-

sion which is very important to the people of Pennsylvania.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Scales.

The Chair now recognizes Delegate Orbin.

DELEGATE ORBIN. Thank you, Mr. President. We feel that the rights and duties of the elected constitutional delegates cannot and should not be delegated or relegated to nonelected counsel. Admission of a proposal for consideration by this Convention does not mean automatic adoption. It is our feeling that if any proposal can, under the broadest interpretation of our mandate, fit into our Convention deliberations, it should be allowed to do so. It is then up to our working committees, composed of elected and intelligent delegates to further accept or reject each proposal on its validity. To our way of thinking, we are letting down the electorate who could be considered unconsidered by the elected delegates who were sent here to do the job.

In conclusion, let me remind you that admitting a proposal for consideration will not mean final adoption. It must go forth to the committees, and the delegates who are appointed to these committees and who have been elected by the people to come here can do a job. They are intelligent; they can sift it out and then make the decision. Therefore, we feel that the delegates to the convention should have the final say.

Lastly, in this particular instance principles should not be sacrificed for the sake of harmony. I urge that you reject counsel's ruling and vote for the adoption of this proposal.

PRESIDENT BRODERICK. The Chair recognizes Delegate Mangery.

DELEGATE MANGERY. Thank you, Mr. President.

Mr. President and fellow delegates, last Thursday after Delegate Otto withdrew his appeal, I happened to walk back to the outer entrance of the chamber to reconsider our appeal for our proposal. I was disappointed that the sound premise from Delegate Otto's appeal was not given a fair test by receiving a vote by the delegates of our Convention.

Quite by chance I met a young woman who happened to be an observer from the League of Women Voters. This very nice young lady was also very upset that the appeal had been withdrawn. She felt, in a sense, that this was a betrayal—if I may use so strong a word—of our mandate from the people to thoroughly investigate all possible avenues which would lead to a better and stronger Constitution for our Commonwealth.

If there was any doubt in my mind as to whether or not we should withdraw our appeal for this proposal, it was quickly dispelled at that time.

Mr. President and fellow delegates, we did not come here simply to deliberate those proposals which our worthy Convention counsel feels to be applicable. We came here to listen to and to examine any and all proposals which faintly relate to any four articles of our Constitution. As you have heard from Delegate Scales, the reasons for submitting our proposals to the Convention's deliberations are not faint, but they are quite strong.

The people who elected us are watching what we do and say here. Let us not let them down. I urge you to uphold our appeal and to allow our committees and the Convention in the whole to further determine its validity.

Thank you.

PRESIDENT BRODERICK Thank you, Delegate Mangery of Westmoreland.

The question remains, shall the decision of the Chair be the judgment of the Convention?

I want to point out again that all those voting "aye" vote to sustain the Chair. Those voting "no" will vote to override the ruling of the Chair. There must be at least 82 "no" votes to override the Chair's ruling.

I am now going to ask the clerk to unlock the voting machines and the delegates shall proceed to vote.

The roll was recorded as follows:

YEAS—103

Allison	Fawcett	Leach	Rappaport
Amsterdam	Feather	Lee, L.	Rea
Amrentz	Filson	Lembach	Reynolds
Bagenstose	Fineman	Leonard	Richter
Baldwin	Fleming	Levin	Roberts
Banes	Foal	Mandernino	Rovner
Barron	Foster	Mangery	Ruth
Bashoff	Gabreski	Markley	Scott
Benedict	Goldstein	McGeary	Scranton
Benfield	Gouger	Michael	Sebastian
Bloom	Griffith	Michener	Shively
Broderick	Hannum	Miller, D.	Shoemaker
Buck	Hatler	Miller, R.	Shrager
Bunting	Henderson	Moorhead	Spiegel
Burkholder	Heyburn	More	Strickler
Caron	Hines	Morton	Swope
Casey	Hocker	O'Donnell	Tate
Clark	Horne	Orban	Thomson
Clinger	Hosteller	Pasquella	Tully
Croop	Huggins	Pelletier	Van Sant
Cunningham	Irvin	Percey	Westerberg
Curran	Kauffman	Popil	Wilcox
Daley	Keller, J.	Pott	Wilmarth
Desmond	Keller, M.	Powell	Woodruff
Devlin	Kelly	Prendergast	Woodsides
Erwin	Krull	Quiles	

NAYS—19

Baldrige	Dumbauld	Meyer	Sabli
Baldus	Gerber	Murray	Scodes
Camardella	Harding	Musselman	Shetig
Corey	Hook	Nelson	Whittum
Cosetti	Mathoni	Orbin	

NOT VOTING—41

Aberman	Donolow	Kline	Sharp
Harry	Fagan	Lane	Silverman
Braham	Fay	Lapotka	Solomon
Brennan	Fortney	Lee, K.	Stout
Brown	Gelstein	McGlynn	Stroup
Butera	Goldman	Otto	Thornburgh
Cain	Gray	Pechan	Tomascik
Caputo	Irolano	Redick	Waldron
Conley	Johnson	Searlett	Warman
Cortese	King	Shapiro	Welsh
Donaldson			

The majority of the delegates having voted in the affirmative, the ruling of the Chair is sustained.

POINT OF PERSONAL PRIVILEGE ON PROPOSAL No 1124

PRESIDENT BRODERICK The Chair recognizes Delegate Ruth.

DELEGATE RUTH Mr. President, I rise to a point of personal privilege concerning the proposal I introduced about a week ago, Proposal No 1124. Since the time I introduced it, there have been certain developments which accentuate the importance of such a proposal. This, for the information of the delegates, was a proposal on limitation of compensation of state officials.

We have all heard the story or legend of the 12 days of Christmas and the gifts bestowed. Now in Pennsylvania the 12 days of Christmas have been extended to 18 days or

the 12th day of January when the legislators awoke to find their stockings half-empty without the unlimited pension increase, but half-full with the unprecedented salary increases.

Mr. President, at a time when the world is recognizing a new era of smallness in the mini-car, mini-surgery, mini-skirt and, yes, the mini-bank account, we must beware of the maxi-government and maxi-compensation.

I, therefore, urge every delegate here to request written communications from their citizens on whether they favor or disfavor percentage limitation on compensation of state officers along the lines of Proposal No 1124. Any delegate or citizen who wishes to express his views to me, I encourage to do so.

Thank you

REQUEST FOR REREFERRAL OF PROPOSALS

PRESIDENT BRODERICK The Chair recognizes the delegate from Bucks, Delegate Powell. For what purpose does the gentleman rise?

DELEGATE POWELL Mr. President, I rise to a point of personal privilege.

PRESIDENT BRODERICK The gentleman will state it.

DELEGATE POWELL I submitted proposals Nos 1153, 1154, 1155 and 1157. They came to the State Taxation Subcommittee. I would like them transferred to the Local Government Committee.

PRESIDENT BRODERICK Thank you, Delegate Powell.

We will check those assignments and if they can be transferred, we will certainly accommodate you. There are some of those assignments in connection with local government and taxation that could go to either committee, and I think in light of our previous discussions with the committee chairmen both our Local Government chairmen and our chairmen in connection with the Taxation Committee, we will take up your request.

Thank you, Delegate Powell

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK The Chair recognizes the delegate from Montgomery, Delegate Shapiro. For what purpose does the gentleman rise?

DELEGATE SHAPIRO I rise to a question of personal privilege.

PRESIDENT BRODERICK The gentleman will state it.

DELEGATE SHAPIRO May I be recorded as present, Mr. President? I was delayed by a new constituent.

PRESIDENT BRODERICK Thank you. You shall be so recorded.

Is there anyone else who would like to be recorded as present who came in after the roll call?

Delegates Cosetti, Michael, Powell, Clinger, Sabli, O'Donnell and D. Miller will be recorded as present.

COMMITTEE MEETINGS

JUDICIARY, Co-Chairmen Scranton and Amsterdam, all subcommittees, respective rooms, Monday, January 15, 1968, immediately after today's session; full committee, House Majority Caucus Room, Monday, January 15, 1968, at 7:30 p.m., e.s.t.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, entire committee, Room 609, Monday, January 15, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, all subcommittees, Monday, January 15, 1968, immediately after today's session; entire committee, Senate Majority Caucus Room, Monday, January 15, 1968, at 3:30 p.m. e.s.t., subcommittee co-chairmen, Room 523, North Office Building, Monday, January 15, 1968, at 7 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, full committee, Senate Majority Caucus Room, Monday, January 15, 1968, five minutes after today's session

ANNOUNCEMENT BY DELEGATE PASQUERILLA

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla

DELEGATE PASQUERILLA. At 3:30 p.m. this afternoon in the Senate Majority Caucus Room, the entire Committee on Local Government will meet, at which time it will receive the actual committee reports from all the subcommittees. This is an extremely important meeting, because the actual policies adopted by the subcommittees will be presented at that time. We welcome anybody else's presence, other delegates or other visitors, to that meeting

These reports will be given to the entire committee without debate today

At 7 p.m. this evening, the subcommittee co-chairmen will meet in Room 523 of the North Office Building to review all of their reports for coordination.

Thank you, Mr. President

PRESIDENT BRODERICK. Thank you, Delegate Pasquerilla.

I agree with you that that is a very important meeting and I join in your request that you should have 100 per cent attendance

MARYLAND CONVENTION VISITORS

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, a few moments ago, I received a phone call from the Maryland Constitutional Convention. They want to send their president, Mr. Enoy, their executive secretary, Mr. Brooks, and their secretary, Mr. Martineau here to visit with us on Thursday. They said they would arrive about 9 o'clock in the morning. They were appalled that we started as early as 9:30. They said they never started much before 10:30, but they were going to make an effort to be here.

I hope this Convention will extend them the warmest possible greeting.

HOUSING FOR FARM SHOW WEEK

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Also, this is Farm Show week, as our distinguished president learned yesterday. Mr. Otto should have deferred his proposal until today

on the milk bill. I think he might have had a much better ruling from the Chair.

If there is any delegate during this period of Farm Show week who is really stuck for housing, we have arranged a few emergency quarters. They will consist of sleeping on davenports, but we can take care of you. You can arrange this through me.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

REPORT ON VISIT TO LIBERIA

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Reynolds

DELEGATE REYNOLDS. Mr. President, a few weeks ago when I asked for leave of absence to visit a foreign country, our illustrious secretary was very courteous and kind to me and notified this body why I was going.

The outcome was that you, the president, the Governor of this State and the Convention, itself, sent a long, very fine memo to the President of Liberia.

I visited there as the guest of the government, and many of you have asked me how I fared while I was there. Before I say that, I would like to say that I hope the secretary will draw up another resolution recommending to the Eagles Football Team that our president will be the fullback on the next team, because when he butted into that cow yesterday, I thought he was doing a great job.

But I was very happy to report back here that the Liberian government was very pleased to know that we took cognizance of the fact that they were inaugurating their President.

As we all know, America and the United States have lost a lot of friends throughout the world, but my visit to Liberia proved to me conclusively that we, the United States, can depend on that little country to be our friend forever.

They were started from what they call 'the freedom for all people.' Their country was founded by people leaving this country who had not had an opportunity to do what we are doing here, that is, to be free. When you go to Liberia, you will see there engraved in the halls, as here, "The Love of Liberty Brought Us Here." It made me feel very proud of my Americanism and my Negro-Americanism, because I am proud to be a Negro-American. I am not for black power or any other kind of power. I am just for power for the United States of America, I am for power for all the world.

It was my great pleasure to be a member of this legislature in 1935. I sat right over here. I will not say what side I was on at that time because we are nonpartisan now, but I was here then.

I was born in North Carolina and I came to Pennsylvania to get that freedom for myself for the same purpose that the people left Maryland and left Pennsylvania and the black people of this country left here, to be free. I left North Carolina to be free. When I got to Pennsylvania I married a little brown girl from Pennsylvania. I could not take her to a first-class hotel in Philadelphia; I could not take her to a moving picture house and sit on the first floor.

I came here as a member of this legislature and I never will forget Marshall Shepard and myself and Jackson and there was Sam Hart. We were invited over here to a hotel called the Jackson House. We went there and were standing up there—of course, I was a little lighter

than Shepard was, he added a little color to me. We went in there to sit down and eat with all the other legislators. The head waiter walked up and said to me, "If you will take your friends behind the curtain, we will serve them." We were there as members of this legislature. You would hardly believe that now in 1968, but that actually happened here in Harrisburg. I know Brother Irvis, who sits over here. I saw him a few moments ago; I hope he is here, because he can tell you—and Homer Brown, who is now a judge, he was standing there with me. The Republicans and the Democrats of that legislature stood up and said, "If they can't eat here, we don't eat here," and walked out.

Here is my good friend who was at that time one of the state members from Delaware County and we are very proud to see him back here.

I came back from Africa to say to you, Mr. President, that I thank you for those words that you sent over there. The President will be here during the month of February. It was my great pleasure to be with the Vice President when he extended the invitation on behalf of the President of the United States. President Tubman accepted and will be here.

I would hope that we will invite him to come here and visit us, the same as the people from Maryland are coming here; that we will invite him here so he can see how we have grown in stature, how America has changed its attitude about freedom and equality of opportunity and that we may say to the world that all people have a right to be free.

I am glad to be on this program and I am glad that you have shown your leadership in seeing to it that we are neither Republicans nor Democrats, but that we are here as American citizens to say that all people shall be up and no people shall be down.

Thank you very much.

PRESIDENT BRODERICK. Delegate Reynolds, first of all I want to say "welcome home." I think we all appreciated those remarks and we are glad to see you back from a successful mission in Liberia.

ATTENDANCE OF LEGISLATORS

PRESIDENT BRODERICK. The Chair recognizes Delegate Henderson.

DELEGATE HENDERSON. By an act of the legislature, the 1967-1968 Constitutional Convention shall be made up of 150 elected delegates. By the same act of the legislature, this act provides that 13 additional members from the legislature serve on this body. The rules of this Convention have been presented and adopted by this Convention concerning leaves.

I am at a loss to see why the elected delegates must petition the Secretary each morning to receive leaves of absence while some legislators attend at will and in some instances have not attended this session since the first day. Many have not attended the subcommittee meetings; many have not attended the standing committee meetings.

No matter what their legislative status, by the will of the people and by the will of the General Assembly, they are delegates—and I reiterate this, delegates—from December 1 on. By the rules of this Convention concerning leaves, they fall under these same regulations. The rules of this Convention have been adopted for all 163 delegates.

I, therefore, make a resolution that the Rules Committee check into the attendance of the 13 legislators. Let them wear the mantle of responsibility. Let them walk with the dignity of the call.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Henderson. Your resolution will be referred to the Rules Committee.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate McGlynn.

DELEGATE MCGLYNN. Mr. President, I would like my presence recorded.

PRESIDENT BRODERICK. We shall record your presence.

ADJOURNMENT

PRESIDENT BRODERICK. Before we recognize Delegate Miller with the adjournment resolution, may the Chair say that I heard many comments about the Chair's encounter with a brown cow at the Farm Show. I want you to know that that is no bull.

The Chair recognizes Delegate Miller for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE MILLER. Mr. President, I move that this Convention now adjourn until Tuesday, January 16, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Miller and seconded by Delegate Aihson that this Convention do now adjourn until Tuesday, January 16, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 2:23 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Tuesday, January 16, 1968

Number 23

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND JOHN ROBERTS, delegate and chaplain for the day, offered the following prayer:

Let us pray: Eternal and everlasting God, Who art the sovereign Lord of creation and in whose providence we have come together to consider these special needs of the family of man in Pennsylvania, we would momentarily pause and recognize Thee as the source of all wisdom and humbly acknowledge our dependence upon Thee.

We pray that through the workings of Thy spirit among us we may attain great heights of mutual concern and cooperation, wise counsel together and selfless conduct for the benefit of our fellowman, and for the more orderly conduct of the affairs of our Commonwealth.

Bless our efforts here, O God, and sustain us. Amen.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. The first order of business today is the approval of the Journals for December 5 through 7.

The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, I move that the Journal for December 5 be approved.

PRESIDENT BRODERICK. It has been moved by the delegate from Bucks, our secretary, Delegate Michener, that the Journal for December 5 be approved. The motion is seconded by the delegate from Montgomery, Delegate Corey.

On the question,

Will the Convention approve the Journal for December 5, 1968?

It was approved.

The Chair recognizes the secretary in connection with the Journal of December 6.

SECRETARY MICHENER. Mr. President, I move that the Journal for December 6 be approved.

PRESIDENT BRODERICK. The delegate from Bucks, Delegate Michener, moves the Journal for December 6 be approved. The motion is seconded by the delegate from Montgomery, Delegate Corey.

On the question,

Will the House approve the Journal for December 6, 1968?

It was approved.

SECRETARY MICHENER. Mr. President, I move also that the Journal for December 7 be approved.

PRESIDENT BRODERICK. The delegate from Bucks, Delegate Michener, moves the Journal for December 7 be approved. The motion is seconded by the delegate from Warren, Delegate Clinger.

On the question,

Will the House approve the Journal for December 7, 1968?

The Journal stands approved.

I again call the delegates' attention to the fact that the recorded notes and the testimony of this Convention are in the office of our secretary and, under our new procedure, he will now tell us which transcripts are available in his office for inspection.

The Chair recognizes Secretary Michener.

SECRETARY MICHENER. I have on my desk in my office now transcripts for the fourth and fifth of January.

Two delegates have especially asked about the transcripts for the fifth, and I repeat that the fifth is there this morning.

PRESIDENT BRODERICK. Thank you.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made request for leaves of absence:

The delegate from the 47th District, DELEGATE CAPUTO, for January 16, because of bad weather;

The delegate from the 18th District, DELEGATE JROLANIO, for January 16, because of bad weather;

The delegate from the 43rd District, DELEGATE AU-RENTZ, for January 16, because of illness;

The delegate from the 49th District, DELEGATE SCARLETT, for January 15, because of bad weather;

The delegate from the 20th District, DELEGATE L. B. LEE, for January 18, because of business;

The delegate from the 38th District, DELEGATE CONLEY, for January 15 and 16, because of weather;

The delegate from the 16th District, DELEGATE R. W. MILLER, for January 18, 19, 25, 26, because of business;

The delegate from the 32nd District, DELEGATE BUCK, for January 10, 11, because of hard work in North Carolina.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUESTIONS OF LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, I have a question. First, I would like to request that yesterday Delegate Richter and Delegate Braham both be listed as present. They did arrive; they did participate in the full schedule after the roll call. They were delayed by weather. I hope that the clerk will make note of those two names, Delegate Richter and Delegate Braham.

I have a question which has not come up before. Delegate Forster of the 13th District says that he will have to be absent two days for some hours but he will be here for the roll call and will participate in the full schedule here but will then have to go in the afternoon. Whether that constitutes a request for leave of absence or not, I personally do not know and I would appreciate a decision from our Parliamentarian on that.

I also have some very heartening news in two respects. The first concerns Delegate Buck, who asked leave of absence for four days last week because he had been advised to get out of the Commonwealth. He reports that he was very hard at work in North Carolina and then adds the statement that he was late because he could not get the plane from Miami Beach. That is what the record says. I decided not to go into it.

Mr. President, at this moment it is with real joy that I would want to yield the floor to Delegate Hook, if I may?

DELEGATE BRENNAN WELCOMED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Greene, Delegate Hook.

DELEGATE HOOK. Mr. President, I am very pleased to report today that Mr. Robert Brennan from Pittsburgh has returned with us. I hope that the operation Mr. Brennan has had has been worth the time. I would like to extend a hearty welcome back to the Convention to Mr. Brennan.

PRESIDENT BRODERICK. I want to say that I think I express the feeling of all your fellow delegates. We are happy to have him back and we are glad to see him looking so well.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Welsh.

DELEGATE WELSH. Mr. President, I would like to have the record show my attendance yesterday in and about Convention business. Evidence of that may be given by Delegate F. Garrett Richter and also Delegate Bloom from Washington County who stated that he would substantiate my statements, together with Paul in the legislative room where you get your shoes shined; also the Subcommittee on Organization and Structure and the entire Committee on Local Government.

PRESIDENT BRODERICK. Thank you, Delegate Welsh.

QUORUM CALL

PRESIDENT BRODERICK. And now for our roll call. The Chair unlocks the voting machine and the delegates may now proceed to record their presence by voting "aye."

The roll was recorded as follows:

Allison	Fay	Leinbach	Redick
Amsterdam	Feather	Leonard	Reynolds
Bagenstose	Filson	Levin	Roberts
Baldrige	Fineman	Manderino	Rovner
Baldus	Fleming	Mangery	Sahl
Baldwin	Fohl	Markley	Scaies
Banes	Forster	Mattioni	Scott
Barron	Fortney	McGeary	Seranton
Benedict	Gabreski	McGlynn	Sebastian
Benfield	Gerber	Meyer	Shapiro
Bloom	Goldman	Michael	Sharp
Braham	Goldstein	Michener	Shettig
Brennan	Gouger	Miller, D.	Shively
Broderick	Gray	Miller, R.	Shoemaker
Buck	Griffith	Moorhead	Shrager
Bunting	Hannum	More	Silverman
Burkholder	Harding	Morton	Solomon
Camardella	Hatter	Murray	Sprogl
Caron	Henderson	Musselman	Strickler
Casey	Heyburn	Nelson	Swope
Clark	Himes	O'Donnell	Tate
Clinger	Hocker	Orban	Thomson
Corey	Hook	Orbin	Thornburgh
Corlese	Horne	Otto	Tomascik
Cosetti	Hostetler	Pasquerilla	Tully
Croop	Huggins	Pellelier	Van Sant
Cunningham	Irvins	Percey	Waldron
Curran	Kauffman	Popil	Welsh
Dalley	Keller, J.	Pott	Westerberg
Desmond	Keller, M.	Powell	Whittun
Devlin	Kelly	Prendergast	Wilcox
Dumbauld	Krill	Quiles	Wilmarth
Erwin	Laputka	Rappaport	Woodring
Fawcett	Lee, L.	Rea	

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 135 delegates, which is a very fine attendance.

The Chair also notes the presence of the following delegates:

Butera	Richter	Stroup	Woodside
Donaldson			

POINT OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Banes.

DELEGATE BANES. Mr. President, one of my proposals was inadvertently left at the hotel, and I would like leave to present it tomorrow morning. It was one of the proposals which had been in the drafting bureau before the deadline.

PRESIDENT BRODERICK. Delegate Banes, the Chair has stated that we would not consider any further delegate proposals after the deadline on Thursday. I am not trying to preclude you. If, when you receive that proposal, you would state the circumstance, the Chair will then rule on it.

Frankly, the Chair had assumed that all the proposals had been released by, and had been advised they had been released, by the drafting bureau. We set up the deadline as Thursday, and I think we set that deadline on Tuesday. Let me say that when you get your proposal, if you would state the circumstances, the Chair will then make a ruling. The Chair is not trying to preclude anyone from getting anything before this Convention.

INTRODUCTION OF COMMITTEE PROPOSALS

PRESIDENT BRODERICK. We are now on the order of business of Introduction of Committee Proposals. I see that we have no committee proposals for introduction today, and the Chair would just like to urge our committees and subcommittees to get their proposals to the floor of the Convention as soon as they possibly can.

Rule 24 sets up a deadline of February 2. I am sure that none of us wants to wait for that deadline, and I am positive that we will have all our proposals in from all our committees prior to February 2. Let me point out that there are many advantages in finishing ahead of the deadline, because we want to keep this Convention moving ahead of schedule just as it has been.

I want to point out further that no committee proposal can be reported to the floor until the majority of the entire committee has voted in favor of reporting it to the floor, and that is in accordance with Rule 22 of the rules.

QUESTION OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Prendergast.

DELEGATE PRENDERGAST. Mr. President, I have an inquiry. I would like to know if I was recorded in my seat and voting when the roll call was taken yesterday.

PRESIDENT BRODERICK. I have been advised by the Clerk that you were recorded as present yesterday.

DELEGATE PRENDERGAST. The reason for my inquiry is this: In this morning's newspaper, the local paper, the Patriot, an article concerning a statement made by Delegate Henderson appears. In this article it points out that only four ex officio delegates were in the hall of the House yesterday. I just want the record to show that I also was present.

PRESIDENT BRODERICK. Thank you. You were recorded as present yesterday and, I might add, likewise today.

REREFERRAL OF PROPOSALS

PRESIDENT BRODERICK. Yesterday at the time of the introduction of proposals, Delegate Powell of Bucks County requested that his Proposals Nos. 1153, 1154, 1155 and 1157 be transferred to the Committee on Local Government.

This request was studied by the Chair and it was recognized, as stated yesterday, that these proposals could also apply to Taxation under Local Government. Therefore, copies of the proposals are being delivered this morning—I think perhaps they have been delivered this morning—to the co-chairmen of the Local Government Committee with the request that they study these Proposals Nos. 1153, 1154, 1155 and 1157 in conjunction with and in cooperation with the Committee on Taxation and State Finance, to which they had originally been referred.

PROPOSALS REFERRED TO SUBCOMMITTEES

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, the proposals to which you have referred, were delivered to us this morning. They are now being referred as follows:

- No. 1153 to the Subcommittee on Local Finance;
- No. 1154 to the Subcommittee on Local Finance;
- No. 1155 to the Subcommittee on Local Finance;
- No. 1157 to the Subcommittee on Local Finance.

That committee will meet this afternoon at 2:30 to review the proposals. Time is short.

PRESIDENT BRODERICK. Thank you very much, Delegate Pasquerilla.

RULES FOR PRESENTING RESOLUTIONS

PRESIDENT BRODERICK. Before taking up the next order of business which is resolutions, our Parliamentarian has asked me to point out to you that our rules provide as follows, and I am quoting from the rules:

"Each resolution shall be introduced in quadruplicate and the procedure for introduction shall be in the same manner as introducing a proposal."

Accordingly, the Chair requests, pursuant to the urging of our Parliamentarian, that if a delegate has a resolution for introduction, it would be appreciated if the delegate would have the resolution drafted by the drafting bureau. There have been many resolutions which have been presented orally and accepted by the Chair. In many cases these resolutions should have been, according to our Parliamentarian, in the form of motions. We would, therefore, request that you have your resolutions drawn by the drafting bureau.

RESOLUTIONS

PRESIDENT BRODERICK. The Chair recognizes Delegate Roberts from Monroe County who also acted as our chaplain and did a good job today.

DELEGATE ROBERTS. Thank you. It had been hoped that a group of approximately 100 Monroe Countians would be with us today, but it seems that our Pocono vacation bureau overdid it just a bit in its tremendous effort to please the many skiers who come to our hills in large numbers at this time of the year. Consequently, several large school groups which were planning to be here were forced to cancel their arrangements to come to the Convention on this day.

Still, a representative group of several dozen persons is here from Monroe County headed by County Commissioner Elwood Hintze, Mrs. Nancy Shukaitis and Arlington Martin, and including members of the Monroe County news media, the Monroe County Clergy Association, Monroe County Educators and interested and concerned private citizens.

In consideration of the presence of this group, Mr. President, I respectfully read in place and present to the Chair the following resolution cosponsored by Delegates Lee and Wilmarth from the 20th Senatorial District and by Delegates Clark, Jirolanio and Woodring of the 18th Senatorial District and by Vice President Casey and move for its immediate adoption by this Assembly:

In the Constitutional Convention, January 16, 1968

WHEREAS, The Pennsylvania Constitutional Convention has been authorized by the people of Pennsylvania including the County of Monroe; and

WHEREAS, The people of the County of Monroe have indicated vital interest in the proceedings and outcome of the Pennsylvania Convention; and

WHEREAS, The people of the County of Monroe are represented this day in the capitol of the

Commonwealth by a representative group of citizens; and

WHEREAS, This citizens group from the County of Monroe will attend the session of the Pennsylvania Constitutional Convention, a briefing on the scope and progress of the Pennsylvania Constitutional Convention by the first Vice President and Secretary of this Convention and by one of the chairmen of each of the four substantive committees; therefore be it

RESOLVED, That this Convention of Constitutional Delegates does hereby commend and extend its sincere appreciation to the people of the County of Monroe for this vital interest shown in these proceedings and outcome of the Pennsylvania Constitutional Convention and the effort made by this representative group of citizens to attend the proceedings of this body this day; and be it further

RESOLVED, That a copy of this resolution, signed by appropriate Convention officers, be sent to the office of the Commissioners of the County of Monroe at the Court House, Stroudsburg.

JOHN N. ROBERTS
CARLETON T. WOODRING
LEWIS B. LEE
JUSTIN D. JIROLANTO
ROBERT P. CASEY
WALTER F. WILMARTH
RALPH A. CLARK

PRESIDENT BRODERICK. All the delegates have heard Delegate Roberts from Monroe County read his resolution. He has also asked for the immediate consideration of that resolution. This resolution can be considered immediately unless there is objection.

The Chair at this time asks, is there unanimous consent for the immediate consideration of this resolution? The Chair hears no objection.

The resolution has been unanimously adopted.

MONROE COUNTIANS WELCOMED

PRESIDENT BRODERICK. The Chair would ask the fellow delegates to give our usual, cordial, warm greeting to the delegation from Monroe County who are with us this morning. Let us show them we appreciate their presence and support.

On behalf of all my fellow delegates, I want to say thank you for coming. I understand that you are going to be with us through the day and are going to attend some sessions of our standing committees. You will find that these delegates are working hard to present recommendations to the people of Pennsylvania that will move Pennsylvania forward.

Thank you for coming.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Room 500, North Office Building, Tuesday, January 16, 1968, immediately after today's session.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, Standing Committee, House Majority Caucus Room, Tuesday, January 16, 1968, immediately after today's session.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, entire committee, Senate Majority Caucus Room, Tuesday, January 16, 1968, at 1:30 p.m., e.s.t.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, Subcommittee on Local Apportionment, Tuesday, January 16, 1968, immediately after today's session; Subcommittee on Local Finance, Tuesday, January 16, 1968, at 2:30 p.m., e.s.t.

STYLE AND DRAFTING, Co-Chairmen Johnson and Pelletier, Room 286, Main Capitol Building, Tuesday, January 16, 1968, at 7:30 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, Standing Committee, PUC Hearing Room No. 1, Tuesday, January 16, 1968, immediately after today's session; additional meeting, PUC Hearing Room No. 1, Tuesday, January 16, 1968, at 2 p.m., e.s.t.

ANNOUNCEMENT BY DELEGATE WOODRING

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. There are exceptionally important meetings of the Committee on Taxation and State Finance today. We expect final proposals from the several subcommittees, and the standing committee hopes to take final action on these proposals, so that all members of the standing committee on Taxation and State Finance should be present.

PRESIDENT BRODERICK. Thank you, Delegate Woodring, for your report.

ANNOUNCEMENT BY DELEGATE PASQUERILLA

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA. We would like to report for the benefit of the delegates of this Convention that at the meeting yesterday, the standing committee on Local Government received all its subcommittee reports. They are now at the drafting bureau, and we are going to move up our schedule and begin deliberations and considerations and voting on the subcommittee reports starting tomorrow instead of Monday as originally planned.

PRESIDENT BRODERICK. Thank you very much for that excellent report.

WIVES OF DELEGATES WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, when I came into the hall this morning I was struck by the presence of an unusually large number of wives of the delegates. Every day these ladies attend and listen, but today the group was unusually large.

I would like to draw your attention to the fact that Mrs. Matthew Gouger is here; Delegate Sahli's wife, Delegate Clark's wife, Delegate Woodring's wife, Delegate Pelletier's wife, Delegate Dumbauld's wife and Delegate Scott's wife are also here. We are most delighted to have them with us.

PRESIDENT BRODERICK. In line with the statement made by our Secretary, I think the Chair would be remiss

if it did not ask the wives of the delegates who are present this morning to stand. I might add that we are going to ask their husbands to be the loudest clappers when we give them the cordial greeting. I want to say that we are happy to have them with us this morning.

Thank you for your support.

VISIT SCHEDULED FOR MARYLAND CONVENTION OFFICERS

SECRETARY MICHENER. The Maryland delegation was in communication with President Broderick and me yesterday. They are so pleased with the prospect of being able to meet with us. President Broderick has extended them a most cordial invitation. They are coming tomorrow instead of Thursday, and we will have an opportunity to meet with them and to question them on aspects of their Convention, which has ended so successfully so far.

ATTENDANCE AT COMMITTEE MEETINGS RECOMMENDED

One final comment: Last night I had the pleasure of attending one of the hearings, a long-night hearing, of the Judiciary Committee. I would commend such meetings to the delegates. It was to me more thrilling than the average motion picture or theatrical production because here the committee was receiving fresh-hand from the subcommittees reports of what is actually going to come on the floor in the next few weeks.

There will be a series of such meetings of all the major committees, and I recommend them as first-class entertainment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, we appreciate the Secretary's comments very much indeed about the Judiciary Committee, but I wish to assure you, sir, that we are not here just for entertainment but also for a very serious consideration of things. I am sure that he meant to include in his statement that it would be very beneficial, particularly for the Co-Chairmen of the Local Government Committee.

PRESIDENT BRODERICK. Thank you, Delegate Scranton.

EXCHANGE STUDENT WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Delegate Westerberg.

DELEGATE WESTERBERG. Mr. President, I would like to introduce Mr. Steve Bosko, his son Richard and an exchange student living with them this winter, Luis Osorno, an exchange student from Colombia, South America, who are here with us today seeing firsthand how our Pennsylvania Constitutional Convention works. I would like permission for them to stand, please.

PRESIDENT BRODERICK. Let us give them our cordial, warm greeting and say we are glad they are with us.

Thank you for presenting them, Delegate Westerberg.

DELEGATE WESTERBERG. They are here as the guests of Delegates Clinger, Gabreski and myself from the 25th District. Thank you.

FUTURE HOMEMAKERS OF AMERICA WELCOMED

PRESIDENT BRODERICK. We have with us in the gallery today eight Future Homemakers of America from the Dayton High School with their sponsors, Mrs. Nix and Mrs. Stockdale. They are the guests of Delegate Baldrige of Indiana County and Delegates Leach and Filson of Clarion County.

ANNOUNCEMENT BY CLERK

The **CLERK.** There will be a meeting of Convention officers and standing committee chairmen on Wednesday, January 17, at 12:15 p.m. in Room 615, Main Capitol Building.

COMMITTEE MEETING

PRESIDENT BRODERICK. The Chair recognizes Delegate Manderino of the Local Government Committee.

DELEGATE MANDERINO. Mr. President, my co-chairman and I, having conferred with the 50 members of the Local Government Committee and having noticed that the chairman of the Judiciary Committee has now begun the theatrical part of the Convention proceedings, would like to inform the delegates that the two Italian hams heading the Local Government Committee will be performing all afternoon in Room 606.

PRESIDENT BRODERICK. The Chair recognizes Delegate Van Sant.

DELEGATE VAN SANT. Mr. President, after looking over the chairmen of the Local Government Committee, I would inquire of the Secretary what type of entertainment, and I think we are certainly entitled to a front-row seat.

JUSTICE OF THE PEACE DEGEN WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, no subject that comes before this Convention has caused more discussion and more honest interest than that of the justices of the peace.

We have in the chamber today the justice from my district and I am not sure that she is the best justice in Pennsylvania, but she is certainly the prettiest. I am going to turn her over to the tender mercies of Delegate Benfield so that he can show her around and let her see what is happening—Mrs. Betty Degen.

PRESIDENT BRODERICK. We are glad to have you with us.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Orban for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE ORBAN. Mr. President, I move that this Convention do now adjourn until Wednesday, January 17, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Orban and seconded by Delegate Casey that this Convention do now adjourn until Wednesday, January 17, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 10:18 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Wednesday, January 17, 1968

Number 24

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND S. JAMES SCHMITTLE, pastor of the Kingsley Methodist Church of Erie, Pennsylvania, offered the following prayer:

Almighty and eternal God, Thou Who art our Heavenly Father and Who hast granted unto us life and entrusted to us the fashioning of that life, hear our words of thanksgiving for Thy confidence in us.

Thou hast granted to us through our forefathers a goodly heritage. We thank Thee for the liberty and the equality conceived by those who founded our society, the skill of those who unlocked our natural resources; the vision of those who insisted upon education for all; the patriotism of those who gave their lives that we might live. We are truly grateful, and we remember with gratitude what Thou dost grant to us in the present, an opportunity to dream again, to make hope become reality, to fashion our lives and to influence the lives of countless others.

O Lord, as Thy creatures, we ask Thee to walk with us that we fail not Thy confidence in us, and, as men and women who have been called to bear a part of this corporate responsibility, to share in these meetings for a particular purpose, we ask the outpouring of Thy providence. We would fail not man nor Thee and toward that end we pray.

Clear our minds of the clutter of little things. O Lord, help us to yield the minor interest for the major cause, lift us above all pride of place and power, turn us from considerations of personality to those of principle, give us a sense of daring that we may dream of a future even better than our past. But above all, O God, give us a due sense of our humanity that we might know our place in the sun. Keep us from both perversions of our humanity, from living in the dirt and from playing at being God. Pour out upon us a sense of awe at the power entrusted to us and truly walk with us that in this day, through our lives individually and through our life together, we may leave an imprint of good upon this world given to us that in days to come men may rise and call us blessed. Amen.

APPROVAL OF JOURNAL

PRESIDENT BRODERICK. The first order of business for the day is the approval of the Journal. We do not have any printed copy ready for approval. We will move to the next order of business with the reminder that the transcripts of our proceedings are in the office of our secretary Secretary Michener.

JOURNALS IN SECRETARY'S OFFICE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, transcripts for the 8th and 9th of January are on my desk and will be there for two days.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence: The delegate from the 42nd District, DELEGATE FAGAN, for January 17, because of a funeral;

The delegate from the 49th District, DELEGATE GEHRLEIN, for January 16, because of bad weather;

The delegate from the 49th District, DELEGATE SCARLETT, for January 16, because of bad weather;

The delegate from the 3rd District, DELEGATE GRAY, for January 17, because of business;

The delegate from the 7th District, DELEGATE AMSTERDAM, for January 17, because of business;

The delegate from the 32nd District, DELEGATE WARMAN, for January 15, because of bad weather; for January 17 and 18, because of business.

I told the assembly that we would, from time to time, have some rather flossy requests for absences and we now get the second one.

Mr. Warman, our delegate from the 32nd District, must be absent today and tomorrow because he has received a special invitation to the White House. As he left, I told him he went with the good wishes of almost half of this delegation.

The delegate ex officio, DELEGATE KLINE, requests leave for January 16, because of illness.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUORUM CALL

PRESIDENT BRODERICK. Now we come to the taking of the roll call. The Chair now unlocks the voting machine and asks all delegates present to indicate their presence by voting "aye" on their machines.

The roll was recorded as follows:

Aberman	Fagan	Leach	Richter
Allison	Fawcett	Lee, K.	Roberts
Bagenstose	Fay	Lee, L.	Rovner
Baldrige	Feather	Leinbach	Sahl
Baldus	Filson	Leonard	Scales
Baldwin	Fleming	Levin	Scarlett

Banes	Fohl	Manderino	Scott
Barrou	Forster	Mangery	Scranton
Barry	Fortney	Markley	Sebastian
Benedict	Gabreski	Mattioni	Shapiro
Benfield	Gehrlein	McGeary	Sharp
Bloom	Gerber	McGlynn	Shettig
Braham	Goldman	Meyer	Shively
Brennan	Goldstein	Michael	Shoemaker
Broderick	Gouger	Michener	Shrager
Brown	Griffith	Miller, D.	Silverman
Buck	Hannum	Miller, R.	Solomon
Bunting	Harding	Moorehead	Sprogel
Butera	Hatter	More	Stout
Camardella	Henderson	Morton	Strickler
Caputo	Heyburn	Murray	Stroup
Caron	Himes	Musselman	Swope
Clark	Hocker	Nelson	Tate
Clinger	Hook	Orban	Thomson
Conley	Horne	Otto	Thornburgh
Coley	Hostetler	Pasquerilla	Tomasick
Cortese	Huggins	Pelletier	Tully
Cosetti	Irvie	Percey	Van Sant
Cunningham	Jirolanio	Popil	Waldron
Curran	Johnson	Pott	Welsh
Dalley	Kauffman	Powell	Westerberg
Desmond	Keller, J.	Prendergast	Whittum
Devlin	Kelly	Rappaport	Wilcox
Dumbauld	Kline	Rea	Wilmarth
Erwin	Krill	Redick	Woodring
	Laputka	Reynolds	

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 143 delegates present, which constitutes a quorum.

The Chair also notes the presence of the following delegates:

Bashoff	Casey	Ruth	Woodside
Cain	Fineman		

PRESENTATION OF DISTINGUISHED GUESTS FROM MARYLAND CONSTITUTIONAL CONVENTION

PRESIDENT BRODERICK. I think this would be the proper time for us to present three distinguished guests that we have with us today. Perhaps they are the reason we have such a large turnout this morning.

On the rostrum with me today sitting over here to the right are three distinguished gentlemen from the State of Maryland who have probably contributed more to the success of the Constitutional Convention in Maryland than any other three men. I refer to the President, H. Vernon Eney, the Secretary of the Convention, Robert J. Martineau—and I want to ask him if he will stand so that we can acknowledge his presence, that is the Secretary of the Maryland Convention—and the Executive Director of the Maryland Convention, John C. Brooks. I will ask him to stand, if he will, please.

Of course, you all notice that I have not yet asked the President of the Maryland Convention, H. Vernon Eney, to stand because I thought that you delegates would like to hear from him. I point out that this distinguished gentleman was not only the President of the Convention, but he was also on the commission that brought the Convention into being in Maryland. I know you will also be happy to know that he identifies himself as being almost a Pennsylvanian. I think the reason for that is that he lives very close to our border.

For those of you who have not read all the praises that have been heaped upon this gentleman, let me just briefly point out that he is an attorney in Baltimore and a former President of the Maryland Bar Association. It now gives the Chair great pleasure to present to you H. Vernon Eney. Mr. Eney, would you say a few words, please?

ADDRESS BY H. VERNON ENEY

Mr. H. VERNON ENEY. Thank you very much, President Broderick and delegates. I am indeed very, very happy to be here today primarily because the first part of our labor is over. We finished our Convention a bare two days before the statutory deadline. I would have loved to have had the opportunity to come here earlier while we were still in session hopefully to get some ideas, but I found that just as President Broderick said to me this morning there simply were not enough days in the week nor hours in the day to perform the task that we had before us in Maryland. I never got away from Annapolis at all.

I would like to tell you a little of our Convention and point out some of our similarities and some of our dissimilarities to your Convention. I think, perhaps, the most striking similarity is that both of us—both of our States today—are carrying the brunt of the battle for constitutional revision in this country. Because of the dismal failures that have beset revision in other States in recent years, I am quite convinced that if Maryland and Pennsylvania do not now succeed, the whole cause of constitutional revision in the country will be set back many, many years.

I have been saying in Maryland that we cannot fail. I am delighted to hear that same refrain being sung here this morning that in Pennsylvania, too, you are determined that you cannot fail.

I urge you even more strongly than your own officers to take that to heart and make sure that you do not fail because what you do is going to have a tremendous impact on Maryland. We, too, have had our battle not for a few years, but for many, many years to have constitutional revision—37 years as a matter of fact. When we started our Convention, it was certainly not with the wholehearted approval of every citizen in Maryland. There were many who did not approve of the calling of the Convention and wanted to hold back. There were many who had themselves elected as delegates to the Convention with the avowed purpose of defeating it if they possibly could.

We go to election on May 14 so that although we started before you on September 12, you go to the ballot box first. Therefore, the success or failure that attends your efforts on April 23 is bound to have a tremendous impact in your sister State just below the Mason-Dixon Line. So I urge you to not only do everything you possibly can to draft a document in this Convention that your people will accept, but then afterwards do what we are setting out to do now and which we think is going to be an enormous task and that is to inform the public of just what is in the document and why; what is not in the document and why, so that they will vote for it at the special election in May.

The dissimilarities between your Convention and ours are, I think, marked also. As you all

know, our Convention was completely nonpartisan. It goes beyond that really because there was no recognition, no necessity to have any recognition, at any time of political parties in our Convention. The matter never arose; it was never discussed. There was no occasion to come up in the matter of selection of committees, personnel or in any other way. All of our delegates sat alphabetically in the House. This was by design and by rule adopted on the first day of the Convention. It was done in order to achieve a spirit of having each delegate feel that he represented his State and not his particular district. We never referred to delegations from this, that or the other county. Each delegate was an individual delegate. He was addressed by name; never as the delegate from a particular district.

The working together of the delegates took place in committees. Here great care was taken to select the committee so that each committee would be—to the greatest extent that the President of the Convention could foretell in advance—truly representative of the entire Convention by geographic distribution, economic level, educational background and to the extent that it was known, philosophy, and so forth.

This worked out well, too well in some instances, because unfortunately we had some committees that had 20 members. You would be amazed at the number of splits—10 to 10—on crucial issues. But in the long run, this paid dividends because while the reports of our committees were debated on the floor—oh, how they were debated—we had some delegates who felt impelled to speak at length on every issue whether it was one about which they had information or not. We soon learned the trick of handling that situation. I would like to pass it along to you because I am quite sure that when you get into that stage of your discussions, you are going to run into that same problem.

If you will look at our rules you will see that there are only two provisions for limitation of debate. First, no delegate may speak more than 15 minutes. Fifteen minutes in debate is an eternity—let me assure you it is. Nothing can possibly justify, in the consideration of committee recommendations, a debate by an individual delegate of as much as 15 minutes. We did not know that when we adopted the rules. Fifteen minutes was a compromise because there were those who wanted a half-hour limitation. We ended up with the provision for 15 minutes and a further provision that no delegate could speak more than twice on any question. This was in Convention.

We had a device that you do not have. Everything went to the Committee of the Whole, that is, after first reading, and reference to the committee. The committee recommendations came out on second reading. It went first to the Committee of the Whole for full debate. We did this deliberately because we hoped to keep away from the rigidity that would follow formal Convention debate. It has its advantages and it does give you

more flexibility. It developed what I have referred to many times as the dialogue on the floor because we had delegates—each of our delegates has an individual microphone—that is both an advantage and a disadvantage—but we developed discussion, you might say, rather than debate back and forth.

It is a little hard on the presiding officer because our microphone system is controlled entirely by a console. An attendant sits next to the presiding officer and unless the attendant throws the switch, the microphone will not function. What is grand, the presiding officer permits one to speak by letting his microphone on, but it is a little rough if you have this dialogue going back and forth because the presiding officer has to call the name of one delegate and the other so that the person controlling the mechanism can turn the microphones on. It does, however, have a tremendous effect both on the public and on the delegates. We did what I know you did—had long, long hours after we finished our formal committee hearings, some days running from ten in the morning until 11:30 and 12 and sometimes later at night, with breaks only for lunch and dinner.

During these sessions of the Committee of the Whole, we soon found that we had to devise a system to limit debate graciously but nevertheless very severely. We have a committee that we call the Committee on Calendar and Agenda that each day prepared a calendar. We had this committee, in advance, prepare a schedule of debate where we had issues that we knew were going to be debated. There was a majority report and a minority report. The spokesman for each were allotted so many minutes of controlled debate—that is, the committee chairman would be allotted, say, 20 minutes on a particular question of controlled debate and the minority spokesman was allotted the same amount of time. They could allocate that as they chose among delegates that they desired to have support their position. The net effect of it is to cut down to two or three minutes the speech of each delegate because the person with 15 to 20 minutes of controlled debate wants to have five or six people speak, necessarily he must severely limit the time.

As we moved on, we found that a five-minute speech was rather long. A person speaking on one narrow question for five minutes, after the first three minutes began to repeat himself. So we added a little provision in the schedule of debate minutes on any question. As it worked out minutes on any question. As we worked out finally, we ended up with an arrangement under which a committee chairman or the chief spokesman for the opposition would each have six minutes on any question. As it worked out know that seems to you who really have not gotten into heavy debate on the Constitution like an awfully short time, but I urge you to give it consideration because I think you will find that without it you are going to have a great deal of

difficulty in making any real progress. In connection with this, we had another device which you may find useful, and that is, prior to debate the committee recommendation was presented by the committee chairman without limitation of time. He presented the report and after that there was a period of questions. The delegates tended in the question period to debate with the chairman, and the presiding officer had to cut this off to hold it within limitation, because these questions were designed only for clarification of the report.

But after an hour or two, for a long report, a full presentation by committee chairman and extensive questioning, the understanding of the report was pretty general and the issues were sharpened so the debate could move along very, very briskly.

Let me say to you that I take so much of your valuable time to talk about this limitation, because I think the most frightening experience that we had was simply the ever-present clock and calendar that every day was ticking away the time and bringing us more rapidly than we ever dreamed possible to the day of adjournment.

In the Maryland Enabling Act, we were allotted three months, but the Convention, by a majority vote, could extend its session for an additional 30 days. We had conceived initially that extra 30 days as a cushion period just to take care of an emergency; we really thought we could finish the job in 90 days. I understand that this is really all you have, 90 days, for your entire session without the cushion.

We found we had to use the extra 30 days and much to my dismay, we did not have, as I had very sincerely hoped we would, a period of 10 days or two weeks toward the end when the staff could have the entire Convention adjourned and sit down quietly and read over what was done to make sure that there were no grave errors, inconsistencies or any faux pas of one sort or another. We had to do this in a very, very, jammed weekend, having the staff work about 18 hours out of 24 on three successive days just to check every amendment that had been made, check all the copies to make sure there were no errors, read for sense, and so forth.

I hope you allow yourself some time for that because we found that, notwithstanding what I had thought was the most painstaking care on the part of the staff to pick up all of these inconsistencies, they do creep in. They are not of major proportions perhaps but they do detract from the clarity of the finished product. And you want a chance to look at it and make sure it is what you intend it to be and that it covers the subject.

We allotted in our original thinking roughly 30 days for committee hearings, 30 days for what we called drafting and discussion period and 30 days for debate and decision. This is very grand on paper and in thinking about it ahead of time, but actually it did not quite work out that way. We did finish the hearings which were very, very extensive. All of our committees had anywhere

from 75 to close to 100 hearings for each committee, formal hearings, with over 600 formal witnesses. All of this took time, but we managed, not in 30 days, but in about five weeks.

The second phase took us longer. Our arrangements were somewhat similar to yours: The delegates put in their proposals and these all went into the melting pot of the committees. The committees never reported out any single proposal; they all came out in the form of committee recommendations. One recommendation might be an entire article. Our committee on the judicial branch, for instance, reported the entire judicial article in one recommendation. This was the result of some 50 or 60 separate delegate proposals.

The drafting of this and of the accompanying memorandum, because we insisted that each committee submit a written memorandum explaining its recommendation, took longer. But the thing that took incomparably more time than we had ever anticipated was the debate period, in spite of the very long sessions. We had stenographic transcripts of our debates, and the total is something more than 14,000 pages. We taped all our debates, using regular audiotape to do this. It was hooked into the sound system. I checked just before we left yesterday the total of the tapes to see how much debate there was and there was approximately 350 hours of debate. That is a tremendous amount of debate, and when you realize that most of that time is broken down into either three or six minute speeches you can understand why I wince a bit when I refer to some delegates who talk interminably on every subject.

We did, nevertheless, by keeping the pressure on, manage to finish effectively about a week before our final deadline. I am very happy to say that, notwithstanding the fact that we had delegates who, as I indicated, had been elected to the Convention with the avowed purpose of trying to block its efforts, we ended up with only three dissenting votes. The Constitution actually is signed even by the three delegates who voted against it.

I do not know that all of the delegates are going to work just as hard for the adoption of the Constitution as some of the others, but I do not think there is the slightest doubt that the net result of the whole effort, so far as the delegates are concerned, is the feeling that they had done the best they could. They have met the problems; they have studiously avoided getting enmeshed into purely legislative matters; have strived very hard, and I think have succeeded, in drafting a Constitution that is, with a very, very few exceptions, limited to constitutional matters. To the greatest possible extent, it concerns itself only with the structure of government, the allocation of powers among the various branches of government and the declaration of the individual rights of each citizen. All of the legislative matters are omitted.

We found it imperative to attach two very

lengthy schedules. Our code of laws is, as I suppose yours is, almost a hopeless morass of legislation, accumulated over many, many years. Under our Enabling Act, we had the authority to attach to our Constitution a schedule of legislation that acted as a temporary transitional legislation to accommodate the existing laws to the new Constitution for the brief period during which the legislature would not have the opportunity to enact these laws.

We also had to work out a very elaborate schedule of transitional provisions because our Constitution does make some very drastic changes in our judiciary system.

The two schedules, the schedule of transitional provisions and of legislation, together, are lengthier than the Constitution itself. Our present Constitution is slightly over 40,000 words; our new Constitution is about 14,000 words. It is written for the most part in what some people call uninspired, but which we feel is plain, simple, everyday English that one can read and understand without having a long explanation.

This has been a rather rambling talk. I do not want to take any more of your time. I am delighted to be here. I would like to observe you in action a bit. I bring to you from the Convention in Maryland our very heartiest greetings, our very sincere good wishes and our hope and prayer for a very successful result to your labors both in Convention and in the referendum.

Thank you very much.

PRESIDENT THANKS MR. ENEY

PRESIDENT BRODERICK. Thank you very much, Mr. Eney. We appreciate your remarks. I think from the applause and the recognition that was accorded you today, I am sure that you realize that each and every delegate here recognizes that you have established a great record in Maryland. I think it is only fair to tell you that we are out to break and beat that record. We are going to work hard.

INTRODUCTION OF PROPOSALS

PRESIDENT BRODERICK. The next item of business is the introduction of proposals.

The Chair recognizes Delegate Baner.

DELEGATE BANER. Mr. President, I fully realize and am aware that the Chair had made a ruling relative to the introduction of proposals; however, the rules do specify, of course, that anything in the Convention Drafting Bureau up until January 5 could thereafter be presented. Unfortunately, I did have a proposal which got mislaid and was not presented. I would ask leave to offer this particular proposal at this time.

PRESIDENT BRODERICK. Delegate Baner, the Chair at this time regrets that in view of the circumstances that took place in connection with the introduction of proposals, and I do not want to go through all the details, but on January 5, on a Friday, we stated we would receive after that any proposals that were in the hands of the legislative drafting bureau. On Tuesday and Wednesday both we set up the last day—the deadline—and when that deadline was established and also reached on Thurs-

day, the Chair asked if there was any objection to a determination that no further proposals be received.

I do not want anyone to think that we are trying to cut off any proposals and I say to you right now, if this is a matter that you would care to submit as a delegate proposal, the Chair rules that we would have to have the vote of 82 of our delegates consent to receive it. I want to point out to you that I am sure that you are familiar with, but perhaps the other delegates have not had an opportunity to look at our rule 23, which states just as you said: "No delegate proposal shall be introduced, numbered or printed, except upon consent of a majority (82) of the delegates; except that any delegate proposal in preparation on the above date may be introduced when it is received from the Convention Drafting Bureau."

Delegate Baner, that was our problem. We kept checking with the drafting bureau and kept asking on Monday, Tuesday and Wednesday if we could get the proposals in. I feel that the Chair must rule that the only way that we can receive this proposal this morning is in connection with a vote of the delegates. I also wish to point out that this does not prevent you in any way, shape or form in connection with this proposal from submitting it as a suggestion to the appropriate committee.

I will abide by whether you care to have us vote on it.

DELEGATE BANER. Mr. President, if the Convention is willing and in the mood, of course, to act upon this, I would like to address a few words pertaining to the nature of this proposal and move for its submission here this morning.

This particular proposal concerns the establishment of a centralized tax collection and tax bureau in each and every governmental subdivision.

In this day of increasing sources of taxation in municipalities, for example, of approximately 5,000 people, we may have one tax collector who collects real estate taxes, a second tax collector who will collect earned income taxes, another for mercantile taxes and another for deed transfer taxes. There is no end to the number of tax collectors we may have in a particular municipality.

By the same token, in many of our small municipalities the collection of these taxes is in the hands of individuals. The local tax records, the rolls of the taxpayers are in private homes; there is no genuine system of checks and balances; there is no confidentiality in these records. The purpose of this proposal is, as I have indicated, to establish a central tax bureau in every municipality where these records may be kept within the jurisdiction of the local municipal governing body.

At this time, I would like to move the introduction of this proposal.

PRESIDENT BRODERICK. In accordance with Rule 23, the Chair is going to present the question to the delegates and the question is, shall we accept the proposal of Delegate Baner which he just outlined to you?

Under the rules, it requires the consent of a majority, 82 of the delegates. Those voting "yes" will vote to accept the proposal; those who vote "nay" will vote not to accept the proposal.

The Chair now recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, I do not think any delegate is very anxious to deny another delegate the opportunity of entering a proposal here. On the other hand, I am sure a great many of us feel strongly that we do not want to open this up to a Pandora's box, which is an overworked phrase in this Convention.

Would it be possible for the Chairman of the Taxation and Finance Committee to just get up and say that he would be glad to have them give consideration to this if he would present it without our having to either abnegate the delegate's idea or to say yes, go ahead and have all the proposals that anybody may want to come up with?

PRESIDENT BRODERICK. I am sure, Delegate Scranton, that that is a possibility.

I now see the Co-Chairman of the Taxation and Finance Committee, Chairman Leonard, at the microphone and we will have an expression from him.

The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Mr. President, the Taxation and State Finance Committee would be pleased to accept Delegate Banes' proposal as being made to the committee, or at least we would be pleased to consider it as being made to the committee. If he would submit it to either Delegate Woodring or myself promptly after the close of this session, we would be glad to talk with him and bring it before our group for consideration.

PROPOSAL SUBMITTED TO COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. Now I would like to recognize Delegate Banes to ask him if, in accordance with Rule 23, which says—and I will repeat it again—"This shall not prevent any Delegate from thereafter submitting to the appropriate committee any suggestion," he would care to submit his proposal directly to committee.

DELEGATE BANES. I shall abide by the suggestion of the co-chairmen of the committee and shall submit it directly to them.

PRESIDENT BRODERICK. You are, therefore, withdrawing your request that it be introduced in accordance with the rules of delegate proposals on the floor. Therefore, we do not have to vote on this question and I thank Delegate Banes, Delegate Scranton and Delegate Leonard for their contributions to this settlement.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto from Allegheny.

DELEGATE OTTO. Mr. President, I would request a personal privilege for a short statement with respect to a proposal which was discussed last week.

PRESIDENT BRODERICK. Would you state your point of personal privilege.

DELEGATE OTTO. The personal privilege is with respect to a statement regarding the consumer price control program proposal.

PRESIDENT BRODERICK. You may make a short statement.

DELEGATE OTTO. Thank you. Last week I stated to this Convention my reasons for supporting a proposal that would provide a standby emergency consumer price control program.

I have no desire to open a "Pandora's box" in this Convention, nor do I want to needlessly hamper or delay this body's deliberations.

I would, however, be derelict in my duties if I failed to note that Proposal No. 1178 introduced on January 9, 1968 by Delegates Popil, Percey, Pott and Powell was cleared by the President as being within the purview of this Convention and such proposal is now before the Standing Committee on Taxation and State Finance.

This proposal under State Debt requires: "State Debt—State debt can be incurred when authorized by statute for any one of the following purposes: (in part)

- "1. To suppress insurrections, riots or civil disorders, or
- "2. To rehabilitate areas affected by disasters."

I am writing the Taxation and State Finance Committee today asking that when this proposal is considered, serious study be made so as to include the following addition:

"or, 3. To control consumer prices during emergency periods only."

I will further ask the committee to advise me when Proposal No. 1178 is discussed in order that I can plan to attend.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Otto.

COMMITTEE PROPOSALS

PRESIDENT BRODERICK. We move to the next order of business which is the introduction of committee proposals. Are any committees prepared to introduce proposals today? The Chair hears no response.

LAUREL HIGH SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham from Lawrence County.

DELEGATE BRAHAM. Thank you, Mr. President.

It is because of business at the Farm Show of our guests that I want to speak at this time.

Mr. Joseph Solomon and I, delegates to this Convention from Lawrence County, are pleased to present five young gentlemen from the Laurel High School in our county and their teacher, Howard F. Fox. They are in attendance at the Farm Show and are all members of the Future Farmers of America. William Tyndall, a Delegate; John Wilson who is to receive the Keystone Farmer Degree, and four others who are to present, at 11 o'clock, a demonstration at the Farm Convention.

May I ask them to rise, Mr. President?

PRESIDENT BRODERICK. Yes, indeed, Delegate Braham, we will be happy to give them our warm and cordial greeting.

GUEST WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Delegate Barron.

DELEGATE BARRON. Mr. President, while we are on the subject of introductions I would ask leave to present my guest for today, a constituent of my county, Mrs. Norman Waldorf. I particularly make this introduction because this charming young lady is the daughter of my law partner, Harold W. Houck, Esquire, through whose untiring and devoted efforts in keeping our office doors open, I am able to attend and participate in this Convention.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you. Where is the young lady? We will ask her to stand and we will give her our warm, cordial greeting.

COMMITTEE REPORTS

PRESIDENT BRODERICK. Are there any Committee Reports?

The Chair hears no response.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Powell from Bucks. For what purpose does the gentleman rise?

DELEGATE POWELL. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE POWELL. Mr. Chairman, yesterday my fellow delegate from Bucks County, the Secretary of this Convention, introduced the most attractive JP in the State. Today, I would like to introduce the best known woman JP in the State, who is on our staff. Her name is Mary Summerfield from Bucks County, standing back here in the doorway. I would also like to say that she is from Dublin Township and they do not run anybody against her and she is the only one from that township.

PRESIDENT BRODERICK. Thank you and I am sure we all appreciate the good service that she gives.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Clinger from Warren. For what purpose does the gentleman rise?

DELEGATE CLINGER. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE CLINGER. Mr. President, during the past three weeks, myself and, I am sure, all the delegates have been enmeshed or preoccupied with the work of their own subcommittees and thus we have rather lost sight of the big picture. We are not aware of what is going on in the other subcommittees. This is in connection with Delegate Abernethy's request of last week. At this time, it is my understanding that all the subcommittees are making rather formal reports to the standing committees for consideration. I would like to request, under Rule 22, paragraph 8, that these reports of the subcommittees be made available to all the delegates for their consideration. I think this could be very helpful when we come to debate on the various proposals that are submitted because we would have some knowledge of what has been considered in the subcommittees, what has been involved in their consideration and thus might forestall a great many questions that otherwise could arise in debate.

I would like to request that these reports be made available to all the delegates.

PRESIDENT BRODERICK. Delegate Clinger, today we are having a meeting of the chairmen and the officers and your request will be conveyed to them and discussed with the hope that it can be fulfilled.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring. For what purpose does the delegate rise?

DELEGATE WOODRING. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE WOODRING. Mr. President, in last evening's Harrisburg paper, there was assigned to one of the ex-officio delegates the statement that he did not travel all the way out here to meet the wives of delegates. I might say that some of those wives did not deem it proper to come here today with these discontented dele-

gates and went out to the Farm Show with the contented brown cows.

PRESIDENT BRODERICK. Thank you Delegate Woodring.

RESOLUTION

PRESIDENT BRODERICK. Do we have any resolutions?

The Chair recognizes Delegate Banes.

DELEGATE BANES. Mr. President, I have prepared a resolution. It is not yet typed, but I would like the Convention to give it consideration. It pertains to recognizing and honoring the thousands and hundreds of thousands of people who are representing a great industry, the agricultural industry, in this Commonwealth at the Farm Show this week.

DELEGATE BANES read the following resolution:

WHEREAS, The 52nd Annual Pennsylvania Farm Show is presently being held in the city of Harrisburg, and

WHEREAS, Its hundreds of exhibits of prize livestock and fowl, farm and food products, materials and equipment produced and used in the state's agriculture depict and represent the daily life and culture of a large segment of the citizens of this Commonwealth, and

WHEREAS, In this day of teen-age rebellion, civil unrest and disobedience, it is gratifying to see so many of our farm youth industriously engaged in farm occupations, and

WHEREAS, The Convention wishes to recognize and honor the hundreds of thousands of citizens engaged in the state's agriculture, now therefore be it

RESOLVED, By the Constitutional Convention in session assembled, that it does extend its congratulations and best wishes to the thousands of farmers and their families, 4 H clubs and other clubs and organizations to the officers of the Farm Show and the Convention does hereby recognize their efforts and work in making Pennsylvania a better place in which to live.

PRESIDENT BRODERICK. Delegate Banes, the Chair would request that this resolution, in accordance with the rules be prepared as was announced yesterday. Under the rules, we can have resolutions prepared by the Convention Drafting Bureau. If you will have that prepared, it will be formally received tomorrow.

I wish the delegates would abide by that rule. It is not the purpose of the Chair to delay proceedings by referring to the rules, but I think these rules are designed to expedite the business and I would certainly appreciate your having your resolutions prepared by the drafting bureau.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Solomon. For what purpose does the gentleman rise?

DELEGATE SOLOMON. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE SOLOMON. I, at this time, offer a motion nunc pro tunc that perhaps Mr. Banes could have used

to correct the record. I was present Monday evening, but due to the hazards of the journey I was not on the floor Monday morning.

This gives me an opportunity to speak on a particular point which, I believe, must be raised in this, our Committee of the Whole, that my arrival at the judicial session, that was the plenary session of the judicial article, I was informed by many of my friends and one or two of my detractors that a record appeared in which I was misnamed judge. The record related to the very excellent presentation given before the Judiciary Committee by Carl H. Rolewick, the Administrator for the State of Illinois.

In examining the record, I was deeply gratified that I had finally made it. I realized and thought for a moment that the same thing that struck Delegate Hannum had hit me, but this was not so. I am saying this because next week many of my colleagues from our county and our zone will be coming here to the Pennsylvania Bar Association's winter meeting. I am sure that Mr. Rolewick's statement relating to administration will be of great interest to them, and since they will see that I have been elevated to the esteemed rank of judge, I would not want them going back to the county and state that I operated under false pretenses.

However, Mr. President, I am happy to allow the record, "Walter Mitty" style, to appear as it is. I am satisfied I cannot go back to the Committee and change it.

I feel pretty much like the man who had a very beautiful wife who was afflicted with a psychosis. He took her to the doctor and explained to the doctor, "Doctor, my poor wife is very ill; she thinks that she is a mink. Help her, Doctor, but please do not change her."

PRESIDENT BRODERICK. Thank you, Delegate Solomon.

If we understand your request, you wish from now on to be recognized as a Solomon and not as a judge.

MOTION THANKING MARYLAND CONVENTION VISITORS

PRESIDENT BRODERICK. The Chair now recognizes Delegate Thornburgh from Allegheny.

DELEGATE THORNBURGH. Mr. President, I do not mean to flaunt your most recent ruling on resolutions, but I do think that it would be inappropriate for our friends from Maryland to depart from this chamber today without there being some formal recognition of our thanks to Messrs. Martineau, Brooks and Eney for their enlightening comments and the information which they gave us today.

Rather than a resolution, I would move that a motion of thanks be extended to Messrs. Eney, Martineau and Brooks.

PRESIDENT BRODERICK. I think I can consider that that motion has been seconded by everyone in the House. All those in favor, please signify by saying "aye." I know there is no one opposed, because we are all happy to have you with us today.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Room 500, North Office Building,

Wednesday, January 17, 1968, immediately after today's session.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, entire committee, Senate Majority Caucus Room, Wednesday, January 17, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, entire standing committee, House Majority Caucus Room, Wednesday, January 17, 1968, at 11 a.m., e.s.t.

RULES, Co-Chairmen Gabreski and Lesch, Room 286, Wednesday, January 17, 1968, at 4 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, entire committee, PUC Hearing Room No. 1, Wednesday, January 17, 1968, immediately after today's session.

ANNOUNCEMENT BY DELEGATE SCRANTON

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Judiciary, Delegate Scranton.

DELEGATE SCRANTON. The entire committee will meet immediately after this session, and I mean immediately, because we have to stop our meeting at 12:30 in view of the President's call for another meeting. Note this: The Senate Majority Caucus Room; we have been outmaneuvered by some rather insidious personnel. The Senate Majority Caucus Room is where the Judiciary Committee will meet.

Incidentally, please do not go back to your offices from here and then come. Come immediately; we have three very important items we have to finish by 12:30.

Thank you very much.

PRESIDENT BRODERICK. Thank you, Delegate Scranton.

ANNOUNCEMENT BY DELEGATE MANDERINO

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, the staff informed us yesterday that of late the House Majority Caucus Room had not been put to very good use and so it was being given back to the Local Government Committee.

For the benefit of the information of the other delegates, we will be starting consideration of the first subcommittee recommendation to the standing committee from the subcommittee on Local Apportionment this morning.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Manderino.

ANNOUNCEMENT BY DELEGATE WOODRING

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, it seems that the Committee on Taxation and State Finance has somehow or other been ousted from the Senate Majority Caucus Room.

Therefore, the committee will meet immediately following the adjournment of this session in PUC Hearing Room No. 1.

PRESIDENT BRODERICK. Thank you, Delegate Woodring.

ANNOUNCEMENT BY DELEGATE BLOOM

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Administration and Finance, Delegate Bloom.

DELEGATE BLOOM. There is going to be a short meeting of the Committee on Administration and Finance. It is going to be a short meeting, and any person who is on these other committees who desires to attend, I can assure you if we all go immediately over there, it will be very short and you can attend to these other meetings.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Bloom.

FUTURE FARMERS OF AMERICA WELCOMED

PRESIDENT BRODERICK. The Chair notices and takes note for the record that we have a full gallery at today's proceeding.

I, therefore, assume that I have your consent to present to this Convention the Future Farmers of America from Erie County. They are present today with their instructors, Mr. Charles Bowman, Mr. Howard Hartshorn and Mr. Omar Mennor.

They are the guests of the delegates from Erie, Delegates Moorhead, Scarlett and Gehrlein.

HARBOR CREEK HIGH SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. I understand that I have overlooked another group that apparently did not rise

in the gallery. I am advised that they are vocational agricultural students from Harbor Creek High School, also in Erie County.

They are the guests of Delegates Moorhead, Scarlett and Gehrlein.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the First Vice President, Delegate Casey. For what purpose does the gentleman rise?

VICE PRESIDENT CASEY. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

VICE PRESIDENT CASEY. May I ask that the record show my presence at this session, having been absent when the roll call was taken?

PRESIDENT BRODERICK. You shall be noted as being present. Delegates Fineman, Cain, Woodside and Bashoff wish to be recorded as present when the roll call was taken.

If there are any other delegates who wish their presence noted, please step up and give it to the clerk.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Huggins for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE HUGGINS. Mr. President, I move that this Convention do now adjourn until Thursday, January 18, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Huggins and seconded by Delegate Ruth that this Convention do now adjourn until Thursday, January 18, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 10:42 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Thursday, January 18, 1968

Number 25

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND S. JAMES SCHMITTLE, pastor of the Kingsley Methodist Church of Erie, Pennsylvania, offered the following prayer:

Most gracious and all wise God, Whose providence in days gone by has been our source of vision and our source of strength: We offer Thee thanks for Thy patience with us and Thy ministry to us. We have been slow at times to see the good, and Thou hast beckoned and prodded ever and again. We have been weak to stand for truth, and Thou hast given strength within and friends without. We have been comfortable in the face of injustice and need, and Thou hast created the climate wherein we could adventure to seek the good of all.

O Lord, our God, continue to pour out Thy providence upon us. As we meet to fashion afresh portions of a form of government for the people of this Commonwealth, lead us into a greater unity of purpose. Grant us to see the point of view of one another. Continue to change our minds as we counsel together. Purge from us the need for suspicion and distrust. Implant in us, instead, a sense of faith. In particular, give us faith in the continuing acts of Thy providence, that we may trust the future, with all its details, into other hands.

Truly, Lord, for the tasks given uniquely to us, endow us with flashes of wisdom, clarity of thought, and strength of purpose, to the end that we might not only preserve, but increase, the liberty and the justice which is our heritage. We would be led of Thee, that this people, this nation and all the world may be blessed by what we say and by what we do. Amen.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. The first order of business, as usual each day, is the approval of Journals. We have no printed Journals to approve.

JOURNALS IN SECRETARY'S OFFICE

PRESIDENT BRODERICK. Our Secretary, of course, will advise you as to the dates of the transcripts that are in his office.

The Chair recognizes the Secretary for that purpose, Secretary Michener.

SECRETARY MICHENER. Mr. President, the Journals for the 10th and 11th of January are on my desk.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made request for leaves of absence:

The delegate from the 45th District, DELEGATE HUGGINS, for January 17, because of business;

The delegate ex officio, DELEGATE DONALDSON, for January 17, 18, and 19, because of legal business;

The delegate ex officio, DELEGATE IRVIS, for January 18 and 19, because of legal business;

The delegate from the 46th District, DELEGATE HOOK, for January 22, because of legal business.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUORUM CALL

PRESIDENT BRODERICK. The next order of business is the calling of the roll. At this time we will unlock the voting machine and the delegates will proceed to record their presence by voting "aye."

The roll was recorded as follows:

Aberman	Dumbauld	Krill	Rappaport
Allison	Erwin	Laputka	Ree
Baldrige	Fagan	Leach	Rediek
Baldus	Fawcett	Lee, K.	Richter
Baldwin	Fay	Lee, L.	Roberts
Barry	Feather	Leimbach	Sahl
Bashoff	Filson	Leonard	Scales
Benedict	Fleming	Levin	Scarlett
Benfield	Fohl	Markley	Sebastian
Bloom	Forster	Mattioni	Sharp
Braham	Fortney	McGeary	Shetig
Brennan	Gabreski	Michael	Shively
Broderick	Goldstein	Michener	Shoemaker
Buck	Gouger	Miller, D.	Shrager
Bunting	Gray	Moorhead	Silverman
Burkholder	Griffith	More	Solomon
Camardella	Harding	Morton	Sprogl
Caputo	Hatter	Murray	Strickler
Caron	Henderson	Musselman	Stroup
Clark	Heyburn	Nelson	Tate
Clinger	Himes	O'Donnell	Thomson
Conley	Hoeker	Orban	Thornburgh
Corey	Hook	Orbin	Tully
Cortese	Horne	Otto	Van Sant
Cozetti	Hostetler	Pasquerilla	Waldron
Croop	Jirolanio	Pelletier	Welsh
Cunningham	Johnson	Percey	Westerberg
Curran	Kauffman	Popil	Whittum
Dalley	Keller, J.	Pott	Wilcox
Desmond	Kelly	Powell	Wilmarth
Devlin	Kline	Prendergast	Woodring

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 124 delegates present.

The Chair also notes the presence of the following delegates:

Amsterdam	Gehrlenz	McGlynn	Shapiro
Bagenstose	Gerber	Meyer	Stout
Barron	Hannum	Reynolds	Swope
Brown	Manderino	Rovner	Tomasick
Butera	Mangery	Ruth	Woodside
Casey			

INTRODUCTION OF COMMITTEE PROPOSALS

PRESIDENT BRODERICK. The next order of business is the introduction of proposals. Do we have any committee proposals ready for introduction?

The Chair hears none.

Do we have any delegate proposals?

The Chair hears none.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. Our next order of business, which is the normal order of business for this time of the week, is the reports of our committee chairmen on the activities of their committees and subcommittees during the past week.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD. Mr. President, the progress report of the Committee on Taxation and State Finance on this day, January 18, is as follows:

Proposals have been received from all three of our subcommittees covering most, but not all, of the subjects that have been under study for the past six weeks. Standing committee meetings are now scheduled regularly to debate the proposals.

The Taxation Subcommittee has made its proposal concerning the tax-exemption section except with regard to public utilities, which will be made early next week along with proposals concerning other tax matters. The principal recommendations of the Subcommittee on Taxation are:

1. To return, in effect, much of the real estate tax base back to the local taxing authorities, giving each of them the local option to collect a fair and equitable compensation from the property owner or user for governmental services rendered for the property.

This provision has been proposed for "public property used for public purposes and institutions of purely public charity." Incidentally, this proposal was introduced as a delegate proposal on January 2, 1968 and was sponsored by all members of the Subcommittee on Taxation.

The second major recommendation of the Subcommittee on Taxation is, to make it permissible in certain instances, again at local option, to grant tax exemptions for special tax provisions based on determined "need" to persons because of age, infirmity, disability or impoverishment. In the case of real estate tax, such exemptions would be granted uniformly by the Commonwealth and would provide for reimbursement of loss of revenue to the local taxing authorities.

The taxation exemption proposal has not been voted to the Convention floor by the standing committee because there have been serious problems arising from institutions of learning not supported from Commonwealth funds. A difficult, technical, legal problem was also not resolved.

The Subcommittee on State Debt has proposed, among

other things, (1) the elimination of the arbitrary \$1 million debt limit; and (2) the requirement that all debts of the Commonwealth be evidenced by general obligation bonds, with several exceptions, primarily for projects created for the joint benefit of the Commonwealth and one or more other governments. The proposal recommends that substantially all debt be subject to referendum. This proposal is currently the subject of constructive debate in the standing committee.

The Subcommittee on State Debt voting six to four, with two members absent, represented a split as between two well-developed points of view—on the one hand, no referendum at all and, on the other, a referendum on substantially all debt.

The Sinking Fund Subcommittee, which also was assigned responsibility for budgetary and other related fiscal matters, has proposed new constitutional sections concerning balanced budgets and five-year formal financial plans. First discussion of these subjects by the standing committee will begin this afternoon.

Needless to say, the members of the committee are working long, effective and hard hours attempting to complete responsibilities on schedule. Although we expected to have a committee proposal to the Convention floor this past week, we feel certain that at least one, and hopefully all, will be proposed or at least ready by the end of next week.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you very much, Delegate Leonard, for an excellent report.

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, the Committee on Local Government, as you know, by self-imposing its own deadline, completed all its work and submitted its report to the standing committee this past Monday. All the subcommittee reports are being put in drafting form by the Convention Drafting Bureau. Three of these have been completed and we anticipate by Friday that the other three will be completed. When all six of these subcommittee reports are completed and in drafting form, they will be distributed to all the delegates of this Convention.

We would like to call to everyone's attention, however, that some of the reports are conflicting and must be straightened out within the standing committee.

Our schedule called for the fact that we should begin consideration of subcommittee proposals on Monday. However, yesterday after the session, we began the debate of the first subcommittee's report, that on local apportionment. We will continue from here on in to take up consideration and debate all the subcommittee reports. I see no reason why we should not meet our schedule in coming to this floor with a complete one-package committee proposal on local government.

PRESIDENT BRODERICK. Thank you very much, Delegate Pasquerilla, for another excellent committee report.

COMMITTEE ON LEGISLATIVE APPORTIONMENT

PRESIDENT BRODERICK. The Chair recognizes the

Co-Chairman of the Committee on Legislative Apportionment, Delegate Fagan.

DELEGATE FAGAN. Mr. President and Delegates, reporting for the schedule of progress for the Committee on Legislative Apportionment, I would like to make the following report:

Committee A, the Method of Apportionment, is continuing to meet because of the many proposals that have been submitted by the delegates and because of the fact that this particular committee wants to hear orally all the background to the submissions that have been made, and provide for an opportunity for the committee to question and interrogate so that they, in their final deliberations, can make the proper decisions.

As far as Committee B, the Composition of the Legislature, is concerned, this subcommittee has reported to the standing committee; the standing committee has acted upon its recommendations. Immediately after this meeting is adjourned today, the standing committee will meet in Room 809 for the purpose of going over the final draft so that at the beginning of next week, the Committee on Legislative Apportionment can submit to the floor for first reading our recommendation on the composition of the legislature.

On the Method of Apportionment, we will continue our hearings today and Monday. I feel that by the end of next week we will be able to make a final report on both Committees A and B, which will be the final recommendations to the floor by the Committee on Legislative Apportionment. I feel, because of the work of the subcommittees and the standing committees, that we will be in a position to make our complete report within the next week which is within the allotted time schedule of the Convention.

PRESIDENT BRODERICK. Thank you, Delegate Fagan, for an outstandingly good report today.

COMMITTEE ON STYLE AND DRAFTING

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Style and Drafting, Delegate Johnson.

DELEGATE JOHNSON. Mr. President and delegates, the Committee on Style and Drafting met at 7:30 p.m. on Tuesday. The progress of the discussion of individual proposals in the four substantive committees and the probable development of committee proposals were reviewed with the purpose of predicting the possible workload of the committee and the adequacy of its proposed methods of procedure.

A proposal was reviewed in some detail by the committee to get a trial experience with its proposed procedures.

The committee continues to be concerned about three things: First, what appears to be an extremely short period of time for the review of proposals in regard to style and drafting; second, the prospects that too much statutory matter will find its way into the Constitution; and third, the development of satisfactory working relationships with the other committees and the Convention.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you for an excellent report, Delegate Johnson.

COMMITTEE ON JUDICIARY

The Chair recognizes the Co-Chairman of the Judiciary Committee, Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, the full Judiciary Committee and all subcommittees have continued to meet daily since the last report and the situation is as follows:

All five subcommittees have now submitted their proposals to the full committee and the full committee is in the process of considering them. After effecting minor amendments and indicating choices between alternative proposals, tentative approval has been given to the proposal on tenure and on the removal, suspension, discipline and compulsory retirement of judges, and likewise, the retirement and post-retirement service of judges. Two full discussions have now been held on the selection of judges, and the subcommittee is now rephrasing its proposal.

Two of the subcommittees, that of Tenure and Retirement and Post-Retirement of Judges have submitted their full reports, and when these have been formalized they will be distributed to all the delegates of the Convention.

The remaining full reports outlining which delegate proposals were assigned to each committee, how they were considered and handled, and the pros and cons argued within the subcommittee will be completed the early part of next week and likewise distributed to all delegates of the Convention.

The prediction made last week remains unchanged. The main problems continue to revolve around the method of selection of judges, the unification of the judicial system and the minor judiciary.

Also, it is now quite clear that just as in the case of the Maryland Constitutional Convention, our Judiciary Committee will also present to the Convention floor one proposal in toto, a full, new article of the Constitution dealing with the judicial system. We believe we will have it ready within the time fixed by the rules.

I thank you, sir.

PRESIDENT BRODERICK. Thank you very much for another excellent report from the Judiciary, Chairman Amsterdam.

COMMITTEE ON ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE

PRESIDENT BRODERICK. The Chair recognizes Delegate Nelson, Co-Chairman of our Committee on Arrangement, Submission and Address to the People.

DELEGATE NELSON. Mr. President, with the permission of the Chair, the secretary of our committee, Delegate Michael, will make a report for the Committee on Arrangement, Submission and Address to the People.

PRESIDENT BRODERICK. The Chair recognizes Delegate Michael.

DELEGATE MICHAEL. A research staff has been assigned to the Committee on Arrangement, Submission and Address to the People, and the committee members have been appointed to ad hoc committees to cover each of the three areas. Committee coordinators and research staff are as follows:

Arrangement, Daniel B Strickler, coordinator; Ronald Davenport, research.

Submission, Herman M. Buck, coordinator; Mrs. Gertrude Troutman, research.

Address to the People, A. Hugh Forster, coordinator; Jacob Myers, research.

Gene Urey is research coordinator.

The research staff is securing copies of the address to the people following recent conventions in other States for study by our committee. On file are copies from New York, Hawaii, California, Connecticut, Rhode Island, Missouri and Michigan.

As a start on the address to the people, research staff members are working on a draft of the history and background of the Constitution. The heart of the address, explaining the proposed changes in the Constitution and the reasons for their proposal, will be drafted after the reports of the four substantive committees have been made to the Convention.

The committee has invited consultants to explore with committee members the capabilities and limitations of voting machines in relation to placing the constitutional questions on the ballot in April. Among those consultants will be C. Russel Welsh, Jr., Director of the State Elections Bureau, and Will Alton, Director of the Bureau of Elections of Allegheny County.

Dr. Alderfer and Dr. Ferguson of the Convention staff have promised assistance, and the Committee on Arrangement, Submission and Address to the People has met with research consultants for the four standing committees.

PRESIDENT BRODERICK. Thank you very much, Delegate Michael.

COMMITTEE ON ADMINISTRATION AND FINANCE

The Chair now recognizes the Co-Chairman of our Committee on Administration and Finance, Delegate Bloom.

DELEGATE BLOOM. Mr. President, delegates, we had two meetings of the Committee on Administration and Finance during the past week. Both meetings were devoted almost exclusively to the consideration of proposals by several firms to produce an historical documentary film recording the work of the Convention. After interviewing representatives of three firms and viewing samples of their film productions, the committee approved the recommendation of our subcommittee on a documentary film awarding a contract in the amount of \$20,000 to Stuart Finley, Inc. Weekly progress reports are to be made to our full committee by the subcommittees and staff.

I also wish to report that all matters which have been brought before this committee have been disposed of and we are now ready for any new business or any matters that any delegates want to bring before this committee in which we have jurisdiction.

I wish to thank you.

PRESIDENT BRODERICK. Thank you, Delegate Bloom, for an excellent report, and we understand you are open for new business.

REPORTS OF SUBCOMMITTEES TO BE DISTRIBUTED

PRESIDENT BRODERICK. The Chair wishes to comment that yesterday Delegate Clinger from Warren requested that we make available to the delegates the reports of the subcommittees. This matter was discussed yesterday at a meeting of the officers and the co-chairmen of all the committees, and it was determined that this was a very excellent request. From this moment on, every effort will be made to have those subcommittee re-

ports duplicated and distributed to all the delegates in order that they may be kept informed of the work of all our subcommittees.

CUMBERLAND VALLEY SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. The Chair wishes to give recognition to 100 students from the Cumberland Valley School District who are here with us today.

They are the guests of Delegates Tully and Musselman from Cumberland and Delegate Hostetler from Juniata.

I am happy to report among this group is Richard Tully, son of one of our most attractive delegates.

I just want you to know we are very happy to have your mother with us. She is doing a wonderful job.

MAYOR OF ERIE WELCOMED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Scales. For what purpose does the gentleman rise?

DELEGATE SCALES. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE SCALES. Mr. President, it is a well-known fact in this Convention that the Local Government Committee begins its work each morning prior to the work of the Judiciary Committee, and I cite as authority for that proposition Delegates Manderino and Pasquerilla.

I would call the attention of the Chair to the fact that this morning the mayor of the third largest city in Pennsylvania, the city of Erie, made a special trip to the Convention to be at an 8 o'clock meeting of the Local Finance Committee.

I would like to present to the Chair the mayor of Erie, Mayor Louis J. Tullio, who is also the special guest of the delegates from Erie County, Delegates Scarlett, Moorhead and Gehrlein.

I think the Convention should recognize Mayor Tullio.

PRESIDENT BRODERICK. Yes, indeed, Mayor Tullio, I see you now. If you will stand, we would like to welcome you.

We are very honored to have the mayor with us, and I want the mayor to know I am very proud of the key to Erie that you handed to me on the occasion of one of my visits there.

RESOLUTION PRESENTED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Barry.

DELEGATE BARRY. Mr. President, yesterday Delegate Banes from the 45th District introduced a resolution which was not submitted through the Convention Drafting Bureau. He asked me this morning after it was so submitted to present it to the Convention.

PRESIDENT BRODERICK. Thank you very much, Delegate Barry. You may hand up the resolution. Is this the resolution of Delegate Banes?

DELEGATE BARRY. That is right, Mr. President.

PRESIDENT BRODERICK. That resolution has been read and this is the copy of the resolution now that has been submitted in proper form.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair wishes to note the presence and arrival in the House of the following delegates so their presence may be noted on the record: Delegates McGlynn, Meyer, Amsterdam, Reynolds, Scarlett, Gerber, Casey, Brown, Bagenstose, Whittum, O'Donnell, Murray, Hannum, Baldus, Rovner, Richter, Woodside, Ruth, Barron, Stout, Tomascik and Butera, in addition to those who were heretofore noted.

If anyone is present whose name was not called, it would be appreciated if they would so signify.

LEAVE OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, I just received a telephone call from Delegate Scranton of the 22nd District. He is unavoidably delayed today, and he wanted to be sure that his absence was excused.

PRESIDENT BRODERICK. Unless the Chair hears objection, the leave of absence will be granted in connection with the request.

The Chair hears no objection.

COMMITTEE MEETINGS

JUDICIARY, Co-Chairmen Amsterdam and Scranton, full standing committee, PUC Hearing Room No. 1, Thursday, January 18, 1968, at 10 minutes after today's session.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, entire standing committee, Rooms 608 and 609, Thursday, January 18, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, entire committee, House Majority Caucus Room, Thursday, January 18, 1968, immediately after today's session.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, standing committee, Senate Majority Caucus Room, Thursday, January 18, 1968, immediately after today's session; standing committee, Senate Majority Caucus Room, Thursday, January 18, 1968, at 2 p.m., e.s.t.

ANNOUNCEMENT BY THE CLERK

The **CLERK.** Immediately following this session, the Convention Officers, the Co-Chairmen of the Rules Committee, the Parliamentarian and the Assistant Parliamentarian will meet in the office of the Lieutenant Governor.

POINT OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Schuylkill, Delegate Allison. For what purpose does the gentleman rise?

DELEGATE ALLISON. I rise to a point of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE ALLISON. Mr. President, last week I was going to stand before the Convention and make some observations relative to the releases in the press and relative to the actions that have been going on since the first full

week of this Convention. Perhaps I could best say that the subject is dignity.

Mr. President, from the first full week, which I think started December 4, up until and including this present week, we have sat here in these chambers and we have listened week after week; we have read in the papers week after week; we have heard on television week after week condemnations which certainly do not enhance the dignity of this Convention.

The first week we heard the Governor excoriated; we heard the administration excoriated; we heard the House of Representatives excoriated; we heard the Senate taken to task. Last week I was going to make this statement, but I thought maybe this week things would quiet down and a bit of sunshine would come in to our Convention and we would not hear too much of it anymore. But lo and behold, this week. I believe, has been the worst of all!

I think it is about time somebody stands up and puts the whole Convention on record as a body of dignity and decorum. In the past week, we have had members stand up here and call to task other members of this Convention for attending meetings and for not coming to the Convention floor. I believe, Mr. President, that this is not dignified, and I do condemn it, because I believe that anybody who condemns our leadership, who condemns anybody in the Convention, is condemning me, and I refuse to accept it.

Mr. President, within the last week I have had a real awakening. I see some of these members even called to task, members from the Senate and the House who were elected as delegates, for not performing some duties. I believe because of the graciousness of the President, and only because of it—and I think they took advantage of him—some members stood up on this floor and made remarks which I believe should have been expunged.

Now in the past week I have had a real awakening, as I said. On Monday I received a letter from Secretary Michener inviting me to his home for a visit yesterday. I went to his office yesterday to explain and I asked his forgiveness because I could not go. In my hometown of Tamaqua, for the first time in the history of Tamaqua we had a community worship service, and it consisted of the Protestant, Catholic and Orthodox faiths. On Tuesday night the services were held at the Trinity United Church of Christ. Last night they were held at St. Jerome's Catholic Church. On both occasions there were over 800 people present. After the services there were refreshments served, a social hour.

As I talked to Mr. Michener yesterday, I turned around and his secretary, Mrs. Jean Skrbín, asked, "What about the first night?" I explained to her that I was wearing this button and it seemed to cause the most concern. Everyone came up and said, "What is it?" Of course, it was self-explanatory.

I bring this point up primarily because the general question was, "What good are you doing for us?"

May I submit, Mr. President, that all the good up to this date that has been done has been partially ruined by the bad publicity that we have received from the press.

I believe it is time, Mr. President, that on such occasions from now on—we have six weeks; we are half-way through; we have to go and sell this program to the people—we have to stop this bickering.

I believe, Mr. President, that from now on—and I know if it had been done before, if you had ruled some of these out of order, you would have had no trouble getting a majority of 82 and many, many more. I am not the only one in this Convention who feels this way. I feel that now is the time we should stop this terrible, terrible mess that is happening in the papers. We are doing very fine things. These officers who come in at 8 o'clock in the morning and work until 10:30 or 11 o'clock at night are put through "hell," I would say, and I do not think it is fair.

Mr. President, I would like to go on record this morning as saying that I do not agree that this dignifies all our delegates or any one delegate in the Convention, and I would suggest that from now until the next six weeks that we stop it.

Thank you.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Reynolds.

DELEGATE REYNOLDS. Mr. President, I rise to a personal privilege.

I have listened with a great deal of interest to our friend and colleague. I differ with him. I think the press has a right to say whatever it wishes to say. I do not think that at all times we should dignify the press with an answer. I think that you have handled this Convention in a great manner. I believe the one delegate who I believe was a school teacher has a right to talk to his students and if he wishes to talk to us as delegates here in the manner he would to a student; we have no quarrel with him. I think that is his constitutional right.

I have always subscribed to the theory that a man who does nothing is never criticized, but as soon as you stick your head up and start doing something for the people, some of those people are going to criticize you. If you cannot take it, you ought not to stand up. I say here today that I believe that this Convention has been exemplary in its performance—probably with rather few exceptions—and we have no quarrel with the press and our hometown boys. We are not making speeches here for copy for reelection for anything because most of us here will never be elected to anything else anyhow.

So I say to our colleagues that my great experience—and I have been in public life since I was about 19 years of age; I have served here in the legislature—I never will forget after my first term I was defeated because I stood up and fought for certain things. The ultimate outcome of the years since then has proven to me that I was right. I think we ought to stand on that premise—we backed up and we have sustained you in all your rulings because we have confidence in the Rules Committee. We have confidence in our former Governors and I say Governors plural because not only Governor Scranton, but Governor Lawrence and all the Governors have said to us—we need to do what we are here to do. I say to our Governors and our colleagues here—let us move forward, hold our heads up and say to the State of Pennsylvania that we shall give you something on the 29th day of February that the whole State will be proud of.

PERSONAL PRIVILEGE

SECRETARY MICHENER presented the following letter from Delegate Thornburgh for the Convention Journal:

PENNSYLVANIA CONSTITUTIONAL CONVENTION 1967-1968

January 17, 1968

To: James A. Michener
Secretary of the Convention

From: Richard L. Thornburgh

I was absent at the plenary session of the Constitutional Convention on Monday, January 15, 1968. Had I been present, I would have voted to sustain the chair's ruling on the appeal of Delegate Orbin.

Pursuant to Rule 19, I request notation be made in the Journal of the Convention accordingly.

HONORARY PAGES INTRODUCED

PRESIDENT BRODERICK. I do want to again call your attention to the fact that we have another, new group of attractive, young Americans, Pennsylvanians, who have served as our pages. As I said before these Pages are picked by their school authorities because of their outstanding records, to come here each week and serve with us.

I would like to introduce them, and as their name is called I am going to ask them to stand and we will withhold our applause until they have all stood.

We have George Eubanks, Harrisburg William Penn High School; William Heisey, Harrisburg John Harris High School; Patrick Reagan, Harrisburg Susquehanna Township High School; Kathryn Zerbe, Harrisburg Academy of Camp Hill; Linda Bucher, Camp Hill High School; Stephen Thomas, New Cumberland, Cedar Cliff High School; Rosemarie Juhl, Camp Hill, East Pennsboro High School and Nancy Marie Casper, Harrisburg Bishop McDevitt High School.

If there are any others whose names were not given to me I hope they rise because we want to show you that we appreciate your good work, and we are happy to have you with us.

COMMITTEE MEETINGS AFTER ADJOURNMENT

PRESIDENT BRODERICK. Before our adjournment resolution, which is the next order of business, I want to state that the officers met yesterday with the co-chairmen of our committees and the subject was discussed as to what business we would have for the floor of the Convention tomorrow, and we were advised by the Chairmen there would be no committee proposals available for tomorrow. Therefore, it is suggested in our adjournment resolution that we adjourn today until Monday. I again wish to point out that we do not want this adjournment resolution when it occurs from Thursday to Monday to in any way interfere with committee meetings which are scheduled—which means, of course, that the committee chairmen have a right to call their meetings at any time from now, of course, until we come back next week.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Dele-

gate Laputka from Luzerne for the adjournment motion.

DELEGATE LAPUTKA. Mr. President, I move that this Convention do now adjourn until Monday, January 22, 1968, at 1:30 p.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Dele-

gate Laputka and seconded by Delegate Orban that this Convention do now adjourn until Monday, January 22, 1968, at 1:30 p.m., e.s.t.

The motion was agreed to, and (at 10:18 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Monday, January 22, 1968

Number 26

The Convention was called to order at 1:30 p.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE RABBI SIDNEY B. RIBACK, Rabbi of the Rhawnhurst Jewish Center of Philadelphia, Pennsylvania, offered the following prayer:

Our God and God of our fathers, Thou hast lavished Thy blessings upon this great land and formed the inhabitants thereof into a great and leading nation among the nations of the world. Thou hast given us this Commonwealth as our heritage. For these great gifts, we offer our heartfelt gratitude.

We are assembled here this day, O Lord, amidst the distressing uncertainties and fears of these troubled days of crises. United, we turn to Thee in prayer, asking for strength and courage for knowledge of what to do and how we are to meet these challenges.

For some time now, we have been engaged in a great task evolving a Constitution, a plan charting a course in the storm-tossed sea of present-day life, a course which is to steer the ship of our Commonwealth to destinations that lead nearer to Thee, where calmness and serenity are ever present, where frightening darkness gives way to heartening light.

Gracious God, as we feel our way in the complexities of this task, may we merit the presence of Thy guiding hand. As we go on with our work, be Thou with us and save us from misleading ideas and erroneous choices and protect us from those decisions that are bound to fail in achieving their purpose. Above all, as we become deeper involved in the maze of matters material, keep us, we pray, from forgetting the eternal values of the spiritual.

Do Thou, O Heavenly Father, continue Thy watchfulness of the safety and security of our beloved country. Make its citizens mindful always of the precious blessings of rights, liberties and privileges and our democratic way of life.

Strengthen our will to align ourselves with causes that strive to hasten the coming of that better world of tomorrow promised through Thy prophets, wherein justice shall flow like a mighty river, when the weapons of war will be turned into the instruments of peace.

Finally, we ask Thy blessings upon the members of this body and all who are assembled in this house of deliberation and decision. Incline their thoughts to Thee and imbue their hearts with Thy spirit so that the strain and burden of their responsibilities will be eased and when their work is done, future generations will see Thy blessing in their achievements. Amen.

APPROVAL OF JOURNAL

PRESIDENT BRODERICK. The first order of business

will be the approval of the Journal for December 11, 1967. The Chair would like somebody to make a motion for the approval of the Journal for December 11.

The Chair recognizes Delegate Bloom.

DELEGATE BLOOM. Mr. President, I move that the Journal for December 11, 1967, be approved.

PRESIDENT BRODERICK. Delegate Bloom moves that the Journal for December 11, 1967, be approved.

The motion is seconded by the delegate from Somerset, Delegate Orban.

On the question,

Will the delegates approve the Journal?

It was approved.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 22nd District, **DELEGATE SCRANTON**, for January 18, because of business;

The delegate from the 43rd District, **DELEGATE AURENTZ**, for January 16, 17 and 18, because of illness;

The delegate from the 3rd District, **DELEGATE REYNOLDS**, for January 22, because of business;

The delegate from the 25th District, **DELEGATE GABRESKI**, for January 22, because of the flu;

The delegate from the 27th District, **DELEGATE PERCEY**, for January 22, because of illness;

The delegate ex officio, **DELEGATE BUTERA**, for January 22, because of business;

The delegate from the 48th District, **DELEGATE CARON**, for February 1, because he must attend a meeting of a board of trustees of a college.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

JOURNALS IN SECRETARY'S OFFICE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. On my desk, fellow delegates, right now are the Journals for January 10, 11, 15, 16, 17 and 18.

QUORUM CALL

PRESIDENT BRODERICK. We will have the calling of the roll to determine whether a quorum is present. The machine is now unlocked and you will please record your presence with an "aye" vote.

The roll was recorded as follows:

Aberman	Devlin	Leach	Rea
Amsterdam	Dumbauld	Lee, K.	Redick
Aurentz	Erwin	Lee, L.	Roberts
Bagenstose	Fagan	Leimbach	Rovner
Baldrige	Fawcett	Leonard	Ruth
Baldus	Fay	Levin	Sabb
Baldwin	Feather	Manderino	Scarlett
Banes	Fuson	Mangery	Scott
Barron	Fineman	Markley	Scranton
Barry	Forster	Mattioni	Sebastian
Bashoff	Gehrlein	McGeary	Shettig
Benedict	Gerber	McGlynn	Shively
Benfield	Goldman	Meyer	Shoemaker
Bloom	Goldstein	Michael	Shrager
Braham	Gouger	Michener	Silverman
Brennan	Gray	Miller, D.	Solomon
Broderick	Griffith	Miller, R.	Sprogel
Brown	Hannum	Moorhead	Stout
Buck	Harding	More	Strickler
Bunting	Hatter	Morton	Stroup
Burkholder	Henderson	Murray	Swope
Caputo	Heyburn	Musselman	Tate
Caron	Himes	Nelson	Thomson
Casey	Hocker	Orban	Thornburgh
Clark	Horne	Orbin	Tomaseik
Clinger	Huggins	Otto	Tully
Conley	Irvie	Pasquerilla	Waldron
Corey	Johnson	Pelletier	Welsh
Cosetti	Kaufman	Popil	Westerberg
Croop	Keller, M.	Pott	Whittum
Cunningham	Kelly	Powell	Wilcox
Curran	Kline	Quiles	Wilmarth
Dalley	Krill	Reppaport	Woodring
Desmond	Laputka		

PRESIDENT BRODERICK. The electric roll-call tabulator shows that we have present today 134 delegates, which constitutes a quorum.

The Chair also notes the presence of the following delegates:

Allison	Jirciano	Scales	Warman
Camardella	Keller, J.	Shapiro	Woodside
Cortese	Prendergast	Van Sant	

DELEGATE HUGGINS GUEST OF BIBLE BAPTIST CHURCH IN PHILADELPHIA

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Gray.

DELEGATE GRAY. Mr. President, first of all, I want to say that Reverend Huggins, the little fellow over there who is so eloquent, is going to preach at the Bible Baptist Church in Philadelphia, Sunday morning at 11 o'clock.

I would be very happy if any of the Philadelphia delegation and the Monroe County delegation would avail themselves of the opportunity of seeing how well he can preach.

He has annoyed you on the floor quite a bit and I am sure that we can probably shut him up by paying him a good sum of money to let him preach down at Philadelphia.

TRIBUTE TO DELEGATE SCRANTON

PRESIDENT BRODERICK. The Chair recognizes Delegate Gray.

DELEGATE GRAY. In a more serious vein, Mr. President, since the question came up here about the distinguished former Governor of our State who was absent on Friday, and we missed his presence, in the Philadelphia paper there was a very fine tribute paid to Governor Scranton. I would like to ask the Secretary or your gentleman in charge, your director, to secure that tribute and make it a part of the record of this Convention. I think

it is a tremendous tribute to him as "a man who walks with kings, and yet not loses the common touch."

PRESIDENT BRODERICK Thank you very much.

SECRETARY MICHENER supplied the following editorial for the Convention Journal:

THE PHILADELPHIA INQUIRER

WEDNESDAY MORNING, JANUARY 10, 1968

SCRANTON CONTENT IN PLAYING BEHIND-SCENES ROLE AT CONVENTION

By Joseph H. Miller

Inquirer Harrisburg Bureau

HARRISBURG, Jan. 9.—A serious-minded, sober-faced, slightly gray-haired man sits quietly in Seat 139 in the hall of the State House of Representatives, where he and 162 other Pennsylvanians are deliberating and planning changes in Pennsylvania's 94-year-old Constitution.

Although he is a knowledgeable and understanding person—one familiar with the shortcomings and needs of the State government—he rarely rises to his feet to expound personal beliefs with respect to the problems confronting the Commonwealth at this time.

For a period of four years, he stood at the helm of Pennsylvania's ship of state, guiding its destiny and charting a course that kept the governmental vessel afloat on an even keel.

He is William Warren Scranton, who joined his successor, Gov. Raymond P. Shafer, and other prominent Pennsylvanians in waging a successful fight for voter adoption of a referendum authorizing a Constitutional Convention.

During that fight, Scranton had no idea he would play a role in the convention as a delegate.

But his Republican neighbors in Lackawanna county felt they wanted the benefit of his wisdom and experience in State government to represent the 22d State Senatorial District as a delegate. They persuaded him to run and he was elected.

Following his election, Scranton appeared as the logical choice for president of the convention.

But he modestly eliminated himself from contention and stepped aside in favor of Lt. Gov. Raymond P. Broderick.

Scranton wanted a seat on the convention floor, where, he believed, his talents could be put to greater use and function more effectively behind the scenes and in the committee rooms.

However, his desire to remain out of public focus was shortlived.

As soon as the convention got under way, Scranton was named co-chairman of the temporary committee on rules, which mapped guidelines to chart the convention course. As the committee rules were adopted, his hand was evident in the framing of the basic groundwork of the convention.

When that task was completed, Scranton was made a permanent member of the Rules Committee, and co-chairman with Gustave G. Amsterdam, Philadelphia banker, lawyer and financier, of the important Judiciary Committee, which is charged with the task of overhauling the State's judicial system.

In this capacity Scranton chooses to remain in the background, sticks close to Seat 139 and delegates to Amsterdam the job of outlining the functions and plans of the Judiciary Committee.

Scranton still feels his best efforts can be used to greater advantage in a behind-the-scenes role.

Now he is engaged in a difficult task of ironing out differences revolving around members of the Judiciary Committee.

Scranton is impressing upon his committee colleagues that the most important task before them is the administration of the State's judicial system—that is, who should have the supervisory power in running the court system throughout Pennsylvania.

QUESTIONS OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Scales to record his presence.

DELEGATE SCALES. Yes, despite the efforts of the Pennsylvania State Police, Mr. President, I am now present and wish to be marked present.

PRESIDENT BRODERICK. I will take this occasion and thank the state police for insuring your good safety and bringing you in today.

DELEGATE SCALES. Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Warman to record his presence.

DELEGATE WARMAN. Yes, to record my presence. Also I would like to report that I was delayed by the state police a few moments too.

PRESIDENT BRODERICK. They are doing a very good job today.

The Chair recognizes Delegate Rappaport.

DELEGATE RAPPAPORT. Yes, and I see my colleague, Delegate Prendergast, rising for the same purpose.

PRESIDENT BRODERICK. We will record the presence of Delegate Rappaport and Delegate Prendergast. Do we have anyone else?

We want Delegate Cortese's presence recorded and Delegate J. W. Keller's presence recorded.

I think that takes care of all of the state-police-crusade victims.

COMMITTEE PROPOSAL INTRODUCED

PRESIDENT BRODERICK. The next and most important item of business is in connection with the introduction of committee proposals. I now ask, do we have a committee proposal for introduction?

The Chair recognizes Delegate Fagan of the Committee on Legislative Apportionment.

DELEGATE FAGAN. Mr. President and delegates, I read in place and present a committee proposal on the composition of the legislature:

COMMITTEE PROPOSAL No. 1

By **DELEGATES DEVLIN and FAGAN**

A PROPOSAL

Amending the Constitution of Pennsylvania providing for apportionment of legislative districts.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Sections sixteen and seventeen of article two of the Constitution of Pennsylvania, are amended to read:

Section 16. Senatorial Districts; Ratio.—The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as [may be] practicable, and each district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No] Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the [whole] total population of the State by the number fifty.

Section 17. [The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.] Representative Districts; Ratio.—The State shall be divided into two hundred three representative districts of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a representative district. The representative ratio shall be ascertained by dividing the total population of the State by the number two hundred three.

PRESIDENT BRODERICK. The Chair wishes to call to the attention of our delegates before we hear from Delegate Fagan that under Rule 26, subsection 3, a committee proposal shall be printed, placed on the desks of the delegates and appear on the calendar for at least one Convention day before the Convention considers it for the first time. That will be printed and placed on tomorrow's calendar before our first consideration.

The Chair takes pleasure in recognizing the Co-Chairman, Delegate Fagan.

DELEGATE FAGAN. Mr. President, I have no intention at this time to present any of the factual arguments as to the position of the committee, but if it is permissible at this time, I would like to read the changes that have been made by this subcommittee on the question of the composition of the legislature.

PRESIDENT BRODERICK. You may proceed.

DELEGATE FAGAN. Section 16, Senatorial Districts; Ratio: The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one Senator. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of the district. Senatorial ratio shall be ascertained by dividing the total population of the State by the number fifty.

Representative Districts; Ratio.—The State shall be divided into two hundred three representative districts of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a representative district. The representative ratio shall be ascertained by dividing the total population of the State by the number two hundred three.

Thank you, Mr. President.

PRESIDENT BRODERICK. May I ask you, Chairman Fagan, is that the report that you prepared for submission with the proposal?

DELEGATE FAGAN. Yes, that is correct, Mr. President.

PRESIDENT BRODERICK. If you would care to hand that up, I think perhaps we would have that distributed.

DELEGATE FAGAN. We have already sent it up to the rostrum.

PRESIDENT BRODERICK. Thank you.

Our Parliamentarian thinks that is in accordance with our rules and would seem to be very helpful if the delegates could get the report also.

Are there any other committee proposals at this time?

The Chair hears no further committee proposals. Therefore, I am going to ask if we have any committee reports. The Chair hears none.

The next order of business will be resolutions.

RESOLUTION

CONGRATULATING DR. HAROLD F. ALDERFER

PRESIDENT BRODERICK. The Chair recognizes the delegate from Berks, Delegate Caron.

DELEGATE CARON. Fellow delegates, Mr. President, I would like to present a resolution, and, if possible, ask for immediate action on same.

In the Constitutional Convention, January 22, 1968

The pamphlet, "A Citizen's Guide to Pennsylvania Local Government" by Dr. Harold F. Alderfer, has been of great value to many members of this Convention in studying and understanding the problems of local government.

This publication contains a tremendous amount of information that should be available to every citizen of this Commonwealth, especially to our

children who are just learning about our system of government; therefore be it

RESOLVED, That this Constitutional Convention congratulates Dr. Harold F. Alderfer, author of "A Citizen's Guide to Pennsylvania Local Government" for his fine work, and also commends the Pennsylvania Department of Community Affairs for publishing and distributing this vital information.

RICHARD J. CARON

As an aside, I was particularly interested in all the information that has been available to me as a member of the Convention, and this I happened to find particularly helpful and in direct relation to the children who have come and participated each day and week with us.

Therefore, if it is in order, I would ask that it be accepted

PRESIDENT BRODERICK. Now I understand, Delegate Caron, that you want to ask for the immediate consideration of that resolution and it can be considered immediately, unless the Chair hears some objection. This, of course, requires unanimous consent.

The Chair hears no objection. Therefore, the resolution, as read to you by Delegate Caron, will be put to vote.

On the question,

Will the delegates adopt the resolution?

It was unanimously adopted.

PRESIDENT BRODERICK. I am going to ask that it be copied so that a copy of it may be presented to the gentleman who was so honored.

COMMITTEE MEETINGS

JUDICIARY, Co-Chairmen Amsterdam and Scranton, entire standing committee, House Majority Caucus Room, Monday, January 22, 1968, 15 minutes after today's session.

LEGISLATIVE APPORTIONMENT, Subcommittee on Method of Apportionment, Co-Chairmen Keller and Tomascik, Room 608, North Office Building, January 23, 1968, at 11 a.m., e.s.t.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, entire standing committee, Senate Majority Caucus Room, Monday, January 22, 1968, immediately after today's session.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, each of three subcommittees, respective rooms, Monday, January 22, 1968, immediately after today's session; entire standing committee, Room 615, Main Capitol Building, Monday, January 22, 1968, at 7:30 p.m., e.s.t.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Banes. For what purpose does the gentleman rise?

DELEGATE BANES. I rise to a question of personal privilege and would like permission to address a few remarks to the Convention.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE BANES. If the President please, over the weekend I had an opportunity to talk to many of our citizens. There have been many statements appearing in our

newspapers pertaining to the work of this Convention, and I would like to address a few remarks on the subject.

PRESIDENT BRODERICK. You may proceed, Delegate Banes.

DELEGATE BANES. Mr. President and delegates of this Convention, we have now labored for some seven weeks on proposals for a new, limited Constitution. Hopefully, it will be a blueprint for progress, blazing the trail to meet the needs of the citizens of our Commonwealth into the 21st century.

It seems that the weeks have fled as fast as the Sputnik before us—fleetingly. I am sure that everyone asks where they have gone. As the time has sped, increasing signs from a whispered word here and there, from reports in the press, have made us wonder as to the nature of the infant to which this Convention will give birth and become the mother.

The Committee on Apportionment has presented a unique proposal on this floor today pertaining to the number of legislators and that number shall remain unchanged. All of us have read in the public press, and so have the citizens of this Commonwealth, that two of our legislators have made statements privately that if the committee and this Convention dare to recommend a reduction in their number, they would go to the electorate and work to defeat the proposed constitutional changes, that they control the votes. Is this our fear?

This, and more, has happened behind the doors of our committee rooms at this Convention, as reports have filtered to the outside of watered-down innocuous proposals. To many of us—to the citizens—I find that the Convention, in its great spirit of bipartisan and nonpartisanship, has become like a ship without a rudder or like the man in the rowboat with one oar, aimlessly circling, unable to reach the shore, and I fear that this great spirit which has pervaded our Convention has resulted in our becoming unpartisan, as it were, to the basic causes and purposes which brought us here.

These noble purposes are slowly being eroded away by special interests and gibraltar attitudes against change. There are those who would return us to the days of the pack mule and ox cart.

There is yet time, with deep introspection, to examine those causes and seek out the answers to our problems. We can all agree there is no panacea, but with the finest talent of this century assembled around us here, we can yet produce a workable document acceptable to the people to bring order out of much chaos, to provide less and better government, equitable to all segments of our economy for our overburdened taxpayers and citizens. Do our committees stand nervously watching, like the graceful gazelle on the African veld, ready to dart away at every sign of danger? Are we resigned to fear that unless we produce a diluted document, we shall fail before the electorate? I have no such fear; I stand here pleading the cause of all our aroused citizens who sent us here to prepare a modern document.

Unless we do our work well, that document will appear only like the setting sun, obscured by the smog of our reckless civilization or like the tiny candle of a by-gone day, shining brightly for a moment, which at its end sputters briefly, but dying, to leave our people struggling and groping to survive in the abysmal darkness of an era in the dim, dark past, or like a drop of rain flashing in a

summer storm, rushing to the earth, joining its brothers in an unending stream on its way to be lost in the depths of the vast ocean.

If we fail our people, we shall return to our homes a few weeks hence, leading a funeral cortege followed by a black coffin bearing the remains of the many proposals introduced here, together with Pandora's wondrous box, still unopened, at the bottom of which lies hope, borne by pallbearers named: Mr. Prejudice, Mr. Bias, Mr. Self-Interest, Mr. Inertia, Mr. Complacency and Mr. Vested Interest, and we shall inter that coffin and place a simple epitaph over the grave—"Here lies modern good government—signed Fearfully yours, the Constitutional Convention of 1967 and 1968."

Fellow delegates, I would rather we tested our product in the acid bath of public opinion than bathe it with the polluted water diluted with vested interests and complacency. But, if we do our work well, it can be a shining beacon of the Quasar, our newest heavenly body, at the far reaches of the universe, 30 times more brilliant than any galaxy, which can light the way of our heirs through the 21st century with modern government.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Banes.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President, I would like to be marked present on the record.

PRESIDENT BRODERICK. We will see that you are marked present.

Delegates Allison, Kelly, Camardella, Quiles and Woodside will also be marked present.

QUESTION OF PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President, I would like to direct a question to the Chair on a matter of parliamentary proceeding, if I may.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE JIROLANIO. Mr. President, I do not know whether I am wrong or right, but I have heard that a committee was thinking about making a report of its proposals in a package. The question that I would like to have the President enlighten me on is this: If the proposals are reported in a package and that package should have more than one particular issue or subject matter, will the delegates of the Convention then be asked to vote on each one of the subject matters or will we be voting on the package.

PRESIDENT BRODERICK. The Chair, with the advice of the Parliamentarian—and without too much consultation, I might add—has indicated that it is going to depend on how the proposal is presented by the co-chairmen of the committees in question. The Chair feels that it is obliged to consider a proposal if it comes out in one ball of wax and is presented as one proposal, or, as I had understood, some committees are going to present their proposals perhaps two at a time or a part of them at a time.

I do not know whether you were present, but just a few moments ago the Legislative Apportionment Committee presented a proposal which encompasses, I think, one part of the subject matter which had been assigned to them.

DELEGATE JIROLANIO. Mr. President, I would like to direct another question to the Chair.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE JIROLANIO. Mr. President, I am now assuming something. Assuming, for example, that the Committee on Judiciary would make a proposal and the proposal would encompass all the subject matters and issues in that particular case, since there are four or five subcommittees and the matters and the issues are of importance, would we then have one vote on the proposal or would we have separate votes on the issues?

PRESIDENT BRODERICK. Let me just say that you are taking a hypothetical case. I am going to give you a hypothetical answer and hope that the Chair will not be bound by this. It would seem to me that any time the majority of this Convention could determine whether or not a particular proposal should be voted upon piecemeal, if we do not have what we will call a motion to divide, then I would say that the Chair would consider the proposal as presented by the chairmen of the committee.

I want to say that I think your question is a very timely one and one that the Chair intends to discuss further with the Parliamentarian, because we are going to be presented with similar problems.

DELEGATE JIROLANIO. I would like to know the answer because it may end up in something that is very important to all the delegates on the floor.

Thank you.

DISTINGUISHED GUESTS WELCOMED

PRESIDENT BRODERICK. If there is no further business to come before the Convention, the Chair would like to present our distinguished guests at this time.

HAVERFORD STATE SCHOOL TRAINEES PRESENTED

The Chair is advised that we have 40 work-program trainees from the Haverford State School in Delaware County. They are the guests of Delegate Whittum of Delaware County and Delegates Kauffman and Gerber of Montgomery County.

Might I ask these trainees if they would stand so we could see you and give you our cordial greetings. We are very happy to have you with us.

WEST HAZLETON AREA SCHOOL DISTRICT STUDENTS PRESENTED

Also in the balcony we have—and I do not know whether this is a coincidence or a typographical error, but it says we have 40 senior high school students from the West Hazleton Area School District at Hazleton. Their teachers are Mr. James Horn and Mr. Leo Kubitsky. Mr. Kubitsky is the mayor of West Hazleton and a former mem-

ber of the House of Representatives. They are the guests of Delegates Laputka, Fay and Tomascik of Luzerne County. Would you stand so that we can give you our warm greetings? Again I say thank you for being with us.

NATIONAL MUNICIPAL LEAGUE DIRECTORS PRESENTED

The Chair understands that in the rear of the House we have some distinguished guests. We have with us four guests who are very much interested in the subject on which we are working, constitutional revision.

Two of these men are from the National Municipal League. You are familiar with their model state constitution. I would like Mr. William Cassella, Assistant Director, and Mr. John P. Wheeler, Director of the league's state constitutional studies, to stand so that we can recognize them.

ILLINOIS CONSTITUTIONAL STUDY COMMISSION PRESENTED

We also have from the University of Illinois, two gentlemen who have been appointed to assist the Illinois Constitutional Study Commission. They are Samuel K. Gowe and Joseph P. Pisciotte. Would these two gentlemen please rise so that we can see you?

I say to the four of you, welcome. I certainly hope that your observations will lead you to the conclusion that we are trying also to do a good job.

CHANCELLOR-ELECT OF PHILADELPHIA BAR ASSOCIATION AND PUBLIC DEFENDER OF PHILADELPHIA PRESENTED

PRESIDENT BRODERICK. The Chair recognizes Delegate Cortese.

DELEGATE CORTESE. Mr. President, may I call your attention to the presence of two distinguished Philadelphians, Louis Goffman, the Chancellor-Elect of the Philadelphia Bar Association, and Herman Pollock, a Public Defender of Philadelphia.

PRESIDENT BRODERICK. Would those two very fine gentlemen rise?

Welcome! We are very glad to have you with us.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Roberts for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE ROBERTS. Mr. President, I move that this Convention do now adjourn until Tuesday, January 23, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Roberts and seconded by Delegate Stroup that this Convention do now adjourn until Tuesday, January 23, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 2:03 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Tuesday, January 23, 1968

Number 27

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND VERNON M. MURRAY, JR., Canadensis Methodist Church of Canadensis, Pennsylvania, offered the following prayer:

Let us pray: O God, we recognize You as one Who governs the world in righteousness, and Whose judgments are true and righteous altogether: Grant, we ask You, that those who rule over us and who seek to perfect our Constitution may be of one mind to establish justice and promote the welfare of all our people. Endow all members of this Constitutional Convention with a right understanding, pure purposes, and sound speech. Enable them to rise above all self-seeking and party zeal to the nobler concerns of public good and human brotherhood. Cleanse our public life of every evil; subdue in our Commonwealth all that is harmful; and make us a disciplined and devoted people, that we may do Your will on earth as it is done in heaven; through Jesus Christ, Our Lord. Amen.

JOURNALS IN SECRETARY'S OFFICE

PRESIDENT BRODERICK. The Chair now calls on our Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, on my desk at present are all the Journals from January 10 through yesterday, January 22. In other words, we are now current and hope to remain that way.

PRESIDENT BRODERICK. There are no printed Journals for approval today.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 18th District, DELEGATE ROY W. MILLER, for January 29, 30, and 31. He is an accountant and this is income tax time;

The delegate from the 20th District, DELEGATE WILMARTH, for January 25, for health reasons;

The delegate from the 27th District, DELEGATE PERCEY, was advised yesterday by his doctor that he had better stay home for a week;

The delegate from the 25th District, DELEGATE GABRESKI, is also ill.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

DELEGATES' PRESENCE NOTED FOR JANUARY 22

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, two delegates approached me this morning and pointed out that they were here yesterday but not in time to make the roll call. They are Delegate Richter and Delegate Welsh. They were the seventh and eighth to state that they had been delayed by the police yesterday. I advised them, as I do all other delegates, to drive with a little more attention on Mondays.

PRESIDENT BRODERICK. We will note their presence. I think their presence had already been noted but we will have it checked.

QUORUM CALL

PRESIDENT BRODERICK. We will now proceed to the calling of the roll. The machines are unlocked and ready for voting. The delegates will record their presence by voting "aye."

The roll was recorded as follows:

Aberman	Dumbauld	Leach	Reynolds
Allison	Erwin	Lee, K.	Richter
Ansterdam	Fagan	Lee, L.	Roberts
Aurentz	Fawcett	Leimbach	Rovner
Bagenstose	Fay	Leonard	Sahli
Baldrige	Feather	Levin	Scales
Baldus	Filson	Manderino	Scarlett
Baldwin	Fineman	Mangery	Scott
Banes	Forster	Markley	Sebastian
Barron	Fortney	Mattioni	Sebastian
Barry	Gehrlein	McGeary	Shapiro
Bashoff	Gerber	McGlynn	Sharp
Benedict	Goldman	Meyer	Shettig
Benfield	Goldstein	Michael	Shively
Bloom	Gouger	Michener	Shoemaker
Braham	Griffith	Mittler, D.	Shrager
Brennan	Hannum	Miller, R.	Silverman
Broderick	Harding	Moorhead	Solomon
Brown	Halter	More	Spragell
Buck	Henderson	Morton	Stout
Bunting	Heyburn	Murray	Strickler
Burkholder	Himes	Musselman	Swope
Camardella	Hocker	Nelson	Tate
Caputo	Hook	Orban	Thomson
Caron	Horne	Orbin	Thornburgh
Casey	Hostetler	Otto	Tomasick
Clark	Huggins	Pasquerilla	Tully
Clinger	Jirolanio	Pelletier	Van Sant
Corey	Johnson	Popil	Waldron
Cosetti	Kauffman	Pott	Warman
Croop	Keller, J.	Powell	Welsh
Cunningham	Keller, M.	Prendergast	Westenberg
Curran	Kelly	Quiles	Whittum
Dailey	Kline	Rappaport	Wilcox
Desmond	Krill	Rea	Wilmarth
Devlin	Laputka	Redick	Woodring
Donaldson			

The electric roll call tabulator indicates that we have 145 delegates present which constitutes a quorum.

The Chair also notes the presence of the following delegates:

Butera	Gray	Ruth	Stroup
Conley	Irvis		

INTRODUCTION OF COMMITTEE PROPOSALS

PRESIDENT BRODERICK. Are there any committee proposals ready for introduction this morning?

The Chair hears none.

COMMITTEE REPORTS

PRESIDENT BRODERICK. Are there any committee reports to be made?

The Chair hears none.

RESOLUTIONS

PRESIDENT BRODERICK. Rolling quickly over to resolutions, do we have any resolutions ready for presentation this morning?

The Chair hears none.

CALENDAR

PRESIDENT BRODERICK. We move to the next order of business, of course, which is our calendar. On our calendar, we have one proposal.

I again call your attention to Rule 26, which, under subsection 3, under the heading, "Consideration," provides that "A committee proposal shall be printed, placed on the desks of the Delegates and appear on the Calendar for at least one Convention day before the Convention considers it for the first time."

Tomorrow will be the first consideration on the proposal which was introduced yesterday by the Legislative Apportionment Committee. You should all have copies of it on your desks, and the 24-hour period will, of course, expire tomorrow.

COMMITTEE MEETINGS

JUDICIARY, Co-Chairmen Amsterdam and Scranton, in toto, House Majority Caucus Room, Tuesday, January 23, 1968, immediately after today's session.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, standing committee, Room 609, Tuesday, January 23, 1968, at 11 a.m., e.s.t.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, standing committee, Senate Majority Caucus Room, Tuesday, January 23, 1968, immediately after today's session.

STYLE AND DRAFTING, Co-Chairmen Johnson and Pelletier, Room 286, Main Capitol Building, Tuesday, January 23, 1968, at 4 p.m., e.s.t.

TAXATION AND STATE FINANCE, Subcommittees on Taxation and Sinking Fund, Co-Chairmen Leonard and Woodring, respective rooms, Tuesday, January 23, 1968, immediately after today's session; Subcommittee on State Debt, Tuesday, January 23, 1968, at 2 p.m., e.s.t.; standing committee, PUC Hearing Room No. 1, Tuesday, January 23, 1968, at 7:30 p.m., e.s.t.

ANNOUNCEMENT BY DELEGATE WOODRING

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Correction: On the Standing Committee on Taxation and State Finance, I announced 7 p.m. It is 7:30 p.m., e.s.t., in Public Utility Commission Hearing Room No. 1.

The reason I emphasize that, our regular hearing room is the Senate Majority Caucus Room. We have been evicted and we are now in PUC Hearing Room No. 1 this evening at 7:30.

Thank you.

PRESIDENT BRODERICK. Thank you very much, Delegate Woodring.

The correction, I hope, will be noted by all those who are expected to attend.

ST. CATHERINE LABOURE SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. The Chair is happy to recognize some eighth grade students from St. Catherine Laboure School.

They are accompanied by their teacher, Sister Pierre and their principal, Sister Regina.

They are the guests of Delegates Hocker, Swope and Woodside of Dauphin County and are also the guests of Frank Barber of our Legislative Reference Bureau.

I would like them all to stand so we can give them our enthusiastic, early morning greeting.

Thank you very much for being with us, and we are very happy to have you.

STUDENTS FROM SCOTLAND SCHOOL FOR VETERANS' CHILDREN WELCOMED

PRESIDENT BRODERICK. Up in the gallery, we have a group of 50 students from the Scotland School for Veterans' Children of Scotland, Pennsylvania.

They are the guests of Delegate Gouger of Franklin County, who has advised the Chair that the group will have a guided tour of the Capitol and then be his companions at lunch today.

With them are a number of commanders of American Legion Posts in the Scotland area, who are also guests of Delegate Gouger of Franklin County.

On behalf of my fellow delegates, I want you to know we are happy to have you as our guests and hope you enjoy the day here at the Capitol.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. May I ask that those who came in after the roll call, other than Delegates Conley, Gray, Fay and Irvis, be added to our roll. We also have word that Delegate Stroup was here and had to go away temporarily. Delegate Ruth is also present.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Hatter for the adjournment motion.

DELEGATE HATTER. Mr. President, I move that this Convention do now adjourn until Wednesday, January 24, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by the delegate from Schuylkill, Delegate Hatter, and seconded

by the delegate from Somerset, Delegate Orban, that this Convention do now adjourn until Wednesday, January 24, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 9:48 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Wednesday, January 24, 1968

Number 28

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND ROBERT V. SANDERS, staff member of the Y.M.C.A. of Harrisburg, Pennsylvania, offered the following prayer:

Let us pray. O God of all mankind, to Whom we turn in faith and fear, in strength and weakness, in hope and despair, at this juncture in history and in our own personal lives, we acknowledge our need for help beyond our own wisdom. Grant us, we pray, patience for the moments that try us, consideration for those with whom we work, concern for the good of all our fellow citizens, awareness of the changing forces of our time, forgiveness for the barbs of our critics, understanding of the tasks to which we are committed, love for our fellowman and a clear perspective of the future which we will influence by what we do here.

We ask this in humility, out of gratitude and with a sincere dedication to the work that lies ahead of us. Amen.

JOURNALS APPROVED

PRESIDENT BRODERICK. The first order of business today is the approval of the Journal for December 12. The Chair recognizes our First Vice President, Delegate Casey.

DELEGATE CASEY. Mr. President, I move that the Journal for December 12 be approved.

PRESIDENT BRODERICK. The delegate from Lackawanna, Delegate Casey, moves that the Journal for December 12 be approved. That motion is seconded by the delegate from Somerset, Delegate Orban.

On the question,

Will the delegates approve the Journal of December 12?

It was approved.

PRESIDENT BRODERICK. The Chair recognizes our First Vice President, Delegate Casey.

DELEGATE CASEY. Mr. President, I now move that the Journal for December 13 be approved.

PRESIDENT BRODERICK. The delegate from Lackawanna, Delegate Casey, moves that the Journal for December 13 be approved. The motion is seconded by the delegate from Somerset, Delegate Orban.

On the question,

Will the delegates approve the Journal of December 13?

It was approved.

PRESIDENT BRODERICK. The Chair recognizes the First Vice President, Delegate Casey.

DELEGATE CASEY. Mr. President, I move that the Journal for December 14 be approved.

PRESIDENT BRODERICK. The delegate from Lackawanna, Delegate Casey, moves that the Journal for December 14 be approved. The motion is seconded by the delegate from Somerset, Delegate Orban.

On the question,

Will the delegates approve the Journal of December 14?

It was approved.

JOURNALS IN SECRETARY'S OFFICE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

DELEGATE MICHENER. Mr. President, at present in my office are the Journals for January 15 through the 23rd.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

DELEGATE MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 3rd District, DELEGATE GRAY, for January 24, in the morning, because of business;

The delegate from the 4th District, DELEGATE MEYER, for January 29, because of business.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUORUM CALL

PRESIDENT BRODERICK. We will now unlock the voting machines to take the roll call. All those present will please signify their presence by voting "aye."

The roll was recorded as follows:

Aberman	Donaldson	Krill	Rea
Allison	Dumbauld	Laputka	Redick
Amsterdam	Erwin	Leach	Raynolds
Aurentz	Fawcett	Lee, K	Roberts
Baldrige	Feather	Lee, L	Rovner
Baldus	Filson	Leimbach	Sahli
Baldwin	Fineman	Leonard	Scales
Banes	Fleming	Levin	Scarlett
Barron	Fohl	Manderino	Scott
Barry	Forster	Mangery	Scranton
Bashoff	Fortney	Markley	Sebastian
Benedict	Gehrlein	Mattioni	Sharp
Benfield	Gerber	McGeary	Shettig
Bloom	Goldman	McGlynn	Shively
Braham	Goldstein	Meyer	Shoemaker
Brennan	Gauger	Michael	Shrager
Broderick	Griffith	Michener	Silverman
Brown	Hannum	Miller, D.	Solomon
Buck	Harding	Miller, R	Stout
Bunting	Hatler	Moorhead	Struckler
Burkholder	Henderson	More	Swope
Caputo	Heyburn	Morton	Tate

Caron	Himes	Murray	Thomson
Casey	Hocker	Musselman	Thornburgh
Clark	Hook	Nelson	Tomaszka
Clinger	Horne	O'Donnell	Tully
Conley	Hostetler	Orban	Van Sant
Corey	Huggins	Orbin	Waldron
Cortese	Irvin	Otto	Warman
Cosetti	Jirulano	Pasquerilla	Welsh
Croop	Johnson	Pelletier	Westerberg
Cunningham	Kauffman	Popli	Whittum
Curran	Keller, J.	Pot.	Wilcox
Dailey	Keller, M.	Prendergast	Wilmarth
Desmond	Kelly	Quiles	Woodring
Devlin	Kline	Rappaport	

PRESIDENT BRODERICK. The electric roll-call tabulator indicates that we have 143 delegates present, which constitute a quorum.

The Chair also notes the presence of the following delegates:

Bagenstose	Fay	Richter	Shapiro
Butera	Powell	Ruth	Woodside

INTRODUCTION OF COMMITTEE PROPOSALS

PRESIDENT BRODERICK. Now we are on the next item of business, which is the introduction of committee proposals. Do we have today any committee proposals for introduction?

The Chair hears none.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. The next item of business is reports of committees. Are there any committee reports? There are no committee reports.

RESOLUTIONS

PRESIDENT BRODERICK. Our next order of business is resolutions. Do any of our delegates have a resolution or resolutions?

The Chair hears none.

CALENDAR

PRESIDENT BRODERICK. We have today on our printed calendar a proposal on first consideration.

The Chair took the liberty of distributing a communication from the Chair which, according to the information that I have received after consultation with our Parliamentarian, contains some basic information concerning the handling of debate and the handling of proposals.

I might say that our Parliamentarian certainly advised the Chair as to the information that we tried to put in narrative form rather than the form of the rules. In any instance where there was a question of interpreting the rules, I think our Parliamentarian has done it with the idea in mind of expediting the adoption or, I might add, the rejection of proposals with undue delay. If you have any questions, I am sure that Mark Gruell would be happy to answer these questions.

As I have set forth and as our Parliamentarian has interpreted our rules, there is no debate on the first reading, no amendments are received in connection with the first reading and, therefore, I say that we have agreed to it and the proposal will be prepared now for second consideration.

As set forth in the letter which I have distributed, tomorrow on the second consideration of this proposal,

we can engage in debate, offer amendments and get down to the brass tacks of adopting a proposal.

PROPOSAL ON FIRST CONSIDERATION

Agreeable to order,

The Convention proceeded to first consideration of **Proposal No. 1, Printer's No. 1**, entitled:

A Proposal amending the Constitution of Pennsylvania providing for apportionment of legislative districts.

And said proposal having been considered the first time, Ordered, To be laid aside for second consideration.

COMMITTEE MEETINGS

ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE, Co-Chairmen Nelson and Gray, entire committee, Room 286, Main Capitol Building, Wednesday, January 24, 1968, at 1 p.m., e.s.t.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, entire committee, PUC Hearing Room No. 3, Wednesday, January 24, 1968, immediately after today's session, and in Room 327, House Minority Caucus Room, Wednesday, January 24, 1968, at 2 p.m., e.s.t.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, Subcommittee on Method of Apportionment, Room 609, North Office Building, Wednesday, January 24, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, entire committee, Senate Majority Caucus Room, Wednesday, January 24, 1968, immediately after today's session.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, all subcommittees, respective rooms, Wednesday, January 24, 1968, immediately after today's session; standing committee, hall of House of Representatives, Wednesday, January 24, 1968, at 2:30 p.m., e.s.t.

ANNOUNCEMENT BY DELEGATE SCRANTON

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, some mysterious disciplinary group in this Convention has apparently met and decided to demote the Judiciary Committee. I am sad to relate to the Convention as a whole that maybe this is in order, because the Judiciary Committee is a little behind in its work. Having been disciplined, we will meet immediately after the close of this meeting in PUC Room No. 3, wherever that is.

At 2 o'clock this afternoon when we hear the magistrates from Philadelphia, we will be in Room 327, which is the House Minority Caucus Room.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair now recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, would you please note my presence?

PRESIDENT BRODERICK. Yes, indeed.

The Chair also notes the presence of Delegates Westerberg, Fay, Leimbach, Richter, Bagenstose, Ruth, Powell and More.

ANNOUNCEMENT BY THE CLERK

The CLERK. The officers and standing committee chairmen will meet at 12:15 p.m., on Wednesday, January 24, in Room 615, fifth floor of the Main Capitol Building.

STUDENTS FROM THE ACADEMY OF NOTRE DAME OF RADNOR WELCOMED

PRESIDENT BRODERICK. And now, the happy function the Chair has every day of recognizing our visitors. Today we have in the gallery, 36 students from the Academy of Notre Dame of Radnor, located in Delaware County, with their teacher, Sister Ann Marie. They are the guests of Delegate Whittum of Delaware County, and Delegates Kauffman and Gerber of Montgomery County.

Will the Sisters and girls please stand so that we can all recognize your presence and tell you how happy we are to have you with us today.

It is the wish of my fellow delegates that you enjoy your day here in the Capitol and that you enjoy your visit here to the Convention.

INCOME TAX INFORMATION

PRESIDENT BRODERICK. The Chair now recognizes Secretary Michener.

SECRETARY MICHENER. Yesterday, Delegate Scarlett of the 49th district, and four other delegates operating independently, asked me whether anything was being done on our report to the delegates on how to handle the fees they receive for their work on their income tax reports.

A good deal of work has been done on this, fellow delegates, thanks to Delegate Leonard of the 36th district. About two weeks ago we received a detailed report from one of the top accounting firms in Pennsylvania explaining how this income should be handled. I was about to mimeograph this and send it out to you two weeks ago when someone in the head office pointed out, just as we were mimeographing it, that a legal opinion was also

required. The report then passed into the hands of our legal staff. I checked yesterday and they said they were finishing the report in documentary form this weekend. It will get to you by the middle of next week.

Having followed this rather carefully from rumor to fact, I will offer a small prize to any delegate who can right now guess what the end result of this is going to be. I assure you that every bit of hot scoop I have had so far, including my own delivered to one of the other delegates, is 180 degrees off course. By the middle of next week you will have a final answer which you can file with your income tax return.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

GUEST OF DELEGATE SHOEMAKER WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER. Mr. President, I would like to at this time introduce a guest of mine from the Red Lion School District of York County who happens to be my niece and is present, Kimberly Kearney, a ninth grade student at Red Lion.

PRESIDENT BRODERICK. We are very happy to have the young lady with us today.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Manderino for the adjournment motion.

DELEGATE MANDERINO. Mr. President, I move that this Convention do now adjourn until Thursday, January 25, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by the delegate from Westmoreland, Delegate Manderino, and seconded by the delegate from Allegheny, Delegate Fleming, that this Convention do now adjourn until Thursday, January 25, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 9:55 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Thursday, January 25, 1968

Number 29

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

The RIGHT REVEREND MONSIGNOR CHARLES F. MURRAY, Saint Patrick Cathedral, Harrisburg, Pennsylvania, offered the following prayer:

We beg Your blessing, O God, on the men and women who are assembled here to revise the Constitution of this great Commonwealth of Pennsylvania. To carry out this task for the common good of all Your people who live in this State, many words must be spoken. Let each one of us remember today and every day.

Speech is one of the gifts You have given to men. We shall have to account for it. It is through words that we communicate with one another and that we reveal what we are. We have not the right to be silent, but speaking is a serious matter, and we must weigh our words in Your sight.

And yet we must speak. You have given us speech for a few years and we must make use of it. We have no right to be quiet through pride, cowardice, prejudice, negligence or apathy. Others have a right to our words, to our souls, for we have a message from You to give them, and none other than we, Lord, can give it to them. We have something to say—short perhaps, but welling up from our lives—from which we cannot turn, but our words must be true words.

It would be a breach of trust to seek the attention of another and under the cover of words not to reveal the truth of the soul. The words that we pour out must be living words, full of the mysteries that our unique souls have grasped, mysteries of the world and of man.

The words that we speak must be conveyors of God, for the lips that you have given us, Lord, are made to reveal our souls and our souls know You and hold You close.

May every word that is spoken here today and every day, be inspired by You for Your honor and glory, and for the good of man. Amen.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. We have no printed Journals to approve today so we will move on to our next order of business.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 28th District, DELEGATE KRILL, for January 29, because of business;

The delegate from the 8th District, DELEGATE KELLY, for January 26, for medical purposes;

The delegate from the 13th District, DELEGATE BURKHOLDER, for January 26, because of business;

The delegate from the 43rd District, DELEGATE D. MILLER, for January 26, because of business;

The delegate from the 43rd District, DELEGATE AURENTZ, for January 26, because of business;

The delegate from the 20th District, DELEGATE ROBERTS, for January 26, because of business;

The delegate from the 6th District, DELEGATE BASHOFF, for January 25, to appear in court;

The delegate from the 42nd District, DELEGATE FAGAN, for January 24, because of business;

The delegate from the 30th District, DELEGATE DUMBAULD, for January 26, because of business;

The delegate from the 4th District, DELEGATE ROVNER, for January 29, because of business.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

JOURNALS IN SECRETARY'S OFFICE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. The following Journals are at present on my office desk: January 15 through January 24.

QUORUM CALL

PRESIDENT BRODERICK. Our next order of business is the taking of the roll call to determine if a quorum is present.

The voting machine is now unlocked. Will the delegates proceed to record their presence.

The roll was recorded as follows:

Aberman	Dumbauld	Krill	Roberts
Allison	Erwin	Laputka	Rovner
Amsterdam	Fagan	Leach	Ruth
Aurentz	Fawcett	Lee, K	Sahli
Bagenstose	Fay	Lee, L	Scales
Baldrige	Feather	Leimbach	Scarlett
Baldus	Filson	Leonard	Scranton
Baldwin	Fleming	Levin	Sebastian
Barron	Fohl	Manderino	Shapiro
Barry	Forster	Mangery	Sharp
Benedict	Fortney	Mattioni	Shetig
Benfield	Gabreski	McGeary	Shively
Bloom	Gehrlein	McGlynn	Shoemaker
Braham	Gerber	Meyer	Shrager

Brennan	Goldman	Michael	Silverman
Broderick	Goldstein	Michener	Splomon
Brown	Gouger	Miller, D.	Sprogel
Buck	Griffith	Moorhead	Stout
Bunting	Hannum	More	Strickler
Burkholder	Harding	Morton	Stroup
Butera	Hatter	Murray	Swope
Camardella	Henderson	Musselman	Tate
Caputo	Heyburn	Nelson	Thomson
Caron	Himes	O'Donnell	Thornburgh
Casey	Hocker	Orban	Tumaseik
Clark	Hook	Orbin	Tully
Clinger	Horne	Otto	Van Sant
Corey	Hostetler	Pasquerilla	Waldron
Cortese	Huggins	Pelletier	Warman
Cosetti	Irvins	Popul	Welsh
Croop	Jurolanio	Powell	Westerberg
Cunningham	Johnson	Quiles	Whittum
Curran	Kauffman	Rappaport	Wilcox
Dailey	Keller, J.	Rea	Wilmarth
Desmond	Keller, M.	Redick	Woodring
Devlin	Kelly	Reynolds	Woodside
Donaldson	Kline	Richter	

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 147 delegates present which constitutes a quorum.

The Chair also notes the presence of the following delegates:

Banes	Conley	Gray	Pott
Cain	Fineman	King	Fredergast

INTRODUCTION OF COMMITTEE PROPOSALS

PRESIDENT BRODERICK. The next order of business is the introduction of committee proposals. Are there any committee chairmen who wish to be recognized in connection with committee proposals today? The Chair hears none.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. The next order of business is the report of committees. Are there any committee reports to be given this morning? The Chair hears none.

The Chair at this time would like to remind the chairmen that tomorrow, Friday, is the day for our committee chairmen to report to the entire Convention concerning the activities of their committees.

RESOLUTIONS

PRESIDENT BRODERICK. Our next order of business is resolutions. Do we have any resolutions?

The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, I would like to offer a resolution this morning. Over the last several mornings, various delegates have been introducing members of their constituency. I, too, would like to take this opportunity to introduce two particular members of my constituency, people who come from a class for whom we are writing this Constitution, hopefully, my two oldest children, Patty and Bob.

PRESIDENT BRODERICK. I wish they would stand so we can tell them how happy we are to have them with us.

We are very happy your dad is one of our delegates.

CALENDAR

PRESIDENT BRODERICK. The first order of business on the calendar today is a proposal on second consideration, Proposal No. 1, printer's No. 1.

PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to the second consideration of Proposal No. 1, Printer's No. 1, entitled:

A Proposal amending the Constitution of Pennsylvania providing for apportionment of legislative districts.

On the question,

Will the Convention agree to the proposal on second consideration?

PRESIDENT BRODERICK. The Chair now recognizes Delegate Fagan.

DELEGATE FAGAN. Mr. President and delegates, with the permission of the Chair, I would like to read a statement and then make a motion, if that be in order, Mr. President.

PRESIDENT BRODERICK. You may proceed.

DELEGATE FAGAN. When Committee Proposal No. 1 was still being considered by the Legislative Apportionment Committee, some of the delegates of that committee believed that composition of the legislature and method of apportionment were interrelated and, therefore, expressed concern as to whether or not the proposal on composition of the legislature should be reported out of the committee until the proposal on the method of apportionment had been fully considered and then both proposals reported simultaneously to the floor.

There have been a number of other delegates who are not on the committee who have also expressed concern over considering Proposal No. 1 at a time when the method of apportionment proposal is not in print and on the calendar but still being considered by the Apportionment Committee. It is their belief that they ought to know what agencies are to apportion before moving any further on composition.

It is for such reason that I move that consideration on Proposal No. 1 be postponed

MOTION TO POSTPONE

PRESIDENT BRODERICK. The Chair recognizes Delegate Fagan.

DELEGATE FAGAN. Mr. President, I move that any further consideration of Committee Proposal No. 1, which is presently on second reading calendar, be postponed until such time as a Proposal on Method of Apportionment still in the Committee on Legislative Apportionment has been reported out of that Committee and has been placed in the same reading position on the calendar as that of Proposal No. 1.

Mr. President, I so move.

DELEGATE GABRESKI. I second the motion.

PRESIDENT BRODERICK. The motion has been seconded by Delegate Gabreski

On the question

Will the Convention agree to the motion?

It was agreed to.

ROLL CALL REQUESTED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Berks, Delegate Caron.

DELEGATE CARON. Is it too late to ask for a roll call? I tried to get on my feet in time this morning.

PRESIDENT BRODERICK. Do you mean a roll call in connection with the "aye" and "nay" votes?

I am advised by the Parliamentarian that it has been determined on the basis of the oral vote and we are now in the next order of business.

DELEGATE CARON. I do not happen to be a Parliamentarian, but I want to ask the Parliamentarian to reconsider that, if that is the proper thing.

PRESIDENT BRODERICK. The Chair feels it would be fair to have a roll-call vote if we have delegates as yourself who want one.

I understand from the Parliamentarian that the request has to come from at least two delegates. Delegate Barron indicates he will second the request.

DELEGATE CARON. Thank you, sir.

PRESIDENT BRODERICK. We will now proceed to vote.

So that everyone will understand the motion which we are voting on, I am going to read the motion again.

It is moved that any further consideration of Committee Proposal No. 1, which is presently on second reading calendar, be postponed until such time as a Proposal on Method of Apportionment still in the Committee on Legislative Apportionment has been reported out of that Committee, and has been placed in the same reading position on the calendar as that of Proposal No. 1.

We will now open up the voting machine and those voting "aye" are voting in favor of this motion. Anyone voting "nay" is voting against the motion that was made by Delegate Fagan and seconded by Delegate Gabreski.

The yeas and nays were required by Delegates CARON and BARRON and were as follows:

YEAS—124

Aberman	Erwin	Laputka	Roberts
Allison	Fagan	Leach	Rovner
Amsterdam	Fawcett	Lee, K.	Ruth
Aurentz	Fay	Lee, L.	Sahl
Baldrige	Filson	Leimbach	Scales
Baldus	Fineman	Leonard	Scarlett
Baldwin	Fohl	Levin	Seranton
Banes	Forster	Manderino	Sebastian
Barry	Fortney	Mangery	Shapiro
Benedict	Gabreski	McGeary	Sharp
Bloom	Gehrlein	McGlynn	Shettig
Braham	Gerber	Meyer	Shuvely
Brennan	Goldman	Michael	Shoemaker
Broderick	Goldstein	Michener	Shrager
Buck	Gouger	Miller, D.	Solomon
Bunting	Griffith	Moorhead	Strickler
Burkholder	Hannum	More	Stroup
Butera	Harding	Morton	Swope
Camardella	Hatter	Murray	Tate
Casey	Heyburn	Musselman	Thomson
Clark	Hook	Nelson	Thornburgh
Clinger	Horne	Orban	Tomasick
Coley	Hostetler	Orbin	Tully
Cortese	Huggins	Otto	Van Sant
Cosetti	Irvis	Pasquerilla	Waldron
Cunningham	Jurolanio	Pelletier	Welsh
Curran	Johnson	Popl	Westerberg
Dailey	Kauffman	Pott	Whittum
Deamond	Kelly	Rea	Wilcox
Devlin	Kline	Reynolds	Woodring
Donaldson	Krill	Richter	Woodside

NAYS—17

Bagenstose	Croop	Himes	Mattioni
Barron	Dumbauld	Hocker	Powell
Benfield	Feather	Keller, J.	Sprogel
Caputo	Henderson	Keller, M.	Stout
Caron			

NOT VOTING—22

Bashoff	Gray	Pechan	Redick
Brown	King	Percey	Scott

Can
Conley
Donolow
Fleming

Lane
Markley
Miller, R.
O'Donnell

Prendergast
Quiles
Rappaport

Silverman
Warman
Wilmarth

So the question was determined in the affirmative and the motion was agreed to.

ANNOUNCEMENT BY DELEGATE MANDERINO

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, before announcing our meeting, the report of the special bulletin this morning from the Convention reporter carries some information that might indicate there is dissension in the Local Government Committee.

It indicates there was a vote of 35 to 1 on one of our proposals. The dissension is not that serious. The vote was 35 in favor with one abstaining. The dissension is not as serious as indicated; we would like that corrected, please.

PRESIDENT BRODERICK. Thank you, Chairman Manderino.

I certainly hope your proposals, when they reach the floor, will be met with an equal amount of dissension.

COMMITTEE MEETINGS

JUDICIARY, Co-Chairmen Amsterdam and Scranton, entire committee, House Majority Caucus Room, Thursday, January 25, 1968, immediately after today's session.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, standing committee, Room 609, Thursday, January 25, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, full standing committee, Senate Majority Caucus Room, Thursday, January 25, 1968, immediately after today's session.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, PUC Hearing Room No. 1, North Office Building, Thursday, January 25, 1968, immediately after today's session.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK The Chair recognizes the delegate from Northampton, Delegate Prendergast. For what purpose does the gentleman rise?

DELEGATE PRENDERGAST. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE PRENDERGAST. I wish to have my presence recorded.

PRESIDENT BRODERICK. Your name will be added to those present.

OFFICIALS FROM THE STATE OF TEXAS WELCOMED

PRESIDENT BRODERICK. As the first order of unfinished business, I want to point out to my fellow delegates that we are particularly honored today that we have sitting with us this morning some distinguished officials from the State of Texas. That great State of

Texas has come to visit the great Commonwealth of Pennsylvania.

I would like them to stand as we call their names. We will call their names individually, and if you will just hold your applause until the end, we will give that thunderous ovation that we give our visitors from Texas.

First of all, Senator Patman; next, Senator Word; Senator Hightower; Charles Schnabel, Secretary of the Senate. Then we have James R. Sanders, director of the Legislative Reference Library in Texas; Thomas M. Keel, Legislative Budget Director; James P. Oliver, Assistant Budget Director; Robert E. Johnson, Executive Director, Legislative Counsel; Michael Mooney, Director of Systems Division; Roy Marsky, Law Librarian; Jim Suiter, legal assistant; Pat Caine, Assistant Attorney General; Arlan Varner, Systems Analyst; Harry Dulick, Cost Study Committee; Don Cavness, a Representative.

I want to say before we give them our warm, cordial and heartfelt greetings this morning that they are the guests of Delegates Fleming, Kline, K. B. Lee, Donaldson, Stroup and Fineman, whom you may recognize as legislative leaders here in Pennsylvania.

Gentleman, may I say on behalf of my fellow delegates, welcome.

The Chair now recognizes Delegate Kline.

DELEGATE KLINE. Mr. President, I had the pleasure of meeting last night with the gentlemen from Texas. It is just coincidental that they have 150 members in the House there. But I think it is significant and comforting to me to know that the split is 143 Democrats to seven Republicans.

PRESIDENT BRODERICK. What gives you comfort, Delegate Kline, I am sure is a source of unhappiness to many others in Texas, good people.

EASTON AREA HIGH SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. The Chair is happy to recognize, and I think they are in the gallery today, 80 eleventh grade students from the Easton Area High School. They are the guests of Delegates Clark, Jirolanio and Woodring of Northampton County. Would you kindly stand so we can give you our cordial greeting?

NATIONAL COUNCIL OF JEWISH WOMEN WELCOMED

PRESIDENT BRODERICK. I see some additional guests in the gallery this morning. We welcome the National Council of Jewish Women, Harrisburg Chapter, who are the guests of Delegates Hocker, Swope and Woodside of Dauphin County. Would you stand so that we can tell you how happy we are to have you with us?

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair recognizes the presence of Delegates Gray, Conley and King.

REPORTS FROM COMMITTEES MADE AVAILABLE

PRESIDENT BRODERICK. The Chair recognizes Delegate Reynolds.

DELEGATE REYNOLDS. Mr. President, a few days ago one of the delegates asked the question, would we receive the reports of other committees other than the ones that we are serving on?

Our Co-Chairman Scranton and our good friend from Philadelphia have kept us so busy in the Judiciary that we have not had a chance to visit these others.

I read in the Inquirer this morning where the exemptions of taxation on nonprofit organizations are making a report. They are calling me on the phone and I have received several telegrams, but I have no information to give them. I wonder what the status is. Are we going to receive that or not?

PRESIDENT BRODERICK. Yes, it has been determined by our Executive Committee and I would say agreed to by the chairmen of the various committees that when the reports are prepared and submitted by the subcommittees, those reports would be reproduced and made available to all the delegates.

I do not know what the status is in connection with the individual report to which you have referred.

I see that Chairman Leonard is now rising to the microphone and I feel certain that he would have the answer.

DELEGATE LEONARD. Mr. President, yesterday, as indicated in the report here, the Standing Committee on Taxation approved by a vote of 20 to 10—it shows 19 to 10; that is an important correction, I think—approved generally, the exemption proposal as summarized here, but there are several words that are being squared away and there are five attorneys working on it at this time. They assured us that they would have the words worked out by Monday, so we do not intend to have published the exact words until Monday when we have the official words as recommended by the best counsel we can get.

PRESIDENT BRODERICK. The Chair recognizes Delegate Reynolds.

DELEGATE REYNOLDS. I appreciate what Delegate Leonard has said; he said, five attorneys. If he put five laymen on there, we would get it done right away.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Bloom for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE BLOOM. Mr. President, I move that this Convention do now adjourn until Friday, January 26, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Bloom and seconded by Delegate Aurentz that this Convention do now adjourn until Friday, January 26, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to, and (at 10 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Friday, January 26, 1968

Number 30

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND ROBERT E. ANDERSON, pastor of the Reformation Lutheran Church of Media, Pennsylvania, offered the following prayer:

Dear Lord God Almighty Who alone doeth all things well, come now into our presence and make Thyself known.

We ask Thee, O Lord, to make us more sensitive to the tasks and the demands of this new day. We are Thy children who need to be called to higher accomplishments than is our usual effort.

This day, O Lord God, kind Father, we ask Thy blessing upon those who are assembled for the special task of creating a Constitution for the State of Pennsylvania. It is no small problem, O Lord, and we all need Thy guidance.

Make us aware of the needs of the people, O Lord, for it is they for whom this task is accomplished. Let none of the people of the State ever be far from the minds of those who labor in these halls. Keep before these lawmakers, the poor and the rich who can be nought but what they are. Keep all those who are to be governed clearly in the vision of these representatives so that it may not come about by unfortunate mistake that the welfare of the people may be ignored.

We ask Thee, O Lord, that these Constitution makers will be constantly reminded of the past and sensitively aware of the future. Let neither command any day, or any ruling, not even any sentence.

Inspire these Thy servants, O Lord, for inspiration and nothing less is what our day needs and we seek it and ask it from Thee.

In our Lord's Holy Name we always pray. Amen.

JOURNAL APPROVED

PRESIDENT BRODERICK. Our first order of business is the approval of the Journal for Monday, December 18, 1967.

The Chair recognizes our First Vice President, Delegate Casey.

DELEGATE CASEY. Mr. President, I move that the Journal for December 18, 1967, be approved.

PRESIDENT BRODERICK. The delegate from Lackawanna, Delegate Casey, moves that the Journal for December 18 be approved. The motion has been seconded by the delegate from Somerset, Delegate Orban.

On the question,

Will the delegates approve the Journal of December 18?

It was approved.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, I want to submit the following requests for leaves of absence:

The delegate from the 44th District, DELEGATE OTTO, for January 26, because of business;

The delegate from the 10th District, DELEGATE MARVIN KELLER, for January 26, because of business;

The delegate from the 18th District, DELEGATE CLARK, for January 26;

The delegate from the 12th District, DELEGATE BALDWIN, for January 26, because of business;

The delegate from the 47th District, DELEGATE CAPUTO, for January 26, because of business;

The delegate from the 6th District, DELEGATE ERWIN, for January 26, because of business;

The delegate from the 40th District, DELEGATE WELSH, for January 26, because of business;

The delegate from the 45th District, DELEGATE HUGGINS, for January 26, because of business;

The delegate from the 16th District, DELEGATE MARKLEY, for January 25 and 26, because of illness;

The delegate from the 2nd District, DELEGATE SEBASTIAN, for January 26, because of business;

The delegate from the 10th District, DELEGATE POWELL, for January 26, because of business;

The delegate from the 46th District, DELEGATE HOOK, for January 26, because of an appointment;

The delegate from the 26th District, DELEGATE LEVIN, for January 26, because of business;

The delegate from the 9th District, DELEGATE HEYBURN, for January 26, because of a meeting;

The delegate from the 18th District, DELEGATE JIROLANIO, for January 26, because of business;

The delegate from the 34th District, DELEGATE McGEARY, for January 26, because of business;

The delegate from the 50th District, DELEGATE PELLETIER, for January 26, because of business;

The delegate from the 47th District, DELEGATE SAHLI, for January 26, because of business;

The delegate from the 14th District, DELEGATE TOMASCIK, for January 26, because of business;

Ex-officio delegate, DELEGATE KLINE, for January 26, because of business;

The delegate from the 7th District, DELEGATE CAIN, for January 29, he must appear in court;

The delegate from the 36th District, DELEGATE

LEONARD, for January 29, because he has a business appointment in Florida;

The delegate from the 13th District, **DELEGATE FORSTER**, for January 30, he has to be in Washington.

PRESIDENT BRODERICK. Without objection, the leaves of absence are granted.

The Chair hears no objection.

QUORUM CALL

PRESIDENT BRODERICK. We will now take a roll call to determine the presence of a quorum.

The voting machine is unlocked and delegates will proceed to record their presence by voting "aye."

The roll was recorded as follows:

Allison	Dailey	Leach	Ruth
Amsterdam	Desmond	Lee, L.	Scales
Bagenstose	Deylin	Leinbach	Scarlett
Baldridge	Fawcett	Leonard	Scranton
Baldus	Filson	Manderino	Shapiro
Barron	Fleming	Mangery	Sharp
Barry	Fohl	Mattioni	Shettig
Benfield	Forster	Michener	Shively
Bloom	Gabreckl	Moorhead	Shrager
Braham	Gehrlein	More	Silverman
Brennan	Gerber	Morton	Sprogeil
Broderick	Gouger	Murray	Stout
Brown	Hannum	Nelson	Strickler
Buck	Harding	O'Donnell	Tate
Bunting	Hauter	Orban	Thornburgh
Casey	Henderson	Pasquerilla	Tully
Clinger	Humes	Popil	Van Sant
Corey	Hocker	Pott	Waldron
Cortese	Horne	Quiles	Whittum
Cosetti	Hostetler	Rappaport	Wilcox
Croop	Kauffman	Rea	Woodring
Cunningham	Keller, J.	Redick	Woodside
Curran	Krill	Reynolds	

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 91 delegates present which constitutes a quorum.

The Chair also notes the presence of the following delegates:

Butera	Prendergast	Swope	Warman
Michael	Sebastian		

COMMITTEE PROPOSALS

PRESIDENT BRODERICK. The next order of business is the introduction of committee proposals. Are there any committee proposals to be introduced at this time?

The Chair hears none.

COMMITTEE REPORTS

PRESIDENT BRODERICK. We will now proceed to the reports of our committee chairmen, which are due this morning.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Judiciary, Delegate Scranton.

DELEGATE SCRANTON. Mr. President, this week the Judiciary Committee has met daily—all day and far into the night! Attendance of the members has been exemplary, their interest and participation indefatigable, and their patience, though sorely tried, remains intrepid.

All subcommittees have submitted their proposals and their reports. The proposals have been thoroughly debated in open committee and in some cases considerably

changed. Proposals, amendments, even philosophies have been strongly advocated, attacked, and defended with rapier thrusts and shields of iron. We have some spellbinders among the group! The pleadings have been almost universally relevant, although by no means universally accepted.

A delegation from the magistrates of Philadelphia visited us to present their views. They were countered in turn by the committee of 70 with a poignant movie, *Drama a la Hollywood!* For these spectacular events a condition of "standing room only" pertained. In short, to employ the current vernacular, "come to the 'go go' judiciary committee; that's where the action is."

We are now at the knockdown-and-drag-out point. Subject to the wonders of the weekend scribes, appointed and already at work, and to final committee consideration, scheduled for Monday and Tuesday. Hopefully we shall complete the committee proposal and present it to the convention—tied up in pink ribbon!—next week.

With this group, predictions are as precarious as cliff-hanging, but I shall venture to summarize the trend as follows:

- A) Selection of statewide judges and justices by appointment of the Governor with the consent of the Senate; election of other judges.
- B) Ten year terms for trial and appellate court judges and justices with "yes or no" ballots for consecutive terms thereafter.
- C) Judiciary Inquiry and Review Board for discipline, removal, and other action.
- D) Retirement at 70 with post retirement activity.
- E) A strong unified court system; magistrates, aldermen, and justices of the peace replaced in Philadelphia and Allegheny Counties by community or municipal courts and local option to do likewise elsewhere, plus major changes in the system wherever it remains.

PRESIDENT BRODERICK. Thank you, Delegate Scranton, for the very fine report, which I am sure all the delegates appreciated.

COMMITTEE ON STYLE AND DRAFTING

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Cumberland, Delegate Tully.

DELEGATE TULLY. Thank you, Mr. President.

My Co-Chairmen, Delegates Pelletier and Johnson, have asked me to read the following weekly report:

The Committee on Style and Drafting has agreed on a method of procedure for its consideration of proposals pursuant to Rule 22 which details the committee's functions. A copy is herewith submitted for the Convention records.

1. Rule 26 requires a proposal, "agreed to for a second time" on the floor of the Convention to be referred to the Committee on Style and Drafting for incorporation in final draft in accordance with Rule 22.
2. Upon referral, the co-chairmen shall order the proposal distributed for preliminary analysis and comment to:
 - a. Co-directors, convention research staff;
 - b. Director, Convention Drafting Bureau;
 - c. Counsel to the committee;

- d. Committee members designated by the co-chairmen;
 - e. Committee members with an interest, knowledge or competence in the area. Comments, if any, shall be provided in writing to counsel to the committee, who shall prepare, as necessary, a revision of the proposal. The proposal as submitted to the committee, and counsel's revision shall then be distributed to each member of the committee.
3. The committee as a whole, shall consider counsel's revision of the proposal, so as to develop a consensus with respect to the revision. Suggestions for editorial change, if representing a consensus of the committee, shall be referred to counsel for further revision and report to the committee. A proposal or revision agreed to by the committee shall be reported to the Convention pursuant to Rule 28.
 4. The co-chairmen and counsel to the committee shall discuss any unresolved substantive question, or any question involving inconsistency or conflict with the co-chairmen of the appropriate substantive committee.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Tully, for an excellent report.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, the Co-Chairmen of the Committee on Taxation and State Finance are mentally tired and physically exhausted. We have requested Delegate Cosetti to make the report for our committee.

PRESIDENT BRODERICK. He looks like he has been resting up all week for this opportunity, and we now recognize Delegate Cosetti.

DELEGATE COSETTI. Mr. President, the Taxation and State Finance Committee wishes to report that we have discovered the Simon Legree of this Convention. Our Co-Chairman, Mr. Leonard, has been cracking the whip so hard that I am certain we are all in violation of the Federal and State laws regarding wages and hours.

We have been in almost continuous session, either as a standing committee or a subcommittee. We met Monday afternoon, Monday evening, Tuesday morning, Tuesday afternoon, Tuesday evening, Wednesday morning and Wednesday afternoon until about 6:30, Thursday morning and Thursday afternoon until about 6:45.

Each of the three subcommittees has reported drafts to the standing committee. Most of these drafts have received preliminary votes of approval. Several have received final vote. Only three remain to be voted upon.

The Subcommittee on Sinking Fund has recommended the repeal of its namesake, that is, the State Sinking Fund, and in conjunction with the Subcommittee on Debt has recommended the use of obligations which receive periodic payment to accomplish the same purpose. In addition, it grants to bondholders first priority on revenue. It has

recommended the addition of a strong auditing provision which has not been voted upon. It has recommended the addition of a strong budget system and a five-year financial plan. This has received preliminary approval.

The Subcommittee on State Debt has reached unanimous agreement and has recommended to the standing committee the use of a formula relating state debt to tax revenues. The actual ratio to be used is 15 times tax collections. There are other provisions which would define the debt of non-self-supporting authorities as state debt within the meaning of the formula. The subcommittee feels it has presented a unique and fiscally sound and politically progressive proposal. After vigorous debate and statesmanlike compromise, the draft received the unanimous approval of the standing committee.

The Subcommittee on Taxation has experienced the greatest soul searching. They have been confronted with a classic dilemma. They originally wished to assist local governments by reducing the number of exemptions, requiring those exempted properties to make payments for government services received in lieu of taxes. They now feel that their original position would create hardship in many cases since it would place a burden on some organizations currently least able to pay. They also concluded that it would be unwise and perhaps not politically feasible. They have finally presented a proposal which keeps the current tax exemptions but which tightens each of these exemptions, their intent being to eliminate abuse and to tighten loopholes. It has received preliminary approval. A few little words like "actual," "predominantly," "principally" and "exclusively" block the road to a complete report.

The committee has also recommended that local governments be granted the right, after the General Assembly establishes standards, to abate property taxes for a limited period of time for property involved in plan for redevelopment and for housing. No vote was taken.

Last week the committee finally approved a plan which would permit the State to exempt the property of certain individuals on the basis of need, provided it reimbursed the local governments for the loss of revenue.

We have been working hard and creating some heat, so much so, in fact, that at one point at yesterday afternoon's session a fire extinguisher was needed to stop a seat from smoking.

Three matters remain: The auditing and misuse of public funds, exemptions for redevelopment and housing, and the utility exemptions. These have not been voted upon. Although the pain has grown more frequent we feel that this means the child is near.

PRESIDENT BRODERICK. Congratulations, Delegate Cosetti, on a very excellent report and which is well received, from the Committee on Taxation and State Finance.

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes Chairman Manderino for the report of the Local Government Committee.

DELEGATE MANDERINO. Mr. President, Local Government, following Taxation, would like to say that amidst the labor pains, we are quite aware that conception is simple and delivery difficult. We have lost track of time, so we cannot report the days, the hours or the nights spent

in meeting. We do believe it is some time in the year of our Lord, one thousand nine hundred and sixty-eight, in the early part of the year, but we can go no further than that.

We have made very excellent progress. All six subcommittee reports have been received by the standing committee. Debate, consideration and adoption, as amended, of five of these reports has been completed. The last report, we will put that at 75 per cent complete. We thought last evening we would have an opportunity to complete this sixth report, but Chairman Pasquerilla's whip broke in the middle of the session, and we could not finish the last quarter.

We would like to state for the benefit of other delegates to the Convention that the chairs in the Senate Majority Caucus Room are very excellent for overnight napping, if you ever get stuck. I got that report from some of the committee members; I did not spend the night there myself.

The results of those items already considered and adopted by the Local Government Committee are basically as follows: In the area of Local Apportionment, the subcommittee has adopted a constitutional mandate requiring local apportionment in those municipalities which do elect by districts. There is no mandate that any municipality elect its legislative body by district, simply a mandate that if the municipality does elect by district that the local governing body shall be apportioned by itself every 10 years.

In the area of Annexation and Boundary Changes, the committee has adopted a mandate for uniform procedures throughout the State in the matter of mergers, consolidations and boundary changes. It has also put in a provision guaranteeing to the people of any municipality that by a process of local initiative and referendum, without any approval of the governing officials, they can get on the ballots an approval or disapproval question to merge or consolidate or change their boundary lines with any other municipality.

In Home Rule, the adopted proposals are: The granting of home rule to all counties and all municipalities within the State. No grant of residual power is made to any unit of local government directly. The grant of residual power occurs only through the adoption by a municipality or county or a home-rule charter. The recommendation mandates the General Assembly for a four-year period to prepare mechanics and procedures for the adoption of home-rule charters. During that four years, therefore, there is a moratorium on all present codes affecting units of local government.

Following the four-year period, the General Assembly's procedures will be followed for the adoption of home-rule charters, or, if none have been adopted, the local units of government may proceed with self-executing powers either through their local governing body or through the process of local initiative and referendum.

We are also providing in our recommendations that the legislature shall provide optional forms of government for all levels of local government, so that local government can select an optional form provided by the legislature, rather than adopt its home-rule charter, if it so desires.

In the area of County Government, we are providing that all county offices be taken out as absolute constitutional offices for all time. They are not locked into the

Constitution. However, the effect of the recommendations adopted is this: The existing form of county government, following the adoption of these recommendations, would remain as is. Changes can occur first in all county offices by local option, either by the adoption of an optional form of government or by the adoption of a home-rule charter. All county offices could be changed by a referendum of the people in each county.

Some offices, namely, county surveyor and coroner can also be changed under the recommendation by action of the General Assembly, in addition to referendum action by the people of each county. There is no mandated abolition of these offices unless the referendum takes place as to all offices, or in the case of county surveyor and coroner the General Assembly acts to put in substitute provisions for one or both of these offices.

Fees, generally, at the county and municipal level have been abolished, although at the municipal level a local option is given for the elimination of fee offices and the substitution of salaried offices, whereas at the county level the fees are mandated so far as abolition is concerned.

In the important area of intergovernmental cooperation the committee has adopted provisions whereby, basically, the people, the local governing body or the General Assembly can establish area governments in cases where an area government might be advantageous for the solving of certain local government problems. It provides for this area government to receive powers, responsibilities and functions of government for a particular area. These can be set up or dissolved by the General Assembly.

In the area of local finance the committee has, although the report is not finally completed, adopted certain recommendations. One of these is to take out the debt limit on local government from the Constitution to give the power of setting the debt limit to the General Assembly, basically. There would be no limit, even any limitation, by the General Assembly if indebtedness is placed on the local ballot and approved by the people. Missing that, however, the debt limit would be as established by the General Assembly for the various classes of local government.

Another change in the recommendation is that the General Assembly shall tie the debt limit of communities to the total revenues of the communities rather than to the assessed valuation of real estate. Over a certain specific period of time the General Assembly will provide a formula by which local borrowing power will be set, tied to the total revenues as defined by the General Assembly, in the community.

Along with local finance and county government, a proposal has been adopted whereby local communities may give financial assistance to industrial business and other enterprises that are concerned with the health, welfare and safety of the people.

This basically constitutes the highlights of the proposals adopted. Certain other provisions have been adopted, which with specificity refer to the county/city of Philadelphia. In no case do we feel the city of Philadelphia is given greater power by the Constitution than other units, but in certain cases, such as debt limit, they are given lesser power at their request. The committee, having considered this, felt there was no reason not to grant the request in view of a lot of historical and present reasons affecting them.

It is hoped that today and Monday the Local Govern-

ment Committee can complete the consideration of all its proposals and then move into the area of consolidating all recommendations into one article, working with the Convention Drafting Bureau and Style and Drafting. We are quite confident that by February 2, 1968, next Friday, we will be able to present to the Convention a local government article along with the report to accompany the article.

We are sure we can meet this deadline without any question if the Chair could assure us that sometime during the week, if necessary, there could be provided for members of the committee, only in the event of the most serious emergency, to continue our wanderings through the local government field, tickets to take a trip or something of that sort. We will submit those requests at the proper time, but we are confident that by next Friday we will be out of the jungle and can submit a report to the Convention.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Chairman Mandarino, for a very fine report from the Local Government Committee.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair recognizes delegate Michael.

DELEGATE MICHAEL. Mr. President, may I report my presence.

PRESIDENT BRODERICK. We shall note your presence, Delegate Michael, along with Delegates Swope, Warman, Hocker, Woodside and Butera. These will be added to the roll call.

COMMITTEE ON ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE

PRESIDENT BRODERICK. The Chair recognizes Chairman Nelson of the Committee on Arrangement, Submission and Address to the People.

DELEGATE NELSON. Mr. President, with your permission, the report of our committee will be given by our lovely and charming secretary, Delegate Michael.

PRESIDENT BRODERICK. We would be very happy to have the report from your secretary, Delegate Michael. The Chair recognizes Delegate Michael.

DELEGATE MICHAEL. Mr. President, the Committee on Arrangement, Submission and Address to the People still has not felt enough press of time that we are tired enough to think this is funny yet, so we do not have a humorous report for you today. But we are making progress as far as plans so that when that press of time comes with the proposals being decided on the floor, we can get our work done.

The Committee on Arrangement, Submission and Address to the People met Wednesday with all members of its research staff, its legal staff of Andrew Farley and William Hackney, and Dr. Harold Alderfer, co-director of research.

The ad hoc committee on Submission, headed by Herman M. Buck, presented as consultants C. Russell Welsh, Jr., Deputy Secretary of the Commonwealth in charge of the Bureau of Elections, and Will Alton, Director of the Bureau of Elections of Allegheny County, accompanied by Ed Preiss of the Voting Machine Division of Allegheny

County. Mr. McHenry from Philadelphia was unable to be with us.

Mr. Alton demonstrated both machine and paper ballots, indicating the following difficulties with ballot questions in a primary election: (1) all primary candidates must be voted on individually, since no party lever can be utilized; (2) delegates to the national convention will be on the ballot, and (3) candidates for local committee people will be on the ballot. All these, plus local and county referenda, will be on the ballot, in addition to the constitution questions; yet, the State Election Code allows a voter only three minutes for voting. He also discussed the space limitations on the two types of voting machines used in Pennsylvania. Since this is a presidential election year, the primaries are held a month earlier than usual, so that the submission of questions will also be under pressure of time in order for the Board of Elections to get bids for the printing of the ballots.

Mr. Welsh discussed the advisability of submitting only six or seven questions and of maintaining the 75-word limit set by the legislature on ballot questions; also of getting adequate information to the voters before they go to the polls so that they can vote intelligently in the three minutes. Welsh suggested positive wording of the questions in order to gain positive effect with the voters. He also discussed the requirement for the Secretary of the Commonwealth to publish the constitution changes and send 10 copies to each precinct, plus a copy to every voter requesting one.

Daniel B. Strickler, coordinator of Arrangement, emphasized the importance of proper wording and bold, large printing so that the voters would know for what they were voting.

A. Hugh Forster reported progress of his ad hoc committee on Address in a study of addresses, with Dr. Alderfer working on background and framework, as well as format for our proposals. Mr. Forster submitted that three types of documents should be drawn up: (1) the formal address for background use by the news media and educational groups; (2) the condensed version in pamphlet form for the voter, and (3) a single-page chart showing questions and explanation of each. Extent and methods of distribution of the condensed version and the chart were discussed. Mr. Robert Sidman of A Modern Constitution for Pennsylvania was called on to discuss the distribution of the "Nine Questions" pamphlet and other voter information before the 1967 primary. He also stated that California had distributed information through county organizations.

The committee Co-Chairman, James Nelson, pointed out that Maryland newspapers had printed the complete draft of the new Maryland Constitution as a news item with pictures and explanation. Responsibility for publicity was discussed further.

Dr. Pelletier, Co-Chairman of the Committee on Style and Drafting, presented the cooperative aspects of his committee's work with that of the Committee on Arrangement, Submission and Address to the People.

Weekly meetings will be continued until standing committee proposals, with accompanying reports, come to the Convention floor.

PRESIDENT BRODERICK. Thank you, Delegate Michael, for a very fine report from your committee.

COMMITTEE ON ADMINISTRATION AND FINANCE

PRESIDENT BRODERICK. The Chair recognizes Chairman Swope of the Committee on Administration and Finance.

DELEGATE SWOPE. Mr. President, may I say to you, sir, as a member of this Convention, I was greatly delighted to hear the most comprehensive reports of the committee chairmen to keep all of us informed. I think they were splendid this morning.

There were no matters within the cognizance of our committee which required action, therefore, the Committee on Administration and Finance did not meet during the week.

I would like to point out, Mr. President, as you know, the members of our committee are also members of all the other substantive committees, not all of them, but of some. All of our members are members of the substantive committees, and, therefore, our members were doing the things that several chairmen reported here as to hours and conditions of work.

However, our subcommittee on the documentary film has been at work in conjunction with our contractors. They have received a revised shooting schedule, which calls for heavy filming at the Capitol and elsewhere in Pennsylvania in the next few weeks.

Thank you, sir.

PRESIDENT BRODERICK. Thank you very much, Delegate Swope.

Do we have any further reports? Is there a report from the Committee on Rules or a report from the Committee on Legislative Apportionment?

The Chair hears none.

RESOLUTIONS

PRESIDENT BRODERICK. Now that we have taken care of committee reports, the next item of business is resolutions. Do we have any resolutions for this morning?

The Chair hears none.

COMMITTEE MEETINGS

JUDICIARY, Co-Chairmen Amsterdam and Scranton, full committee, House Majority Caucus Room, Friday, January 26, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Pasquerilla and Manderino, Senate Majority Caucus Room, Friday, January 26, 1968, immediately after today's session.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lackawanna, Delegate Scranton. For what purpose does the gentleman rise?

DELEGATE SCRANTON. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE SCRANTON. In the last 48 hours, I have attended committee meetings on the sixth floor of the North Office Building, in Room 327 of the Capitol, in PUC Room No. 3, on the House floor for the Convention and for the committee, in the House Minority Caucus Room,

in the House Majority Caucus Room, in Room 851 on the fifth floor of the Capitol, in the cafeteria for a side-bar meeting, and I have even been summoned to the sanctum sanctorum, which is the office of the President of the Convention.

I do not indicate all of this to point out that I am working at this Convention, although, of course, I am, but for a more personal reason, that is, that I have lost my briefcase.

The identification of same and reward for same are identical. There are in this briefcase some personal letters, and the identification will be to the addressee, namely, me.

The reward is that whoever finds this, I give them absolute authority to read these juicy letters, which will give them a real sidelight on this individual.

Thank you.

PRESIDENT BRODERICK. I would just like to inquire of Delegate Scranton if he has asked the co-chairmen of the Committee on Local Government whether they have his briefcase.

The Chair recognizes the Co-Chairman of the Local Government Committee, Delegate Manderino.

DELEGATE MANDERINO. We do.

JUDGE BARRON P. McCUNE WELCOMED

PRESIDENT BRODERICK. A few seconds ago I saw a distinguished gentleman whom I was personally privileged to serve with at the University of Pennsylvania Law School. If Judge Barron McCune from Washington County will stand, we would like to give him our warm, cordial greetings.

HONORARY PAGES RECOGNIZED

PRESIDENT BRODERICK. For the last week I know how much all of my fellow delegates have appreciated the services of our pages who are honor students from the local schools. I will ask them to stand as I introduce them to you. Will you please hold your applause until all the names have been called.

The students are:

Bernita Kemberling and David Bixler of East Pennsboro High School; Gregory Poppe and Wesley McDowell of the Milton Hershey High School; Darlis Mattis and Charles Rubendall of the Halifax High School; Patricia Smith and Gregory Michael of the West Perry High School; Donna Goodman and Peter Higgins of the York Suburban High School; Claire Orndorff and Jeffrey Klunk of the Delone Catholic High School; Jennifer Cartwright and Janice Kofman of the Linden Hall High School in Lititz; Sandra Ianiceli and Thomas Papson of the Lebanon Cedar Crest High School.

If there is anyone whom I have missed, I hope you will stand. I think we owe them a real round of applause for a fine job.

On behalf of my fellow delegates, I want to thank you for a wonderful performance in aiding us with this important work.

JUDGE MAURICE COHILL WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Delegate Rea of Allegheny.

DELEGATE REA. Mr. President, it is with pleasure—in Delegate Morton's absence—that I introduce to the members of the Convention, Judge Maurice Cohill of Allegheny County Juvenile Court. Judge Cohill has probably performed the most outstanding job of any judge in Allegheny County in dealing with the most critical problem we have, our youth.

He is here today and I would like to introduce him to the members of the Convention.

PRESIDENT BRODERICK. We are very happy to have you with us.

ANNOUNCEMENT

PRESIDENT BRODERICK. We have requested our executive director to produce copies of the committee reports for distribution to all of the delegates. I think I express your feelings when I say, we received many fine, excellent reports this morning. On behalf of your fellow delegates, we thank you for the hard work that went into those reports and the hard work that you have been doing.

ANNOUNCEMENT BY SECRETARY

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

DELEGATE MICHENER. Mr. President, on behalf of the Philadelphia delegates, I will make this announcement now and again on Monday: By the 31st of January, Philadelphia delegates are required by law to submit an employee quarterly tax return covering whatever income they receive here from either the basic \$2,500 or the travel expense. There are ways by which expenses can be deducted from this, but it has been brought to my attention and I am anticipating the report from Mr. Comisky on income tax generally that you Philadelphia delegates have a special problem.

I have here only about seven copies of this statement which gives you addresses and everything else as to how

you handle this. I will have other copies made immediately and they will be in my office in the North Office Building.

PRESIDENT BRODERICK. Thank you very much, Secretary Michener.

MR. ORLANDO PROSPERI WELCOMED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Manderino.

DELEGATE MANDERINO. Mr. President, in view of Mr. Michener dwelling on the tax problems of these delegates, I have a guest here who is Westmoreland County's outstanding criminal attorney with a record of acquittals, if anyone is interested, and my first law partner, Mr. Orlando Proserpi.

PRESIDENT BRODERICK. We are very happy to have you with us, Mr. Proserpi.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Shrager. For what purpose does the gentleman rise?

DELEGATE SHRAGER. Mr. President, I did not find Governor Scranton's briefcase, but I did find the pen with which the juicy letters were written. In the event that the owner of the pen contacts me, I will return it to him.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Forster for the adjournment motion.

DELEGATE FORSTER. Mr. President, I move that this Convention do now adjourn until Monday, January 29, 1968, at 1:30 p.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Forster and seconded by Delegate Orban that this Convention do now adjourn until Monday, January 29, 1968, at 1:30 p.m., e.s.t.

The motion was agreed to and (at 10:20 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Monday, January 29, 1968

Number 31

The Convention was called to order at 1:30 p.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

DR. WILLIAM M. CARBAUGH, Bloomsburg State Teachers College, Bloomsburg, Pennsylvania, offered the following prayer:

Eternal God, our Father in heaven, Whose law we would keep, Whose fellowship we would enjoy, and to Whose service we would be loyal, we come before Thee at the beginning of another working week of this Constitutional Convention. For the fresh possibilities of this new day, we give Thee our humble thanks. Let us not break faith with any of yesterday's promises, nor leave unimpaired, any of yesterday's wrongs. Let us leave no height of duty behind us unattempted, nor any bias or prejudice unsanctified. Give us, as elected delegates of the people, the courage to vote our consciences and personal convictions without fear or favor. Grant us wisdom in our deliberations that we may provide for the continuing improvement of our Commonwealth. Grant us vision to recognize the present needs and future requirements of those whom we serve.

We require, O God, an open ear that we may hear Thee calling us to high endeavor. And we pray for open minds ready to receive and evaluate new knowledge. Give us the ability to change our minds when that is needed. Let us be tolerant of the thoughts of others and hospitable to such light as may come from them.

Hear our prayer, O God, as we present it unto Thee with a confession of our faults and failures. Amen.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. There are no journals to be approved today.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 6th District, **DELEGATE BENEDICT**, for January 26, because of illness;

Ex-officio delegate, **DELEGATE DONALDSON**, for January 26 and 29, must be in court;

The delegate from the 50th District, **DELEGATE SCOTT**, for January 26, had to conduct city business;

The delegate from the 3rd District, **DELEGATE GRAY**, for January 26, had to be in Philadelphia.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUORUM CALL

PRESIDENT BRODERICK. We now prepare to take the roll in order to determine whether we have a quorum present. The machine is unlocked and the delegates are asked to record their presence by voting "aye."

The roll was recorded as follows:

Allison	Erwin	Lee, L.	Sabli
Amsterdam	Fawcett	Leimbach	Scales
Aurents	Feather	Levin	Scarlett
Bagenstose	Filson	Manderino	Scott
Baldrige	Fineman	Mangery	Scranton
Baldus	Fleming	Mationi	Sebastian
Baldwin	Fohl	McGeary	Shapiro
Banes	Forster	Michener	Sharp
Barron	Gabreski	Miller, D.	Shertag
Benedict	Gehrlein	Moorhead	Shively
Benfield	Gerber	More	Shoemaker
Bloom	Goldman	Morton	Shrager
Braham	Goldstein	Murray	Silverman
Brennan	Griffith	Musselman	Solomon
Broderick	Hannum	Nelson	Sprogel
Brown	Harding	O'Donnell	Stout
Buck	Hatter	Orban	Strickler
Bunting	Henderson	Orban	Stroup
Burkholder	Heyburn	Otto	Swope
Butera	Himes	Pasquerilla	Tate
Caputo	Hocker	Pelletier	Thomson
Clark	Horne	Perecy	Thornburgh
Clinger	Hostetler	Popl	Van Sant
Conley	Irviss	Pott	Waldron
Conry	Jurkiewicz	Powell	Warman
Croop	Johnson	Prendergast	Westerberg
Cunningham	Kauffman	Rappsport	Whittum
Curran	Keller, J.	Rea	Wilcox
Dailey	Kelly	Redek	Wilmarth
Desmond	Kline	Reynolds	Woodring
Devlin	Krall	Roberts	Woodside
Dumbauld	Leach		

PRESIDENT BRODERICK. According to the electric roll call tabulator, we have present 126 delegates as of the time the vote was taken which constitutes a quorum.

The Chair also notes the presence of the following delegates:

Bashoff	Caron	Keller, M.	Ruth
Casey			

COMMITTEE PROPOSALS

PRESIDENT BRODERICK. Our first order of business is introduction of committee proposals. Do we have today any committee proposals to be introduced? The Chair hears none.

COMMITTEE REPORTS

PRESIDENT BRODERICK. Are there any reports of

committees which the chairmen would like to give at this time? The Chair hears none.

RESOLUTIONS

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Redick.

DELEGATE REDICK. Mr. President and delegates, I wish to register a resolution under Rule 18 of our standing rules, and prefer that this resolution be turned over to the proper authority for action.

On or about December 22, 1967, I, John J. Redick, of Allegheny County, approached the staff director of the Judiciary Research Committee requesting Details of the Minor Judiciary and County Courts. This report has failed to reach me and consequently this has caused a halt to my support for Proposal No. 1048.

It must be noted that a partial report was received from the staff director, untrue and meaningless figures; likewise, I was informed that the figures requested were not available in our courts.

Mr. President and delegates, I regret to make this observation, but these Details are available and this Convention should exercise care and caution to retain the good and to discard that which is harmful, so that we will be able to move forward instead of backward. Let us try to stop this partisan movement now.

Thank you, Mr. President.

PRESIDENT BRODERICK. Your resolution has been referred to the Rules Committee.

Are there any further resolutions?

The Chair hears none

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Room 500, North Office Building, Monday, January 29, 1968, immediately after today's session.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, House Majority Caucus Room, Monday, January 29, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, standing committee, Senate Majority Caucus Room, Monday, January 29, 1968, immediately after today's session; all subcommittee co-chairmen, Penn Harris Hotel, Monday, January 29, 1968, at 6:30 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, PUC Hearing Room No. 2, North Office Building, Monday, January 29, 1968, 15 minutes after today's session.

MEMBERS OF JUDICIARY COMMITTEE COMMENDED

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Judiciary Committee, Delegate Scranton.

DELEGATE SCRANTON. Mr. President, over the weekend, four delegates, Delegate Sharp, Delegate Thornburgh, Delegate Clinger and Delegate O'Donnell, spent Friday afternoon and evening, Saturday all day and night, Sunday afternoon and night and this morning preparing for the Judiciary Committee the proposal as outlined by our various meetings on the subcommittees' proposals. This is now ready and available and will be brought to

the attention and for the perusal of the entire committee. Therefore, it is very clear how important this meeting is. Immediately after this session adjourns, we will have our meeting in the House Majority Caucus Room, right below on the first floor. I hope you will be willing to have placed on the minutes of this Convention the gratitude of all of the members of the Judiciary Committee to these four extraordinary people who have worked so long and diligently for us.

PRESIDENT BRODERICK. The Chair is not only willing, but happy to see that that statement is in the minutes.

ANNOUNCEMENT BY DELEGATE SWOPE

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Administration and Finance, Delegate Swope.

DELEGATE SWOPE. The committee will meet for the purpose of considering and approving the contract with the film company that is going to make the historical sound film of this Convention.

It is urged that as many as possible get there, because we do need a quorum to transact business.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Swope. Are there any further announcements in connection with committee meetings today?

The Chair hears none.

DELEGATES' PRESENCE NOTED

I want to note the presence here of Delegate Westenberg, Delegate Rappaport and Delegate Bashoff, who came in after the roll was taken.

Delegate M. V. Kefler, Delegate Caron and Delegate Casey's presence will also be noted.

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes the delegate from Schuylkill, Delegate Allison. For what purpose does the gentleman rise?

DELEGATE ALLISON. Mr. President, I rise to a point of order.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE ALLISON. Must you have a majority of a standing committee when you are voting on the inclusion or exclusion of a particular point, when we are drafting a proposal that will be presented to the Convention as a whole, or do we need a quorum and a simple majority of those present and voting?

PRESIDENT BRODERICK. The Chair thinks that—if I understand your question—the question is covered specifically in the rules.

I am going to ask the Parliamentarian to read that question. But as I understand the question, on page 26 of the rules, we have a rule headed, Rule 22, subsection called, "Reports by Main Committee," which says, and I quote: "All committee proposals shall be reported to the Convention by a vote of a majority of the entire membership of the standing committee . . ." and I think that that part of that rule would answer your question that you need a vote of the entire membership, if that is the question.

DELEGATE ALLISON. Thank you, Mr. President.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes the delegate from Bucks, Delegate Powell. For what purpose does the gentleman rise?

DELEGATE POWELL. Mr. President, I rise on a parliamentary inquiry.

PRESIDENT BRODERICK. The gentleman may state his inquiry.

DELEGATE POWELL. Mr. President, on the same question, could we have a ruling from the parliamentarian in regard to proxies in standing-committee votes, whether they are acceptable or not acceptable?

PRESIDENT BRODERICK. Delegate Powell, the parliamentarian discussed with me before this meeting a question of making a ruling by the parliamentarian in the Convention in connection with the operation of the committees as such. I think it is the conclusion of the Chair, as substantiated by the parliamentarian, that these rulings to be used in the operation of the committees are in the hands of the committee as such. Our parliamentarian is ready, willing and happy to assist in the matter of offering advice in connection with making rulings, but we do not think it should be a ruling from the Chair or the parliamentarian, because the operation of the committees, except insofar as is set forth in the rules themselves, provides for any disagreement to be decided by a majority of that committee.

DELEGATE POWELL. Thank you, Mr. President.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Northampton, Delegate Jirolanio. For what purpose does the gentleman rise?

DELEGATE JIROLANIO. Mr. President, I rise to a question of personal privilege.

PRESIDENT BRODERICK. You may state it.

DELEGATE JIROLANIO. Mr. President, members of the Convention, on Saturday I received two communications from a so-called station WDAU, a CBS television station for northeastern Pennsylvania. Why I should receive two, of course, I do not know.

I rise to a question of personal privilege for the reason that I believe that this letter, a copy of which I have now in my hand, by innuendo could possibly refer to me and definitely, since I am a member of this Convention, it refers to all of us.

First of all, may I start off by saying that I believe it is a deep privilege and an honor to have been selected to serve as a delegate to this Convention, and, like many of us here, we are all dedicated and willing to devote our time, at great expense, at loss of money and time, just so we can do some good for the Commonwealth of Pennsylvania.

This letter from this station—and I might say that in my opinion is lobbying indirectly or directly, and I doubt if they are registered as a lobbyist with the State of Pennsylvania in this particular matter—brings by innuendo certain reflections against members of certain committees. Whether it is for the good of myself or the good of the Convention I do not know, but I was selected as a co-chairman in the Legislative Apportionment Committee of the substantive committee which has to do with the composition of the legislature. As a co-chairman, together with

Delegate Markley, we are accused, of course, of "brushing aside numerous proposals to cut the size of the legislature to make it more efficient and less costly."

Members of the Convention, to you I say this, that that is casting reflections upon the dignity of every member of the Convention, and especially upon the dignity of the members of that particular committee.

Then they go on to say: "This action came after reports of veiled threats from legislators that they would wreck the Convention if it tampered with their 'exclusive club.'" I want to report here to this Convention that nobody contacted me; no member of the House or the Senate of the Commonwealth of Pennsylvania threatened me. What discussions I had with members of the House and Senate were on a fair and equitable basis, each one giving to the other their particular thought on a particular thing.

Then they, of course, throw that dig in the back by saying "the exclusive club." Well, you know, I was privileged to serve as a member of the House of Representatives in 1937-38, 1939-40 and 1941-42, and also as a member of the Senate. I am no longer a member of that "exclusive club," but I can say this, that in this Convention there are 12 members of the House and Senate, together with your president, and about seven former members, and I am quite sure that every one of them deserves credit for the work that they have done in this Commonwealth. If you want to call that an "exclusive club," yes, it is exclusive, because they are given the privilege of representing the people of the Commonwealth of Pennsylvania.

As far as compensation is concerned, when you talk of compensation in the amount of \$7,200 then I assure you, ladies and gentlemen, that does not come under the line of exclusiveness.

And then, of course, it goes on to say, "If the delegates at large knuckle under to legislative threats . . ." I do not believe there has been a threat by any one. If there has been a threat, then certainly this body is entitled to know.

I right now charge this Convention to make an investigation if a threat has been made to any members of this Convention that they must vote a particular way or suffer the consequence.

We cannot allow this thing to continue and become the target of persons whose thoughts are their own. They are the dictators when they try to tell you what to do. You have a perfect right to come in here and to vote for 203, 200, 150 or 100. That is your prerogative, not to have possibly some nit-wit of an editor of this particular station who never had the privilege of serving government, who is merely interested in what he can get for himself, to come here and tell us that we are being threatened. The only threat that I know is this letter which I have in my hands.

I say to each and every one of you delegates, let us all rise and show what we are made of. Vote our conscience and tell anyone if they have any facts, valid or otherwise, that would show any member of this distinguished and august body is not doing right to call it to the attention of the President.

Thank you, ladies and gentlemen.

ATTENDANCE FORMS REQUESTED

PRESIDENT BRODERICK. Our Executive Director wishes to make an announcement. Mr. Ingram.

Mr. INGRAM. We put on every delegate's desk last Friday a form called Verification of Attendance Form for mileage payment purposes which we asked you to turn in on or before today. This is for the purpose of facilitating the payment of the mileage allowance, the next payment of which is due February 1st. If you have not completed this Verification of Attendance Form and submitted, it we respectfully ask that you please do so at your earliest opportunity. If there is not a form on your desk, we have some up here at the desk. The chief page will have some.

Thank you very much.

PRESIDENT BRODERICK. Thank you, Mr. Ingram.

POINT OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, a question of personal privilege.

PRESIDENT BRODERICK. Would you state your point of personal privilege?

DELEGATE HOCKER. I would like to answer Mr. Jirolanio.

PRESIDENT BRODERICK. You may proceed.

DELEGATE HOCKER. Mr. Jirolanio, after 20 years of

serving in this House I came up with a good idea for the people who are new in this Convention, and I know you are not new. If you stop to talk to every ant crossing the desert you will thirst to death and the vultures will eat the meat from your bones.

PRESIDENT BRODERICK. Thank you, Delegate Hocker.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair wishes to note the presence of Delegates Shapiro and Ruth.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Musselman for the adjournment motion.

DELEGATE MUSSELMAN. Mr. President, I move that this Convention do now adjourn until Tuesday, January 30, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Musselman and seconded by Delegate Nelson that this Convention do now adjourn until Tuesday, January 30, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 1:53 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Tuesday, January 30, 1968

Number 32

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND M LUTHER WAHRMANN, pastor of St. John's Lutheran Church of Palmerton, Pennsylvania, offered the following prayer:

Let us pray.

In the name of the Father and of the Son and of the Holy Ghost. Amen.

Almighty and Everlasting God, Who, in Thine infinite wisdom, hast established our Nation through the faith of our Fathers and their devotion to Thee: We praise Thee for Thy guiding presence in all our words and deeds. We thank Thee that Thou dost continue Thy providence through all generations, even to us. Thou dost guide and protect us through all peril and harm with the light of Thy truth.

We ask Thee for a continuance of Thy wisdom upon us. May Thy presence and Thy Word ever keep us from error, division and strife even unto holy ways of freedom and just rule. May we always be good stewards of Thy wisdom and knowledge which Thou dost bestow upon each generation.

Be with us in all our deliberations this day. Embrace us and all mankind with Thy love in Jesus Christ. Keep from us all prejudice and falsehood as we lay plans for our present governing and for immediate future days. Keep us from any corruption and deceit. Make us clean, strong instruments in Thy hands. Keep our consciences ever alert to a holy will, Thy will, for all people.

Bless, we pray Thee, this Commonwealth of which we are all a part. Make it a vital power for good in this great Nation of ours. Grant that our efforts today will be for the good of all living and future generations. Keep us from being content with the easy way and arouse us from our lethargy to meet the needs of every situation.

May we continue to treasure every godly heritage of our great Nation so that our decisions may continue to strengthen us in our cities, villages and solitary homes. Fortify us and all our leaders with a vision of peace and with a zeal for righteousness. Preserve us in that righteousness and honor, and continue Thy blessings to us that we may live our lives in Thy godliness.

Let Thy wisdom and light lead us to be a people of hope and promise, even as all who trust in Thee, through Jesus Christ, Thy Son, our Lord. Amen.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. There are no Journals to be approved this morning.

JOURNALS IN SECRETARY'S OFFICE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. At present on my desk, I have the Journals for January 25, 26 and 29.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 19th District, DELEGATE THOMSON for February 5, because of a meeting;

The delegate from the 45th District, DELEGATE HUGGINS, for January 29, because of a funeral;

The delegate from the 18th District, DELEGATE CLARK, for February 5, for business;

I have the sad duty to bring to the attention of our delegation that two of our delegates, the delegate from the 16th District, DELEGATE MARKLEY, and the delegate from the 31st District, DELEGATE MUSSELMAN, have had to enter the hospital for illness and must be excused from today on for indefinite periods. We hope that this will not be serious.

PRESIDENT BRODERICK. Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. Mr. President, I was here yesterday and I would like to be marked present. I was late in coming to the meeting of the Committee on Local Government, but I was here in Harrisburg.

PRESIDENT BRODERICK. We will see that the record so states.

QUORUM CALL

PRESIDENT BRODERICK. We will now take the roll. The voting machines are unlocked. Please record your presence by indicating "aye."

The roll was recorded as follows:

Allison	Desmond	Kelly	Richter
Amsterdam	Devlin	Kline	Roberts
Aurentz	Dumbauld	Krill	Rovner
Bagenstose	Erwin	Leach	Ruth
Baldrige	Fagan	Lee, L.	Sahli
Baldus	Fawcett	Leimbach	Scales
Baldwin	Fay	Leonard	Scarlett
Banes	Feather	Levin	Scott
Barron	Filson	Manderino	Scranton
Bashoff	Fineman	Mangery	Sebastian

Benedict	Fohl	Metitioni	Sharp
Benfield	Gabreski	McGeary	Shettig
Bloom	Gehrlein	McGlynn	Shively
Braham	Gerber	Michael	Shoemaker
Brennan	Goldman	Michener	Shrager
Broderick	Goldstein	Miller, D.	Silverman
Brown	Gouger	Moorhead	Solomon
Buck	Gray	More	Sprogel
Bunting	Griffith	Morton	Stout
Burkholder	Hannum	Murray	Strickler
Butera	Harding	Nelson	Stroup
Cam	Hatter	O'Donnell	Swope
Camardella	Henderson	Orban	Tate
Caputo	Heyburn	Orbin	Thomson
Caron	Himes	Otto	Thornburgh
Casey	Hocker	Pasquerilla	Tomasick
Clark	Hook	Pelletier	Tully
Clinger	Horne	Popul	Van Sant
Conley	Hosteller	Pott	Waldron
Corey	Huggins	Powell	Warman
Cortese	Irvis	Prendergast	Welsh
Cosetti	Jrolanio	Quiles	Westerberg
Croop	Johnson	Rappaport	Whittum
Cunningham	Kauffman	Rea	Wilcox
Curran	Keller, J.	Redick	Wilmarth
Datley	Keller, M.	Reynolds	Woodring

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 144 delegates present which constitutes a quorum.

The Chair also notes the presence of the following delegates:

Aberman	Donaldson	Shapiro	Woodside
Barry	Laputka		

DELEGATES' PRESENCE NOTED FOR JANUARY 29, 1968

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, at the end of the day yesterday, eight delegates came to me to report that although they had missed the roll call, they had been here for the whole day's work. I would like to bring them to the attention of the clerk for such attention as he wants: Delegate Welsh of the 40th District; Delegate Richter of the 38th District; Delegate Fay of the 14th District; Delegate Laputka of the 14th District; Delegate Murray of the 5th District; Delegate Cosetti of the 42nd District; Delegate Gouger of the 33rd District; Delegate Cortese of the 1st District, and Delegate Michael of the 28th District.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

INTRODUCTION OF COMMITTEE PROPOSALS

PRESIDENT BRODERICK. The next order of business is the introduction of committee proposals.

Are there any committee proposals ready for introduction today?

The Chair hears none.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. We now move to the reports of committees.

Are there any committee reports?

The Chair hears none.

RESOLUTIONS

PRESIDENT BRODERICK. The next order of business is resolutions. Are there any resolutions this morning?

The Chair hears none.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Fohl.

DELEGATE FOHL. Mr. President, they say that life begins at 40. If this normally be true, it is not in this case true of one of our delegates, who is better known to the members of his Indian guide group as Big Chief Pronto, for his life, indeed, began two months ago on December 1.

I would like to ask those members on the Local Government Committee, who have compassion in their hearts to celebrate the birthday of fellow Delegate James D. Morton by supporting one of his amendments

PRESIDENT BRODERICK. Thank you, Delegate Fohl.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Room 500, North Office Building, Tuesday, January 30, 1968, immediately after today's session.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, standing committee, Room 132, Finance Building, Tuesday, January 30, 1968, 15 minutes after today's session.

LEGISLATIVE APPORTIONMENT, Co-Chairmen Devlin and Fagan, entire committee, Room 401, Main Capitol Building, Tuesday, January 30, 1968, immediately after today's session.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, entire committee, Senate Majority Caucus Room, Tuesday, January 30, 1968, 10 minutes after today's session.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, PUC Hearing Room No. 2, Tuesday, January 30, 1968, 15 minutes after today's session.

ANNOUNCEMENT BY DELEGATE PASQUERILLA

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Local Government Committee, Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, I would like the members of the Local Government Committee to pay particular attention to this announcement, because we have a change in our meeting schedule today.

Immediately following the session, or I should say about 10 minutes following this session, because I understand that our guests who are here this morning are using our room for their wraps, we will have a meeting of the entire Committee on Local Government.

Our committee has concluded all of its deliberations with the exception of a very touchy, important item which involves the consolidation of the offices of the city and county of Philadelphia.

Therefore, we cordially invite as many of the Philadelphia delegates as possible to be there. That meeting will be in the Senate Majority Caucus Room, approximately 10 minutes following this session.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Pasquerilla.

ANNOUNCEMENT BY DELEGATE AMSTERDAM

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Judiciary Committee, Delegate Amsterdam.

DELEGATE AMSTERDAM. The standing committee of the Judiciary Committee will meet 15 minutes following the ending of this session. Everybody must be there within 30 minutes following the ending of this session, or they are not going to be marked present.

That will give the Philadelphia delegation an opportunity to solve all the problems of the Local Government Committee because that gives them at least 20 minutes. I am sure that with the members of the Judiciary Committee present, there will be no difficulty solving all their problems.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Amsterdam.

ANNOUNCEMENT BY DELEGATE BLOOM

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Administration and Finance, Delegate Bloom.

DELEGATE BLOOM. There will be a very important meeting of the Administration and Finance Committee in Room 500, North Office Building, immediately after this session. It is very important that we have a quorum at our meeting today because we are going to have a contract signed for the taping of the documentary. Therefore, we must have a quorum. If you will just be there for approximately 15 minutes, I think we can dispense with this business so you can attend to your other committee meetings.

Thank you

PRESIDENT BRODERICK. Thank you, Delegate Bloom.

PHOENIXVILLE AREA HIGH SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. At this time the Chair is happy to call to your attention the fact that we have in the gallery this morning 60 students from the Phoenixville Area High School, Phoenixville, Chester County. They are the guests of Delegates Hannum, Thomson and O'Donnell, all from Chester County.

If the guests would please stand we would like to give you our warm cordial regards and our appreciation for being with us

WILLIAM TENNENT HIGH SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. The Chair is pleased to welcome 45 students from the William Tennent High School, Warminster, Pennsylvania, who are visiting with us today as the guests of Delegate M. V. Keller. We are happy to have them with us.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair wishes to announce that we have taken note of the attendance this morning of Delegates Laputka, Murray, Woodside, Barry and Shapiro. Anyone else who came in late and wants to be marked present, if they will raise their hands we will see that it is done.

SPECIAL EVENT

PRESIDENT BRODERICK. We are now waiting for a

special event that one of our delegates asked us to arrange and that is the privilege of hearing Delegate Gray's wonderful choir from the Bright Hope Church in Philadelphia.

I recognize that all of our delegates are anxious to get to these meetings that have been announced and, at this time, I am going to ask Delegate Gray if he can tell us what the e.t.a. is, the estimated time of arrival of his choir.

DELEGATE GRAY. Mr. President, the choir is on its way.

PRESIDENT BRODERICK. I think if someone will please take care of getting the choir on deck we can expedite the rest of our session.

INCOME TAX INFORMATION

PRESIDENT BRODERICK. The Chair now recognizes our Secretary, Delegate Michener.

SECRETARY MICHENER. Fellow delegates, I have here, and you will have on your desks tomorrow, a complete report on how you should handle all moneys that come to you as a result of your service in this Convention. It is a very clear-cut statement made by a member of our legal staff in consultation with his staff. It tells you exactly what must be done and I think you will be quite satisfied that this is the opinion which will govern.

To all Philadelphia delegates, I repeat the announcement I made last Friday when some of you were not here, you must fill out certain papers relating to your Philadelphia wage tax. I have a statement here from one of our leading accountants who specializes in this, dealing with expense reimbursements and allowances received by delegates of the Pennsylvania Constitutional Convention, who is also a resident of the City of Philadelphia. These reports must be in by the 1st of February. We are not going to reproduce this Philadelphia document for all delegates, but there will be copies available in my office in Room 509. In other words, all of you tomorrow will have the final word on how to handle your income taxes, and the Philadelphia delegates can get from my office a statement on their special problem.

PRESIDENT BRODERICK. Thank you, Mr. Secretary.

REMARKS BY DELEGATE GRAY

PRESIDENT BRODERICK. The Chair recognizes Delegate Gray.

DELEGATE GRAY. Mr. President, since you have given me this opportunity I want to say—number one—that last Sunday morning Reverend Huggins, a member of this delegation, preached at my church, and I want it to be known to everyone here that he will never preach there again. I thought I was safe in inviting a young, white man to preach at my church because I figured he would not try to take it from me, but when he got through he had the church in his hand. Even last night when the leaders of my church were meeting at the hotel he was fellowshiping with them when I didn't have the physical capacity to be downstairs in the dining room. I would advise the other three ministers here not ever to invite Delegate Huggins to preach for them.

I would like to say that we appreciate the opportunity of presenting our choir, and perhaps it is coming at an appropriate time because this is the last time I will say

anything on the floor. I do not want to annoy you so you can give me this day, and everybody will be comfortable in a spiritual way listening to my choir.

I want to say that Delegate Goldstein and Delegate Mattioni were in our services on Sunday morning and when Reverend Huggins got through preaching they put in \$100 apiece. I thought that was very nice.

I want it understood very clearly that we are not having the choir up here to sing to get any money. We are not taking up any collection. We really want to sing. Down in Philadelphia we certainly will not refuse it.

Dr. Musmanno of the Board of Education was supposed to be here with us this morning, but apparently he is not. We have with us this morning from Philadelphia, Mr. Charles Lowenthal, a very prominent lawyer, and Reverend Henley from Harrisburg, and Reverend Hamlin from Philadelphia.

We want to present some plaques.

PLAQUES PRESENTED

Plaques were presented by the Bright Hope Baptist Church of Philadelphia, Pennsylvania, to Delegate Scranton, President Broderick, First Vice President Casey and Delegate Amsterdam.

CHOIR OF BRIGHT HOPE BAPTIST CHURCH PRESENTED

PRESIDENT BRODERICK. The Chair recognizes Delegate Gray.

DELEGATE GRAY. At this time we are happy to present to you our choir. We hope that those who have been able to make this session will be impressed with you as much as I have been impressed with you, and that when we go back to Philadelphia, we will vote for the resolutions that are passed by this Convention.

Thank you, Mr. President.

(The Choir presented a program of religious music, and was accorded a standing ovation by the delegates of the Convention.)

PRESIDENT BRODERICK. The Chair wishes to express the warm, sincere sentiments of every delegate and every guest. You were excellent, outstanding, wonderful, and we enjoyed every moment of it. Thank you, thank you.

DOCTOR MUSMANNO WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Delegate Gray.

DELEGATE GRAY. This is Doctor Musmanno, Deputy Commissioner of Education for the State of Pennsylvania. It happened that I worked for him for three years and he was one of the best bosses I ever had and I want you to know that.

PRESIDENT BRODERICK. On behalf of the Convention, the Chair is most happy to welcome Dr. Musmanno.

SON OF DELEGATE GRAY WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Delegate Gray.

DELEGATE GRAY. Mr. President, I would like to present to these Dickinson College people my son, Herbert Gray. He is the pastor of the Union Baptist Church of Mont Clare. He is a graduate of Franklin and Marshall College. At Franklin and Marshall, through his abilities on the basketball court, they were able to beat Dickinson College for once. I want this judge to know that. He is a graduate of Drew Theological Seminary; he studied at Oxford last summer, and he is to get his master's degree from Princeton in sacred theology this year. So there will be one theologian in the family.

PRESIDENT BRODERICK. Well, we are very happy to have him with us this morning.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Gray for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE GRAY. Mr. President, I move that this Convention do now adjourn until Wednesday, January 31, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Gray and seconded by Delegate Conley that this Convention do now adjourn until Wednesday, January 31, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 10:31 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Wednesday, January 31, 1968

Number 33

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND DEMETRIOS S. KATERLIS, pastor of the Greek Orthodox Cathedral of St. George, Philadelphia, Pennsylvania, offered the following prayer:

O Lord God Almighty, Creator and Father of all, we humbly beseech Thee this morning to extend Thy blessings over this gathering of learned men for they are here not to seek personal advantages, but to serve Thy people. Enlighten their hearts and minds even as of old Ye didst enlighten Moses on Sinai and Solon in Athens.

We worship Thee in diverse ways and many tongues, but all look to Thee, the only unfailing fountain of wisdom, for guidance.

Bless our Governor and Lieutenant Governor and all those who serve our God-protected Commonwealth, that Thy justice and love may prevail.

This we do ask in the name of Jesus Christ and through the intercessions of the All Holy Theotokos. Amen.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. There are no Journals to be approved this morning.

JOURNALS ON SECRETARY'S DESK

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, the Journals for January 26, 29 and 30 are on my desk.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 20th District, DELEGATE WILMARTH, for January 31 to February 2, because of death in the family;

The delegate from the 11th District, DELEGATE BENFIELD, for February 6, because of business;

The delegate from the 15th District, DELEGATE SWOPE, for January 31, because of business;

The delegate from the 4th District, DELEGATE MCGLYNN, for February 1, because of a funeral;

The delegate from the 45th District, DELEGATE HUGGINS, for February 1 and 2, because of a funeral.

PRESIDENT BRODERICK. Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUORUM CALL

PRESIDENT BRODERICK. We will open the voting machines and record our presence by voting "aye."

The roll was recorded as follows:

Aberman	Desmond	Keller, J	Reynolds
Amsterdam	Devlin	Keller, M	Richter
Aurentz	Donaldson	Kelly	Roberts
Bagenstose	Dumbauld	Kline	Sabl
Baldrige	Erwin	Krill	Scales
Baldus	Fagan	Laputka	Scarlett
Baldwin	Fawcett	Leach	Scott
Banes	Fay	Lee, L.	Scranton
Barron	Feather	Leinbach	Sebastian
Berry	Filson	Leonard	Shapiro
Bashoff	Fleming	Levin	Sharp
Benedict	Fohl	Manderino	Shelting
Benfield	Fortney	Mangery	Shively
Bloom	Gabreski	Matthoni	Shoemaker
Braham	Gahrlein	McGeary	Shrager
Brennan	Gerber	Michael	Silverman
Broderick	Goldman	Michener	Sprogel
Brown	Goldstein	Miller, D	Stout
Buck	Gouger	Moorhead	Strickler
Bunting	Gray	More	Stroup
Burkholder	Griffith	Morton	Tate
Cain	Hannum	Murray	Thomson
Camardella	Harding	Nelson	Thornburgh
Caputo	Hatter	Orban	Tomasick
Caron	Henderson	Orbin	Tully
Casey	Heyburn	Paequerilla	Van Sant
Clark	Humes	Pelletier	Waldron
Clinger	Hocker	Popl	Warman
Conley	Hook	Powell	Welsh
Cosetti	Hosteller	Prendergast	Westerberg
Croop	Huggins	Rappaport	Whittum
Cunningham	Jrojanio	Rea	Wilcox
Curran	Johnson	Redick	Woodring
Dailey	Kauffman		

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 134 delegates present which constitutes a quorum

The Chair also notes the presence of the following delegates:

Butera	Fineman	Otto	Rovner
Corey	Irvy	Pott	Woodside
Cortese	Meyer		

INTRODUCTION OF COMMITTEE PROPOSALS

PRESIDENT BRODERICK. Our first order of business is the introduction of committee proposals.

COMMITTEE ON LEGISLATIVE APPORTIONMENT

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Legislative Apportionment, Delegate Fagan.

DELEGATE FAGAN. Mr. President, the Committee on Legislative Apportionment submits at this time a committee proposal on the method of apportionment. Each one of the delegates will have a copy. I find it unnecessary to read the proposed changes at this time.

On behalf of the Committee on Legislative Apportionment, I submit the following committee recommendation to the floor:

COMMITTEE PROPOSAL No. 2

By DELEGATES FAGAN and DEVLIN

A PROPOSAL

Amending the Constitution of Pennsylvania making changes relating to legislative apportionment.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section eighteen of article two of the Constitution of Pennsylvania is amended and four new sections are added after said section, to read:

Section 18. [The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.] Legislative Reapportionment Commission.—A Reapportionment Commission, consisting of five members, shall be appointed as follows:

(1) The majority and minority leaders of the State Senate, and the majority and minority leaders of the House of Representatives, either themselves or by deputies appointed by any of them, shall be four of the members. The names of the four members shall be certified to the Secretary of the Commonwealth no later than the fourth Monday in January of the year in which the Federal decennial census is certified.

(2) The four members, within forty-five days after their appointment and certification, shall select a fifth member to serve as chairman who shall be a citizen of the Commonwealth other than a local, State or Federal official elected or appointed to an office to which compensation is attached. The name of the member so selected shall be immediately certified to the Secretary of the Commonwealth.

(3) In the event the four members fail to select the fifth member within the time prescribed in subsection (2) of this section, a majority of the entire membership of the Pennsylvania Supreme Court shall within thirty days thereafter appoint a citizen as aforesaid as the fifth member and chairman of the commission.

(4) Any vacancy occurring in the commission shall be filled within fifteen days thereafter in the same manner in which such position was originally filled.

Section 19. Report of Commission.—No later than ninety days after the commission has been duly constituted and certified or after the Federal decennial census has been certified, whichever is later in point of time, the commission shall file a report with the Secretary of the Commonwealth, dividing the Commonwealth into senatorial and representative districts agreeably to the provisions of sections 16 and 17 of this article.

Section 20. Expenses of Commission.—The General Assembly shall appropriate sufficient funds for a staff

appointed by the commission and to pay the expenses of members and other necessary expenses.

The members of the Reapportionment Commission shall be entitled to such compensation for their services as the General Assembly from time to time shall decide, but no part of same shall be paid until a report nisi is filed.

In the event the commission does not file a report nisi within the time prescribed by section 19 herein, unless said time be extended by the Supreme Court, for cause shown, they shall forfeit all rights of compensation and the Supreme Court shall immediately proceed on its own motion to reapportion the Senate and House of Representatives by districts.

Section 21. Exceptions; Final Plan.—The commission shall have thirty days after its initial filing to make corrections in its report.

Any party aggrieved by the report shall have the same period of thirty days to file exceptions with the commission, in which case the commission shall have thirty days after the date of such filing to prepare and file a revised final apportionment plan.

Section 22. Appeals.—Any aggrieved party shall have the right to file an appeal from the final plan directly to the Pennsylvania Supreme Court. If, upon appeal, the appellant establishes that said plan is contrary to law, the Supreme Court shall remand such plan to the commission, together with an order directing the commission to apportion the Commonwealth in manner not inconsistent with such order. If no exceptions or appeals are filed in said thirty days, the Reapportionment Commission's final plan shall have the force of law and the districts therein provided shall be those used thereafter in elections to the General Assembly of Pennsylvania, until a new plan is made by the next reapportionment commission pursuant to a later Federal decennial census.

PRESIDENT BRODERICK. Of course, this proposal will be printed and placed on your desks and will appear on the calendar.

Are there any further committee proposals?

The Chair hears none.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. The next order of business is the reports of committees. Are there any committee reports?

The Chair hears none.

RESOLUTIONS

PRESIDENT BRODERICK. Are there any resolutions?

The Chair hears none.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair recognizes the presence of Delegate Irvis, Delegate Pott, Delegate Cosetti, Delegate Otto, Delegate Cortese, Delegate Westenberg and Delegate Corcy.

COMMITTEE MEETINGS

JUDICIARY. Co-Chairmen Amsterdam and Scranton, co-chairmen of subcommittees, Room 500, Conference Room, North Office Building, Wednesday, January 31, 1968, immediately after today's session; scribes, Legis-

tive Reference Bureau offices, Wednesday, January 31, 1968, immediately after today's session; entire committee, Room 132, Finance Building, Wednesday, January 31, 1968, at 2 p.m., e.s.t.

LOCAL GOVERNMENT, Co-Chairmen Manderino and Pasquerilla, co-chairmen, Room 523, North Office Building, Wednesday, January 31, 1968, at 1:30 p.m., e.s.t.; entire committee, Senate Majority Caucus Room, Wednesday, January 31, 1968, at 7 p.m., e.s.t.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, standing committee, PUC Hearing Room No. 1, Wednesday, January 31, 1968, at 11 a.m., e.s.t.; standing committee, PUC Hearing Room No. 1, Wednesday, January 31, 1968, at 4 p.m., e.s.t.

ANNOUNCEMENT BY DELEGATE PASQUERILLA

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Manderino.

DELEGATE PASQUERILLA. Delegate Manderino has lost his voice. He worked until 3:30 this morning getting our proposal together. He is unable to speak.

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA. I would like the members of the Local Government Committee to pay particular attention to these announcements, because we have a slight change in the schedule.

All members of the Committee on Local Government can pick up a copy of the Local Government proposal in Room 806 at 4 p.m.

This evening the entire Committee on Local Government, which will take its final look at its Local Government proposal, will meet in the Senate Majority Caucus Room at 7 p.m.

PRESIDENT BRODERICK. Thank you, Delegate Pasquerilla.

ANNOUNCEMENT BY DELEGATE AMSTERDAM

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Judiciary, Delegate Amsterdam.

DELEGATE AMSTERDAM. At the meeting of the standing committee this afternoon in the Finance Building, we will take a look at the material we hope will be ready for the committee at that time so that final conclusions can be reached.

ANNOUNCEMENT BY DELEGATE LEONARD

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD. The standing committee will meet at 11 o'clock this morning in PUC Hearing Room No. 1 to hopefully take action on the final proposal that we have to consider.

At 4 o'clock this afternoon, we will again meet in PUC Hearing Room No. 1 to review, hopefully again, the final draft of the committee proposals to be submitted to the floor.

Thank you.

ANNOUNCEMENTS BY EXECUTIVE DIRECTOR

PRESIDENT BRODERICK. The Chair recognizes the Executive Director, Mr. Ingram.

MR. INGRAM. There will be a meeting of the officers of the Convention and the standing committee chairmen at 12:15 in Room 615 in the Main Capitol Building today.

I would like to remind the delegates to please, if you have not already done so, submit to me today at the desk your verification of attendance for the purpose of our paying mileage. We would like to get these checks prepared tomorrow and we must have the remainder of these reports to do so.

Thank you very much.

INCOME TAX INFORMATION

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, each delegate now should have in his hand a final report on how to handle income which you will receive for your services as delegates to this Convention.

This supersedes all the other horseback opinions. There is a special page at the end which applies only to Philadelphia residents. The rest of us can ignore that, but the Philadelphia people should pay special attention to the last page.

PRESIDENT BRODERICK. Thank you, Mr. Secretary.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Levin. For what purpose does the gentleman rise?

DELEGATE LEVIN. Mr. President, I rise to a question of personal privilege.

PRESIDENT BRODERICK. Would you state your point of personal privilege, Delegate Levin?

DELEGATE LEVIN. My point of personal privilege in most part is directed to the present course of development on the Judiciary Committee.

PRESIDENT BRODERICK. Proceed.

DELEGATE LEVIN. Fellow Delegates, on December 1, 1967, when this Convention convened, Governor Shafer addressed us and at that time he called to our attention many important facts, two of which were: One, that we were not here to maintain the "status quo;" two, that the considerations of this Convention not be guided along political lines. From a practical standpoint it would be, in my opinion, impossible to state flatly that we are not here to maintain the "status quo." In my opinion, we were called together for the purposes of reviewing four separate and distinct categories of our Constitution. Within each category there may be change needed and within each category it may be necessary to maintain a partial "status quo." Therefore, there is room for differences of opinion and everyone is entitled to his own opinion.

From another practical standpoint, it would be impossible to completely divorce political views from the issues. It is only possible to maintain a temporary separation. No matter whether we are Republicans or Democrats we are going to have to live with this Constitution and under its rules and regulations for a long time. It does not matter who is sitting in the Governor's mansion now, or who will be there tomorrow, nor does it matter who sits in the House of Representatives or the Senate

now or tomorrow. The thing that does matter is that everyone of us, there in those elected seats or in the comfortable seats of our own quiet homes—we are going to have to live with this Constitution, and the chances are so will our children and grandchildren, before another attempt is made for any further serious changes.

We are all concerned with every category for each is of the utmost importance to us all. But there is one category which, in my opinion, begs and cries out for change, not confusion, and that is the Judiciary.

Taxation is always under the control of the political party which votes for or against it.

Legislative apportionment is also subject to political party votes, and certainly local government is completely bound up in the political party. But when a citizen walks into a courthouse and into a courtroom, he should leave his banner of Republican—or Democratism outside. Inside the courtroom, every man, woman, and child has a right to justice as it was intended by our forefathers. It does not matter if one enters as a plaintiff or defendant, he is entitled to the full protection of the law. He is entitled to a fair and impartial judge, free of political pressures. He is entitled to a jury which is capable of understanding what is going on and is capable of applying the proper weights to the evidence and the charge through competent mental capacity.

In the Constitution of the United States, everyone is guaranteed a trial by jury of his peers. Gentlemen, I underline the word "peers," and ask you to ask yourselves, what was the intent of our founding fathers in wording this provision in this way? When we do that, we must conclude that a jury of peers is a jury of persons who rank with others with respect to endowments or other qualifications—at the least, an equal in any respect. It is true that another definition of a peer is "an equal before the law," but does that in itself make a person qualified to understand the involvements of today's law in today's society? I think we must agree that if there can be a difference of opinion with regard to the qualifications of one lawyer as opposed to the qualifications of another lawyer in order to determine the best-qualified person to be a judge, and, keeping in mind that both are equally qualified under the law to practice as a lawyer, we must certainly agree that there must be room for questioning the qualifications of the layman who sits in judgment as a juror. From as far back as 1945, when the Pennsylvania Plan was in its infancy, it was recognized that there was a need to remedy the method of selection of judges in order to have the best qualified; if anything, the need is even greater today. We cannot ignore the involvement of politics in our courts. We cannot ignore the lack of qualifications among our jurors. We cannot afford to waste this opportunity to do something about the remedies so badly needed in our judicial system.

On January 9, when my Proposal No. 1174 was offered to the Judiciary Committee, it was offered in sincere hopes that you would all take the time to read and understand what is being proposed. Some of the sections in my Proposal are taken directly from the proposals of the bar association and the board of judges. Others, although based on those proposals, are not identical. For example, I did not propose that the Governor, alone, appoint a justice or a judge, since I feel that no person, alone, should have the power to appoint people to places of such importance. Instead, I proposed that

those appointments be made jointly by the Governor and the Supreme Court Chief Justice in the case of the Supreme Court and the Superior Court, and that the Governor, Chief Justice, and President Judge make the appointments of judges in the district courts. I also proposed ways for those appointments to be made in the event the individuals were unable to mutually agree on the appointments.

I further proposed that a nominating committee be established to consist of nine members, three of whom would be appointed by the Governor, three chosen by the Bar Association, and three elected by the people. We must not give up entirely the right to elect at least three members of that nominating committee, nor should we permit any one person or organization such extreme power as to be the sole appointing body or person for that committee. We must keep in mind the fact that although a governor is a duly elected officer, he is also a member of a political party. We must further remember that the members of the Bar Association, still have a limited view with regard to the appointment of judges, which is caused by their professional association with the court. The limited view of attorneys is like a woodsman who cannot see the trees because of the forest. Such close association with the law can limit a person's perspective since constantly applying the same rules becomes habit and creates a tendency to forget that changing some of these rules is the reason for being at the Convention in the first place.

It is difficult for any person who is always surrounded by legal technicalities to view objectively the seemingly insignificant details of law which, if not corrected by constitutional rights, are the basis for the inequities and injustices inflicted on individuals by the law. Regardless of how unintentional those inequities and injustices may be, these injustices must be removed.

Therefore, the imbalance caused by the Governor being a politically elected individual and the limited view of a professional group must be balanced with representation from those individuals who more often than not are the ones most vitally concerned when they enter a courtroom—the people.

In section 4, subsection E, I proposed that "En Banc Proceedings" be abolished and that the right of appeal from a judgment of a district court, whether by jury or judge, be directly to the Superior Court. Those who are familiar with "En Banc Proceedings" could probably tell you how useless they are since the judge, who originally presided at the trial, sits with another judge or two and rarely, if ever, is there a reversal, since neither the judge who presided in the original instance is anxious to admit he was wrong nor will the other judges readily admit that a colleague was wrong. "En Banc Proceedings" are an unnecessary expense and a delaying tactic imposed upon an appellant.

The costs of justice in both time and money are becoming so exorbitant that few can afford justice today, and justice was not intended to be available only to those who could afford it. Therefore, any unnecessary, and certainly worthless steps in achieving justice should be eliminated, and every effort made to obtain justice from the very first level of jurisdiction, presently referred to as the court of common pleas.

I realize that I could be stepping on some sensitive toes in what I have further to say. This is unfortunate, but necessary.

Among the delegates there are many attorneys and judges who undoubtedly have their own particular views regarding the judicial article in general. Much can be obtained from their knowledge and experience. Unfortunately, we must also be aware that they might subconsciously have personal prejudices and, therefore, oppose initiation of some necessary changes. This is indicated by the fact that the legislature has set forth statutory grounds on which a person may petition for a change of venue. Among them being "whenever the judge who by law is required to try or hear such cause shall be personally interested in the event of such cause, or in the question to be determined thereby—or whenever he shall hold under the same title with either of the parties in the said cause," et cetera, grounds are then constituted for a change of venue. It has been also held that "membership of a judge on the board of trustees of a college would disqualify him from sitting in a case the outcome of which would affect its financial affairs." To deny that any of the changes in the judiciary must affect attorneys and judges directly would be ludicrous. It has also been held improper for a committee, board, or commission to sit in judgment of itself for the very same reason. In Pennsylvania "the mediation of courts is based upon the principle of judicial impartiality, disinterestedness, and fairness pervading the whole system of judicature, so that courts may as nearly as possible be above suspicion." Because of this, I state that my proposal regarding "En Banc Proceedings" is further upheld and I ask those members of this delegation who are practicing attorneys or judges to question their own motives in opposing those changes recommended to the Judiciary Committee.

I believe that, particularly in Section 18, paragraphs A to H, inclusive, and Section 19 and in Section 20, each sets forth, to the best of my ability, those constitutional rights to which every man is entitled when he enters the courtroom. I ask you to please read those sections again and to think about them by putting yourself in the place of the defendant or the plaintiff, and answer these questions honestly: "Am I, at this moment, protected against a 'stupid jury'?" "Am I protected against a 'set-up' jury?" To those who question what I mean by a "set-up" jury, I recommend an article written by Justice Irving R. Kaufman, entitled, "A Fair Jury—the Essence of Justice," and references regarding jury selection which appeared in "Judicature," a publication of the Journal of the American Judicature Society, Volume 51, Number 3 of October 1967. Justice Kaufman, in this article, states, "When there are defects in the jury selection system, the Supreme Court has said 'the injury is not limited to the defendant—there is injury to the jury system, to the law as an institution, to the community at large, and to the democratic ideals.'"

Ask yourself, "Am I protected against being judged by a person unqualified either by mental deficiency, by former imprisonment, or an illiterate person, who could not possibly follow and understand the proceedings?" "Am I protected against a prejudiced judge who will only read to the jury the points of charge which suit him, or will I have a judge who will read only the points of charge to the jury which favor the opposition?" "Am I protected with regard to venue?" "If I know this court is biased against me, to whom do I go to request a change of venue under the present situation—the very same judge who sits in prejudice?" "What chance have I to obtain that change of

venue under those circumstances?" "What right do I have, as a witness already sworn to tell the whole truth, if I refuse to answer a question which is limited to the point of creating a completely erroneous impression on the judge or jury, when I know that to answer this question in full can clarify a tremendous amount of doubt?" "If I am stopped short in answering and I am told that I must answer 'yes' or 'no,' and that is all, what can I do?" Not all questions can be answered by "yes" or "no". "What protection do I have right now against sly remarks made deliberately to prejudice a court or a jury, especially when the attorneys' summations to juries are rarely, if ever, transcribed?" "What protection do I have right now to know within a reasonable time whether or not I have won or lost my cause, or that I must appeal it?" "What protection do any of us have against infiltration by members of organizations which openly advocate the violent overthrow of the United States Government as well as the government of this Commonwealth?" I tell you the answer to all of these questions right now is none.

PRESIDENT BRODERICK. Will the delegate yield, please? I want to point out to you, and I do this in all courtesy to you and I hate to cut you off, but a matter of personal privilege does not include the general discussion of a subject as you have been engaged in. I want to point out that under Rule 18 it says: "Any delegate may rise to explain a matter personal to himself and shall be recognized by the President, but he shall not discuss a question in such explanation. The question of personal privilege shall be limited to questions affecting the rights, reputation and conduct of the Delegates in their capacity as Delegates." If you have a prepared statement that you would like distributed, just hand it to the clerk and we will look it over and make a determination.

DELEGATE LEVIN. May I just make one statement? I hope that we do not throw this once-in-a-lifetime privilege away.

Thank you, Mr. President.

TIME OF MEETING CHANGED

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, in view of the fact that the Executive Director has announced a luncheon meeting today of the officers and the co-chairmen of the standing committees, I would like to announce a change of time for the meeting of our co-chairmen of all the subcommittees on Local Government, and that change will be from 1:00 o'clock and we will meet at 1:30 in Room 523.

PRESIDENT BRODERICK. Thank you.

WELCOMES

STUDENTS FROM SAINT CATHERINE LABOURE

PRESIDENT BRODERICK. The Chair notes the presence in the hall, looking neat in their white shirts, a group of 49 boy students from the seventh grade of the St. Catherine Laboure School who are here with their teacher, Sister Elizabeth. There is also a group of girl students with us and we are happy to welcome both groups.

They are the guests of Delegates Hocker, Woodside and Swope, and also Frank Garber of our Legislative Refer-

ence Bureau.

The Convention extends a very cordial welcome.

TRI-COUNTY SENIOR CITIZENS

PRESIDENT BRODERICK. The Chair is also advised that we have a group representing the senior citizens of the tri-county area of Cumberland, Perry and Dauphin Counties. They are here this morning with their president, Mr. Jack Reiss. They are the guests of Delegates Hocker, Woodside and Swope of Dauphin and Delegates Musselman and Tully of Cumberland.

Would they please rise so we could give them a cordial greeting?

PHILADELPHIA SENIOR CITIZENS

PRESIDENT BRODERICK. We have some other senior citizens with us today who are the guests of Delegate Camardella of Philadelphia.

LEAGUE OF WOMEN VOTERS

PRESIDENT BRODERICK. The Chair welcomes the League of Women Voters of Huntingdon County with their president, Mrs. Kenneth Crosby. They are the guests of Delegate Barron of Mifflin County and Delegates Keller and Gouger of Franklin County.

HUNTINGDON HIGH SCHOOL STUDENTS

PRESIDENT BRODERICK. I am also advised that in the gallery we have pupils from the ninth grade through the

twelfth grade from the Huntingdon High School. They are the guests of Delegate Barron of Mifflin County and Delegates Keller and Gouger of Franklin County.

BARRISTERS CLUB OF JUNIATA COLLEGE

PRESIDENT BRODERICK. The Chair welcomes members of the Barristers Club of Juniata College. They are the guests of Delegate Barron of Mifflin County and Delegates Keller and Gouger of Franklin County.

The Chair on behalf of all the delegates says that we are happy that you are with us today and we hope you enjoy your day at the Capitol.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Gouger for the adjournment motion.

DELEGATE GOUGER. Mr. President, I move that this Convention do now adjourn until Thursday, February 1, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by the delegate from Franklin, Delegate Gouger, and seconded by the delegate from Allegheny, Delegate Irvis, that this Convention do now adjourn until Thursday, February 1, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 10:03 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Thursday, February 1, 1968

Number 34

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND JOHN P. KINIRY of Our Lady of Charity Parish, Brookhaven, Delaware County, Pennsylvania, offered the following prayer:

In the Name of the Father, and of the Son and of the Holy Spirit. Amen.

We beseech Thee, O God, to direct the thoughts of those here assembled that they realize all things begin with You, are performed through You, and by You are properly ended.

We, Your creatures, who are made to Your image and likeness, personified in our individual souls, ask that You instill their minds, their faculties of intellect, judgment and will, with Your grace.

Make them aware that they are Your instruments in the destiny of this State which You lavished with fair and fertile fields, hills stored with boundless treasures, gorgeous beauty and countless wealth.

Whatever decisions they make, conclusions they resolve and laws they may formulate will be the deeply set pillars of a Constitution which will benefit private, public and political life in the present and future of this Commonwealth.

As their reward let their memories serve as a benediction to posterity, recognition of Divine Providence and an expression of what is true, just and honorable before God and man.

In the Name of the Father, and of the Son and of the Holy Spirit. Amen.

APPROVAL OF JOURNAL

PRESIDENT BRODERICK. We have no journals for approval this morning.

JOURNALS IN SECRETARY'S OFFICE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, I have on my desk at present the Journals for January 30 and 31, so we are fully current.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 2nd District, DELEGATE ABERMAN, for February 7, because of business;

The delegate from the 9th District, DELEGATE DESMOND, for February 2, because of business;

The delegate from the 3rd District, DELEGATE GRAY, for February 2;

The delegate from the 47th District, DELEGATE CAPUTO, for February 2, because of business;

The delegate from the 43rd District, DELEGATE MILLER, for February 2;

The delegate from the 43rd District, DELEGATE AU-RENTZ, for February 2;

The delegate from the 34th District, DELEGATE SHARP, for February 1, because of business;

The delegate from the 13th District, DELEGATE FORSTER, for January 31, to go to Washington;

The delegate from the 18th District, DELEGATE JIR-OLANIO, for February 1, because he had to see his doctor;

The delegate from the 6th District, DELEGATE BASH-OFF, for February 1, to appear in Court;

The delegate from the 32nd District, DELEGATE WAR-MAN, for February 2 and 9, because of United States Government business.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUORUM CALL

PRESIDENT BRODERICK. We will proceed to record our presence for the purpose of the roll call. The machine is now unlocked; you may vote "yea" to indicate your presence.

The roll was recorded as follows:

Aberman	Curran	Keller, M	Redick
Allison	Dailey	Kelly	Reynolds
Amsterdam	Desmond	Kline	Richter
Aurentz	Devlin	Krill	Roberts
Bagenstose	Donaldson	Laputka	Rovner
Baldridge	Dumbauld	Leach	Sahl
Baldus	Erwin	Lee, L	Scalen
Baldwin	Fawcett	Leimbach	Scarlett
Banes	Fay	Leonard	Scranton
Barron	Feather	Levin	Sebastian
Barry	Filson	Maderino	Shetig
Benedict	Fohl	Mangery	Shively
Benfield	Forster	Mattioni	Shoemaker
Bloom	Fortney	McGeary	Shrager
Braham	Gabreski	Michael	Silverman
Brennan	Gehrlein	Michener	Sprogeil
Broderick	Gerber	Miller, D	Stout
Brown	Goldman	Miller, R	Strickler
Buck	Gouger	Moorhead	Swope
Bunting	Gray	More	Tate
Burkholder	Griffith	Morton	Thomson
Bulera	Hannum	Murray	Thornburgh
Cain	Harding	Nelson	Tomaszek
Camardella	Hatter	Orban	Tully
Caputo	Henderson	Orbin	Van Sant

Casey	Heyburn	Otto	Waldron
Clark	Himes	Pasquerilla	Warman
Clinger	Hocker	Pelletier	Welsh
Conley	Horne	Popil	Westerberg
Corey	Hostetler	Pott	Whitum
Cortese	Iris	Powell	Wilcox
Cosetti	Johnson	Prendergast	Woodring
Croop	Kauffman	Rappaport	Woodside
Cunningham	Keller, J.	Rea	

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 135 delegates present, which constitutes a quorum

The Chair also notes the presence of the following delegates:

Hook	Meyer	Shapiro	Stroup
King	Ruth		

INTRODUCTION OF COMMITTEE PROPOSALS

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The first order of business is the introduction of committee proposals.

The Chair recognizes the Co-Chairman of the Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD Mr. President, I read in place and present to the Chair two proposals.

COMMITTEE PROPOSAL No. 3

BY DELEGATES LEONARD and WOODRING

A PROPOSAL

Amending the Constitution of Pennsylvania further providing for Commonwealth indebtedness.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section four of article eight of the Constitution of Pennsylvania is amended to read:

Section 4. [No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds, to the amount of one hundred millions of dollars, for the purpose of improving and rebuilding the highways of the Commonwealth.] Commonwealth Indebtedness.—(a) No debt shall be incurred by or on behalf of the Commonwealth except by law and in accordance with the provisions of this section.

(b) Debt may be incurred without limit to suppress insurrection, rehabilitate areas affected by disaster, riot, or civil disorder, or to implement unissued authority approved by the electors prior to the adoption of this article.

(c) The Governor, Treasurer and Auditor General jointly may be authorized to issue tax anticipation notes having a maturity date within the fiscal year in which they are incurred and payable from revenues received during the same fiscal year.

(d) The Governor, Treasurer and Auditor General joint-

ly may be authorized to incur debt for the purpose of refunding other debt; provided that such refunding debt matures within the term of the original debt.

(e) Debt may be incurred without the approval of the electors for capital improvements separately specified in a capital budget; provided that said debt shall not cause the amount of all net debt outstanding to exceed one and one-half times the average annual tax receipts deposited for the previous five years as certified by the Auditor General. Debt incurred for the purposes set forth in subsections (b) and (c) of this section shall not be deemed debt outstanding for the purposes of this subsection. Debt incurred for the purposes set forth in subsection (d) of this section shall be deemed debt outstanding only if the original debt to be refunded would be so considered.

(f) Debt may be incurred without limit for purposes specifically enumerated in the law authorizing such debt; provided that the question of whether the debt shall be incurred has been submitted to the electors and approved by a majority of those voting on the question.

(g) All debt incurred for capital improvements shall mature within a period not to exceed the estimated useful life of the major property or improvements for which it is incurred, and such period of usefulness shall be stated in the law authorizing the projects, but in any event, the maximum maturity for any obligation of the Commonwealth shall not be in excess of forty years. All obligations, except tax anticipation notes shall be payable in periodic installments commencing within a period of no less than one-tenth the term of the obligation.

(h) As used in this section, debt shall mean the issued and outstanding obligations of the Commonwealth and shall include those obligations of its agencies or authorities which are to be repaid from lease rentals or other charges payable directly or indirectly from revenues of the Commonwealth. Debt shall not include obligations to be repaid (1) from charges made to the public for the use of the assets financed, when so determined by the Auditor General, or (2) from lease rentals or other charges payable by a school district, or (3) by agencies or authorities created for the joint benefit of this Commonwealth and one or more other governments.

(i) If at any time the General Assembly shall fail to appropriate sufficient funds to provide for the timely payment of the interest upon and installments of principal of all debt, the State Treasurer shall set apart from the first revenues thereafter received applicable to the appropriate fund of the Commonwealth a sum sufficient to pay such interest and installments of principal, and shall so apply the money so set apart. The State Treasurer may be required to set aside and apply such revenues at the suit of any holder of Commonwealth obligations.

Section 2. Sections six and nine of the article are amended to read:

Section [6] 5. State Credit not to be Pledged.—The credit of the Commonwealth shall not be pledged or loaned to any individual, company, corporation or association nor shall the Commonwealth become a joint owner or stockholder in any company, association or corporation.

Section [9] 6. Municipal Debt not to be Assumed by State.—The Commonwealth shall not assume the debt, or any part thereof, of any city, county, borough or township, unless such debt shall have been contracted to enable the State to repel invasion, suppress domestic insurrection,

defend itself in time of war, or to assist the State in the discharge of any portion of its present indebtedness.

Section 3. The existing sections four, five, eleven, twelve, thirteen, sixteen, seventeen, twenty-one, twenty-two and twenty-three of article eight of the Constitution of Pennsylvania are hereby repealed.

Section 4. Effective when the last bonds have been issued under their authority, sections twenty-four and twenty-five of article eight of the Constitution of Pennsylvania are hereby repealed.

COMMITTEE PROPOSAL No. 4

By DELEGATES LEONARD and WOODRING

A PROPOSAL

Amending the Constitution of Pennsylvania specifying audit control of public moneys and establishing and regulating a balanced State budget for the next fiscal year and financial plans for the succeeding five years.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section fourteen of article eight of the Constitution of Pennsylvania is amended to read:

Section 14. [The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the State, or member or officer of the General Assembly, shall be a misdemeanor and shall be punished as may be provided by law, but part of such punishment shall be disqualification to hold office for a period of not less than five years.] Audit.—(a) The affairs of the Commonwealth, including matters relating to the receipt and expenditure of public moneys by any department or agency of State government, or by any body created or funded by the Commonwealth, shall be audited regularly. Such audits shall be made in accordance with generally accepted auditing standards.

(b) The Auditor General shall have responsibility for the post-audit of the Commonwealth, other than for his own department, and the State Treasurer shall have responsibility for pre-audit. The General Assembly shall enact legislation which shall (i) describe the audit function, standards, regularity and purposes of audits of the Commonwealth, and (ii) designate the officer or department responsible to perform or have performed the other audit functions and purposes described.

(c) The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the State, or member or officer of the General Assembly, shall be punished as may be provided by law.

Section 2. Article eight of the Constitution of Pennsylvania is amended by adding at the end thereof, three new sections to read:

Section 26. Governor's Budget and Financial Plan.—(a) Within the time fixed by law, the Governor shall submit to the General Assembly:

(1) A balanced operating budget for the ensuing fiscal year setting forth in detail all proposed debt service, authority rentals and operating expenditures by each department or agency by all proposed programs of the State. The budget shall set forth in detail the estimated receipts from all sources. Proposed expenditures shall not exceed

the estimated receipts. If the total estimated receipts are insufficient to pay all proposed expenditures, the Governor shall recommend specific additional sources of revenue sufficient to pay such deficiency, together with the estimated receipts which would be derived from each source, and

(2) A capital budget for the ensuing fiscal year setting forth in detail the capital expenditures proposed to be financed from the proceeds of State debt or appropriations from operating funds.

(b) In addition to the budgets for the ensuing fiscal year, the Governor shall annually submit to the General Assembly a financial plan for no less than each of the succeeding five fiscal years. The financial plan shall include for each such fiscal year:

(1) Proposed debt service, authority rentals and operating expenditures for all programs of the State, in reasonable detail, and receipts, by major categories, from existing and proposed sources, and

(2) Proposed capital expenditures by separate purpose, project or facility and proposed source of financing each.

Section 27. General Assembly's Appropriations and Financial Plan.—(a) The General Assembly shall:

(1) Approve a balanced operating budget for the ensuing fiscal year. Appropriations made by the General Assembly shall not exceed the actual and estimated receipts available for said appropriations.

(2) Approve a capital budget for the ensuing fiscal year.

(3) Annually approve a financial plan for no less than each of the succeeding five fiscal years.

(b) All estimates of anticipated receipts from any source whatsoever shall be made only as certified by the Governor.

Section 28. Surplus.—All surplus of funds shall be assigned for appropriation during the ensuing fiscal year.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Leonard

DELEGATE LEONARD Mr. President,

The Taxation and State Finance Committee is pleased to present its proposal covering the present constitutional provisions on State Debt and repayment thereof, presently covered by Article VIII, Sections 4, 5, 6, 11, 12, 13, 14, 16 (two provisions), 17, 21, 22, 23, 24, and 25.

The committee proposes that present Sections 6 (State Credit Not to Be Pledged) and 9 (State Not to Assume Municipal Debts) remain unchanged; Section 14 (Penalty for Misuse of Public Moneys) be incorporated in a new provision being separately submitted on State Auditing, and that the remaining sections enumerated above be repealed, their substance being provided for in a new Section 4 which is the substance of this Proposal.

It has been made abundantly clear from testimony submitted to the committee in the report of the Preparatory Committee, at the public hearings, and by expert witnesses who testified before the State Debt Sub-Committee that at the present time the Commonwealth has no real debt limit. The device of authority financing made meaningless the intent of the present \$1 million debt limit on the General Assembly.

Several Delegate Proposals have offered suggestions for a different approach to state debt. Some would give the General Assembly authority without limit to incur debt on its own initiative. Other proposals would permit the General Assembly no authority to incur debt unless such borrowing were first approved by the electorate in state

wide referendum. Other proposals make a compromise between these two extremes by permitting the General Assembly to authorize the incurring of debt on its own initiative up to a point but require all debt beyond that point to be incurred only after approval by the voters. The committee has selected, to a major extent, the latter approach as the most realistic and flexible for meeting the needs of the future.

Under several Delegate Proposals, borrowing through the device of State Authorities would be brought under the debt limits established and/or be made subject to approval by the voters. Some Delegate Proposals would prohibit the use of authority financing completely. The Committee concluded that debt created by authorities of the Commonwealth which was financed by lease-rental charges against the general revenues of the Commonwealth should be treated as debt of the Commonwealth and subject to any limitations or restrictions adopted. Exception is made for any debt (such as that of the Turnpike Commission) which is truly self-supporting from user charges, intergovernmental authorities (such as the Delaware River Port Authority), and authorities with either or both of the above features (such as the State Public School Building Authority) which are intergovernmental in nature and/or financed by charges to governments other than the Commonwealth, per se. In other words, Authorities would not be prohibited by the proposal, but the use of this device would not be necessary and probably not desirable. Several witnesses before the State Debt Subcommittee testified that considerable improvement and economies could be effected in administering the Commonwealth's capital improvement program and financing, and the generally lower interest rates of general obligation borrowing could be achieved if the present debt limits were removed and more realistic and flexible limits established.

In essence, the Committee Proposal grants the General Assembly power to incur debt for projects set forth in a capital budget on its own initiative up to a limit determined by multiplying the average tax receipts of the past five years by a factor of 1.5. At such time as the total net outstanding debt of the Commonwealth exceeded this limit, or for purposes not set forth in a capital budget, additional debt could be incurred only when approved by the voters in a referendum. Exception is made for tax anticipation notes, debt incurred to suppress insurrection, rehabilitate disaster areas, or to implement unissued authority approved by the electors prior to the adoption of this article.

Guarantees to bondholders that the State will repay its debt, and a recourse to bondholders to ensure such payment, are provided in subsection 4 (h) of the proposal, which is modeled after a provision recently recommended in the Maryland Convention and also by the Pennsylvania Bar Association. This provision would replace the present Sinking Fund requirement (Section 11) and related provisions on Surplus Funds and Sinking Fund Investments (Section 12) and Reserve Funds (Section 13). Surplus funds arising from financial operations of the Commonwealth would be required (under a separate proposal being submitted on State Budgeting) to be used in balancing the state budget in the subsequent fiscal year. Bondholders would be assured of repayment under the provision provided without requirement for a State Sinking Fund. Whether to finance through term bonds (for which sinking funds are usually desirable) or serial bonds (which

do not require a sinking fund) would be left a flexible matter at the discretion of the General Assembly. In any event, maturities would be limited to the estimated useful life of the projects financed with a maximum of 40 years, and repayment would have to be made in periodic installments commencing with a period of no less than one-tenth the term of the obligation.

This summary outlines the major features of the Committee Proposal. We respectfully submit it for the consideration of the Convention.

The Taxation and State Finance Committee is also pleased to submit a Proposal on two key elements of modern financial management—Auditing and Budgeting.

At the time the present Constitution was adopted these two elements were in their infancy or nonexistent (as we know the terms today) and it is not surprising that the framers of the Constitution of 1873 gave little attention to these functions, other than providing for punishment if public funds were misused and continuation of the offices of Auditor General and Treasurer.

The Commonwealth has by statute adopted many desirable features of auditing and budgeting. The Committee concluded, after lengthy study and detailed discussions with present and past fiscal officers of the Commonwealth, as well as with a number of independent experts in fiscal management, that a constitutional basis along with appropriate guidelines for the conduct of these two important functions should be provided in any new Constitution. Several Delegate Proposals were submitted bearing on these matters.

The Committee Proposal expands the present Section 14 (Misuse of Public Funds) into a section on Auditing. The proposed section should be a major step toward strengthening and making more effective the entire audit function within the Commonwealth. It calls for audits of all affairs of the Commonwealth, to be made in accordance with generally accepted auditing standards, and for the General Assembly to establish purposes and regularity of Commonwealth audits from internal audits by or of the various departments, pre-audit by the State Treasurer before any expenditures are made, and responsibility for a formal post-audit by the office of the Auditor General. It is the intent to require a formal separation of the pre-audit and post-audit functions. This proposal generally conforms with the recommendation of the Pennsylvania Institute of Certified Public Accountants and its intents were recommended by several of the witnesses who appeared before the committee.

The language of present Section 14 is retained as subsection (3) of the Committee Proposal except for deleting words which declare the offenses described to be a "misdemeanor" and involve "disqualification to hold office for a period of not less than five years." The Committee Proposal leaves the matter of punishment as something to be provided by law. This is adequately covered by statute at the present time, and such offenses as might occur might well be defined as more than a misdemeanor according to present statutes.

The Committee Proposal on Budgeting has three basic elements: an operating budget, a capital budget, and a financial plan. The Proposal provides for:

(1) The preparation by the Governor for submission to the General Assembly of a proposed operating budget, a proposed capital budget, and a financial plan covering all

least the next succeeding five fiscal years and (2) the approval by the General Assembly of an operating budget, a capital budget, and a financial plan.

In the event that there was disagreement between the Governor and the General Assembly about the correctness of anticipated receipts, the estimates certified by the Governor would be accepted as the official estimates. The Governor would, of course, ultimately be responsible for the accuracy or lack thereof of the estimates he provided.

The operating budget proposed by the Governor and any operating budget subsequently adopted by the General Assembly would have to be balanced. If the Governor were to propose a budget to the General Assembly in which receipts were insufficient to meet proposed expenditures, the Governor would be required to recommend specific additional sources of revenue to overcome the deficiency and the General Assembly would have to provide for revenues to cover all appropriations.

Under the proposal, any surplus of funds would be assigned for appropriation during the ensuing fiscal period. This provision replaces a provision in the present Constitution (Sections 11 and 12) by which any surplus revenues would have to be deposited in the State Sinking Fund and used to retire debt. In another Committee Proposal on State Debt, the present Sections 11 and 12 would be repealed.

The Financial Plan with the purpose of requiring long-term planning and public disclosure of such plans would set forth, in reasonable detail, the proposed operating and capital improvement expenditures for the ensuing five years, along with proposed sources of financing.

This description is in essence the main points of the Committee Proposal. The Committee respectfully submits the Proposal for the consideration of the Convention.

PRESIDENT BRODERICK. The two committee proposals will appear on the calendar.

The Chair recognizes the other Co-Chairman of the Committee on Taxation and State Finance, Delegate Woodring.

DELEGATE WOODRING. Mr. President, I read in place and present to the Chair the following proposal:

COMMITTEE PROPOSAL No. 5

By DELEGATES LEONARD and WOODRING

A PROPOSAL

Amending the Constitution of Pennsylvania further regulating exemptions from taxation and providing for the taxation of real property of public utilities.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. Section one of article eight of the Constitution of Pennsylvania is amended and a new section is added after said section, to read:

Section 1. Uniformity of Taxation.—All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws [; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, institutions of purely public

charity and real and personal property owned, occupied, and used by any branch, post, or camp of honorably discharged soldiers, sailors, and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof. Citizens and residents of this Commonwealth, who served in any war or armed conflict in which the United States was engaged and were honorably discharged or released under honorable circumstances from active service, shall be exempt from the payment of all real property taxes upon the residence occupied by the said citizens and residents of this Commonwealth imposed by the Commonwealth of Pennsylvania or any of its political subdivisions if, as a result of military service, they are blind, paraplegic or double or quadruple amputees, and if the State Veterans' Commission determines that such persons are in need of the tax exemptions granted herein. Any taxing authority may exempt from occupational privilege taxes, persons deriving less than one thousand dollars per year from such occupation].

Section 1A. Exemptions—(a) The General Assembly may, by general laws, exempt from taxation:

(1) Actual places of regularly stated religious worship;
(2) Actual places of burial, when used or held by a person or organization deriving no private or corporate profit therefrom and not regularly engaged in the business of selling personal property in connection therewith;

(3) That portion of public property which is actually and regularly used for public purposes;

(4) That portion of the property owned and occupied by any branch, post or camp of honorably discharged servicemen or servicewomen which is actually and regularly used for benevolent, charitable or patriotic purposes;

(5) Institutions of purely public charity, but only that portion of real property of such institution which is actually and regularly used for the purposes of the institution.

(b) The General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof.

(c) The General Assembly may, by general laws, establish as a class or classes of subjects of taxation the property, franchises or privileges of persons who, because of age, disability, infirmity or poverty, are determined to be in need of tax exemption or of special tax provisions.

For any such class or classes so established, the General Assembly shall set up uniform standards and qualifications.

The Commonwealth, or any other taxing authority, may adopt or employ such class or classes and said standards and qualifications and, except for taxes upon the sale or use of personal property, may impose taxes, grant exemptions or make special tax provisions in accordance therewith, provided that no exemption from any tax upon real estate shall be granted hereunder except by laws providing for the reimbursement of local taxing authorities for revenue losses occasioned by such exemption.

(d) The General Assembly may by general laws set up standards and qualifications by which local taxing authorities may, for a limited period of time, enact uniform special tax provisions for the improvement, development, reconstruction, or rehabilitation of real estate with the primary and only purpose of upgrading deteriorating property or areas through the medium of the private sector of the economy.

(e) The General Assembly may by general laws set up

standards and qualifications by which local taxing authorities may, for a period not to exceed two years, provide special tax provisions on the increased value of residential real estate resulting from construction.

Section 2 Article eight of the Constitution of Pennsylvania is amended by adding after section 1B, a new section, to read:

Section 1C. Public Utilities.—The real property of public utilities shall be subject to real estate taxes imposed by local taxing authorities. Gross receipts taxes imposed by the Commonwealth on said public utilities shall, however, be in lieu of local taxes on that real property which is used or useful in furnishing their public utility services. The General Assembly shall provide for the annual distribution among all local taxing authorities of an amount equal to the gross amount of real estate taxes which the local taxing authorities of the Commonwealth otherwise could have imposed upon said real estate in the preceding year. Such distribution shall be by an equitable method having due regard for the proportion which the tax receipts of each such taxing authority bears to the tax receipts of all such taxing authorities. That real property of public utilities which is not used or useful in furnishing their public utility services shall remain subject to local taxation.

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring

DELEGATE WOODRING. Mr. President and fellow delegates, the Committee on Taxation and State Finance is pleased to submit its report and proposal with respect to the tax exemptions authorized under Article VIII, Section 1, and a number of other types of exemptions which have been referred to the committee in various delegate proposals.

Many widely different delegate proposals were submitted for our consideration. Some would have eliminated all exemptions; others would have continued all exemptions unchanged, but add additional exemptions; still others would have permitted exemptions only if some provisions had been made for compensating local governments for the cost of providing services to otherwise tax exempt property, on one hand, or, on the other hand, by compensating local governments for the full amount of local real estate taxes which they would have received from such properties had they not been tax-exempt. Some proposals sought authorization for partial exemption or special treatment for redevelopment and housing activities in order that private industry might be enabled to do a more effective job in meeting critical social needs without leaving the full burden to government.

At a public hearing conducted by the committee, through the testimony of expert witnesses invited to testify before the committee and its Taxation Subcommittee, and from extensive communications received by the committee and its members, views have been expressed—sometimes vehemently—in support of all sides of the various approaches advocated.

All of these views have received most serious consideration by the committee and its subcommittee. In reaching the conclusions evidenced by its proposal, the committee believes that it has reached a desirable compromise of the points at issue in a manner designed to be of the greatest possible benefit to the present and future citizens of our Commonwealth. We review briefly below the nature of the changes suggested in our proposal.

Section 1A—Exemptions.

Inasmuch as the present Constitution has a section of Article VIII numbered 1B with respect to reciprocal exemptions which the committee recommends remain unchanged, that portion of Section 1 dealing with exemptions has been tentatively renumbered 1A.

Under Section 1A we propose in subsection (a) that the General Assembly continue to have authority to exempt by general law:

- (i) Actual places of religious worship;
- (ii) Actual places of burial, under specific conditions;
- (iii) Public property;
- (iv) Certain property of veterans' organizations.
- (v) Institutions of purely public charity, with limitations.

Slight changes have been made in the language, intended to tighten the definition of use of real property to the beneficial use which gives rise to the tax-exempt privilege and avoid abuse of the privilege which has heretofore existed. A modification of the language with respect to places of burial has been made, intended to prohibit persons or organizations owning or using such property from securing the advantages of tax exemption if they were also regularly engaged in selling personal property in competition with private tax-paying businesses. This would not prohibit any charitable organizations operating places of burial from occasionally and infrequently making such sales, or even donations, at reduced prices for a charitable or beneficial purpose, but the tax exemption authorized is intended to be forfeited if such actions were to become a regular profit-making adventure.

Aside from the tightening of language to avoid abuses, and several other rather minor changes, it is the intent of the committee to make no changes which would materially and adversely affect these classes of public, charitable, religious, or patriotic organizations which have traditionally been afforded privileges of tax exemption.

I might say, parenthetically, it is the feeling of the committee—I believe I speak for the committee—that these organizations have provided in past generations very material services to the Commonwealth, and it was the thinking of the committee, in part, that for those services, many of which the Commonwealth would otherwise be called upon to perform, these exemptions should be continued in a restricted and modified form.

In subsection (b) the committee proposes to retain the language of the present Constitution with respect to special provisions for the taxation of private forest reserves. This provision was added by a recent referendum in 1958. From examination of the provisions of this nature in other States, and upon the recommendation of the Department of Forest and Waters that this was a highly desirable provision for effective forest management and marketing, the committee concluded that the present provision would remain unchanged.

In subsection (c) the committee was forward looking and progressive and has proposed an entirely new provision to meet an objective sought by several delegate proposals. That objective is to provide some means of lowering the burden of taxation on certain classes of subjects who are determined to need such assistance in order to remain in their own homes and/or subject to the care of relatives and friends, rather than to have to turn to public institutions for housing and maintenance. This provision is contingent upon authorization and standards to

be set by the General Assembly, and also at the option of local governments in which the citizens may or may not choose to grant such exemptions. It is also provided that any real estate tax exemptions authorized by the General Assembly for the purposes described must be accompanied by action of the General Assembly to provide for a reimbursement to these local taxing authorities of any tax revenues lost because of the real estate tax exemptions thereby authorized. Because the scope of the exemptions authorized in this subsection is such as to cover classes of persons who may be found to be in need of such exemptions, specific authority with respect to disabled veterans and specific authority for exempting from occupational privilege taxes persons deriving less than \$1,000 per year from such occupation have been deleted from the present provision, that is, from the present constitutional provision.

In subsection (d) the committee has sought to meet the need expressed in several delegate proposals, and by many agencies which testified at the public hearings and before the Taxation Subcommittee, for special tax provisions with respect to real estate in redevelopment areas, or where areas of deteriorating property could be improved through the efforts of the private sector of our economy—rather than forcing such improvement to be accomplished primarily through public ownership or through governmental agencies and governmental financing. The proposal establishes a principle and a guideline around which the General Assembly may provide standards and safeguards. It is clearly stated that once the General Assembly has established the safeguards, the authority to grant or not grant any special tax provisions lies solely within the discretion of the local taxing authority.

Mr. President, I regret that this is so lengthy, but it is a subject of great importance and I feel that the record should reflect the considerations, the debates, of the subject matter which had been before the committee.

PRESIDENT BRODERICK. Delegate Woodring, I feel certain that your fellow delegates agree that it is a matter of great importance that we receive your report.

DELEGATE WOODRING. Mr. President and delegates, in subsection (e) the committee has sought to meet another need expressed in delegate proposals and in testimony at public hearings and by expert witnesses called by the Taxation Subcommittee. This is a need for temporary relief of real property taxation of the increased values caused by new residential construction while buildings are in the course of being built or sold. The objective is to reduce the costs of development and risks to developers and stimulate the efforts of private business in meeting the housing needs of Pennsylvania citizens, present and future. Under the provision, such special tax treatment would be limited to a period of two years, establishing only such standards set up by the General Assembly, and granted solely at the discretion of the local taxing authorities.

In a new Section 10 the committee has added a new provision with respect to taxation of public utilities. Several delegate proposals and considerable testimony at public and committee hearings have been directed at requiring that the property of public utilities, which currently enjoys tax-exempt status by virtue of court decisions and lack of action by the General Assembly, be made taxable by local taxing authorities. Considerable opposition has also been expressed to such proposals on the grounds that

the assessment and taxing practices vary widely among the thousands of taxing jurisdictions of the Commonwealth, and that many taxing jurisdictions would receive large tax "windfalls" because the bulk of utility properties might be located in one or a few jurisdictions while the service areas and those ultimately paying the taxes through the rates of the public utilities involves a much wider territory. The committee concluded that the problem might best be handled through the gross receipts tax, a portion of which would be distributed among all of the taxing jurisdictions on an equitable basis to be determined by the General Assembly. To insure that the General Assembly maintained the gross receipts tax, and at a sufficient rate, the public utility property would be made subject to local real estate taxes if the tax were repealed or substantially reduced and the rate of the gross receipts tax would have to be sufficient to provide for allocation to local taxing authorities a sum equal to the aggregate of all local real estate taxes which would have been levied on the property if it were not exempt under this provision. The committee believes that the raising of revenue for this purpose can be handled easier and at less cost through the gross receipts tax than through state assessment and collection of real estate taxes—an alternative proposal which was carefully considered.

The above explanation indicates the intent of the committee proposal which we respectfully submit for consideration by the Convention.

PRESIDENT BRODERICK. Thank you, Delegate Woodring. Your proposal will appear on the calendar.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. Are there any committee reports this morning?

The Chair hears none.

The Chair at this time announces that the weekly reports of the chairmen of all committees will be due tomorrow, Friday. We received such favorable comment on the reports given last week, particularly concerning their inclusion of substantive matters, that I encourage you, even though I know you are all busy, to try to duplicate your efforts of last week.

RESOLUTIONS

PRESIDENT BRODERICK. We move to the next order of business which is resolutions. Do we have any resolutions this morning?

The Chair hears none.

COMMITTEE MEETINGS

ADMINISTRATION AND FINANCE, Co-Chairmen Bloom and Swope, Room 500, North Office Building, Thursday, February 1, 1968, immediately after today's session.

JUDICIARY, Co-Chairmen Amsterdam and Scranton, Room 132, Finance Building, Thursday, February 1, 1968, immediately after today's session.

TAXATION AND STATE FINANCE, Co-Chairmen Leonard and Woodring, total standing committee, PUC Hearing Room No. 1, Thursday, February 1, 1968, at 11:15 a.m., e.s.t.; subcommittee co-chairmen, Room 611, North Office Building, Thursday, February 1, 1968, at 2 p.m., e.s.t.

ANNOUNCEMENT BY DELEGATE PASQUERILLA

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Local Government, Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, the Local Government Committee has no meeting scheduled today. At our meeting last night, the final draft form of the local government proposal was adopted by a vote of 41 to 2. That report is now in the Convention Drafting Bureau and will be presented to the Convention tomorrow.

I would like to remind our co-chairmen to please have their supporting information of all their subcommittees in our office this morning, so that we can complete our work in accordance with the rules.

PRESIDENT BRODERICK. Thank you, Delegate Pasquerilla.

ANNOUNCEMENT BY DELEGATE AMSTERDAM

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Judiciary, Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, in the very short walk from my desk to this microphone, I was told by several members of the Judiciary Committee that they are sorry they are not on the Local Government Committee so they would have nothing to do.

We, however, do have things to do and we are going to meet this morning immediately following this session in Room 132 in the Finance Building. It is quite important that all the members of the Judiciary Committee come to that meeting because we expect to wind up our labors at that meeting.

I thank you, sir.

PRESIDENT BRODERICK. Thank you, Delegate Amsterdam.

ANNOUNCEMENT BY DELEGATE BLOOM

PRESIDENT BRODERICK. The Chair recognizes the Co-Chairman of the Committee on Administration and Finance, Delegate Bloom.

DELEGATE BLOOM. There will be a meeting of the Committee on Administration and Finance immediately after this session for the purpose of discussing the format for the documentary.

I want to assure all the delegates, in spite of all the newspapers, that there is going to be a star in this documentary; I can assure them that there will be no one star; the star will be every delegate of this convention.

PRESIDENT BRODERICK. I am glad to hear that.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. On unfinished business at this time, the Chair wishes to point out that recognition has been taken of the presence this morning, after the call of the roll, of Delegates Brown, Hook, Scranton, Meyer, Otto, Van Sant, Ruth, Murray, Stroup, Pelletier, Butera, More, Shapiro, Cortese, Westerberg and Gouger.

If there are any other delegates whose presence is not noted, will you please raise your hands? The Chair sees none.

PHOENIXVILLE AREA HIGH SCHOOL WELCOMED

PRESIDENT BRODERICK. The Chair at this time would like to call the attention of the delegates to a full, beautiful gallery. I want to point out that they are the students from the Phoenixville Area High School, Phoenixville, Chester County.

They are the guests of Delegates Hannum, Thomson and O'Donnell from Chester County.

I am going to ask them to rise so we can show them how happy we are that they are with us this morning.

PARKING PROTEST

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, four delegates have come to me today to make protests about the way they are being treated in the parking lot, Delegates Swope, Shapiro, Meyer, Michael, and quite a few others. I understand the parking attendants have adopted the attitude that since the administration of this Convention has given out so many pink tickets to secretaries and other employees, it is just too bad when the delegates get here and find all the parking places taken. I think this is a legitimate protest. I have observed this twice myself and would have been very irritated had I been a delegate and so treated. I bring it to the attention of the administration. Perhaps we can iron this out, because as the debate goes along in the forthcoming weeks it may become a serious problem.

SEVEN-TO-ONE COMMITTEE

I also have a rather interesting problem which has come to my attention. There is one subcommittee which has voted consistently seven-to-one on everything. The seven members of that committee approached me the other day and wanted to know whether for a leave of absence the person in question had to apply. I asked them what they had in mind, and they wanted to know whether they could apply for a leave of absence running to about March 2 for this delegate. I said that this was not possible, so I think we can expect some more seven-to-one votes.

PRESIDENT BRODERICK. Thank you, Mr. Secretary.

DELEGATES' WIVES WELCOMED

PRESIDENT BRODERICK. The Chair now recognizes Delegate Reynolds.

DELEGATE REYNOLDS. We have a very modest member of our delegation from Easton, Pennsylvania by the name of Honorable Ralph Clark. His very lovely wife is here and she is a national officer of the YWCA. It seems to me that if she were my wife, as pretty as she is, I would have had her introduced. I, at this time, would like to call attention to her being in the rear of the room.

We have another very modest member of our body by the name of Mr. Henry Rea, Jr., who has a most beautiful wife. She is entertaining all our wives today, and I think they should stand and take a bow. Both of them are doing great work in the American tradition. It is nice to have them here with us and maybe others I do not know.

PRESIDENT BRODERICK. I certainly agree. The Chair would, therefore, request that Mrs. Clark and Mrs. Rea stand so that we can show you we are happy you are with us today.

May I ask if we have any other wives in the back, because I know these delegates will have to go home after February 29? Would you stand so we can show our appreciation for your support?

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Manderino for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE MANDERINO. Mr. President, I had practiced this all night because we were expecting about a hundred students from my alma mater high school this morning. They are not in the audience, but since I practiced this I would like to go through with it. It goes this way:

Mr. President, I move that this Convention do now adjourn until Friday, February 2, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. I think that was a fine job. It has been moved by Delegate Manderino and seconded by Delegate Griffith that this Convention do now adjourn until Friday, February 2, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to, and (at 10:18 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Friday, February 2, 1968

Number 35

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND ELWOOD ZIMMERMAN of the Calvary Methodist Church in Harrisburg, Pennsylvania, offered the following prayer:

Almighty God, our Heavenly Father, we bow before Thee at the beginning of this new day. We pause to seek strength for ourselves and for those with whom we labor. We realize that without Thy strength to reinforce us, we live in darkness and our minds and our hearts grow weary with the endless chores of life. Mindful that Thy watchful eye is ever upon us, and that Thou dost constantly lead us beyond our own strength, we pause that Thou would refresh us in spirit and in mind, and thus cause us to act now and always in the best interest of our fellowman.

We thank Thee for guiding our forefathers to the shores of this great continent so abundantly blessed. We thank Thee, too, for the lives of American pioneers who struggled for freedom. Their faith and courage continue to inspire us. We especially thank Thee for the wisdom of those who recognized freedom as the mother of responsibility and used this freedom in an effort to write laws which would inspire a responsible State.

Our Father, we too recognize that we are pioneers struggling for freedom in a rapidly changing and challenging world. Continue Thou to use the minds and hearts of those who lead us in this Constitutional Convention. Grant wisdom and guidance to all who are a part of this great Commonwealth. So implant within our hearts, we beseech Thee, the desire to do Thy holy will, that we may not fail our forefathers or Thee, and that we may serve well the present age with all of its complexities and uncertainties. Give us, we pray, a clear insight into the problems of our day. Keep us humble and worthy to lead the people of our State, the Nation and the World. Amen.

APPROVAL OF JOURNAL

PRESIDENT BRODERICK. We have no Journals for approval this morning.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair now recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have asked for leaves of absence:

The delegate from the 12th District, DELEGATE BALDWIN, for February 2, because of business;

The delegate from the 10th District, DELEGATE POWELL, for February 2, because of business;

The delegate from the 28th District, DELEGATE MICHAEL, for February 2, because of illness;

The delegate from the 7th District, DELEGATE SHRAGER, for February 2, because of business;

The delegate from the 23rd District, DELEGATE DAILEY, for February 2, because of business;

The delegate from the 44th District, DELEGATE OTTO, for February 2, because of illness;

The delegate from the 16th District, DELEGATE ROY MILLER, for February 2, 9, 16, and 23, because of business;

The delegate from the 44th District, DELEGATE MORTON, for February 2, because of business in Washington;

The delegate from the 1st District, DELEGATE RAPAPORT, for February 2, because of business;

The delegate from the 47th District, DELEGATE HENDERSON, for February 2, because of school business;

The delegate from the 18th District, DELEGATE CLARK, for February 2, because of business;

The delegate from the 49th District, DELEGATE GEHRLIN, for February 2, because of business;

The delegate from the 8th District, DELEGATE KELLY, for February 2, because of business;

Ex-officio delegate, DELEGATE KLINE, for February 2, because of a speaking engagement.

The delegate from the 36th District, DELEGATE LEONARD, for February 2;

The delegate from the 5th District, DELEGATE GOLDSTEIN, for February 1 and 2, to attend a funeral;

The delegate from the 47th District, DELEGATE SAHLI, for February 2, because of business;

The delegate from the 50th District, DELEGATE PELLETIER, for February 2, because of business;

The delegate from the 49th District, DELEGATE SCARLETT, for February 2, because of business;

Ex-officio delegate, DELEGATE PRENDERGAST, for February 2, because of illness in the family;

The delegate from the 28th District, DELEGATE RUTH, for February 2, because of business;

The delegate from the 14th District, DELEGATE TOMASCIK, for February 2, because of business.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

MOTION TO DISPENSE WITH QUORUM CALL

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Would it be out of order to move that we dispense with the calling of the roll?

PRESIDENT BRODERICK No, it is not out of order.
DELEGATE WOODRING. I so move.

PRESIDENT BRODERICK. It has been moved that we dispense with taking the roll. That motion has been made by Delegate Woodring and seconded by Delegate Corey.

On the question,
 Will the Convention agree to the motion?
 It was agreed to.

INTRODUCTION OF COMMITTEE PROPOSALS

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Pasquerilla of the Committee on Local Government.

DELEGATE PASQUERILLA Mr. President, I read in place and present to the Chair the following committee proposal on behalf of the Committee on Local Government and request an opportunity to make a statement.

PRESIDENT BRODERICK. The Clerk will read the title.

The **CLERK.** A Proposal amending the Constitution of Pennsylvania providing for local government in Pennsylvania.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, this proposal on behalf of the Committee on Local Government is presented at this time realizing the fact that after a brief conversation yesterday morning with the general counsel of this Convention that we apparently may have one problem on language in our proposal. We are referring specifically to the first paragraph and I would like to mention it for the sake of the record: "Under local government the General Assembly shall provide by general law for local government within the Commonwealth. Such general law shall be uniform as to all classes of local government regarding procedural matters."

This proposal, Mr. President, was adopted by the Committee on Local Government by a vote of 41 to 2. If the general counsel of this Convention recognizes the fact that we may have a problem with that language, it is our intention after receiving his opinion to recall or reconvene the standing Committee on Local Government to take care of any further considerations on this language procedure, but we would like to present the proposal on that basis.

We would like also to explain to the delegates that this is a complete new proposal on local government covering some 13 sections. I would like the President of the Convention to recognize the Co-Chairman of the Committee on Local Government for a brief statement, Delegate Manderino.

PRESIDENT BRODERICK. The Chair recognizes the other Co-Chairman of the Committee on Local Government, Delegate Manderino.

DELEGATE MANDERINO. Thank you. Mr. President, and members of the Convention, this statement is brief for several reasons—one, my voice; two, the crowd; and three, it will be explained more fully later when we get into debate.

As Delegate Pasquerilla has mentioned, we have here the total proposal of the Local Government Committee—the full standing committee. We would like just this morning to point out some of the highlights of the report

to the delegates. Most of these highlights have been previously reported either through the Convention Bulletin or on the floor of the Convention itself. We will point them out since this is our final proposal.

In general matters, first on the subject of home rule, the committee proposal recommends to the Convention that home rule be given through home rule charters to all municipalities in the Commonwealth—municipalities being defined as including counties, cities, towns, townships and boroughs—so that the residual power concept can be given to these communities only through the adoption of the home-rule charter. No residual power is given to any municipality, including the county now defined as a municipality in our proposal. We have a four-year moratorium on this home-rule matter so that during the next four years no community can apply for a home-rule charter or establish one unless the legislature, during the four-year period, sets up standards and procedures and methods for the adoption of home-rule charters.

If this is done within the four-year period, then a community may move. After four years, if the General Assembly has not acted, the provision becomes self-executing, meaning that the communities can proceed on their own to develop methods and procedures for framing and adopting a home-rule charter.

So for the first four years there is, shall we say, a moratorium until the General Assembly acts. After the four years, the local communities are free to proceed in framing and adopting their own methods and their own charters.

The next section of the proposal concerns optional plans of government. In addition to permitting communities to develop home-rule charters, we have a provision in our proposal mandating the General Assembly to establish optional forms of government so that local communities can pick an optional form in preference to the form that they now have. This option also is extended to all municipalities, again being defined as the county, city, borough, town or township.

If the optional plans are provided by the General Assembly, they can be placed on the ballot either by the General Assembly itself, by the governing body of the local communities or by the process of initiative, which I will say more about in a little while.

County government remains the same upon the adoption of the Constitution according to this proposal. However, there are some significant changes. If this proposal were accepted and adopted and passed by the people, no change would take place automatically in county government. All row offices would remain as they are. However, the situation currently is that they cannot be changed without a constitutional amendment. Our proposal allows them to remain as they are, except that they can be changed by local referendum either through the home-rule charter route or the optional form of government route.

With two of these offices, there is an additional method of change provided for. The General Assembly can make changes concerning the county surveyor and the coroner's office. Also, provisions are there that if a county does move away from the current form of government, it can move back to it if it so desires by selecting it as one of the optional forms of government.

Provisions are in the report for intergovernmental cooperation, either voluntarily, or voluntarily by cooperative agreements, or through the delegation of functions and

powers in various areas, provisions for the General Assembly to give special powers to municipalities to encourage area-wide cooperation.

The report also recommends that the General Assembly be permitted to set up standards by which communities can make contributions and assistance to various private, nonprofit groups for the health, safety and welfare of the Commonwealth or local government.

Significant changes are being recommended in the debt limitation provisions of the Constitution concerning local government. Basically the proposal recommends that the debt limit be established by the state legislature, and the debt limit no longer be geared to assessed valuation, which is a very fluid concept as you move from community to community throughout the Commonwealth. Rather the debt limit is geared, although established by the legislature, to basically the income of a community. The yearly income of a community, computed according to a formula developed by the legislature, will be used to determine limitations. As in the past, nondebt revenue projects are not included in the debt limitation. Also, debt approved by a majority vote of the voters does not come within the General Assembly's debt limitations.

We have also attempted in this provision to preserve existing authority concerning assistance which communities can now give to certain public purpose enterprises, although they may not be strictly governmental enterprises.

Local apportionment: In this area, the committee recommends that the one-man, one-vote rule be extended to local municipalities. If the municipality does elect by districts—there is no mandate that they must elect by districts—they can continue to elect their local governing body at large. But if they do now or in the future elect by districts, they must apportion every ten years on a one-man, one-vote basis.

Additional provisions concern the county and city of Philadelphia. The provisions being recommended for Philadelphia debt limit are exactly as they now are in the present Constitution. This is the only exception to the general debt limit being provided. This was at the request of Philadelphia, but I might add that the provisions are more restrictive, rather than less restrictive so far as the rest of the State is concerned.

We are also leaving in the Constitution, exactly as is, section 8 of Article XIV, which provides for the county government and the city/county consolidation in Philadelphia. That remains as it is in the present Constitution.

The proposal ends with a definition section. One of the items I would like to call to your attention in this is a definition of initiative. Throughout the local government article we have provided, in order to open as many doors as possible, that action can be taken by people as distinguished from their governing body or the General Assembly through the process of local initiative. Initiative has been defined as a simplified process by which 10 per cent of the voters, according to certain standards outlined, can file with the proper election bureau, papers in order to place on the ballot various items for consideration by the voters and electors of that district. We think this is an all-pervading concept that runs through the local government proposal and it is an attempt not to allow either local officials or the General Assembly, in certain key areas, to provide through cumbersome machinery an effective way to thwart the will of the electorate. That defini-

tion, along with definitions of referendum and municipality, has been defined.

We are recommending one complete article for local government. All present sections of the Constitution having to do with local government enumerated in the Convention call have been repealed with the exception of one, Section 8, Article XIV, having to do with the consolidation of the city and county of Philadelphia and the debt limit of Philadelphia.

We also have in our proposal a schedule of effectiveness of the various provisions, which you will find in Section 3 of the proposal, indicating whether certain provisions take place within one, two, three or four years, four, I believe, being the maximum, or upon adoption of the local government proposal. This section is designed because of the necessity of avoiding chaos, which would occur if all sections of this article were to become effective immediately upon adoption in April, if adopted by the citizens of the Commonwealth. That schedule is located in Section 3.

There is a philosophy that runs through the local government article. There are various explanations which will be given later concerning the theories and the way that the whole article ties in together for effective strengthening of local government in Pennsylvania without, however, we feel, preventing the General Assembly at the state level as years go by to assist in solving the problems of local government. We will present at a later time to the Convention, explanations and reasoning behind the total concept of the Local Government Proposal.

Those are the highlights of the proposal as presented this morning. We feel it is a good proposal for local government and nothing in the proposal mandates local government to do anything. The philosophy of the committee was that Constitutions are not to mandate people to do things; they are to protect the rights of people. That is the philosophy with which the Local Government Article was approached. It contains matter to protect the rights of local government and, more importantly, the people who come under the control and jurisdiction of local government. We have opened doors for these things to happen while not diminishing the General Assembly's authority to solve future problems in local government in Pennsylvania throughout the next 50 or 100 years.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you for a very fine statement, Chairman Manderino.

The Chair, in accordance with the suggestion of the co-chairman, is holding the proposal of the committee for review in connection with the concept of uniformity as pointed out.

REPORTS OF COMMITTEES

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, the Judiciary Committee has continued, in the week since we last reported, to preserve for posterity endless reels of deathless prose. For that purpose the splendid rhetoric, the brilliant argument, the historic votes, all have been taped and are being zealously guarded by that most efficient,

and I might add most attractive and pleasant, secretary to the Judiciary Committee, Miss Bette Clemens.

Although justly noted for their steadfast resolve, the courage of their convictions and the eschewing of all political considerations, our members of the Judiciary Committee did, nevertheless vote first to favor, then to eliminate, finally to accept many of the excellent proposals we are to convey to an expectant and grateful Convention. Hairbreadth Harry and Pearl White, for those whose memories go back to the nickelodeons of their youth, experienced fewer rescues from the conventional villain, than did our surviving provisions.

With a majority vote of 22 delegates required to authorize delivery to this august assemblage, vote after vote survived by razor thin majorities. However at the end, the ecumenical spirit triumphed—the entire proposal was approved by an overwhelming vote of 28 to 2—and to cap the climax, the schedule, which exceeds the judicial article in size by a modest measure, was likewise adopted with relatively few dissents, out of the total of the 42 members of the Judiciary Committee.

You are all undoubtedly waiting with bated breath, indeed you probably remained in Harrisburg for this session solely to examine our masterpiece. I regret to announce you will be disappointed, for it has not yet been put into appropriate language by our dedicated assistants in the Convention Drafting Bureau. I blame our tardiness on the fact that most of our delegates refused to work past midnight more than three days during the past week.

Since I shall be requesting leave of my fellow delegates to present our complete proposal at the next session of the Convention, I shall assuage your anxiety by touching lightly upon the more interesting items to be contained in our proposal. They are as follows:

1. A modern, closeknit, administratively streamlined judicial system has been mandated, to be supervised and guided by the Supreme Court.

2. A Commonwealth court has been authorized which will care for the ever-growing flood of administrative law matters.

3. Although made an integral part of the statewide system, specialized provisions will care for the specialized needs of Philadelphia and Allegheny Counties where the common pleas courts will have trial, family court and orphans' court divisions. In Philadelphia a municipal court and a traffic court, initially manned by existing Philadelphia magistrates for a maximum period equivalent to the balance of their current terms plus one additional term, will thereafter be manned by trained lawyers and will at all times be under the control of the unified court system.

4. Justices of the peace and aldermen throughout the State, outside of Philadelphia, will be reduced from 4,500 in number to a little over 1,000 will be placed under the control of the rule-making powers of the unified court system, will be salaried and prohibited from retaining fees, fines or costs, must demonstrate such fitness for the position as the court rules shall require and, in judicial districts where the voters so determine, shall be replaced by community courts.

5. Judges of statewide courts are to be appointed by the Governor from names supplied by a Judicial Qualifications Commission. Judges throughout the system have the benefit of merit retention in their posts, that is to say,

they run in elections on their records and not against a political opponent.

6. A special Judicial Inquiry and Review Board is provided to make recommendations to the Supreme Court on matters of suspension, removal, discipline and compulsory retirement of judges. Judges, excepting existing ones who may complete the term for which they have been elected, must retire at age 70.

I believe I am speaking for the vast majority of the Judiciary Committee when I say we are proud of our handiwork and hope it may prove equally pleasing to most of our Convention delegates and eventually to the electorate of the Commonwealth. It does not represent everything that anyone of us wanted. Nevertheless, it is a solid amalgam of the best delegate suggestions and is in no sense a compromise wherein principle was sacrificed for expediency. You are all cordially invited to attend our coming-out party, which I ask this assembly to permit us to delay until Monday, February 5, 1968.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Chairman Amsterdam, for a very fine report.

COMMITTEE ON ADMINISTRATION AND FINANCE

PRESIDENT BRODERICK. The Chair recognizes Delegate Bloom.

DELEGATE BLOOM. As the Convention passes its two-thirds mark, the great weight of emphasis quite naturally has been on the substantive, rather than the administrative problems and issues.

Accordingly, the work of the Committee on Administration and Finance has imposed a lesser demand upon its members, releasing their time and attention for consideration of the major substantive decisions now being formulated.

Two meetings were held during the past week. The committee received and approved a contract for the production of a historical film, and also approved a general format for this production. These actions cleared the way for intensive filming during the week now ending and during the coming week. We went into great detail in the format and we tried to keep it as historical as we could, and anybody who appears in this film appears only as a matter of historical interest for the years to come.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Chairman Bloom.

COMMITTEE ON ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE

PRESIDENT BRODERICK. The Chair recognizes Delegate Nelson.

DELEGATE NELSON. Mr. President, with the permission of the Chair, the report of the Committee on Arrangement, Submission and Address to the People will be given by Delegate Buck, one of our committee members.

PRESIDENT BRODERICK. The Chair recognizes Delegate Buck.

DELEGATE BUCK. The ad hoc committees of the Committee on Arrangement, Submission and Address to

the People have met during the past week and set work schedules coordinated with the Convention schedule. The goal of the entire committee is to finish its work one hour after the last substantive proposal has been adopted on the Convention floor.

To achieve this goal, the ad hoc Committee on Arrangement is considering the relationship to the present Constitution of the standing committee proposals which are now being submitted to the floor of the Convention. The Committee on Submission is working on question format for the ballot and will incorporate Convention proposals into the format. The Committee on Address is evaluating a first draft of the Convention background and procedures.

Recommendations for presenting the adopted constitutional changes to the electorate are being worked out. This section will be drafted after all the standing committees have submitted their reports to the Convention floor.

Research and legal staffs are coordinating their efforts with those of committee members to achieve the goal of completing this committee's work at the earliest possible time.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Buck, for a very fine report.

COMMITTEE ON STYLE AND DRAFTING

PRESIDENT BRODERICK. The Chair recognizes Delegate Johnson.

DELEGATE JOHNSON. Mr. President, my able Co-Chairman, Delegate Pelletier, has suggested that our report this morning might well be confined to a single sentence. It is a quotation from the immortal Milton's sonnet on his blindness. Here it is: "They also serve who only stand and wait."

I might say, Mr. President, that our esteemed secretary has committed this entire sonnet to memory and is prepared to declaim it with the proper dramatic overtones.

I wish to add, however, in fairness to our fellow committee members, a very brief addendum:

Members of the Committee on Style and Drafting met with the four substantive committees and related subcommittees during the final stages of the preparation of reports to the Convention.

The Co-Chairmen of the Committee on Style and Drafting met with their counselors, Andrew Farley and William Hackney, and with Mr. Frank Garber, Assistant Director of the Legislative Reference Bureau, to study preliminary reports of the substantive committees.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Chairman Johnson, for a very fine report.

COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President, and members of the Convention, the Committee on Taxation and State Finance made its substantive report to the Convention yesterday, February 1.

On that occasion, three proposals were submitted on the subject of: State Debt, Budget and Fiscal Affairs and

the Exemption Clause of the Taxation Article. The submission reports were at length and set forth in detail the pros and the cons of the several subjects included and the reasons why particular recommendations had been adopted. The committee is now considering ways and means to implement its proposals by appropriate scheduling and the necessary adoption and repeal of affected legislation.

It is our opinion, Mr. President, that no further report is necessary or required at this time.

On behalf of my Co-Chairman, Delegate Leonard and myself, however, I would like to take this opportunity to thank all of our subchairmen and committee members for their loyalty, industriousness, and intelligent and able cooperation, and their tireless efforts during our long hours of deliberation. Thirty-eight erstwhile strangers have welded themselves into a single working unit, dedicated to write the best possible taxation and finance article. Our results have yet to be determined. The quality of the committee is beyond question, and I salute each member and subchairman individually and collectively.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you for a very fine report, Delegate Woodring.

RESOLUTIONS

PRESIDENT BRODERICK. The next order of business is resolutions. Do we have any resolutions to come before the Convention today?

The Chair hears none.

SUBMISSION OF PROPOSAL DEFERRED

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I wonder whether it would be appropriate at this time, or would you prefer that we defer the action on our request for permission to defer putting in our report of the Judiciary Committee until Monday.

PRESIDENT BRODERICK. Frankly, the Chair, after you made the request in your report, heard no objection. I will state it again: Does anyone have any objection to the proposal of the Judiciary Committee and their report going over until Monday?

The Chair hears none. We have unanimous consent.

DELEGATE AMSTERDAM. Thank you, Mr. President.

COMMITTEE PROPOSAL ON FIRST CONSIDERATION

Agreeable to order,

The Convention proceeded to first consideration of Committee Proposal No. 2, Printer's No. 2, entitled:

Amending the Constitution of Pennsylvania making changes relating to legislative apportionment.

And said proposal having been considered for the first time,

Ordered, To be laid aside for second consideration.

COMMITTEE MEETING

JUDICIARY, Subcommittee D, Co-Chairmen Amsterdam and Scranton, Room 610-A, Friday, February 2, 1968, immediately after today's session.

GROUNDHOG DAY IN LEHIGH COUNTY

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lehigh, Delegate Van Sant.

DELEGATE VAN SANT. Mr. President, would it be in order at this time to recognize a momentous occasion in the great Commonwealth of Pennsylvania?

PRESIDENT BRODERICK. I think this is the proper time to recognize a momentous occasion.

I hear no objection from your fellow delegates as to your recognition of a momentous occasion.

DELEGATE VAN SANT. Mr. President, I rise in a point of order to make a brief statement.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE VAN SANT. This being February 2, as historic as our Constitution of the Commonwealth of Pennsylvania is our famous groundhog, and today, of course, is the forecaster's day and from all indications, the groundhog has failed to see his shadow. Of course, as the old almanacs will tell you, reliably, we are in for more of winter.

I would like to point out that whether it be a prophesying patriarch from Punxsutawney or the quarreling quota of men from Quarryville, there is down in the Lehigh Valley only one groundhog and that is the famous Pennsylvania Dutch grondsow.

Tonight the royal groundhog will reign supreme in regal robe at the annual meeting and banquet of Grundsow Lodge Number Ains on da lechow. I am sorry it is a closed affair. I wish I could invite you, but I do feel that the groundhog has become so associated with our great Commonwealth that the record of this Convention should recognize this distinguished gentleman.

PRESIDENT BRODERICK. Thank you, Delegate Van Sant.

MRS. TERESA MANDERINO WELCOMED

PRESIDENT BRODERICK. Speaking of momentous occasions, the Chair would like to recognize a few of our guests.

First of all, I am very happy to report to you for your solid round of applause the fact that we have with us this morning Mrs. Teresa Manderino, the wife of our hard-working and much-loved chairman of our Judiciary Committee.

DELEGATE MANDERINO. Mr. President, such defamation in front of my wife. It is the Local Government Committee.

PRESIDENT BRODERICK. I said Judiciary. I was trying to promote you here in front of your wife today, and I made an effort.

EAST PENNSBORO JUNIOR HIGH SCHOOL WELCOMED

PRESIDENT BRODERICK. We also have with us in the gallery today, and we welcome the East Pennsboro Junior High School from Cumberland County.

They are the guests of Delegates Musselman, Tully and Hostettler.

Would they stand so we can give them our warm greetings.

BIG SPRING HIGH SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. Also we have in the gallery, and I ask them to stand, 80 students from the Big Spring High School in Newville, Cumberland County.

They are the guests of Delegates Tully and Musselman of Cumberland County and Delegate Hostettler of Juniata County.

HONORARY PAGES INTRODUCED

PRESIDENT BRODERICK. This being the last day of the week, it is our honor and privilege as delegates, I think, to pay tribute to the wonderful pages that have been with us and have served so well.

As you know as we state every week, these are outstanding young men and young women selected by their respective schools to represent them here.

I would like to introduce them to you. As I call their names, I am going to ask them to stand and we will hold our applause until the end.

First we have Joan Steigman and Stanley Weaver of Upper Dauphin High School in Millersburg; Diane Gentle and R. Lee Whiteside of Cumberland Valley High School in Mechanicsburg; Sally Goodyear and Gregory Williams of the Mechanicsburg High School; Susan Groves and Barry Ebersole of Manheim Township High School in Lancaster; John C. Meyers and Thomas Ulmer of the Penn Manor High School in Millersville; Viola Burkett and Robert Jensenius of Northeastern High School in York; John Stitt and Donald Burkins of West York High School in York; and Ronald Hubert and James Weiss of Patton Masonic School for Boys in Elizabethtown.

Fellow delegates, let us show them how much we have appreciated them. They have done an excellent job.

PRESIDENT OF THE PENNSYLVANIA BAR ASSOCIATION WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Delegate Laputka.

DELEGATE LAPUTKA. Mr. President, I noticed in the back of our audience we are also privileged to have with us today, the President of the Pennsylvania Bar Association, Mr. Andrew Hourgan. I wonder if we might give him a hand.

PRESIDENT BRODERICK. Yes, we are very happy to recognize the President of our Pennsylvania Bar Association. I am glad that we have an astute delegate like Delegate Laputka present to make such recognitions.

DELEGATE LAPUTKA. Well, he is a member of our bar, so I am going to have to or I will not be able to go back there and practice.

GROUNDHOG DAY IN LANCASTER COUNTY

PRESIDENT BRODERICK. The Chair now recognizes Delegate Forster.

DELEGATE FORSTER. Mr. President, I am sure that my distinguished fellow delegate, Senator Van Sant, will

not mind a correction on the groundhog. It is when the groundhog sees his shadow that he goes back in the hole and we have more winter.

I wish to report officially on behalf of the hibernating Governors of the Slumbering Groundhog Lodge of Quarryville, who donned their white robes and high silk hats this morning and went out into the fields to observe firsthand the action of the groundhog. A report just in from Quarryville is that he did not see his shadow, so winter is at an end and spring planning time at hand in Lancaster County. However, by radio report from Punxsutawney, the groundhog did see his shadow and they are in for more winter. Apparently, we have local options in local weather as well as local government.

PRESIDENT BRODERICK. Thank you very much, Delegate Forster, for a very fine report.

The Chair now recognizes Delegate Van Sant.

DELEGATE VAN SANT. Mr. President, undoubtedly, the Capitol groundhog has seen his shadow and went back into the hole, and I can foresee in his behalf four dark, dreary weeks at the Constitutional Convention.

DELEGATE'S PARKING PROBLEM

PRESIDENT BRODERICK. The Chair now recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, it is the responsibility of the Secretary of the constituent assembly to watch out for the rights and privileges of the members. Although this does not often come up, I think it should be handled with insistence.

Yesterday I spoke about the trouble that our delegates were having parking around this building. Now today, one of our duly constituted delegates in pursuit of his duty finds that he has been arrested for parking his car here in the vicinity of the building. With considerable seriousness I want to turn this over to the Executive Secretary of this Convention. I want this handled because it is silly to have delegates to this Convention get into legal

trouble while in pursuit of their legal duties. If a page will come forward, I would like to turn this ticket over to Mr. Ingram for suitable action.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair now recognizes the delegate from Delaware, Delegate Bunting. For what purpose does the delegate rise?

DELEGATE BUNTING. Mr. President, I rise to a question of personal privilege regarding the conduct of delegates in their capacity as delegates.

PRESIDENT BRODERICK. Yes, would you just state briefly what your personal privilege is so that we may be in order.

DELEGATE BUNTING. Mr. President, the successful use of imagination, organization and novelty is frequently described as being in the tradition of the "Philadelphia Lawyer." It has been suggested that this tradition is being embellished by the creation of the unique method for the selection of judges; not by a nominating commission or by election, but by Constitutional Convention. If this rumor is correct I urge that appropriate recognition be given to the innovator.

PRESIDENT BRODERICK. Thank you, Delegate Bunting.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair now recognizes Delegate Feather for the adjournment motion.

DELEGATE FEATHER. Mr. President, I move that this Convention do now adjourn until Monday, February 5, 1968, at 1:30 p.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Feather and seconded by Delegate Strickler that this Convention do now adjourn until Monday, February 5, 1968, at 1:30 p.m., e.s.t.

The motion was agreed to and (at 10:27 a.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Monday, February 5, 1968

Number 36

The Convention was called to order at 1:30 p.m., c.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE RIGHT REVEREND MONSIGNOR WILLIAM J. BURKE, pastor of St. Ignatius Church of Centralia, Pennsylvania, offered the following prayer:

In the name of the Father, the Son and the Holy Spirit.
O God, by Whose creative touch this earth was made, whose wisdom peopled it with nations, Whose love sustains it, Whose charity embraces it, please listen to the pleadings of our prayers. Not by chance or accident are we gathered here today. We come with grateful hearts this day to beg and pray that You will give us the true and lasting courage to do and to dare our appointed tasks, that is, give reverence to everyone to whom reverence is due, that is, to give to everyone what is his own. That alone is true and lasting justice. We beg You, dear God, for this blessed privilege to right the wrongs that beset our day and time, that we can enact wholesome laws for the greatest good for the greatest number of people.

In the name of the Father, the Son and the Holy Spirit. Amen.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lackawanna, Delegate Casey.

DELEGATE CASEY. Mr. President, I move that the Journal for December 19, 1967 be approved.

PRESIDENT BRODERICK. The delegate from Lackawanna, Delegate Casey, moves that the Journal for December 19, 1967 be approved. The motion is seconded by the delegate from Somerset, Delegate Orban.

On the question,

Will the delegates agree to the approval of the Journal?
The motion was agreed to.

The Chair recognizes Delegate Casey.

DELEGATE CASEY. Mr. President, I move that the Journal for December 20, 1967 be approved.

PRESIDENT BRODERICK. The delegate from Lackawanna, Delegate Casey, moves that the Journal for December 20, 1967 be approved.

The motion is seconded by the delegate from Somerset, Delegate Orban.

On the question,

Will the delegates agree to the approval of the Journal?
The motion was agreed to.

The Chair recognizes Delegate Casey.

DELEGATE CASEY. Mr. President, I move that the Journal for December 21, 1967 be approved.

PRESIDENT BRODERICK. The delegate from Lackawanna, Delegate Casey, moves that the Journal for December 21, 1967 be approved.

The motion is seconded by the delegate from Somerset, Delegate Orban.

On the question,

Will the delegates agree to the approval of the Journal?
The motion was agreed to.

COPIES OF MARYLAND CONSTITUTION AVAILABLE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, because the gentleman involved must leave, I would like to take up one secretarial duty out of order.

I have in my hand here a very well-presented printing of the Constitution of the State of Maryland. Two hundred copies of this have been brought to my office in Room 509, where they are available for you, by Mr. Ralph Hostetter, President of the newspaper chain in Maryland, who was a delegate to the Maryland Convention.

Mr. Hostetter is seated in the rear and if he will stand for a moment, I would like to express the thanks of the Convention to him.

These copies are available in my office.

PRESIDENT BRODERICK. May I ask our secretary to yield for one second. Since you have called attention to the presence of Mr. Hostetter, I think the delegates would like to indicate their appreciation by giving him a round of applause.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

Ex-officio delegate, DELEGATE DONALDSON, for February 2, because of business;

The delegate from the 9th District, DELEGATE HEYBURN, for February 6, because he must attend a SEPTA meeting;

Ex-officio delegate, DELEGATE FINEMAN, for February 5, because of illness;

The delegate from the 25th District, DELEGATE CLINGER, for February 2 and 5, because of illness;

The delegate from the 45th District, DELEGATE HUGGINS, for February 6, because of a funeral;

The delegate from the 34th District, DELEGATE SHARP, for February 5, because of business;

The delegate from the 9th District, **DELEGATE HARDING**, for February 5, because of union business.

PRESIDENT BRODERICK. Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUORUM CALL

PRESIDENT BRODERICK. The next order of business is recording the roll. The delegates will now proceed to record their presence by voting "aye."

The roll was recorded as follows:

Aberman	Donaldson	Krill	Richter
Allison	Dumbauld	Laputka	Roberts
Amsterdam	Erwin	Leach	Rovner
Aurentz	Fagan	Lee, K	Ruth
Bagenstose	Fawcett	Lee, L	Sabli
Baldrige	Fay	Leimbach	Scales
Baldus	Feather	Levin	Scarlett
Baldwin	Filson	Mandermoo	Scott
Banes	Fleming	Mangery	Scranton
Barron	Fohl	Markley	Sebastian
Bashoff	Forster	Mathoni	Shapiro
Benedict	Fortney	McGeary	Shetig
Benfield	Gehrlein	McGlynn	Shively
Bloom	Gerber	Meyer	Shoemaker
Braham	Goldman	Michael	Shrager
Brennan	Goldstein	Michener	Silverman
Broderick	Gouger	Miller, D.	Solomon
Brown	Griffith	Miller, R.	Sprogel
Buck	Hannum	Moorhead	Stout
Bunting	Harding	More	Strickler
Burkholder	Hatter	Morton	Stroup
Butera	Henderson	Musselman	Swope
Cain	Heyburn	Nelson	Tate
Camardella	Himes	Orban	Thomson
Caputo	Hocker	Orbin	Thornburgh
Caron	Hook	Otto	Tomaszek
Casey	Horne	Pasquerilla	Tully
Conley	Huggins	Pelletier	Van Sant
Corey	Irvins	Popil	Waldron
Cortese	Jirolanio	Potl	Welsh
Cosetti	Johnson	Powell	Westerberg
Croop	Kauffman	Prendergast	Whitum
Cunningham	Keller, J.	Quiles	Wilcox
Curran	Keller, M	Rappaport	Wilmarth
Dailey	Kelly	Rea	Woodring
Desmond	King	Redick	Woodside
Devlin	Kline	Reynolds	

PRESIDENT BRODERICK. The electric roll call tabulator indicates that we have 147 delegates present, which constitutes a quorum.

The Chair also notes the presence of the following delegates:

Clark	Leonard	O'Donnell	Pechan
Gray	Murray		

PENNSYLVANIA NEWSPAPER PUBLISHERS ASSOCIATION WELCOMED

PRESIDENT BRODERICK. I would like to call to the attention of my fellow delegates the fact that we have with us today a number of guests from the Pennsylvania Newspaper Publishers Association. I think most of them are editors. They are with us in the rear. I am going to ask them to stand so that we can show them that we appreciate their support and cooperation and their visit to us today.

We are very happy to have you with us today.

STUDENTS OF PENNSYLVANIA STATE UNIVERSITY WELCOMED

PRESIDENT BRODERICK. In the gallery today we have 15 students from the public affairs reporting class of the School of Journalism from Penn State. Would you be

good enough to stand so that we can give you our cordial greeting?

I might add that these students from Penn State are the guests of Delegate Sharp of Centre County, Delegate McGeary of Centre County and Delegate Shively of Clearfield County.

GIRL SCOUT TROOP NO. 666 WELCOMED

PRESIDENT BRODERICK. Also in the gallery today we have the Girl Scout Troop No. 666 of Camp Hill in Cumberland County with their leader, Mrs. Thomas. Would you please stand?

I might add that they are the guests of Delegates Musselman and Tully of Cumberland County and Delegate Hosteller of Juniata County.

STUDENTS FROM CHARLEROI HIGH SCHOOL WELCOMED

PRESIDENT BRODERICK. In addition, I understand in the gallery we have 60 students from Charleroi High School in Washington County. They are the guests of Delegate Hook of Greene County and Delegates Bloom and Stout of Washington County. Would you please stand so that we could give you our welcome?

INTRODUCTION OF COMMITTEE PROPOSALS

COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. In connection with our next order of business which is the introduction of committee proposals, the Chair wishes to announce that the proposal in connection with local government has now been accepted and will be placed on the Convention calendar.

The following proposal was submitted by the Committee on Local Government:

COMMITTEE PROPOSAL No. 6

By **DELEGATES PASQUERILLA and MANDERINO**

A PROPOSAL

Amending the Constitution of Pennsylvania, providing for local government in Pennsylvania.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1. The Constitution of Pennsylvania is amended by adding a new article to read:

ARTICLE IX LOCAL GOVERNMENT

Section 1. Local Government.—The General Assembly shall provide by general law for local government within the Commonwealth. Such general law shall be uniform as to all classes of local government regarding procedural matters.

Section 2. Home Rule.—Municipalities shall have the right and power to frame and adopt home rule charters. The General Assembly shall provide by general law for all municipalities the right and power to frame and adopt a home rule charter. If the General Assembly does not so provide within four years from the adoption of this article, any municipality may by initiative and referendum,

or by act of its governing body, provide for the adoption of a home rule charter. Adoption, amendment, or repeal of a home rule charter shall be by referendum. A municipality having a home rule charter may exercise any power or perform any function not denied by this Constitution, by the General Assembly or by its home rule charter.

Section 3. Optional Plans.—Municipalities shall have the right and power to adopt optional forms of government as provided by the General Assembly. The General Assembly shall provide by law optional forms of government for all municipalities. An optional form of government shall be presented to the voters, by initiative, action of the governing body of the municipality, or by the General Assembly. Adoption or repeal of an optional form of government shall be by referendum.

Section 4. County Government.—County officers shall consist of commissioners, controllers or auditors, district attorneys, treasurers, sheriffs, registers of wills, recorder of deeds, prothonotaries, clerks of the courts, and such others as may from time to time be established by law.

County officers shall be elected at the municipal elections and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors shall be duly qualified, all vacancies shall be filled in such a manner as may be provided by law.

County officers shall be paid only by salary as prescribed by general law for services performed for the county or any other governmental unit. Fees incidental to the conduct of any county office shall be payable directly to the county or State Treasury, or such office as may be prescribed by general law.

Three county commissioners shall be elected in each county. In the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected.

The above form of county government shall not be changed except in a county which has adopted a home rule charter or an optional form of government. The above optional form of county government shall be one of the optional forms of government provided by the General Assembly.

Section 5. Intergovernmental Cooperation.—A municipality, by act of its governing body, may, or upon being required by initiative and referendum in the area affected shall, cooperate or agree in the exercise of any function, power or responsibility and delegate or transfer any function, power or responsibility to one or more other governmental units including other municipalities or districts, the Federal government, any other state or its governmental units, or any newly created governmental unit.

Section 6. Area Government.—The General Assembly shall provide for the establishment and dissolution of government of areas involving two or more municipalities or parts thereof.

Section 7. Area-wide Powers.—The General Assembly may grant powers to municipalities within a given geographical area in which there exists intergovernmental cooperation or area government and designate the classes of municipalities subject to said legislation.

Section 8. Consolidation, Merger or Boundary Change.—**Uniform Legislation.** The General Assembly shall, within two years following the adoption of this article, enact uniform legislation establishing the procedure for con-

solidation, merger or change of the boundaries of municipalities.

Initiative. By initiative and referendum, municipal governments shall have the right to consolidate, merge and change boundaries upon a majority vote of those voting thereon in each municipality, without the approval of the governing bodies.

Study. The General Assembly shall delegate to an agency of the Commonwealth the responsibility for studying consolidation, merger and boundary changes, advising municipalities on all problems which might be connected therewith, and initiating local referendum.

Legislative Power. Nothing herein shall prohibit or prevent the General Assembly from providing additional methods for consolidation, merger and boundary changes.

Section 9. Appropriation for Public Purposes.—The General Assembly shall not authorize any municipality or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual. The General Assembly may provide standards by which municipalities or school districts may give financial assistance or lease property to public service, industrial or commercial enterprises if it shall find that such assistance or leasing is necessary to the health, safety or welfare of the Commonwealth or any municipality or school district. Existing authority of any municipality or incorporated district to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual, is preserved.

Section 10. Local Government Debt.—Subject only to the restrictions imposed on it by this section, the General Assembly shall by general law prescribe the debt limits of all units of local government including municipalities and school districts. For such purposes, the debt limit base shall be a percentage of the total revenue, as defined by the General Assembly, of the unit of local government computed over a specific period immediately preceding the year of borrowing. The debt limit in every such case to be prescribed shall exclude all indebtedness (1) for any project to the extent that it is self-liquidating or self-supporting or which has heretofore been defined as self-liquidating or self-supporting, or (2) which has been approved by majority vote at a public election held in such manner as shall be prescribed by law. The provisions of this paragraph shall not apply to the City or County of Philadelphia.

Any unit of local government, including municipalities and school districts, incurring any indebtedness, shall, at or before the time of so doing, adopt a covenant, which shall be binding upon it so long as any such indebtedness shall remain unpaid, to make payments out of its sinking fund or any other of its revenues or funds at such time and in such annual amount specified in such covenant as shall be sufficient for the payment of the interest thereon and the principal thereof when due.

Section 11. Local Apportionment.—Within the year following certification of each Federal decennial census, and at such other times as the governing body of any municipality shall deem necessary, each elected governing body shall apportion itself, to the extent it shall not be elected at large, or be apportioned as shall otherwise be provided by uniform law, into districts that shall be compact, contiguous, and substantially equal in population.

Section 12. Philadelphia Debt.—The debt of the City

of Philadelphia may be increased in such amount that the total debt of said city shall not exceed thirteen and one-half per cent of the average of the annual assessed valuations of the taxable realty therein, during the ten years immediately preceding the year in which such increase is made, but said city shall not increase its indebtedness to an amount exceeding three per cent upon such average assessed valuation of realty, without the consent of the electors thereof at a public election held in such manner as shall be provided by law.

In ascertaining the debt-incurring capacity of the City of Philadelphia at any time, there shall be deducted from the debt of said city so much of such debt as shall have been incurred, or is about to be incurred, and the proceeds thereof expended, or about to be expended, upon any public improvement, or in construction, purchase or condemnation of any public utility, or part thereof, or facility therefor, if such public improvement or public utility, or part thereof, or facility therefor, whether separately, or in connection with any other public improvement or public utility, or part thereof, or facility therefor, may reasonably be expected to yield revenue in excess of operating expenses sufficient to pay the interest and sinking fund charges thereon. The method of determining such amount, so to be deducted, shall be as now prescribed, or which may hereafter be prescribed by the General Assembly.

In incurring indebtedness for any purpose the City of Philadelphia may issue its obligations maturing not later than fifty years from the date thereof, with provision for a sinking fund to be in equal or graded annual or other periodical installments. Where any indebtedness shall be or shall have been incurred by said City of Philadelphia for the purpose of the construction or improvement of public works or utilities of any character, from which income or revenue is to be derived by said city, or for the reclamation of land to be used in the construction of wharves or docks owned or to be owned by said city, such obligations may be in an amount sufficient to provide for, and may include the amount of, the interest and sinking fund charges accruing and which may accrue thereon throughout the period of construction, and until the expiration of one year after the completion of the work for which said indebtedness shall have been incurred.

No debt shall be incurred by, or on behalf of, the County of Philadelphia.

Section 13. Reserved for existing section eight of article fourteen.

Section 14. Definitions.—As used in this article, the following words shall have the following meanings:

"Municipality" means a county, city, borough, incorporated town or township or any similar form of government which shall hereafter be created by the General Assembly.

"Initiative" means the filing with the applicable election officials at least ninety days prior to the next primary or general election of a petition containing a proposal for referendum signed by electors comprising ten per cent of the number of voters voting for the office of Governor in the last gubernatorial general election in any municipality affected. The applicable election official shall place the proposal on the ballot in a manner fairly representing the content of the petition for decision by referendum at said election. Initiative on a similar question shall not be submitted more often than once in five years.

"Referendum" means approval of a question placed on the ballot, by initiative or otherwise, by a majority vote of the electors voting thereon.

Section 2. Sections seven, eight, ten, fifteen and nineteen of article eight; section one of article thirteen; sections one, two, three, four, five, six and seven of article fourteen and sections one, two, three, four, and five of article fifteen are repealed.

Section 3. The following schedule is adopted with each section to take effect on the effective date of appropriate legislation or on the date designated in this schedule, whichever shall first occur. The second sentence of section one on uniform procedural law shall take effect four years after adoption. Section two shall take effect immediately upon adoption. Section three shall take effect four years after adoption. The third paragraph of section four on salaries and fees shall take effect four years after adoption. Section five, section six and section seven shall take effect upon adoption. The first paragraph of section eight on Uniform Legislation shall take effect two years after adoption as contained in the text. The second paragraph of section eight on Initiative shall take effect upon adoption. The third paragraph of section eight on Study shall take effect two years after adoption. The fourth paragraph of section eight on Legislative Power shall take effect two years after adoption. Section nine shall take effect upon adoption. The first paragraph of section ten on debt limitation shall take effect four years after adoption. The second paragraph of section ten on adoption of a covenant shall take effect upon adoption. Section eleven, section twelve and section thirteen shall take effect upon adoption. The second sentence of section one and the first paragraph of section eight on Uniform Legislation shall be construed to supercede any other provision of the Constitution to the extent not prohibited by the jurisdiction of this Convention.

COMMITTEE ON JUDICIARY

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton of the Committee on Judiciary.

DELEGATE SCRANTON. Mr. President, I read in place and present to the Chair the following proposal on behalf of Co-Chairman Amsterdam and the 42 members of the Judiciary Committee. I would appreciate a few minutes to speak on the same and to give a brief oral summary of a long document.

COMMITTEE PROPOSAL No. 7

By DELEGATES AMSTERDAM and SCRANTON

A PROPOSAL

Repealing article five of the Constitution of Pennsylvania relating to the Judiciary, and adding a new Judiciary article.

THE CONSTITUTIONAL CONVENTION OF PENNSYLVANIA HEREBY PROPOSES AS FOLLOWS:

Section 1 The Constitution of Pennsylvania is amended by adding after article four, a new article to read:

ARTICLE THE JUDICIARY

Section 1. Courts.—(a) The judicial power of this Commonwealth shall be vested in a unified judicial system con-

sisting of a Supreme Court, a Superior Court, a Commonwealth Court, courts of common pleas, community courts, justices of the peace, municipal and traffic courts in the City of Philadelphia, and such other courts as may be provided by law.

(b) The jurisdiction and powers of the unified judicial system shall be as provided by law, except that the jurisdiction and powers presently vested in the courts of this Commonwealth shall be vested in the unified judicial system created hereby and the General Assembly shall not remove any of said jurisdiction or powers from said system or any part thereof without prior approval of the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall be the highest court of this Commonwealth and shall possess all judicial powers possessed by it at the time of the adoption of this article.

(b) The Supreme Court shall consist of seven justices, one of whom shall be Chief Justice.

(c) The jurisdiction of the Supreme Court shall be as provided by law.

Section 3. Superior Court.—The Superior Court shall consist of seven judges, one of whom shall be President Judge, and its jurisdiction shall be as provided by law.

Section 4. Commonwealth Court.—The Commonwealth Court shall consist of the number of judges and have such Statewide jurisdiction as shall be provided by law. One of its judges shall be President Judge.

Section 5. Right of Appeal.—There shall be a right of appeal in all cases to an appellate court of Statewide jurisdiction.

Section 6. Courts of Common Pleas.—(a) There shall be one court of common pleas for each judicial district, having such divisions and number of judges as shall be provided by law. One of its judges shall be President Judge.

(b) The courts of common pleas shall have unlimited original jurisdiction in all cases except as may otherwise be provided by law or in this Constitution.

Section 7. Community Courts; Philadelphia Municipal Court and Traffic Court.—(a) In judicial districts other than the City of Philadelphia in which a majority of the electors voting thereon have adopted a community court, there shall be one community court, the divisions, number of judges and jurisdiction of which shall be as provided by law.

(b) The question of whether or not a community court shall be established in any such judicial district shall be placed upon the ballot in a primary election by petition which shall be in such form as shall be prescribed by the officer of the Commonwealth having supervision over elections. Any such petition shall be filed with such officer and shall be signed by a number of electors equal to five per cent of the total votes cast for all candidates for the office receiving the highest number of votes in such judicial district at the last preceding general or municipal election. The manner of signing such petitions, the time of circulating them, the affidavits of the persons circulating them and all other details not contained herein shall be governed by the general laws relating to elections. The question shall not be placed upon the ballot in a judicial district at more than one election during any five-year period.

(c) In the City of Philadelphia, in lieu of a community court, there shall be a municipal court and a traffic court.

The number of judges and the jurisdiction of both shall be as provided by law.

Section 8. Magisterial Districts; Justices of the Peace.—(a) In judicial districts, other than the City of Philadelphia, in which a majority of electors voting thereon have not adopted a community court, there shall be one justice of the peace in each magisterial district as provided by law.

(b) The General Assembly shall by general law establish classes of magisterial districts solely on the basis of population and population density and shall fix the salaries to be paid justices of the peace in each class. The number and boundaries of magisterial districts of each class within each judicial district shall be established by the Supreme Court or by the courts of common pleas under the direction of the Supreme Court as required for the efficient administration of justice within each magisterial district.

Section 9. Other Courts.—The General Assembly may, with the advice and consent of the Supreme Court, establish such additional courts, or divisions of existing courts, as may be needed, or, with the advice and consent of the Supreme Court, abolish any court, or division thereof, created by statute.

Section 10. Qualifications of Justices, Judges, and Justices of the Peace.—(a) All justices, judges, and justices of the peace shall be citizens of this Commonwealth. All justices and judges shall be members of the bar of the Supreme Court of Pennsylvania except the judges of the traffic court in Philadelphia. The justices of the Supreme Court, the judges of the Superior Court and the Commonwealth Court, during their continuance in office, shall reside within this Commonwealth, and the other judges and justices of the peace, during their continuance in office, shall reside within the district in which they serve.

(b) Justices of the peace shall be members of the bar of the Supreme Court or shall complete a course of training and instruction in the duties of their office and pass an examination prior to assuming office. The course of study and examination shall be as provided by law.

Section 11. Method of Selection of Justices, Judges and Justices of the Peace.—(a) Whenever a vacancy occurs for any reason in the office of a justice or judge of any court of Statewide jurisdiction the Governor shall fill the vacancy by appointment from a list of persons qualified for the office submitted to him by the State Judicial Qualifications Commission provided for in section 12(a). Such appointment shall not require the consent of the Senate.

(b) At any municipal or general election in a judicial district in which the matter has been placed on the ballot in the manner hereinafter specified, the qualified electors of any judicial district may, by a majority vote of those voting on the question, elect to have the judges of their district appointed in the manner provided for courts of Statewide jurisdiction, utilizing, however, District Judicial Qualifications Commissions provided for in section 12(b).

(c) Whenever in any judicial district other than a judicial district which has elected to have the judges in that district appointed as provided in section 11(b), a vacancy occurs in the office of judge by reason of the expiration of a term of office of an appointed judge or the failure of an elected judge to file the declaration of candidacy specified in section 13 the vacancy shall be filled

by election at a municipal election by the electors of the judicial district in which the judge is to serve. Whenever in any such judicial district a judge previously elected files the declaration of candidacy specified in section 13 a retention election respecting said judge shall be held as specified in accordance with the provisions of section 13. Whenever a vacancy occurs for any other reason in the office of judge in such judicial districts, the Governor shall fill the vacancy by appointment with the advice and consent of the Senate.

(d) Where the qualified voters of any judicial district have elected to fill vacancies in the office of judge in the manner provided in section 11 (b), the qualified electors of the district may thereafter, at a municipal or general election, by a majority vote of those voting on the question, elect to discontinue that method of filling judicial vacancies and return to the elective method.

(e) Any question presented as provided in section 11 (b) or section 11 (d) shall be placed upon the ballot in a judicial district in a primary election by petition which shall be in such form as shall be prescribed by the officer of the Commonwealth having supervision over elections. Any such petition shall be filed with such officer and shall be signed by a number of electors equal to five per cent of the total votes cast for all candidates for the office receiving the highest number of votes in such judicial district at the last preceding general or municipal election. The manner of signing of such petitions, the time of circulating them, the affidavits of the persons circulating them and all other details not contained herein shall be governed by the general laws relating to elections. The question shall not be placed upon the ballot in a judicial district at more than one election during any five-year period.

(f) Justices of the peace shall be elected at municipal elections by the electors of the magisterial district in which they are to serve. Vacancies in the office of justice of the peace shall be filled by appointment by the Governor with the advice and consent of the Senate.

(g) The Chief Justice and President Judges of all courts shall be selected for five-year terms by the members of their respective courts except that the present judge of the traffic court of the City of Philadelphia shall be appointed by the Governor. A Chief Justice or President Judge may resign such position and remain a member of the court. In the event of a tie vote for office of President Judge, the Supreme Court shall appoint as President Judge, one of the judges receiving the highest number of votes.

Section 12. Judicial Qualifications Commissions—(a) There shall be a State Judicial Qualifications Commission for courts of Statewide jurisdiction composed of four non-lawyer electors appointed by the Governor and three non-judge members of the bar of the Supreme Court appointed by the Supreme Court. The members of the commission shall serve for terms of seven years, staggered so that one member shall be selected each year, and no more than four of the members of the commission shall be members of the same political party. The commission shall consider all names submitted to it and recommend to the Governor not less than ten nor more than twenty of those qualified for each vacancy to be filled.

(b) There shall be a District Judicial Qualifications Commission for each judicial district which has adopted the method of selection provided in section 11 (b), composed of three non-lawyer electors appointed by the Governor

and two non-judge members of the bar of the Supreme Court appointed by the Superior Court, all to be residents of such judicial district. The members of the commission shall serve for terms of five years, staggered so that one member shall be selected each year, and no more than three of the members of the commission shall be members of the same political party. The commission shall consider all names submitted to it and recommend to the Governor not less than three nor more than ten of those qualified for each vacancy to be filled.

(c) During the term for which he has been appointed, no member of any commission shall hold any office in a political party or political organization nor shall he hold any public office or appointment for which he receives any compensation.

(d) Vacancies in any Judicial Qualifications Commission shall be filled for the balance of the term by the appointing authority.

Section 13. Tenure of Justices, Judges and Justices of the Peace.—(a) Except as hereinafter provided, the term of office of justices and judges shall be ten years. The tenure of any justice or judge shall not be affected by changes in judicial districts nor by reduction in the number of judges.

(b) Each justice or judge appointed by the Governor to a vacancy in any court of Statewide jurisdiction or in any court of a judicial district which has adopted the method of selection of judges provided in section 11 (b), shall hold office for a term ending the first Monday of January following the next municipal election more than twenty-four calendar months following appointment.

(c) Each judge appointed by the Governor to fill a vacancy in any court in any other judicial district shall hold office for a term ending the first Monday of January following the next municipal election more than ten calendar months following appointment.

(d) Any justice or judge who has been appointed to office pursuant to section 11 (a) or 11 (b) or who has been elected may file a declaration of candidacy for retention election with the official in charge of Statewide elections on or before the first Monday of January before the expiration of the term of office to which such justice or judge was appointed or elected. If such a declaration is not filed, the office shall be filled by appointment or election as herein provided. The name of a justice or judge who files a declaration shall be submitted to the electors on separate judicial ballots or in a separate column on voting machines, in either case without party designation, at the municipal election immediately preceding expiration of the term of office of the justice or judge, to determine only the question whether such justice or judge shall be retained in office. If a majority of the votes cast are against retaining the justice or judge, a vacancy shall exist upon the expiration of the term of office of such justice or judge to be filled by appointment as herein provided. If a majority of the votes cast are in favor of retention, such justice or judge shall serve for the full term of office provided herein, unless sooner removed or retired. At the expiration of each term, any justice or judge shall be eligible for retention in office in the manner provided herein, subject only to the retirement provisions hereof.

(e) The term of office for municipal court and traffic court judges in the City of Philadelphia and of justices of the peace shall be six years.

Section 14. Compensation and Retirement of Justices,

Judges and Justices of the Peace.—(a) Justices, judges, and justices of the peace shall receive compensation paid by the Commonwealth as provided by law, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth.

(b) Justices, judges and justices of the peace shall be retired at the age of seventy years. Former justices, judges and justices of the peace shall receive such compensation as shall be provided by law. No compensation shall be paid to any justice, judge or justice of the peace who is removed from office under section 6 of Article VI.

(c) A retired justice or judge may, with his consent, be assigned by the Supreme Court to render such temporary judicial service as may be prescribed by rule of the Supreme Court.

Section 15. Prohibited Activities.—(a) Justices and judges shall devote full time to their judicial duties, shall not engage in the practice of law, hold any office in any political party or political organization, or hold an office or position of profit in the government of the United States or of this Commonwealth or any municipal corporation or political subdivision of this Commonwealth, except in the armed service of the United States or of this Commonwealth.

(b) Justices and judges shall not engage in any activity which shall be prohibited by law nor violate any canon of legal or judicial ethics prescribed by the Supreme Court. Justices of the peace shall be governed by rules or canons which shall be prescribed by the Supreme Court.

(c) No justice, judge or justice of the peace shall be paid or accept for the performance of any judicial duty or for any service connected with his office, any fee, emolument or perquisite other than the salary provided by law.

(d) No duties shall be imposed by law upon the Supreme Court or any of the justices thereof, or the Superior Court or any of the judges thereof except such as are judicial, nor shall any of the justices thereof exercise any power of appointment except as provided in this Constitution.

Section 16. Removal, Suspension, Discipline, and Compulsory Retirement of Justices, Judges and Justices of the Peace.—(a) There shall be a Judicial Inquiry and Review Board to be composed of three judges of the courts of common pleas from different judicial districts and two judges of the Superior Court, to be selected by the Supreme Court; two non-judge members of the bar of the Supreme Court and two non-lawyer electors, all four of whom shall be selected by the Governor.

The members of the board shall serve for terms of four years, provided that a member shall continue to participate in any hearing in progress at the end of his term. A vacancy on the board shall be filled for the balance of the term by the same appointing power which selected the member whose place has become vacant. A member of the board shall be removed only by the appointing power for cause. No member of the board shall serve for more than four consecutive years, but he may be reappointed after a lapse of one year. The members of the board shall elect one member to serve as chairman for a term of one year. The board shall act only with the concurrence of a majority of its members.

A member of the board shall not hold any office in a political party or political organization. The members other than judges shall be compensated for service on the board as the Supreme Court shall by rule prescribe, and

all members shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In accordance with the procedure prescribed in subsection (c) of this section, any justice or judge may be suspended, removed from office or otherwise disciplined for violation of section 15 of this article, misconduct in office, neglect of duty, failure to perform his duties, or other conduct which prejudices the proper administration of justice, or brings the judicial office into disrepute; and any justice or judge may be retired for disability seriously interfering with the performance of his duties.

(c) The board shall keep itself as fully informed as may be of facts and circumstances relating to justices or judges in so far as the same may bear upon grounds for suspension, removal, discipline, or compulsory retirement; shall receive complaints or reports, formal or informal, from any source pertaining to such matters; and shall make such preliminary investigations as it may determine.

The board may, after such investigation as it deems necessary, order a hearing to be held before it concerning the suspension, removal, discipline or compulsory retirement of a justice or judge. The board's orders for attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings.

If, after hearing, the board finds good cause therefor, it shall recommend to the Supreme Court the suspension, removal, discipline, or compulsory retirement of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and may permit the introduction of additional evidence and shall order suspension, removal, discipline or compulsory retirement, or wholly reject the recommendation, as it finds just and proper. Upon an order for compulsory retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired under section 14 of this article. Upon an order for suspension or removal, the justice or judge shall be suspended or removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the board, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the board shall be privileged; provided that, upon being filed by the board in the Supreme Court, the record loses its confidential character.

No justice or judge shall participate as a member of the board or of the Supreme Court in any proceeding involving his own suspension, removal, discipline or compulsory retirement.

The Supreme Court shall prescribe rules for procedure under this section.

(d) Procedures for the removal, suspension, discipline, and compulsory retirement of justices of the peace shall be as prescribed by general rule of the Supreme Court.

(e) Any justice, judge, or justice of the peace who shall be convicted of misbehavior in office by a court of competent jurisdiction, who shall be disbarred as a member of the bar of the Supreme Court, or who shall be removed by the Supreme Court, shall automatically forfeit his judicial office and thereafter be ineligible for judicial office.

(f) Any justice or judge who shall become a candidate for nomination or election for any public office other

than a judicial office shall automatically forfeit his judicial office.

(g) This section is in addition to and not in substitution for the provisions for impeachment for misbehavior in office contained in Article VI. No justice, judge or justice of the peace against whom impeachment proceedings are pending in the Senate shall exercise any of the duties of his office until he has been acquitted.

Section 17. Judicial Administration.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts and justices of the peace of the Commonwealth, including the authority to make such temporary assignments of judges and justices of the peace from one court or district to another as it shall deem appropriate.

(b) In the exercise of this authority, the Supreme Court shall appoint a court administrator and may appoint such subordinate administrators and staff as may be necessary and proper for the prompt and proper disposition of the business of the courts and justices of the peace.

(c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure, and the conduct of the courts and justices of the peace, including the power to provide for assignment and reassignment of classes of actions or classes of appeals among the several courts as the needs of justice shall require, and for the admission of persons to practice law, and the administration of all courts and officers of the judicial branch; provided that such rules shall be consistent with this Constitution and shall neither abridge, enlarge nor modify the substantive rights of any litigant, nor alter the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.

Section 18. Judicial Districts; Boundaries.—The number and boundaries of judicial districts shall be changed by the General Assembly only with the advice and consent of the Supreme Court.

Section 2. Article five of the Constitution of Pennsylvania is repealed.

PRESIDENT BRODERICK. The Chair is happy to recognize Chairman Scranton.

DELEGATE SCRANTON. Mr. President, the Judiciary Committee is happy to present to the Convention as a whole, a new Article V, for the Constitution of the Commonwealth of Pennsylvania. The entire proposal and its schedule which attends it and the full report from the committee, will be available to you all by tomorrow morning. I sincerely hope, as does the entire Judiciary Committee, that each and every member of the Convention will take the opportunity to not only read and peruse same, but to study them thoroughly.

In essence, this change of Article, which is revolutionary in character in some instances, does the following things:

In Section 1, it formulates the unified judicial system, new in Pennsylvania and nearly unique in the United States, including several courts: the Supreme Court as it stands, the Superior Court as it stands, a new statewide court—the Commonwealth Court, its makeup to be determined by the legislature—the courts of common pleas, the divisions and the numbers of judges for which to be determined by the legislature; community courts, where, the voters by exercising an option approve same; in Phil-

adelphia, a municipal court and a traffic court, and justices of the peace, which are covered in Section 8.

Under Section 8, there would be one justice of the peace per magisterial district; the districts to be established by the legislature on the basis of population and population density. Those are the criteria to be applied.

And one last provision in this field is Section 17, wherein there is strong specific authority for the administration of the courts under the unified judicial system. First and foremost, authority is being given to the Supreme Court to make them exercise administrative power which in such strength would be a first in Pennsylvania's history, and I may add again, rare for the United States.

Section 5 is unique in any constitution of the United States, and I call your attention to it. It calls for the right of appeal to an appellate jurisdiction in all cases. This is unique, it is new, it is very interesting, and we already have a telegram from some members of the Supreme Court asking us to get rid of it.

The next section of major importance is Section 10, which describes the qualification of judges. There is not anything unusual in this.

The next section is Section 11, which is on the selection of judges. By the prescription of the Judiciary Committee, this, by all odds, was the most contentious and the most contested of all the portions of this article within the committee. By a very small majority, on the statewide basis, approved proposal provides for the Governor to appoint the statewide justices and judges from a list of 10 to 20 persons for each vacancy recommended as qualified by a Judicial Qualifications Commission.

In the judicial districts throughout the State, other than for statewide judges, judges would be selected by election, unless or until an option is approved by the voters of that area to have the selection by the panel system. This can be done upon five per cent of the voters in the last general election asking for same and the electorate approving it. The option may only be brought to the voters every five years at the basic minimum. There is a provision in this part of the article which provides that the chief justice of the supreme court and the president judge of the other courts would be selected by the judges for a five-year term, and on this too, we have a telegram from some members of the Supreme Court asking us to change it.

The next important provision is Section 12, which establishes a Judicial Qualifications Commission for the selection of the statewide judges. We suggest that there be four laymen appointed by the Governor and three lawyers appointed by the supreme court—this to overcome the theory that too much would be controlled by a given few leaders of the Bar Association—with staggered terms of seven years each so that they would run over from Governor to Governor.

If there are district commissions under the provision for the option, these would be composed of three laymen appointed by the Governor and two lawyers appointed by the supreme court.

Section 13 deals with tenure. The tenure is to be 10 years for justices and judges. This includes, incidentally, the supreme court, the term for which is presently 21 years. The following term for such judges and justices would be decided by separate ballot on a "yes" or "no" basis as to whether they are to continue in office, and these ballots would not take place in a gubernatorial or a presidential election. This provision is intended, we

hope, to give more attention to judicial balloting. The terms of office for the municipal court and the traffic court in Philadelphia and the justices of the peace would be for 6 years.

Section 14 deals with retirement. Retirement is called for at the age of 70 for everybody, but post-retirement service is allowed for those who volunteer for same and the supreme court requests their activity.

Section 15 deals with prohibited activities in the judiciary, particularly in the field of politics and in the field of business and their conflicts of interest, and issues of that sort.

Section 16 deals with removal and discipline of judges and establishes for the first time in Pennsylvania, and there are very few in the United States, a Judicial Inquiry and Review Board made up of three judges of the courts of common pleas, two superior court judges—all appointed by the supreme court—two laymen and two lawyers appointed by the Governor. This is a very important feature of the Judiciary Article and is designed to make sure that we have judges who are not only active but mentally capable of doing their job. There is a very specific spelling out in this provision in line with the history of the California Judicial Qualifications Commission, which has had a long and successful history. The particular effort of this specific provision is to keep politics out and give strong powers for the Judicial Inquiry and Review Board to act in cases where action is needed.

As a whole, this new Article makes major changes in the following areas: The justices of the peace; strong, effective administration through a unified judicial system; the right of appeal; the retirement at the age of 70; and the Judicial Inquiry and Review Board.

The schedule which is appended to the proposal, and which is almost equally important, calls for these changes to take place on January 1, 1969. The orphans' courts would become divisions of the common pleas courts. The following courts would be abolished: The courts of oyer and terminer and of the general jail delivery, the quarter sessions of the peace, the orphans' courts; in Pittsburgh, the traffic court, the housing court, the city court, and the police magistrates; in Allegheny County, the county court and the juvenile court; in Philadelphia, the county court and the magistrates; and the associate judges elsewhere in the State. In Allegheny and in Philadelphia Counties we call upon the establishment in the trial area of a trial division, of an orphans' court division to which the orphans' court judges would be attached, and a family division. The "grandfather clause" in the schedule takes care of those who are presently in their jobs as justices and judges. The justices of the peace, by the prescription in the schedule, would be reduced from approximately—nobody knows how many there are exactly—4,000 to 1,000. There would be no fees paid to them. They would be on a salary basis and there would be certain qualifications and standards that they would have to meet to remain in office.

May I say to you that it is of great importance that every delegate at this Convention read the proposal and the schedule thoroughly and likewise the report.

If you want an offhand or off-the-cuff comment from two other jurisdictions concerning this particular proposal, I can give you a weekend report:

Two members of the Maryland Constitutional Convention called me. I do not know whether they are Republicans or Democrats. As you remember, they were

elected on a nonpartisan basis. Both of them said to us that they were sorry that the Judiciary Committee here in Pennsylvania had not taken advantage as they had of a strong reform movement in every area, although they readily admitted that this Judiciary Committee and this State Constitutional Convention went further in reform than any in the modern history of the United States with the exception of theirs in Maryland.

Two members of the Constitutional Convention from New York called me—one was a Democrat, one was a Republican—both of them congratulating us on the major step forward we were making in Pennsylvania, both of them saying that we considerably outdid anything that was done in New York, and hoping that this article would be approved because they felt that their particular Convention had not taken the bull by the horns as our committee had in this instance and they welcomed us to a new modern era for our judicial system.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Scranton, for a very excellent report.

REPORTS OF COMMITTEES

PRESIDENT BRODERICK. Are there any reports of committees?

The Chair hears none.

RESOLUTIONS

PRESIDENT BRODERICK. Are there any resolutions at this time?

The Chair hears none.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President, I enjoyed listening to that wonderful report by the ex-Governor of the Commonwealth of Pennsylvania. I was somewhat confused because, as I understand his report, there are practically 18 sections. If the Chair recalls, several weeks ago I brought up the question on parliamentary inquiry, what would happen when a proposal would be presented before the Convention, as this one is, containing 18 sections? Would we vote on each section and, after that has been done, then vote for the package deal or is each one, each section, going to be a separate proposal or separate issue? For example, there are quite a number of important matters in the 18 sections—election of judges, JPs, municipal courts in Philadelphia, how to elect judges, and so forth. Some of them are so important, if the Chair pleases, that each one would require a lengthy discussion on the subject in question.

I definitely would like to know if the Chair is prepared to tell us the manner in which we are going to handle that particular issue.

PRESIDENT BRODERICK. The Chair is very happy to report, Delegate Jirolanio, that the Chair will entertain a motion at that time to divide, but solely for the purpose of orderly discussion. In other words, we can take for the purpose of discussion an amendment to the proposal in divisible parts, if they are divisible in the motion. You would have to look over the motion first. As to the vote, we would vote on whether or not to accept the entire proposal. We have in front of us here one proposal.

DELEGATE JIROLANIO. Just a minute. That certainly does not sound reasonable nor does it sound sound for this reason: I may be for 11 or 12 of those particular sections in that proposal, but I am against one or two or three of them. Am I going to be forced to vote for that entire proposal merely because I want 12 of them and do not want three or four?

PRESIDENT BRODERICK. Senator, I want to say this: The ruling of the Chair, of course, will take place when the proposal is presented and when the motion for division is made.

I think that is the time, if the Convention does not approve of the ruling of the Chair, whatever it may be at that time, you have the right, of course, to take an appeal and it will then be in the hands of the entire body.

DELEGATE JIROLANIO. Mr. President, we could take that matter up also on the floor on either a special order of business or on the motion to change the rule or to take up the manner in which it is to be discussed.

PRESIDENT BRODERICK. At the time it is up for discussion, we can do that. Right at the present time, the question is not before the Convention.

DELEGATE JIROLANIO. It may not be before the Convention, I agree with you, but it is really an important question when you have 18 subsections and you are going to have to vote for one.

PRESIDENT BRODERICK. There is no question that it is a very important question, and at that time the Chair will rule if the Chair receives the motion. Of course, if the ruling is not in accordance with anyone's interpretation of the rules, they can always take an appeal, and we will see what the motion is at that time.

LIBERIAN PHOTOGRAPH PRESENTED TO PRESIDENT

PRESIDENT BRODERICK. The Chair recognizes the delegate from Philadelphia, Delegate Reynolds.

DELEGATE REYNOLDS. I have here in my possession an article which was sent to you from Africa. You will remember that when I went over to the inauguration, you sent a letter of congratulations to the President.

He has had a picture of my presenting it to him, and he could not trust my word that I was going to tell you. He asked me to present this picture to you in order for you to know he got his letter, with his best wishes to you and for this entire Convention to do the best job that has ever been done in 100 years.

I present this to you.

PRESIDENT BRODERICK. Thank you very much, Delegate Reynolds.

LEAGUE OF WOMEN VOTERS WELCOMED

PRESIDENT BRODERICK. The Chair has been informed that we have some guests whom we overlooked.

I understand they are members of the Harrisburg Area League of Women Voters, and they are the guests of Delegates Hocker, Woodside and Swope of Dauphin County; Delegates Musselman and Tully of Cumberland County and Delegate Hostetler of Juniata County.

Would you please rise so that we could give you our cordial welcome? We are very happy to have you with us.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair wishes to announce that Delegate O'Donnell and Delegate Kauffman have been added to the roll call. Delegate Leonard has also been added.

CALENDAR

PRESIDENT BRODERICK. The next order of business is the consideration of today's calendar.

Before calling up Proposal No. 1, printer's No. 1, on today's calendar, the Chair just wants to reiterate a few statements in regard to procedure that will be followed.

First of all, the question will be on second consideration—will the Convention agree to the proposal? As soon as that question is stated, the Chair will recognize the co-chairman of the committee presenting the proposal for his explanation or statement.

After the co-chairman makes his statement, the Chair will then recognize anyone who wishes to present an amendment. Whenever an amendment is presented, the clerk will read the amendment. At that time the Chair will ask the proposer of the amendment if he has a list of speakers who want to speak on behalf of his amendment. I will accept—it is not mandatory—your list, and endeavor to call on those people so that we can have a pro and con. At the same time, I am going to ask the chairman of the committee making the committee proposal to also give me a list and we will try to go back and forth that way with the pros and the cons.

When we are discussing amendments—and this is on the assumption that amendments may be offered today—I want you to know that each speaker is limited overall to a total of 10 minutes. We have two timers with stop watches. When you have two minutes to go, as far as your 10-minute time is concerned, I will endeavor to give a warning. The Chair wants you to know that he does not wish to be bound by the agreement to give a warning, but the clock will be the official timekeeper and not the Chair.

As soon as an amendment is offered, we will ask the delegates to be at ease until the amendment has been duplicated so each of you will have a copy on your desks. We hope this duplication process will be handled very swiftly because we have gotten in a machine for the purpose of duplicating swiftly and, I think, within a few minutes you will have a copy of the amendment on your desk. Then we will proceed. On the question, will the Convention agree to the amendment?

When we have an amendment under consideration, the Chair under our rules, can only accept one amendment to an amendment. Then the question will be whether to accept the amendment to the amendment, and the defender in that situation would be the proposer of the amendment and the one who is offering the amendment to the amendment would be on the affirmative side.

Anybody on an amendment may speak twice, but the overall time cannot exceed 10 minutes. The proposer of an amendment or the proposer of an amendment to an amendment will have the opening and closing, but please remember that you will be limited on the discussion of amendments to 10 minutes overall.

I might add that after an amendment is proposed, if there is just one amendment on the floor, the Chair would recognize the committee co-chairman again.

When we get to the debate on the proposal as such, when the amendments have been voted down or if we do not have amendments, then the debate under our rules is limited to three hours. Each delegate may speak only twice and you are given a limitation overall of 15 minutes. No delegate may speak more than twice except a co-chairman of either a committee or a subcommittee; but remember this: You are also limited to 15 minutes overall.

Generally speaking, they are the guidelines. Matters will arise from time to time on which we will have to have the advice of our parliamentarian.

We will now proceed with the calendar.

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to the second consideration of Committee Proposal No. 1, Printer's No. 1, entitled:

A Proposal amending the Constitution of Pennsylvania providing for apportionment of legislative districts.

On the question,

Will the Convention agree to the proposal?

MOTION TO DIVIDE

PRESIDENT BRODERICK. The Chair recognizes Delegate Fagan.

DELEGATE FAGAN. Mr. President, I am not looking for television time; I was asked to speak from this particular microphone.

Mr. President and delegates, I would like to, before going into Committee Proposal No. 1 from the Legislative Apportionment Committee, make the following motion to divide: Proposal No. 1 should be divided, and that portion dealing with the makeup of the House of Representatives should be considered first; makeup of the Senate should be second. I make this motion for the purpose of having orderly discussion and amendments.

PRESIDENT BRODERICK. You have made a motion to divide for the purpose of having orderly discussion and your division is along the lines of—would you restate which lines we should take?

DELEGATE FAGAN. The first division and consideration would be the makeup of the House of Representatives; secondly, the makeup of the Senate.

PRESIDENT BRODERICK. Please be at ease until we get a copy of the Proposal.

It has been moved by Delegate Fagan, and seconded by Delegate Cain, that for the purpose of orderly discussion and amendment, we will first discuss Section 17, and then we will discuss for purpose of orderly discussion and amendment, Section 18.

On the question,

Will the Convention agree to the motion?

It was agreed to.

The "ayes" have it, and we will, therefore, discuss Section 17, for the purpose of orderly discussion and amendment; and, of course, we will vote on the proposal finally.

The Chair now recognizes Delegate Fagan.

DELEGATE FAGAN. Mr. President and delegates, the Legislative Apportionment Committee on behalf of its

subcommittee, Composition of Legislature, presents to the convention floor the following proposal, under Article II, Section 17: Representative Districts Ratio—The State shall be divided into 203 representative districts of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a representative district. The representative ratio shall be ascertained by dividing the total population of the State by the number 203.

Mr. President, at this particular time I would like to very briefly outline that the Legislative Apportionment Committee recognized the very serious problem that it was confronted with from two particular standpoints; one, the composition of the legislature, and, second, the method of apportionment, and which at the present time in the Constitution of Pennsylvania is unconstitutional as ruled by the United States Supreme Court. In the study of these two particular committees, we felt that it was primarily necessary to find out first the position of the delegates because they were elected in their respective areas by their constituents to come here to Harrisburg for the purposes of redrafting those sections of the Constitution that were set forth by the legislature.

Assuming that particular responsibility, we attempted to hear from the delegates, and we had some ten proposals. These proposals were submitted in writing here to the convention floor, then were assigned by the standing committee to the particular committee that was appropriate to the particular proposal. In so doing, not only was the proposal gone over very carefully, but each one of the proposers was invited to attend a meeting that was held by the subcommittees for the purposes of making all determinations and interrogating those who made the proposals, so that a clear and defined position could be taken in the final decisions as far as the committee was concerned. We have had every type of proposal possible, even to the elimination entirely of the House of Representatives. We had some proposals that would increase it and many that would keep it the same. But in the deliberations of this committee it was recognized that without a good House of Representatives which continuously felt the pulse of the voters throughout the Commonwealth of Pennsylvania, the best interests of the citizens could not be served.

We live today in the type of an economy that is so sophisticated that every moment of our lives is dominated by legislation. It was the feeling of this committee that if we were to be able to continue legislatively to carry out the desires, the wants and the necessities of the citizens of Pennsylvania, then it was necessary to have the kind of composition of the House of Representatives that would be in constant touch with its constituents.

We took into consideration the population boom that is taking place and will continue to take place between now and the year 2,000, which may seem like a long way off, but actually it is not when you consider that these conventions are held approximately every 100 years. At that time, based on the best estimates, the population of the State of Pennsylvania will be approximately 20 million. If we remained at the same number of 203 Representatives in the House of Representatives, then each one of them would be representing approximately 100,000 citizens of this Commonwealth.

We feel that we have to project ourselves into the future so that determinations can properly be made, so that representation can always be available to the public. Many of the proposals submitted on reduction of the House were to save money. Well, this is really a false economy move, if I ever heard one, because of the fact that as far as money is concerned which is expended to the Representatives and to the members of this body here in the House of Representatives, surely it is money well spent from the standpoint of the Commonwealth and from the standpoint of the Representatives being able to make constant contact with all of the citizens and constituents they represent.

Mr. President, I say to you, after giving careful consideration to every proposal that was made, from the economy move—which, as I stated before, is a fallacy when you get into it—and you start to realize the importance of knowing just exactly what our citizens think, what type of legislation we should have in taking care of their needs throughout this State, then money becomes a secondary matter. The important fact is for this Commonwealth of Pennsylvania, through the legislative voices of its Representatives of the people, to have a clear understanding of the needs of the people so that they in turn can relate it here to the House and finally put it into bills which become good constructive laws to govern this Commonwealth for many years to come.

Mr. President, I say to you, after all due consideration, after public hearings, after going over the discussion, it was the position of the committee that from the standpoint of the House of Representatives, that the number be 203.

I thank you at this time for the time you have given me to express these opinions.

AMENDMENT TO COMMITTEE PROPOSAL No. 1

PRESIDENT BRODERICK. Now that the committee chairman has made his statement, the Chair now reminds the delegates that this is the time to offer amendments, if there are any.

Are there any amendments to be offered?

In order to have orderly presentation today of the amendments—and this procedure, I think, will probably have to be reversed from time to time to give everybody an advantage or a disadvantage, whatever it may be—I am going to call on the people from left to right today, across, for the purpose of recognizing them on amendments.

I want to say at this time that if the proposer of the amendment has a list of those who want to speak on behalf of the amendment, the Chair will be glad to receive it in the interest of orderly presentation.

DELEGATE GOUGER. I do, Mr. President.

PRESIDENT BRODERICK. We have received, by the way, such a list from the co-chairman of the Committee on Legislative Apportionment.

DELEGATE GOUGER. I do, Mr. President, and I hand it to you herewith.

I also beg leave to address a few words on this proposal.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE GOUGER offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, lines 15 to 20, by striking out "The State shall be divided into two hundred three repre—" in line 15, all of lines 16 to 20, and inserting: The General Assembly at its first regular session held in the year in which the next Federal decennial census is certified and thereafter no later than the year in which the next Federal decennial census is certified, shall divide the State into representative districts in such number as the General Assembly shall by law determine, but such number shall not be less than one hundred and one nor more than one hundred and fifty-one. The representative districts shall be of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a representative district. The representative ratio shall be ascertained by dividing the total population of the State by the number of representative districts determined by the General Assembly.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. Now we are going to ask the delegates, Delegate Gouger, if they will be at ease until we have the amendment which you have just offered duplicated so that they will all have it on their desks in front of them while you are making your statement.

We will be at ease for just a moment.

DELEGATE GOUGER. May I proceed, Mr. President?

PRESIDENT BRODERICK. If it is all right with you, Delegate Gouger, we would appreciate it if you would just be at ease until they all have a copy of the amendment in front of them while you make your speech.

DELEGATE GOUGER. I am quite agreeable.

PRESIDENT BRODERICK. Thank you.

(The Convention was at ease.)

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes the delegate from Dauphin, Delegate Hocker. For what purpose does the gentleman rise?

DELEGATE HOCKER. I rise to a question of personal privilege.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE HOCKER. The machine that you are using to duplicate this, is there a possibility that that can be converted to print in Braille?

If you keep these cockeyed lights going all afternoon, we are all going to be blind.

PRESIDENT BRODERICK. Delegate Hocker, I have been advised by our executive director that today is movie day for the documentary film. We have had a request, and I want to assure you that when we come to the voting time, we will turn off the lights and they may have plenty of footage before we vote. The lights will be out for the rest of the period.

I have been advised that the amendment being offered by Delegate Gouger has now been distributed.

The Chair recognizes Delegate Gouger for a statement.

DELEGATE GOUGER. Mr. President and fellow dele-

gates, it is with great reluctance that I must disagree with the recommendations of the committee on which I serve, a recommendation calling for the status quo in the make-up of the legislative branches of our state government.

In my long career as a corporate executive and my very short career as a public servant here, I have always followed the thoroughly sensible and democratic principle of supporting and embracing the will of the majority when I am satisfied that their decision has come through a dispassionate examination of all sides of the question, bringing to bear upon the subject all available pertinent data and, above all, after free and thorough debate in the light of the truths that have been determined to apply.

I am further reluctant because through unfortunate implications read into statements that I have made, I may be improperly accused of having an unfriendly attitude toward the legislative branches of our government.

Criticism for the sake of criticism, criticism for personal gain, criticism to achieve notoriety, destructive criticism is a vicious and deplorable thing. Criticism that weakens or destroys the people's confidence in constitutional government is destructive to that which we cherish most—democracy itself; need I say a form of government I would be first to defend, first to nurture and first to elevate, not degrade.

This amendment supports this thesis. Our present House of Representatives is to be commended for the job they are doing under the extremely adverse circumstances in which they are working. Their numbers are large and cumbersome; their competent and dedicated leaders are overburdened by the job of management that such numbers require. They are subjected to all the problems and the weaknesses inherent in any large body of people. They are overcrowded. They do not have the tools they so sorely need. They are ill paid and ill staffed and they suffer the indignities heaped upon them by a public not disposed to consider these things.

I suggest we reduce the size of the House to more manageable proportions, support them in their problems, give them the facilities and the help they need and to this end, and only to this end, is my proposal directed.

PRESIDENT BRODERICK. Thank you, Delegate Gouger.

MOTION TO AMEND GOUGER AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Roberts.

DELEGATE ROBERTS. Mr. President, I move to amend the amendment and, if the Chair will recognize a second by Delegate Conley, I would request permission to speak to it.

On the question,

Will the Convention agree to amend the amendment? Delegate Roberts offered the following amendment to the Gouger amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, line 15, by striking out "The" and inserting: Prior to the year 1972, the

Amend Sec. 1 (Sec. 17), page 2, line 16, by inserting after "districts": and for the election of representatives beginning in the year 1972 and thereafter, the State shall be divided into one hundred one representative districts,

Amend Sec. 1 (Sec. 17), page 2, line 19, by inserting after "ratio": prior to the year 1972

Amend Sec. 1 (Sec. 17), page 2, line 20, by removing the period after "three" and inserting: , and for the election of representatives for the year 1972 and thereafter by the number one hundred one.

On the question,

Will the Convention agree to the amendment to the Gouger amendment?

PRESIDENT BRODERICK. I understand that the amendment has now been distributed.

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes the delegate from Allegheny, Delegate Baner. For what purpose does the gentleman rise?

DELEGATE BANER. I rise for a point of order.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE BANER. In discussing here the delay with many of the delegates, it is felt that the delay is inexcusable. The time in recess is irrecivable, and the amount of money involved in the reproduction of all of the proposed amendments, which may not necessarily come to the floor, does not warrant in saving the delay which we have here.

If the recommendation is insufficient, I would move that the reference bureau and the office producing these amendments would produce enough copies so that they all might be distributed immediately upon presentation to the floor.

I think a little mathematics will show that the time here at this Convention costs us in excess of \$700 per minute.

PRESIDENT BRODERICK. Thank you very much. The Chair will take this up with the Rules Committee.

One of our difficulties, Delegate Baner, is the fact that, as I understand from the Legislative Reference Bureau, there were something like 20 amendments prepared and in many instances those 20 amendments would not be offered.

The Chair would ask anyone who has an amendment to offer to submit it in advance for reproduction, and it will be reproduced.

DELEGATE BANER. Twenty times 200 is only 4,000, and that would only be a few reams of paper. We will probably have tons of paper left over which is not used at this Convention.

PRESIDENT BRODERICK. Thank you.

The Chair recognizes Delegate Roberts for his statement in connection with his amendment to the amendment.

DELEGATE ROBERTS. Thank you, Mr. President.

Mr. President, I am a part of the team from the 20th Senatorial District. I represent not only Monroe County in the Pocono Mountains region, where I am a resident, but my district includes six counties in northeastern Pennsylvania, five of them rural and sparsely populated.

It is only after careful consideration of the proposal by our Committee on Legislative Apportionment, providing for the maintenance of the status quo regarding the apportionment of legislative districts in our Commonwealth, that I propose this substitute amendment which,

in essence, reduces the House of Representatives to a more workable body of 101 in number effective the year 1972.

I propose this amendment to the committee's report for several reasons:

First of all, Mr. President, I am of the firm opinion that the size of the legislative body directly affects its ability to function effectively.

Establishing the House of Representatives as a legislative body of 101 members would be a major step in fashioning a general reform movement for the lower House, but I would be the first to confess that such a reduction on its own merits alone would not be enough to bring into being all the changes that are needed.

I would highly commend many responsible legislators who have sought to streamline the legislative process of our State, but we who are delegates to this Convention for constitution revision also have a responsibility mandated to us by the people of this Commonwealth and underscored by our Governor in his address to us at the opening of our Convention. We must assist the members of our legislature in their efforts for legislative reform by providing constitutional means to reduce the size of the legislature, thus assuring more efficient government.

It would also be my prayer, Mr. President, that the legislators of our Commonwealth be adequately reimbursed for their labor, which they are not, and also that they be provided with an adequate staff here in Harrisburg and in the heart of their districts that they represent, which they have not. But these, to my way of thinking, are not constitutional matters.

The research and policy committee of the Committee for Economic Development says firmly, "No legislature should have more than 100 members." This responsible committee goes on to say that, "... fewer members permit more individual participation, improve deliberation, elevate the importance . . . and hence the quality . . . of membership."

Then secondly, Mr. President, I propose this amendment to give the people a choice, a choice that is real. To ask the people of the Commonwealth to merely confirm the status quo is not offering them a choice at all and in so doing, I personally feel that we are neglecting the task set before us by the people and to which we have ostensibly committed ourselves. To offer the people only a token reduction of the legislature is inadequate.

It seems to me, Mr. President, that we must offer the people a choice between the status quo and substantial improvement, a choice between a House of 203 members and a House of 101 members. We must offer the people the opportunity of approving or rejecting, as the case may be, at least a 50 per cent reduction of the House. The 101 figure, of course, allows for the prevention of a tie with a full complement.

In closing, Mr. President, let me remind my fellow delegates that our Governor advised us that, "We meet in a time that demands heroic efforts."

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Roberts

Is there anyone who wishes to be recognized against the amendment to the amendment just offered by Delegate Roberts?

POINT OF ORDER

PRESIDENT BRODERICK The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, a point of order. Has the Chair ruled that this is an amendment to an amendment, or is it an amendment to the proposal itself?

PRESIDENT BRODERICK. This we are considering now, Delegate Roberts' amendment, is an amendment to the amendment

DELEGATE HOCKER. Mr. President, are all the others to come going to be the same thing? Are you basing your ruling on the fact that every amendment that is offered from here on out will be an amendment to the original amendment of Mr. Gouger?

PRESIDENT BRODERICK That will happen until we dispose of the first amendment; in other words, if anybody has an amendment he wishes to offer to the amendment after we dispose of this. If there are no more, then we debate and discuss and vote on the amendment.

DELEGATE HOCKER. Mr. President, in my humble opinion it is an amendment to the proposal, not an amendment to the amendment presented by Delegate Gouger.

PRESIDENT BRODERICK. Delegate Hocker, one of our problems here was in connection with his original—I have not seen the piece of paper you have in your hand—but his was an amendment to the proposal, but he wished to offer it as an amendment to the amendment.

DELEGATE HOCKER. I think the Chair should rule.

PRESIDENT BRODERICK We have ruled that we are now discussing an amendment to the amendment because we could not discuss an amendment to the proposal at this time, and it is an amendment to the amendment.

DELEGATE HOCKER. Thank you, Mr. President.

PRESIDENT BRODERICK Thank you, Delegate Hocker

The Chair recognizes Delegate Allison.

DELEGATE ALLISON. Mr. President, historians reveal that the Constitutional Convention of 1872-1873 was ill-born. They tell us that scandal upon scandal rode through the Commonwealth, the prime reason being that vested interests had control. Today I see a different type of interest being introduced to this Convention. It is a long, strong arm of the political boss, and that is all this represents. There is an old idiom in politics, "The less number we have, the easier it is to control."

Mr. President, a few weeks ago, dated January 22, all of us received a letter from six or seven legislators. About December 12 or 13, which was about a month before that, I was sitting in the cafeteria downstairs and two of these men asked me a question, "What do you think, Gil?" I said, "Well, we are making an instrument that is supposed to be for the future." If for the past 100 years 200 members of the House seemed to be sufficient, then I would assume with the population we are going to have in the year 2000 or the year 2050, which might be double or triple what we have today, I would certainly not be for cutting it. I would leave it so that the legislature at least has a chance to keep it open. So I said, "What reason do you have for wanting to cut it to 150 or lower?" He said, "Well, it makes each individual legislator stronger." I could not argue with that. It is a little selfish, but I said, "What is the other reason?" He said, "Well, it would be more easy to control." I said, "More easy to control by whom?" There was no im-

mediate answer, but I gave him the answer and I am giving you, the delegates, the answer. It is by the political bosses—that is by whom.

Yesterday, Mr. President, I noticed in the Patriot dated 2-4-68, an article by William Eckenberger of United Press International. This is one of the boys we have over here, one of the boys who works with the legislature, one of the boys who has been working with us since we have been here in the Convention. He said, "A fascinating sidelight to the issue of legislative size is found in the recorded proceedings of the 1872-'73 Convention. The delegates increased the memberships of the House and Senate to their present levels on the sophistic notion that more members would make each chamber harder to corrupt."

"Too many of the present delegates seem to regard the General Assembly as a necessary evil to be bypassed and restricted whenever possible. Such an approach is self-defeating, for it can only result in a legislature incapable of dynamic action."

"The legislative branch is an indispensable part of State Government, and it will be here long after the convention is gone. If there is something wrong with the General Assembly, it ought to be corrected—but not by the convention. A Constitution essentially is meant to give power; not take it away."

Mr. President, I charge that these amendments are a plot of vengeance upon all the citizens of Pennsylvania, not a plot of vengeance on the legislature but, I repeat, a plot of vengeance on all people of Pennsylvania. May I suggest that we do as we have in the past, sit back and think, think twice. I know that the committee that has deliberated these proposals over the last six or seven weeks certainly has had reasons for this proposal. I disagree that we in the Convention should do anything to stop it.

We heard all the wonderful speakers the first six days tell us that the last Convention was ill-born. We heard them say, "Now, fellows, do not be too restrictive. You are not here to restrict; you are here to give them some latitude." This is what I suggest, Mr. President.

Thank you for your time.

PRESIDENT BRODERICK. Thank you, Delegate Allison.

Is there anyone else who wishes to speak either for or against the amendment to the amendment being offered by Delegate Roberts?

The Chair recognizes Delegate Scales from Westmoreland.

DELEGATE SCALES. Mr. President, there is one of our number, a delegate who has become a very good friend of mine, who is fond of explaining that the man you have to be careful of is the fellow who shuffles up to the microphone wearing a 1959 suit that looks as though he slept in it for about four or five nights and starts his speech by explaining that he is just a boy from the country. I would like to explain that I have not been sleeping in my suit, Mr. President, but I am from the country. Perhaps, because of being from the country, I have been brought up with the idea that it is much more important to be right from a practical standpoint than it is to be theoretically and technically correct. With that thought in mind, I would like to make a few comments speaking against this proposed amendment.

In theory we have been told that this amendment will save money. I submit, Mr. President, that anyone who

has had any experience whatsoever with any kind of government would regard such an idea as being totally ridiculous. In theory we are told that this amendment, this reduction, will cause us to have more qualified men in the legislature; that it will become a bigger job, a job with more prestige. I submit, Mr. President, that there is only one qualification which will be improved if this amendment is approved by this Convention and that is the qualification to get votes and campaign for an election.

We already in this State and in this country have reached the point where television and the mass media have brought us to a point where image is more important than substance; where the form of a candidate is his calling card. I submit that a state office—the House of Representatives—is one of the few offices left where a man of modest means has the power to be elected. I submit, further, that a reduction of the House of Representatives is the first step toward bringing us to a situation where only those who have either sold out or those who have the money to run for an office that contains a large area, a large number of constituents, will be able to appear here in this assembly.

In theory we are told that we will have a more efficient body if this amendment is passed; in practice we will have more control. Certainly it is easy, the easiest thing in the world, Mr. President, to have more efficiency. We can see this evening by reading our newspapers and we will not have to go beyond the first page of those newspapers to see what has happened in those countries that have traded their representative form of government for the kind of efficiency that small numbers and control will bring.

Mr. President, it seems to me that a small governing body is the type of governing body that will give the lobbyists and the pressure groups an advantage which they do not now enjoy.

We have been told that we are no longer living in the day of the New England town meeting. I submit that that may be our loss rather than our gain. If we go back to a period 25 centuries ago when the Greeks first began this whole process of democracy, we will see that the deliberating and controlling bodies were not 101, but often were as high as 1001.

Mr. President, why has this issue become of such prominence at this time? I submit, Mr. President, that we have experienced in the past year a very frustrating and a very disappointing period in our State government. But I would say further, that the reason for that disappointment and that frustration is not the size of the legislature; it is because of men who are political men, men in both parties, who have placed their own interests above and beyond the interests of the people of this State. It is not the size of the legislature which has caused the frustration.

I have spoken just today with newspaper men who are advocating the reduction in the size of the legislature. Some of those men have been very frank to tell me that this is the one method—reducing the size of the legislature—that the public has to strike back and express its frustration and disappointment. I say, Mr. President, that we should not use this means for attacking a body which has before and can again serve the people of this Commonwealth well.

Mr. President, I speak against this amendment. Thank you.

On the question recurring,

Will the Convention agree to the amendment to the Gouger amendment?

The roll was recorded as follows:

YEAS—14

Baldus	Conley	Otto	Stout
Banes	Cosetti	Reynolds	Sprogeil
Caputo	Dumbauld	Roberts	Weish
Casey	Gouger		

NAYS—135

Aberman	Fagan	Leach	Rea
Allison	Fawcett	Lee, K.	Redick
Amsterdam	Fay	Lee, L.	Richter
Aurentz	Feather	Leinbach	Royner
Bagenstose	Filson	Leonard	Ruth
Baldrige	Fleming	Levin	Sahla
Baldwin	Fohl	Manderino	Scales
Barron	Forster	Mangery	Scarlett
Bashoff	Forliney	Markley	Scott
Benadict	Gehrlein	Mattioni	Scranton
Benfield	Gerber	McGeary	Sebastian
Bloom	Goldman	McGlynn	Shapiro
Braham	Goldstein	Meyer	Shetig
Brennan	Griffith	Michael	Shively
Broderick	Hannum	Michener	Shoemaker
Brown	Harding	Miller, D.	Shrager
Buck	Hatter	Miller, R.	Solomon
Bunting	Henderson	Moorhead	Strickler
Burkholder	Heyburn	More	Stroup
Butera	Himes	Morton	Swope
Cain	Hocker	Murray	Tate
Camardella	Hook	Nelson	Thomson
Caron	Huggins	O'Donnell	Thornburgh
Clark	Irlis	Orban	Tomasick
Corey	Jacotanto	Orbin	Tully
Cortese	Johnson	Pasquerilla	Van Sant
Croop	Kauffman	Pechan	Waldron
Cunningham	Keller, J.	Pelletier	Westerberg
Curran	Keller, M.	Popil	Whittum
Dalley	Kelly	Pott	Wilcox
Desmond	King	Powell	Wilmarth
Devlin	Kline	Prendergast	Woodring
Donaldson	Krill	Quiles	Woodside
Erwin	Laputka	Rappaport	

NOT VOTING—14

Barry	Gabreski	Lane	Sharp
Clinger	Gray	Musselman	Silverman
Donolow	Horne	Percy	Warman
Fineman	Hostettler		

The majority having voted in the negative, the question was determined in the negative, and the amendment was not agreed to.

PRESIDENT BRODERICK. The Chair recognizes Delegate Croop.

DELEGATE CROOP. Mr. President, fellow delegates, honored guests, who are most interested, I want to speak against the amendment that was originally offered and I propose to represent, if you please, that multitude of individuals—voters and taxpayers—the people back home, those who maintain no lobby, those who belong to no pressure groups and those who are just the innocent victims of what you and I may enact here today, which they will either refuse or affirm come April. I believe that we are in a representative form of government and, as such, they are the people whom we should think of above all interests, above all concerns.

It is quite the theory of all political scientists, theorists and teachers that a dictator form of government is the greatest and most efficient form of government on earth. But we are in America today, we are in the Commonwealth of Pennsylvania and we are in session here; not as the representatives of a dictator form of government, but as the representatives of the people who live in our

individual districts of this great Commonwealth of Pennsylvania.

I come with no prepared speech. I come merely to voice the feelings as they come from my heart and soul, as they have come from my heart and soul, as they have been given to me by those people I meet on the daily thoroughfares of my town and my county and to whom I have to explain what action we take. I know how they think. No legislator, no group representing the legislature brought any pressure to bear on me as it was my privilege to serve on this Committee.

I feel that they are entitled to be represented by as many people as adequately fit the House to properly represent them. To cut down their number would be, in my opinion, a terrific miscarriage of justice, a matter of ignoring their individual rights. Can it be said of any of you if I question you, do you think you function better here this afternoon or since the first of December because there were 163 of you instead of 263? I do not think there is any base enough among us who would say that numbers have much to do along that line. You are duly elected representatives of your people, and I think you are all trying to do a very good job and do it honestly.

I know that my constituents do not want any less representation in the House of Representatives than they have at the present. My Representative in my individual county represents approximately 55,000 voters today. If the figures as furnished me by the Census Bureau in Washington are accurate, our population in Pennsylvania by 1970 will increase practically a million. This would perhaps mean that of the 203 which we propose as the number for the House of Representatives, he would have a representation for a round number of 100,000 people.

This is a pretty heavy job and, believe you me, if you live out in the country like I do—I was born and raised on a farm—I know what it is. If you want dog licenses, automobile licenses, I do not care what it is, you run to your Representative. He is down in Harrisburg here not just when this august body is in session but he is down here week after week after week. I believe he is the man who truly fits into the definition of this chamber, the House of Representatives, representing. If you please, the next door neighbor, the man across the street, the gentleman and lady up the block.

This malarkey—and I join the men who have preceded me in saying let us not kid ourselves about cutting down the cost of government. If there were one possible chance of doing that, I say to you that cheap government will, in the end, be the most costly item you ever had. This has proven itself in industry. When you try to cut prices, you get an inefficient operation. I say that if you do that with your House members, you are going to do the same thing. They are going to have their burden increased as time goes on by the increase in population plus that great burden of responsibility and duty in the days and years ahead.

We are looking into the future; we are not looking backward. Certainly we think and believe that Pennsylvania will go forward, that our population will increase in leaps and bounds, that our activities in all industrial fields will do the same, and if it does this, is not their task greater? Are we going to cut them down and say, oh, no, you have a lot of extra time on your hands. Talk to your Representatives and find out how much extra time they have.

I too, join the speakers who have preceded me in feeling that the legislator, at \$7,200 a year, is not being paid as much as we would pay to a truck driver on the road. I think this ought to be changed. But under the mandate by which we meet, this is one of the first items I took up with the judicial department only to find that it is not within our power to change this.

I think this policy is a shame and the policy should be changed and I hope it will be in the future. I beg you, if you please, do not reduce this membership. I would be much more in favor of adding, so that they have more time in which to do the many thousand and one duties which are ascribed to them so that they can be representatives in the true sense of the manner and do a much better job. Certainly any of the debate or delay in the passage of acts that has come in the past was not due to numbers, but it was due to differences of opinion, honest differences of opinion. Do not cut it down; that is not the solution. Elect good ones, yes. We all would fear the day when men and women were sent to these halls who were not capable, but elect enough so they can adequately be in contact and represent the people as they are doing today.

I urge you to support the 203 figure as we have made our report from committee. I assure you, speaking for that committee, there was no bias in it, and there are members of the opposition here who were on the same committee. We were not harassed by legislative influence nor by dictatorial powers from above; we came to an honest, a fair consideration after long deliberation and after acquainting ourselves with the facts. Support the 203 if you will. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Michael.

DELEGATE MICHAEL. Mr. President, I wish to speak in behalf of the proposal concerning the reducing of the size of the legislature.

PRESIDENT BRODERICK. You may proceed, Delegate Michael.

DELEGATE MICHAEL. Fellow Delegates, Mr. Croop has emphasized a point with which I think we are all concerned. Our legislators represent us as individuals; they do a good job of legislation up here in Harrisburg to make this a better State. Mr. Croop has suggested that we keep it at 203.

Woodrow Wilson said: "Freedom exists only where the people take care of the government." We have been sent here by our voters, by our constituents back home, to take care of the government, and they did not send us here to keep the status quo. They did not, after six times defeating a call for a Convention, call a Convention last spring to have us come to Harrisburg and keep these four provisions in the constitution the same as they were before. They recognized that something needs to be done to bring Pennsylvania up to the 20th century. This is what we are concerned with.

Now Mr. Croop has said that we are enamored of numbers, 203, 150, 263, 303, whatever it should happen to be.

I would like to focus on numbers, but I would like to focus on the number of Representatives as compared to the number of constituents whom they represent. To do that, I think we have to look at it in two ways; we have to look at the historical perspective and we have to look at it comparatively with the situation today.

In 1873, when the Constitutional Convention last met, they set the House number at 200. In 1870, the population of Pennsylvania was about 3.5 million. That meant that after the apportionment, our Representatives were each representing about 17,500 people. Today, we are talking about approximately 60,000 voters per Representative. Yet can you say with me today that our Representatives have less communication with the voters than they had back in 1873? Remember, Alexander Graham Bell did not invent the telephone until 1876. Henry Ford had not constructed his first automobile until well after 1900. Today, we can call any place in the Commonwealth within a few minutes. There are over 100,000 miles of roads in Pennsylvania. Communication and transportation are completely different from the times as we look back to 1873. You say, but we are talking about the 20th century; we are looking ahead; there are going to be more people; are there going to be that many changes coming up? Let me take you back just 25 years.

Most of you can certainly remember with me when the Pennsylvania Turnpike opened in 1940. I can remember as a high school student going to that opening at Irwin. Since then there have been interstate roads crisscrossing the State north and south, east and west. In 1940, there was no jet air transportation. Today, you who come from Pittsburgh can fly from the Pittsburgh airport to Harrisburg in 40 minutes. Look ahead. How soon do we know that there are going to be helicopters, perhaps in the more inaccessible areas of our State, that can bring us from areas where an airplane could not land, to Harrisburg and back. In other words, we have to look to the future; the changes that have happened in 25 years, Television—we did not even have it 25 years ago. My children just cannot realize that I did not watch television when I was in high school and grade school the way they do now. Telstar has come about in that 25 years. In 25 more years what kind of communication and transportation are we going to have? In other words, this idea of numbers, a magic ratio, say, of 60,000 voters to one Representative, just is not significant today when we look at the changes that are coming about in transportation and communication. What we have to look at is how this legislature is going to work. Whether a smaller body would do the job or not.

I would like to make another comparison, a very current comparison. Back in 1964, before the Supreme Court ruled the one-man one-vote apportionment, we had a variation in Pennsylvania, from 4,500 approximately in Forest County for one Representative to nearly 80,000 voters for each Representative in Clearfield, Armstrong, Centre, Dauphin and Indiana Counties. And yet at that time, were any of those Representatives complaining that they could not adequately communicate with their voters or adequately serve them here in Harrisburg? We do not feel that there was that problem then. We do not feel that 80,000 in another year, another five years, for a Representative is going to give that problem when you look at the actual communication that comes about. The real problem, as I say, is whether not saving money and whether in cutting the size of the legislature, we are going to take that money, give the Representatives better salaries so that they can do their job full time, that they can have a staff to do the errand-running, that these men, rather than running back home for an automobile license and dog license, can be up here doing a job of

legislating, of taking care of state-wide interests, which we hope will be more the basis of state legislation now than the local government is going to get more powers, we hope, through the local government proposal. This, I think, is basically what we have to look at. Can our Representatives do the job, one, of proper legislation here at the Capitol, where they can be a small enough body to have genuine deliberation, where they can have a research staff and where they can have a staff back home to take care of their constituents, or are we going to continue with the 203 from the 19th century? I think one more comparison as far as numbers are concerned would show us that there is not any magic in the 60,000-to-1 ratio that we have put the halo around in Pennsylvania. To do that, I think if we would just look at some of the States comparable in population and size to Pennsylvania we could very clearly see that a State the size of Pennsylvania could operate well with a smaller legislature.

For example, Illinois with 10 million people has only 177 in its House which gives us about the same proportions we have in Pennsylvania now. New York, however, with 17 million people has 150 in its House of Representatives, each representative taking care of 113,000 voters. Ohio, with a population of 10 million, has 99 in its House of Representatives, approximately 101,000 voters per legislator. Michigan, with 8 million people, has 110 in its lower House, and that is approximately 73,000 voters per legislator. Incidentally, both Illinois and Michigan have over 10,000 more square miles in territory than does Pennsylvania. This might well apply to argument of how can you get back and forth to all of these areas to represent your constituents.

In contrast, we might look at Texas and California. Texas has 150 legislators in its House representing 9.5 million—which is close to Pennsylvania's 11.5 million. It has almost six times as much territory. California with 16 million people, has 80 House members, nearly 200,000 per legislator, and California has almost four times as much acreage as Pennsylvania.

So you can see there really is not any magic in numbers so far as how many constituents per legislator. So let us then, as I say, look at what a more efficient legislature, a smaller legislature around 150 members could do. The important factor, after we look at this historically and comparatively, is the effectiveness of our legislators, with staff to keep in touch with the voters and with the ability to legislate properly through staff for research, time for deliberation, focus by the press and the public on their activities and more significance to their jobs.

Let us propose a reduced size for the House to the voters of Pennsylvania and ask them to consider the effectiveness of the smaller, more efficient, more responsive legislature.

PRESIDENT BRODERICK. Thank you. Delegate Michael.

The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, there has been a good bit of discussion here about giving the legislature, when we reduce their numbers, more tools to work with. Some seem to say we are going to try to save money by cutting the numbers and others seem to want to spend even more in giving them staff, assistants, stenographers, and I do not know what else. But I was first told early in this Convention that right here

in Pennsylvania in our own legislature, when they return in March, they will have a terrifically improved situation in which to carry on their work. Every one of them is supposed to have an office with a nice big desk and a nice carpeted room. Granted they are not all private rooms, but they do not all need to be entertaining constituents at the same time. They have a telephone on their desks and a five-drawer letter file for themselves. I took the time last week to inspect one of those rooms because one of the legislators who will be quartered in there was one of the legislators who testified before our joint committee on December 29 as to why he could not do his job. He was a first term.

I think a lot of people in Pennsylvania are being influenced by the terrific trouble this last legislature had in agreeing on a budget. Again I think they did their job; they did what they were elected to do, they fought for what they thought was right; and I do not think the number made any real difference.

In addition to that, I am told—I have not had the chance to look up the statistics—that this last legislature was one that had more first-term members in it than any that had ever come down here in the memory of anybody around. Roughly one-third of its members were in their first terms, I am told. I know of most of the legislators that I know personally, that is true.

I think the legislators that we have, when we give them these tools to work with, which are what they have been calling for, and we know they have staff. We have their staff in our own convention bureau. They have done our work. They certainly can do theirs.

There is another very important thing that I do not think has been mentioned here today: The legislature, like our Congress and even like us, ladies and gentlemen, works through committees. Every subject under the sun in this wide variety of state and variety of ways of making a living come before the Pennsylvania State Legislature usually every term. No one can be an expert in all of it. When they do come down here, they get assigned to committees, they soon learn the things that come before their committee and they get as expert in it as we hear about Wilbur Mills and the income tax law in Congress. He has been there longer than most of our legislators. Admittedly no one knows as much about the tax laws as Wilbur Mills. It is all he has been studying for 20 years.

Now, if you reduce its size, it requires each legislator to take under his special study many more subjects and he cannot be as expert as if he had only two or three, which is the normal amount of committees each has under the 203 number. It was mentioned that the Communistic countries, the Russians, or those so oriented, are the most efficient. I will admit that if you had five members, you could certainly get your work done a lot faster than if you had 203, but I do not think we would want to see the legislature reduced that far. After all, it was mentioned by one other speaker and is rather close to what my thought is, that our legislators are the representatives of the people. Granted, when the legislator walks down the street, he does not know everybody, but I know from seeing legislators in other districts that they do not walk very far before nine out of ten of their constituents at least do not say, "Oh, that is our legislator."

The legislator is the last person in our present State and Federal Government who the average taxpayer really feels he knows or could talk to. Yes, we can go to our

Congressman's local office and we get one of the administrative assistants to talk to on a problem we want him to do something about. We get a form letter back, but we do not know whether the Congressman ever heard we were there or not. I hope we never come to that with our state legislators. I hope the people will always feel close to them, but they cannot represent too many people. Sure, they can get on television, but we do not want to pick them just by their television looks. I think we have an ideal situation now. Granted, I do not claim that we have any magic number in 60,000. I believe communication will improve and, as it does, our legislators can keep up to the number of people that they will eventually be representing in the 20th century even under 203 members. Admittedly they are harder to corrupt; it is harder to get 102 than it is 76. I think anyone knows that. It is to keep the legislators close to the people that I recommend the same number.

Even today in Pennsylvania we have seven legislative districts of over 1,000 square miles in area. One of them is up to 2,200 square miles; three of them are over 1,500. They are in areas which are not reaching the population explosion. It is not uniform over our State. There are going to be some vast areas in the next 20 to 40 years which I think we are trying to write a constitution to fit. A legislator would need an airplane and a lot of landing fields to ever get over his district.

For that reason, I ask that we keep the number 203. There is one other thing that has been lost sight of in this debate. It has been said that we offer the people of Pennsylvania no change, just status quo. If you read this amendment, you notice that if you adopt it, you knock out completely proposal No. 2, which is coming up, I hope, tomorrow which is a commission form of redistricting or reapportioning the legislature which, in my humble opinion, is a real improvement, and it came from the same general committee that the 203 did. It provides the commission form which is only used in Michigan, Missouri and Ohio. Pennsylvania would be the fourth State to do it. I think that is a real improvement and that this Legislative Reapportionment Committee was anything but status quo. Maybe we were on numbers, but we are not on methods.

For that reason, I oppose this amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Banes. Are you speaking for or against the amendment?

DELEGATE BANES. I am speaking in support of the Gouger Amendment.

PRESIDENT BRODERICK. You may proceed.

DELEGATE BANES. I have heard some remarkable statements here this afternoon as to why we should retain the existing number of our legislators. To Delegate Allison I would only say that I have yet to hear a politician saying that he wants fewer jobs and fewer pay-rollers. The allegation that the proposal to reduce the number comes from politicians, I am sure, on this basis is not very accurate. I might say to Delegate Scales that he must have studied the new mathematics because in my book if you reduce the number, you certainly will reduce the cost.

The Convention is well aware of the many proposals which have been sent to the floor and that they contain provisions for referendum for the people. Fellow delegates, the electorate in many parts of this Commonwealth

is clamoring for change, otherwise we would not be here. It is our duty to harken and listen to the voices of the people. The status quo proposal presented by the committee offers our people nothing new. They want a smaller legislature better qualified to do their job and meet the needs of our people, and I am sure that if the reports that delegates have stated here today, that one of the principal jobs of our legislators is to get dog licenses and hunting licenses and fishing licenses and auto licenses, I am sure they will say that this is the problem with our legislature and this is why the last session proved so ineffective.

In deciding the number of their representatives, they have the right to make a choice. The present committee proposal gives them no choice. The only way to give them a choice is to place a proposal on the ballot to reduce their number.

Since this is the sentiment of my constituents, I, therefore, support, and call upon the Convention to support the amendment to reduce their number in accordance with this proposal. Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Banes.

The Chair recognizes Delegate Wilmarth. Are you speaking for or against the amendment?

DELEGATE WILMARTH. I am speaking in opposition to the amendment.

PRESIDENT BRODERICK. You may proceed.

DELEGATE WILMARTH. Mr. President, fellow delegates, as mentioned, I am speaking in opposition to the amendment and I think, first of all, I had better clarify a few items, particularly concerning myself. I have heard many references made in the room today as to the rural background and farm background of many people, but I am actually only one of two or three here who can actually prove that we are farmers. Therefore, I am certainly going to be accused of speaking completely for the rural areas. This is not the case. I hope that I am speaking for all the people of Pennsylvania. I would like to clarify to some extent what some of the problems are for the rural people and it is of this that I would like to speak.

First of all, I do not have the exact figures at hand, but certainly we all know that a large part of Pennsylvania is very rural. I recall, depending upon your definition, about 47 per cent of our school children are going to schools that are known as rural areas and, I believe, this encompasses any municipality that is under 5,000.

The reference has already been made as to the size of the various districts. I might point out that the senatorial district I represent comprises 4,300 square miles. The legislative district is about 120 by 140 miles, and if you should bother to fly over the State of Pennsylvania I am sure you would recognize that there are serious problems in communication in spite of the fact that we do have the telephone, and we do have the automobile and we do have television. For many years this has been recognized as a problem and it is just in the last two years the legislators recognized it by enacting school legislation for subsidies to our schools and by the fact that they created what was called density and sparsity factors; density factors being used for the large cities, 10,000 people or more per square mile; sparsity factors being 50 people or less per square mile. I happen to live in one of the areas with 50 or less; there are three in

my county. I could go to considerable length in trying to describe to you the problems associated with rural communication but, perhaps, if I just said to you that so many of us who live in rural areas are so far apart that many of us have to keep our own tomcats, I am quite sure that you would understand what some of our problems really are.

I would like to turn, Mr. President, to something that has been mentioned but which I would like to expand upon and this has absolutely nothing to do with the rural or the urban problem, and that is the individual attention that is given to the people back home by their Representatives.

He is the one person that they really turn to; he is the one person that they really know. Historically he is the one who has always represented them sort of individually. True, he may be asked to pick up his constituents' license plates, but it is a feeling of satisfaction for people, and this includes us who are here, that we are able to call our Representative by his first name. This is sort of an American heritage and it is something that I would desperately hate to see taken from us. But in addition to this, he is representing something that has not been mentioned today and this is perhaps even more true in urban areas than in our rural areas, that is, he is really our lobbyist. We all know that we have many lobbyists for large business and in some cases for government itself, but who are to represent the school districts and who are to represent the small political subdivisions and who are to represent the planning groups in our communities and in our cities and towns and who are to represent the service groups? None of them can afford lobbyists, and it is only the Representative we send here who has the direct tie and the direct connection and who can come down here and fairly represent this myriad of groups that we have all over our State and who can actually and fairly speak for them.

I think this is one of the most important things that our representative does perform for us. I am terribly concerned that should we lessen the number in Harrisburg, some of these services would be taken from us. I am not at all concerned particularly, that is, with the fact that 150 cannot rate more efficiently and financially, perhaps better. I think it is time that we recognize that we give our representatives tools and also the fact that they are to really represent us, that they are the one tie we have that we can sort of touch.

For that reason, Mr. President, I speak emphatically against the amendment to the original proposal.

PRESIDENT BRODERICK. Thank you, Delegate Wilmarth.

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I would like to have this opportunity to propound a question to the sponsor of this amendment, if I may.

PRESIDENT BRODERICK. Would Delegate Gouger permit himself to be interrogated at this time by Delegate O'Donnell?

DELEGATE GOUGER. Yes, Mr. President.

PRESIDENT BRODERICK. You may proceed.

DELEGATE O'DONNELL. My problem, Mr. President, is this: I have heard no one this afternoon address himself to the question of why you would leave it up to the legislature in a year in which there is always going to be either a gubernatorial election or a presidential election

to decide between 101 and 151 and how many members there should be in the House of Representatives. It strikes me that it would make it very much of a political football. Is there any reason why so much latitude must be given?

Mr. GOUGER. Mr. President, would my answer count against my time for summation?

PRESIDENT BRODERICK. I understand from the Parliamentarian, it will not.

DELEGATE GOUGER. Thank you, Mr. President.

I made it, I thought, quite clear in my proposal to amend Proposal No. 1 that I have great confidence in the legislative branch. I cherish and think all people should work toward ever increasing the dignity and prestige of the legislative branch. I said that if people lose confidence in constitutional government or the legislative branch, they lose confidence in democracy. I simply put a range on there to permit the legislature, within its own wisdom, to establish their number at what they themselves feel within these limits is the size through which they can operate most effectively.

I can see this very quickly: If we have a commission or however we are apportioned, the apportionment commission, if that be the mechanism, might come up with a very untidy apportionment map by dividing by 203 or by dividing by 151 or by dividing by 101; whereas, a slightly different divisor could result in a very logical, neat, fair apportionment.

I have confidence that as we decrease the size of the legislature and work in support of it to increase the character, the quality, the vigor, the confidence of our legislators even to higher levels than they are today that they too will recognize the merit of this, and I believe they can be depended upon to work within these limits.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Cosetti. Are you speaking for or against the amendment?

DELEGATE COSETTI. For the amendment.

PRESIDENT BRODERICK. You may proceed.

DELEGATE COSETTI. Mr. President, every debater knows that one of the tactics of debate is to build up strong arguments and attribute them to the opponent and then knock them down one at a time and appear to be demolishing the opposition. Some of these strong arguments that have been offered are that we are bossed. Well, I ask you to examine each of us that speak for this amendment and determine for yourselves whether we are bossed.

Some of the arguments have been that we wish to establish a dictatorship by small numbers. I would offer you that fact that the Soviet Union's General Assembly or whatever they call it, is a huge body and it is very easily bossed. But we want dictatorship so that we are only interested in saving money. I would ask you not to listen to these arguments, but to listen to the arguments we propose as the reasons for a smaller House.

That good friend of mine, John Scales, that country boy certainly understands the use of straw and I think, he also understands the use of chaff.

As we discuss this proposal, I think it might be helpful to examine the function and history of the legislature. Perhaps the early examples were in the Greek city states or in the Imperial Roman Senate, or even when the nobles confronted King John at Runnymede. Their purpose was restraint of a tyrannical sovereign.

In America, with the popular election of both legisla-

ture and executive, a new dimension was added—the idea of coequal branches of government. In America, the highest function and chief function of the legislature was not simply the restraint of a sovereign executive, but the development and pursuit of significant policy position; as a coequal partner with the executive. This great purpose involves the ability to identify the major issues requiring attention, to independently research these issues, to develop all the information necessary, to suggest and develop alternative solutions, to review and authorize long-range plans, et cetera. These interrelated policy activities should be the chief concern of the legislature. They require resources of research and analysis comparable to those of the Governor. However, what is the actual situation that we find? Currently, key legislators and the leadership of the legislature develop and pursue policy position. However, the rank and file individual legislator, for many reasons, including a lack of staff, a lack of research and a lack of other resources, participates very little and limits his policy role to accepting or rejecting executive proposals. The lack of staff and the pressure of constituents, such as obtaining licenses, permits, payments of fees and other small but helpful errands, also adds to the problem. Without staff assistance and without pay that would support full-time activity, the individual legislator knows he will be judged more on his success on these minor matters and obtaining special benefits for his home district than on his deep personal involvement in matters of policy.

I do not criticize these activities as unnecessary, nor do I depreciate the need of the legislators to be helpful to their constituents on minor matters especially if they wish to be re-elected. However, I do criticize the size of the system; it makes these activities and these priorities more important and more likely than less likely. It is the size of the system that encourages this drift. In the last ten years, a host of studies has been developed pointing to the needs of strengthening state government; indeed all these studies have pointed to the need of specially strengthening the legislative function. I quote only a few of these in support of our position: A study commission in West Virginia, in 1966; a study commission in Arizona, in 1965; studies by the Texas Law Review in 1967; a study commission of the Constitutional Convention of New Hampshire, in 1964; studies by the State of California and reports of its Speaker in California; studies by the American Enterprise Institutes; studies by the National Municipal League; studies recommended to the New York Constitutional Convention urging the modernization of state government; the final report of the Mid-America Assembly on State Legislature in American Politics; Proceedings of the Academy of Political Science, and I quote, "Of the various structural alterations calculated to enhance the stature of the legislature as a body, and the influence of its members individually, perhaps none is more promising than a drastic reduction in their numbers."

Proceedings of the Academy of Political Science—Columbia University, State Legislatures in American Politics—American Assembly, May 1, 1966, and they say, "We believe legislatures in the United States are larger than desirable." Modernizing State Government; the Committee for Economic Development—"This committee holds that the size of most legislatures should be drastically reduced with no more than 100 members in the larger states and substantially fewer in the smaller ones."

"State Government In The Twentieth Century," by Buechner; "The Fifty States and Their Local Government," by James W. Fesler; "Storm Over The States," by Governor Terry Sanford of North Carolina; "State and Local Government," by Charles Adrian; "State and Local Government," by Gosnell and Holland. I could go on but the final one is "The Octopus In The State House," by Trevor Armbruster. These reports all state that one of the reasons for decline in the importance of the state legislature is the unwieldy size of the legislature. They indicate that large size detracts from visibility, that the average citizen does not know who his legislator is. A large legislature is not a center of action; that large size makes for low pay, and until recently pay was very low in Pennsylvania, and even now it is inadequate; that large size makes for low pay and for part-time involvement, that large size makes for less staff support and disproportionate time spent on unimportant errands; that large size makes less independent research available and more dependence on the assistance of powerful lobbyists, and then in general large size makes for less prestige.

Testimony at our public hearings supports the conclusions that the large size of the House of Representatives in Pennsylvania weakens its capacity to act for these same reasons. All of these studies suggest that a smaller legislature ought to be considered. I know of no study that favors a large House. I challenge the supporters of this position to present us with one. It is clear to me that the arguments favor a small House. What about the practice? The average House of Representatives in America contains 120 members, ranging from 35 in Delaware to 400 in New Hampshire. The average Senate averages 40 members, ranging from 20 in Alaska to 67 in Minnesota. Two States, larger in population, larger in geography than Pennsylvania—New York and California—have smaller Houses—150 in New York and 80 in California. Some States like New Jersey have 40 Senators and 80 Representatives; Ohio 33 and 99; Indiana 50 and 100; Michigan 38 and 110.

Since 1963 nine States have reduced the size of their Houses. One, it is clear that the theory favors a smaller House; two, that actual practice of other States is moving toward smaller Houses; three, all the polls of public opinion favor a smaller House.

With no important studies to support a position for a large House we will be saying to the voters of Pennsylvania, it is 203 if you want the existing Constitution, and if you do not want the existing Constitution you can vote for a big change to 203. We will be creating the coin at this Convention in which is heads, 203; tails, 203. Two hundred and three is not only the status quo; we are offering the voters of Pennsylvania an insurance policy guaranteeing this status quo.

PRESIDENT BRODERICK The Chair recognizes Delegate Curran.

DELEGATE CURRAN Mr. President, I also would have a question of Mr. Gouger. My initial reaction after reading this amendment was that the amendment transgressed both committee proposal No. 1 and committee proposal No. 2. However asking the counsel, Mr. Comiskey, I am now informed that the intent of this amendment is that the General Assembly shall only fix the number of the representative districts, and shall not in fact divide the State into those districts. I would like to know from Mr. Gouger whether the intent is that the General

Assembly shall turn a number over to a reapportionment commission and then have the reapportionment commission work up boundaries around those numbers, or does he not intend a reapportionment commission. I think this is important to consider.

PRESIDENT BRODERICK. You heard the question put by Delegate Curran. Are you prepared to answer that question, Delegate Gouger?

DELEGATE GOUGER. I am, Mr. President. We are not debating here proposal No. 2 which has to do with apportionment. In more direct answer to your question, whatever mechanism of apportionment is determined upon, and this has not yet been determined, the legislature would have the authority to designate the number that shall be used as the divisor in determining the legislative body; in other words, it shall determine its own size within these limits as established. Have I answered your question?

DELEGATE CURRAN. It is your intention that the legislature would turn over to a commission a specified number and the commission would then take that number and divide the State into that number of districts.

DELEGATE GOUGER. If this body determines that apportionment shall be handled by a commission, the answer would be yes.

DELEGATE CURRAN. And if not?

DELEGATE GOUGER. Then we would simply have the legislature still with the authorization to establish its own size, and I do not think we can do an awful lot about the apportionment anyhow under the Supreme Court ruling. So in that case then they would determine the size and the apportionment. But the apportionment, bear in mind, is well bound by legal decisions.

DELEGATE CURRAN. It is safe to say then that the group body that fixes the number of districts would not necessarily be the same group that fixes the geographical boundaries of those districts?

DELEGATE GOUGER. That is correct.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Westmoreland, Delegate Orbin. Are you going to speak for or against the amendments?

DELEGATE ORBIN. Against the amendments, sir.

PRESIDENT BRODERICK. You may proceed.

DELEGATE ORBIN. Mr. President and fellow delegates, let me preface my remarks first by stating that I am not a legislator; I never have been and I never expect to be. So, therefore, my thinking is not politically motivated.

I rise in support of this proposal as reported out by the Committee on Legislative Apportionment, because, in my humble opinion, we need a House of Representatives of 203 members for the following reasons:

First, our legislators are much closer to the people, and, therefore, carry forth the views of the people more so than any other government official.

Secondly, the larger body is less likely to be controlled by the executive branch or other special interest groups.

Thirdly, the projected growth in the years to come make it mandatory that we maintain a House of 203 members, so our people can be adequately represented.

In conclusion, let me say that our legislators are truly the only real personal contact that our people have with the state government. Therefore, let us not make it more difficult or impossible for the people to make known their wishes and their desires by reducing the number.

It is the role of history that the democratic-representative government falls by reason of taking the power from the many and giving it to a few. There is great danger in taking from the people their power and centralizing it so that our government will not be close to the people as it should be.

Therefore, Mr. President, we find it necessary to maintain a large House, because to preserve the democracy that we are so proud to preach to the rest of the world that we have, we must also recognize the fact that so many people have made the supreme sacrifice to keep this type of democracy.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Orbin. Is there anyone who wishes to be recognized on behalf of the amendment?

The Chair recognizes the delegate from Luzerne, Delegate Tomascik.

You may proceed.

DELEGATE TOMASCIK. Mr. President and ladies and gentlemen of this Convention, I am very grateful for this opportunity to be accorded the chance to speak in support of the amendment proposed by Delegate Gouger.

I come not only as a delegate to this Convention, but as a former legislator. Eight years ago, ladies and gentlemen, I sat in this House representing 65,000 persons in the city of Wilkes-Barre as a state representative when the capacity of the House was 211 members.

I am impelled to support Delegate Gouger's amendment because of the realization that the size of a body is directly related to its ability to act in a very effective and efficient way. That was brought out to me very starkly eight years ago when I served in this House.

What impels me to this conclusion? As I say, I was one of 211; I had to work out of a suitcase. I am told now that things are much better, that there are desks, chairs and files, although eight or nine in a room. But the point is, we were left rather on our own, and the legislator, the average freshman legislator, did not feel he was a part of the entire body. He was rather left out. If you were not a leader of the group or of one or the other party, you simply were not in possession of the sense of individual participation in the deliberations of this great House of Representatives.

I am impelled to support Mr. Gouger's amendment, because I feel with a smaller group, with a smaller number of representatives, there would be possible a greater opportunity for deliberation. Ladies and gentlemen, in this age and day where life is so fast and complex, what we need particularly in legislative bodies is the chance and the opportunity for thinking, for studying, for deliberation. After all, the primary purpose and duty of a legislator is not to run errands, although that is important, too, but his job is to come here and represent his constituents in the legislature, to come up with ideas that will be of benefit not only to his local area, but to the entire Commonwealth as a whole.

Another reason why I am in favor of the proposal is that if we can save \$1.5 million by reducing the size of the legislature, the House, we can very well employ that in better staffing, in finer research people. Whether you believe it or not, there were days when I had to stand in line, when I served in the House, to get a stenographer until, on many occasions, I simply gave up and I went

to the hotel and hired a public stenographer to do the work that was necessary to serve my constituents effectively.

Now there have been improvements in that line I am informed, but we feel we need greater improvements and we can get those by having a House that is not so unwieldy as it has been in the past and as it is at the present time.

Finally the aura of being a legislator, what does it mean when there are 211 or 203 or some other large number? I submit to you that the prestige, ladies and gentlemen, of being a Representative inured to such a person when there are fewer of them, 150, 101, or 125, that is the number that would give a certain aura of importance to a Representative, he would mean something. It would be very similar to the situation that prevails in California where, on record, there is a gentleman who is a Representative there who refused to run for Congress because it was more prestigious for him to remain as a Representative of the great State of California, and there in California, you have heard, one Representative represents 200,000 people, a State with 18 million people. Could that be the reason that California is an outstanding, No. 1 State in our Union, because of its effective legislature, for one thing? I leave it to you, ladies and gentlemen, to think on these things, because they are important.

I, too, am not involved with numbers. I do not have a fetish for 203 or 150, or what have you, but I am in favor of making this state legislature a body that can be effective and can represent the great people of Pennsylvania.

I submit to you, ladies and gentlemen, for those reasons I urge the support of the amendment to the proposal presented by Delegate Gouger.

PRESIDENT BRODERICK. Thank you, Delegate Tomascik.

The Chair recognizes Delegate Fohl.

DELEGATE FOHL. Mr. President, with all due respect to the Apportionment Committee and the work that they have done and the spokesmen for both sides of the amendment today, I must say that, in my opinion, this numbers game that we are playing with the size of the legislature is the least important subject that this Convention is here to decide. The focus on this is unfortunate when we have such really important and meaningful changes to discuss in the areas of taxation, finance, judiciary and local government.

It has been mentioned that the supporters of the committee proposal are in favor of the status quo. I think we should look back to the primary campaign. Why were sections 16, 17 and 18 of Article II included in the call? At that time there was no burning point of view in the Commonwealth about reduction of the legislature. I will point to many groups and I will choose my words carefully and call them good government groups. The Pennsylvania Bar Association recommended 210. Their recommendations were supported and endorsed by the Pennsylvania Chamber of Commerce, by A Modern Constitution for Pennsylvania, Incorporated, by the League of Women Voters and the Southeastern Pennsylvania Chapter of the Americans for Democratic Action. The AFL-CIO recommended 200. Section 17 was included in the call because we had to clean up the language to conform with the one-man, one-vote rule.

However, this year the legislature, as well as others, had a bad year on tax provisions and, yes, it was a bad year, culminated by a couple of unfortunate and unwise occurrences. But is the answer to this an overemotional, punitive reaction? This amendment certainly begs that. Everyone is talking about magic numbers. Is 150 a magic number? If this amendment is defeated, will we be presented with another magic number?

We have heard much about the progressive and dynamic Constitution which was produced by the recent Maryland Convention. It is being pointed to in many periodicals as the real great example of progressive and dynamic government. If we emulated them and based our legislature on the same formula, we would have to provide for a House of up to 435 members.

We also hear much about California and the size of its legislature. You know California. That is the State where a few years ago the Speaker of the House put the House under virtual house arrest and brought food and cots into the chamber and kept the members there until they did his bidding. Or let us look at New York, another paragon of legislative efficiency. There the Speaker has a different mechanism to handle his small house. He passes out what they call "lieu-lieus" to individual members at his discretion. To those of you who do not know what a "lieu-lieu" is, it is a cash payment that used to be \$3,000 in lieu of expenses, and aptly named, "lieu-lieu."

Mr. President, let us look at this Convention itself. I certainly think that up until 5 o'clock on this day it has been run most efficiently. Is it because we have 163 members? How much better would we have done with 133 members? How much poorer would we have done with 193 members? I submit, Mr. President, that our efficiency, aside from the obvious fact that we are all extremely qualified people, of course, is due almost solely to the fact that we are working on deadlines and that we have to conclude our work by a certain time.

I further submit that the degree, if any, to which States like California and New York have more efficiently run legislatures is similarly due to the fact that they have deadlines to meet. June 30 is their mandatory adjournment deadline and it has no bearing at all on the number of members.

A proposal was introduced here—the first proposal—which called for the establishment of a mandatory adjournment deadline. It was turned down and properly so under the call. However, subsequent to that, a resolution has already been introduced into the State Senate calling for such a deadline and for all I know it has been introduced in the House also.

Fellow delegates, I urge you to reject this amendment; adopt the committee proposal and let us get on with the important subjects which will truly better serve the citizens of our Commonwealth now and in the future.

PRESIDENT BRODERICK. The Chair recognizes Delegate Burkholder.

DELEGATE BURKHOLDER. Mr. President and ladies and gentlemen, it seems to me that we could start with the number of the delegates to this Convention. If there had been so much magic in 203, maybe the legislature would have asked us to assemble with 203 delegates.

Seriously, what we are asked to do is to make improvements to the government of Pennsylvania. One of the improvements that we can make is to give the Commonwealth of Pennsylvania a legislature which has a chance

to be more active, better heard and better staffed. I am not suggesting that we should adopt the amendment because I think it will save money so far as the cost of the legislature is concerned; I am asking you to adopt the amendment so that we can have legislators who will be more effective, who can be staffed more effectively, so that they can proceed with their work more effectively.

I think that it is very significant that the only States in the Union which have more people in their House are New Hampshire, Massachusetts and Georgia. All of the great States with which we vie have much smaller legislatures.

I beg you to support this amendment. I just want to add that I am not a city boy; I am a country boy and a country lawyer. I am not worried about the ability of 150 legislators to cover the State of Pennsylvania. When I was a boy, we came to Huntingdon County from Lancaster to go to a hunting lodge. It took us all day to make that trip. We started early in the morning; we wore dust-ers so that we would not get dust in our eyes and clothing and by nighttime if we were lucky and did not have too many punctures, we were up there between McAlveys Fort and Pine Grove Mills. Today we can do it in two and a half to three hours. This simply epitomizes and illustrates the ease with which a legislator can represent the number of persons and cover the ground that he would be required to cover with the legislature changing in number from 101 to 151.

PRESIDENT BRODERICK. Thank you very much, Delegate Burkholder.

The Chair recognizes Delegate Woodside.

DELEGATE WOODSIDE. Mr. President, I suppose that everybody who has an interest in government—and I am sure that everybody here does—develops a philosophy concerning it. One of the philosophies that I have developed over many years in government has been that the closer you keep government to the people, the better off you are and the better government you have.

We have been talking a great deal about numbers. That is the subject of the matter before us, numbers. So let us look at numbers, and then I want to talk about the effect of those numbers.

In 1872 there were 2,816 voters for every member of the House of Representatives; in 1964 there were 24,113. Maybe that is not a fair figure to use because we all know that in the meantime women's suffrage was adopted and, therefore, those figures have no real meaning. Let us take population figures. In 1872 there were 17,609 people for each member of the House of Representatives. In 1964, as has been said, there were 56,596 people to every member of the House of Representatives.

We have been talking a good bit here as though 56,000 or 60,000 is the number which we are providing in a House of approximately 200. That is not so at all. We hear a great deal about the population explosion. Let us forget about the population explosion. Let's take just what the increase would normally be, measuring from 1874 to this date, and see what the population would then be if you would have 200 members of the House. It would then be 185,000. In other words, if we waited as long to change the number as we have since the Constitution of 1874, the number of members with a normal increase, the same degree of increase, would be 185,000 population for every single member of the House. That is not 100 years; that is less than 100 years. Suppose we reduce it to 150? What

would the population per member be at that time? It would be one quarter of a million population, or 250,000.

We have talked a great deal about the number of people who are represented and the size of the Houses throughout the country. The average representation throughout the country of each member of the House of Representatives is 32,255, or just a little over half of what our present representation constitutes.

Thirty-five years ago I was a member of this House. I am not going to talk about the personal experience of what the House was like in that time. A short time ago one of the younger members of this delegation was talking to me and he said, "You older fellows have a great advantage over us younger fellows." I began to swell with pride until he told me why. He said, "You know, you do not have to listen to all of us young fellows' experiences." I am not, as an old fellow, going into the experiences that we had in the House in 1933. But I do want to say this, and I think this is one of the points that has not been sufficiently emphasized here: Legislators are supposed to be in contact with their constituents. They are supposed to have close association with them, and I don't care whether it is over the telephone or whether it's in direct personal contact. Often it is harder to get rid of a person over the telephone than it is when they are present in close personal contact. But, at any rate, the closer the person is to his people, the more opportunity the people have to see the legislator, to talk with him, to reach him, the better off he is, and the better off the Commonwealth is.

The larger the population—and you cannot get away from this fact—the larger the population per Representative is, the more difficult it is going to be for the constituent to contact him, the less time he is going to have to read his letters, the less time he is going to have to converse with individuals concerning the legislation which is before him. The amount of legislation and the variety of legislation have increased tremendously over the years and it is likely to increase substantially more.

I think there is just one other point we should make here and that is, although Pennsylvania may be listed as having one of the largest Houses on a population basis, being 43rd—we are 43rd—42 of the States, in other words, have a lower population basis per member than the Commonwealth of Pennsylvania has. I think the important thing here is the fact that the legislators ought to be close to the people; they ought to be available to the people, and we will do that better with a legislature in the neighborhood of 200 than we would with a legislature in the neighborhood of 150.

PRESIDENT BRODERICK. Thank you, Delegate Woodside.

The Chair recognizes the delegate from Allegheny, Delegate Welsh.

DELEGATE WELSH. Mr. President, I rise to speak in favor of the amendment.

PRESIDENT BRODERICK. You may proceed.

DELEGATE WELSH. I rise to speak in favor of the amendment, fellow delegates, and I would like to preface my original remarks to state that I do not do so to chastise this legislature nor the 150 other legislatures, or General Assemblies, which preceded this one.

I suppose what we are talking about really started in the medieval times, in the rise of the craft unions. The philosophy of the craft unions eventually came to this

country, and we can see it in our union system today, the bricklayers', steam fitters', hod carriers' and steelworkers unions.

The same thing can be applicable to the medical profession today. We have general surgeons; we have cardiovascular surgeons; we have neurosurgeons. You will never find a neurosurgeon fixing a broken leg. The dental fraternity also has its exodontist, orthodontist and regular dentists.

Even though the bar association does not have specialists, the American Bar Association, at this very time, is entertaining a provision which will categorize attorneys and stamp them as specialists. Even though that might not be so in actuality, the average person in this State, as well as the United States, has attorneys categorized by corporate attorney, tax attorney, patent lawyer, labor lawyer.

We have the same thing, really, in two of the three elements of our government. Our chief executive officer is a specialist. He has spent some time in government prior to becoming the chief executive officer, and when he does so, he makes it a full-time job. The same can be said of the judge or the judicial branch, a former lawyer now spending all of his time in the decision and deciding of cases.

We cannot say that though with the legislature, because the legislature, at least in my experience, has been—he is a lawyer, but he is also a legislator; he is a farmer, but he is also a legislator; he is a businessman, but he is also a legislator. The legislators, I think, really have a reputation of being men who are representing you and the other citizens of this Commonwealth. They are performing a part-time job. They have a full-time responsibility, but they only have part time to spend at this governmental job that we elect them to.

We have a legislator, and I suppose he is part time because perhaps most of his money is not made at legislating but at something else.

In the last five years, there have been 10,000 bills introduced into the General Assembly of Pennsylvania. In 1967 alone, in the House, there were introduced more than 2,200 bills, and if you calculate that out, that is almost at the rate of 200 bills per month. On a five-day week, that is 20 bills a day, or about 100 per week. Even as delegates to this Constitutional Convention, we have handled approximately 210 proposals, but that was only a one-shot affair. We don't have to do that month in and month out. We have three months to decide, weigh and debate and have hearings on 210 pieces of legislation, whereas, in the same three-months' period, the average legislator would have more than 600 pieces of legislation with which to contend.

Neither do I go for the argument that you must keep government close to people because, as far as I am concerned, it just does not work and it does not happen that way. For example, I have lived with my wife and family in the same house for the last 12 years. I have been in the same Senatorial District for the last 12 years, which has enjoyed the services of the same State Senator. His office is exactly one mile from my home. His home is exactly one mile from my home. I never met the man until I came to this Constitutional Convention. I know my legislator. I know him because I went to law school with him. I see him around town, but my wife does not know him. As a matter of fact, she is in the same po-

litical party as he is. I am not chastising any one of these two fine men for not knocking on my door because I also did not knock on their doors.

What I think I am trying to say to you is that I think we ought to do with the legislature the same as Gillette did with razor blades. You can still buy Gillette blue blades. You can find them 20 in a pack for \$1.15, but you can also buy Gillette super-stainless blades, and there are only 10 in that pack, the same size, which costs you \$1.45. With the blue blades you get about 80 shaves out of the pack; in the super-stainless steel blades, you can get up to 150 shaves. The difference is that the blue blades cost you about a penny and a half, and the new, refined lesser number in the pack are cheaper because they cost you less per shave.

I am not advocating cost. It was brought to my attention last week on television by John Tabor, Secretary of Internal Affairs, that there were certain meat markets which were selling meat at an advertised price, but that the actual weight was short. What I am trying to say is that I want to protect the citizens of this State, no matter whether they are buying meat, razor blades or government. I am just trying to make the legislature of Pennsylvania sharper.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Welsh.

The Chair recognizes Delegate Keller.

DELEGATE J. W. KELLER. Mr. President and fellow delegates, God forbid that we should ever get to a time when our legislators are specialists in legislation alone and not generally people of our area who know the problems generally of the entire area.

I say to you that if we slice this legislature, no matter how big a slice it is, the net result remains that the people are going to have less representation. You are going to have fewer Representatives and more people to look after and this, I say to you, means that they are going to be less responsive by their very numbers.

They are insulated from those who elected them to office. I do not believe that I was sent to this Convention to reduce the responsiveness of the legislators and, therefore, I oppose the amendment.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Keller.

The Chair recognizes Delegate Henderson.

DELEGATE HENDERSON. Mr. President, I rise in support of the amendment.

The people desire change—and I repeat that—the people desire change, for they have called the Convention. By a mandate of the people of the Commonwealth of Pennsylvania calling for this Constitutional Convention, we delegates here assembled must assess in broad proportions the needs of the people in a changing society, not only for the present, but for the future.

As times change, needs of the people change. Our present and future social and economic society is not of the canal and horse and buggy age, but one of an ever-expanding economy with deep-rooted problems which have resulted from social and economic change. We must have a streamlined legislature, one that will be of quality, one with larger research staffs, one that will assess, evaluate and act in accordance with the needs and the wishes of the people as times and conditions change. We have this mandate from the people for change. This is our

first challenge of the Convention. The very fact that this item was one of the four areas to be considered at this Convention pinpoints the desire of the people for change. The need for a smaller House is urgent. The time is now; the challenge is great; the responsibility is ours.

PRESIDENT BRODERICK. Thank you, Delegate Henderson.

And now, Delegate Caputo, are you speaking for or against?

DELEGATE CAPUTO. For.

PRESIDENT BRODERICK. Is there anyone who wishes to speak against?

The Chair recognizes Delegate Gerber, and I will recognize Delegate Caputo next.

DELEGATE GERBER. Mr. President, I have listened to this debate from the rest of the delegates this afternoon. It seems to me that it is quite appropriate that I be privileged to follow my colleague, Delegate Henderson.

I, too, feel that the people of Pennsylvania are entitled to a choice. The 203 is freezing nothing more than the present. But I also feel that the amendment which my honored colleague, Delegate Gouger, has introduced is evidence to me that it is too strict a departure from the present. It would seem to me that this body should have an opportunity to be able to make a choice; not down to 101, which we just voted to reject this afternoon, but between other numbers. As His Honor, Judge Woodside, stated, this is a numbers question, this is a numbers debate, and this is an issue of numbers.

Although I am for a reduction in the size of the House, and although I am for giving the people of Pennsylvania a choice and not freezing at 203, because all that a positive vote in support of the committee's recommendation does is give the people a choice between "aye" and "aye"—203 now and 203 if you take it the way they gave it to us. It seems to me we ought to have a broader spread of numbers, and this, I think, is in keeping with the conceived commissions by the leaders of the legislature to study their own effectiveness and their own responsiveness to the electorate. I think that a change to have a more responsive effective legislature is in keeping with the proposal on ethics that Representative Butera introduced in this House. And I think that we have an obligation to present to the people a choice, a meaningful choice, but a choice that does not cut so deeply that these men and women voting here fear going down to 101 or 110 or whatever it might be, with the growing population of Pennsylvania.

With that, Mr. President, I would hope that we could move on to debate where we could get to numbers that would be a meaningful change, but would not be a departure to the extent that we would instill fear in the minds of those voting here and in the minds of the electorate in Pennsylvania.

PRESIDENT BRODERICK. Thank you, Delegate Gerber.

The Chair now recognizes Delegate Caputo. I understand he wants to speak on behalf of the amendment.

DELEGATE CAPUTO. That is correct.

Mr. President and fellow delegates, it is not my desire to repeat all the arguments and debate which have been presented, because we have heard enough on both sides of the question. Economy is not my concern; punishment of the legislature is not my concern. It is my belief, based

upon my experience in the legislature for six years, part of which time I served as an Acting Speaker of the House, that a smaller body would be more effective in doing the work for Pennsylvania.

Delegates Banes and Cosetti have actually met the crux of the problem here. It is not so much a question of whether we are here to punish the legislature or to diminish its size or to economize; the question is this: If we do not do something here to change the present setup, what are the people of Pennsylvania going to vote on April 19, 1968? They will have no choice and, therefore, the status quo will remain. In view of that, I want to call to the attention of the delegates here that we were called into session here not only by the people of Pennsylvania, but also by the Legislature of Pennsylvania, which enacted Act No. 2, which gave us power to do something down here. Section 7 of Act No. 2, in describing and defining the powers of the Convention, among other things, says this: The Constitutional Convention shall have the power by a vote of a majority of the 163 to make recommendations to the electorate on the following subjects: Legislative apportionment, and so forth. I say to you that we were called in here not only by the people but also by the legislature itself. Surely they must have realized when they asked us to conduct a delegation here, a convention, and presented us with the power to legislate on legislative apportionment, that they had something in mind about making a change.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Caputo.

MOTION TO MOVE QUESTION

PRESIDENT BRODERICK. The Chair recognizes Delegate Barron.

DELEGATE BARRON. Mr. President, I wish to make a motion.

PRESIDENT BRODERICK. Yes.

DELEGATE BARRON. Mr. President, this is but an amendment which has been extensively debated. And I believe the time has come to move the previous question, which I now do.

PRESIDENT BRODERICK. I want to explain that we have here in front of us, as I understand your motion, a motion to move the question. A motion to move the question requires 15 sponsors.

The Chair recognizes Delegate Casey.

DELEGATE CASEY. Mr. President, may I speak on the motion, or would that not be in order?

PRESIDENT BRODERICK. I understand, and our parliamentarian says, that the motion is not debatable. The purpose of the motion, of course, is to close debate.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Gouger.

For what purpose does the delegate rise?

DELEGATE GOUGER. I rise to a parliamentary inquiry.

PRESIDENT BRODERICK. The delegate will state it.

DELEGATE GOUGER. Mr. President, is it conceivable that this body wants now to shut off debate without hearing fully from all the people? This has been one of our great problems. I am tired, too, but, on the other hand,

I refuse to deny people the right to express themselves on this. That is the essence of democracy as I understand it. Are you saying, Mr. President, that you are now stopping debate?

PRESIDENT BRODERICK. I am not stopping debate. What I am saying is that the motion to move the question means, first of all, it must have 15 sponsors, and so far we have had one.

Number two, it means that we vote on the amendment. If the amendment falls, we vote on whether the proposal goes to third consideration. That will close further discussion for the day.

DELEGATE BARRON. Mr. President, my understanding, if I may suggest, is that it closes discussion on the amendment, but it does not forbid further amendments from being offered. Is this not correct, sir?

PRESIDENT BRODERICK. That is not correct. What will happen in connection with your moving the question is that we vote on the amendment and if that amendment fails, we then vote on whether the proposal goes to third consideration; then there would not be any further debate.

May I ask if you have in mind, Delegate Barron, that we have a motion to close the debate on the question? I will read you the rule, by the way, that the parliamentarian has handed me.

DELEGATE BARRON. Would you cite it, please?

PRESIDENT BRODERICK. Yes. We have Rule 20 on page 20.

Delegate Barron, do you want to limit debate on this amendment solely?

DELEGATE BARRON. This was the thrust of my motion.

PRESIDENT BRODERICK. If you can restate your motion to limit debate and state the limits of the debate which you wish to make, we can act on that motion. But that is not the motion, for instance, to move the question.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gouger.

DELEGATE GOUGER. Mr. President, I recognize the fact that we are getting tired. May I ask that one of our distinguished proponents of this, Senator Casey, be heard, and then in four minutes I shall give the summation and our presentation will be completed?

PRESIDENT BRODERICK. Right now Delegate Barron has the floor. Delegate Barron, I think, was about to rephrase or restate the type of motion he wanted. He still has that privilege.

MOTION WITHDRAWN

DELEGATE BARRON. I will withdraw the motion for the question and, relying on the estimable Delegate Gouger's statement that we are prepared to close, sit down. Thank you, Mr. President.

POINT OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. Mr. President, may I ask a point of information?

PRESIDENT BRODERICK. Yes, Delegate Gerber.

DELEGATE GERBER. Would the thrust of what I thought Delegate Barron was about to say, which was to close debate on this particular amendment to the pro-

posal, then preclude any further amendments to the proposal?

PRESIDENT BRODERICK. I want to make this clear. If he moves the previous question, which was the way he stated his motion in the beginning, that would mean that we would vote on the amendment, and if that amendment failed, we would then vote on whether the proposal would go over to third consideration and it would terminate debate today.

DELEGATE GERBER. Mr. President, may I ask this question? How would one phrase a motion to close debate on the issue as to the Gouger amendment and the proposal and then permit further amendments?

PRESIDENT BRODERICK. I understand that what you would do would be to make a motion to close debate in connection with the Gouger amendment.

DELEGATE GERBER. Thank you very much, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes the delegate from Lackawanna, Delegate Casey.

DELEGATE CASEY. Mr. President, may I just respond to Mr. Gouger's statement?

PRESIDENT BRODERICK. Yes. I understand that Delegate Barron is now withdrawing his motion.

DELEGATE BARRON. I withdraw.

PRESIDENT BRODERICK. The Chair recognizes Delegate Casey.

DELEGATE CASEY. The purpose for my rising at this time is merely to say that it would be my view for others who wish to speak for or against the amendment that I would not want to appear to acquiesce in Mr. Gouger's statement to be, in effect, passing judgment on whether or not a particular individual should or should not rise.

I wish to be heard in favor of the amendment, but I do not wish by rising, to cut off anyone else either for or against the amendment.

PRESIDENT BRODERICK. Is there anybody else who wishes to be heard for or against, so that we can move it to a vote quickly?

The Chair recognizes the delegate from Crawford, Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, may I raise a question?

PRESIDENT BRODERICK. Yes.

DELEGATE PELLETIER. I am still not clear as to the question that Mr. Gerber raised.

If we do not speak now, does this mean that there is no opportunity to speak for any subsequent amendment to this?

PRESIDENT BRODERICK. No. The Chair just wants to make it clear that we understood what Delegate Barron was doing was moving the question, which is a drastic move that requires, by the way, 15 sponsors, and would, in effect, require us, if that motion is carried, to vote on the question of the amendment, and then would require us to vote on the proposal immediately, and there would be no further debate today. But that motion has been withdrawn and we will now proceed.

May the Chair make a suggestion? The Chair does not want to see anyone cut off who wants to be heard either pro or con on this question, but I think we should try to close this debate so those of you who share my feelings about going to dinner within a reasonable time, say about six o'clock, will be able to do it and vote.

I would, therefore, suggest that we will hear the pros and the cons of those who raised their hands and wanted to be heard, and then I think we will be ready for the question.

Unless the Chair hears objection, we will proceed quickly to that conclusion.

Who wants to speak at this time for or against?

The Chair recognizes the delegate from Berks, Delegate Leinbach.

Are you going to speak for or against the amendment?

DELEGATE LEINBACH. For, Mr. President.

PRESIDENT BRODERICK. You may proceed.

DELEGATE LEINBACH. As far as I can see into the future and considerably beyond that, I envision an ever-changing world which will continue to grow more complex and more challenging.

The challenge to improve everything under the sun cannot be ignored if we are to continue to move forward. The challenge to improve government is the facet with which we are now primarily concerned and particularly government throughout the great Commonwealth of Pennsylvania.

A distinguished House leader recently said, you have complained about the size and workability of the House and alluded to their propensity for running errands for the folks back home and pursuing local projects rather than the broad objectives of the State. My answer to you is that you, the voters, must carry part of the burden of this. Send us broad-gauged men and women and the results will be broad-gauged.

As I see it, our hope for a broad-gauged future lies in the vigorous and talented young men and women who are serving so valiantly as delegates to this historic Constitutional Convention and their many counterparts throughout the Keystone State. These younger delegates have striven mightily and effectively and by their statesmanship have breathed new life into our standing committee proposals. They have listened intently to the voice of experience and, as a result, have broadened their perspectives. They have been wise enough to permit their elders to season and temper their efforts. We are proud of them and of their refreshing and knowledgeable approaches to and their capacity for helping solve our knotty problems. Truly they are ready and able to tackle and solve the more complex problems that are bound to follow.

I envision a Constitution that will provide the incentives that will induce these wonderful young Pennsylvanians to enter the legislative halls of our Commonwealth, there to make the same powerful impact that they are making in this Constitutional Convention. I am confident that they will not be the tools of, or be dependent upon, any selfish interests and that they will be much less likely to be dominated by a handful of political leaders. The challenge is quite clear. We must make it financially worth their while to become full-time legislators. We must provide them with administrative assistants and clerks to help them with the details concerning the problems with which they will be wrestling as time marches on. This is not an economy move. Better government will amply justify this cost.

One of our vigorous young House members, a freshman, I believe, attended the public hearings and gave us much food for thought. He told us about a recent seminar in Florida which he had attended and which drew promi-

nent legislators from across the Nation. There was a unanimity of opinion that a State House of Representatives the size of Pennsylvania could not continue to function effectively.

In our State and in all the states, fewer and fewer farmers have been raising more and more agricultural products. I wish we could get some of that spirit into our House of Representatives.

Fellow delegates, I urge you to reduce the size of the House of Representatives so that we can encourage our outstanding younger citizens to consider becoming full-time legislators.

Mr. President, should this amendment pass, we would later propose an addendum of our recommendations indicating our intent.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Leinbach.

The Chair recognizes Delegate Markley.

DELEGATE MARKLEY. Mr. President, since I am retiring from the General Assembly, I have no personal interest in the number of Representatives in the House or the size of any legislative district. I speak as a free agent interested only in the welfare of this Commonwealth.

During my term of office in the legislature, commencing since 1951, we have on two different occasions reapportioned the House of Representatives. I do not know how many people are aware of that. Most people feel that we have not done anything since 1873.

The Committee for Economic Development has said as a general rule that the size of state legislatures should be reduced. This may be wise for some or even a majority of the states, but like all general rules, it should not be applied where in an individual case it does not seem to fit.

The Constitutional Convention of 1873, in its wisdom, concluded that membership of the House of Representatives should approximate 200. This is deemed necessary to assure adequate representation for Pennsylvania's 3.5 million with their varied backgrounds, with their diverse occupations and economic interests, living in wholly different geographic surroundings. Pennsylvania does not fit the Committee on Economic Development's general rule. The reasons which persuaded the 1873 Convention are even more valid today to serve the Commonwealth's more than 11 million citizens. Even the Citizens for Economic Development 1967 Report states, and I quote: "Ideally each state should adapt its legislative institutions to its own problems and situations." On another page, and I quote from this report of Citizens for Economic Development, "Legislative districts should be closely related to local interests."

Political scientists have long been concerned that large portions of voting population are without suitable representation where a small majority determines the result of the election and the large minority must depend for representation upon persons for whom they did not vote and with whose views they did not agree. If the number of House members is reduced, the districts will be larger and minorities now represented will be denied a voice in the law-making process.

It is of significance that the Woodside Commission did not see fit to recommend reduction of the House membership, nor did the Pennsylvania Bar Association, in its 1967 report. Reapportionment of states' legislatures is a matter

of delicate legal concern, and we would do well to stay within bounds which have been found to satisfy Federal constitutional standards. The Bar Association report states that the 203 House membership elected in separate legislative districts clearly conforms to the rule of Baker versus Carr and the other cases subsequently decided by the Supreme Court of the United States on the same subject.

The judgment of the 1873 Convention, the conclusion of the Woodside Commission, the recommendation of the Pennsylvania Bar Association, and my own experience in these legislative halls are more persuasive than the voices of those who merely say that change is an improvement.

PRESIDENT BRODERICK. Thank you, Delegate Markley.

The Chair recognizes Delegate Buck.

DELEGATE BUCK. Mr. President, fellow delegates, with your indulgence I would like to speak in support of the amendment that will reduce the size of the House from 203 members to not more than 151 members, not because I think that the legislature is either inefficient, inept, or because I wish to take our representatives farther away from the people, but my reason is principally based upon the fact that the proposal affords the people of our State, not only a clear choice of alternatives, but an opportunity for change. It also complies with our mandate from the people. They approved the calling of the Constitutional Convention for the purpose, if I may paraphrase what appeared on the ballot, of receiving proposals from this Convention dealing with the revision of certain articles in our Constitution.

Committee Proposal No. 1, leaving the House with 203 members offers to the electorate neither the revision nor the choice of alternatives. If the voters approve the proposal for 203 House members, or if they disapprove the proposal; in fact, if no proposal is submitted at all dealing with the size of the House, the existing provision remains in effect. It is, therefore, obvious, that the committee proposal offers a meaningless choice. On the other hand, if a proposal is submitted to the people reducing the number of House members to not more than 151 and the people of Pennsylvania approve it, a revision and change does take place. If the proposal is disapproved, the size of the House remains as presently constituted. In either event the electorate has expressed its will on a vital constitutional subject after a consideration of alternatives and after it has had an opportunity to consider all of the fine arguments that have been made in this assembly by those who advocate Committee Proposal No. 1 and those who advocate the proposal introduced by Delegate Gouger.

Certainly a reduction in the size of the House to 151 members will make a substantial sum available in savings from salaries and expense allowances alone and, as has already been pointed out, those savings can be used to improve legislative salaries, to facilitate stronger staffing and would promote better government. Fewer members will permit more individual participation and afford greater flexibility and in some degree increase the importance of the office and attract greater numbers of strong members to the legislative field.

The basis of representation in the House would still be considerably less than that in the two States whose population is larger than Pennsylvania, namely, California with one House member for approximately 200,000 persons, and New York with one House member for approximately

150,000 persons. In Ohio, with a population of approximately 10,000,000, the ratio is one House member for approximately 100,000 persons.

I recognize that what may be good for California, New York or Ohio, may have no probative value in the State of Pennsylvania. Nonetheless, our responsibility as delegates to this Constitutional Convention requires that we afford the electorate a meaningful choice in regard to the composition of the most important branch of state government that the people have an opportunity to decide whether they wish to retain or reduce the present size of the House. A proposal reducing the size of the House to not more than 151 members discharges that responsibility. It complies with the mandate for the submission of a proposal calling for revision.

I, therefore, urge that you support the reduction in the size of the House to not more than 151 members, and thereby permit the people of Pennsylvania to make a change in the membership of the legislature if they conclude that such a change is essential to the welfare and prosperity of our State.

We certainly have nothing to fear from the people, the source of all of our authority, and I am confident that there exists among all Pennsylvanians, in considering constitutional change, a sense of Commonwealth purpose that transcends political or regional interests. I also have every confidence that the delegates to this Convention are worthy of their tasks and are ready to challenge the people of Pennsylvania with a meaningful proposal dealing with the size of the legislature.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Buck. Is there anyone who wishes to speak against?

The Chair recognizes the delegate from Philadelphia, Delegate McGlynn.

DELEGATE MCGLYNN. Thank you, Mr. President.

I will not reiterate all the positions taken by the proponents and opponents of the number of 203. I am for Proposal No. 1 as it came out of committee.

As I understand it, part of this position taken by the opponents of number 203 is that a reduction would make the legislature, the reduced legislature, a more efficient body and a more qualified body, supposedly by increasing salary, thereby attracting more qualified personnel, by increasing staffs and by increasing working and research facilities. I gather this will be done with the money saved by reduction.

I think we are all aware of the problems our legislators face in serving Pennsylvania. I would hope that this body accepts the number 203, and if the people accept it in April, I hope the legislature will consider it a mandate to provide for salary increases, to provide for adequate staff and provide for work and research facilities for the members of the House of Representatives.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate McGlynn.

The Chair recognizes the delegate from Lackawanna, Delegate Casey, for the amendment.

DELEGATE CASEY. I rise to speak in favor of the amendment, Mr. President and members of the Convention.

I realize that the hour is late and that there are those in this chamber who wish to proceed to a vote. It seems

to me the issue that we face here is an important issue, a broad-gauged issue, one I suggest that transcends the question of shall there be 203 or shall there be 150 or some lesser number.

To me the broader issues involved in this vote are twofold

The first one is whether or not this Convention will lend its voice to the cause of legislative reform in Pennsylvania in the year 1968 and in the years that lie ahead of us.

It is a cause, I submit, that members of the legislature themselves have recognized in very specific, explicit terms and one deserving the attention of all of us.

The second question which is inherent in this vote—and I believe that the fact that we confront this issue first is symbolic because there are many countless thousands of people in this State who have taken the position that this Convention will not be productive. There are some who are hoping it will fail; there are many who are predicting it will fail. You have met them; I have met them on the streets; their cynicism in some cases, their skepticism in many other cases is quite apparent.

I fear very much that an affirmative vote on this particular issue is going to be interpreted by the people of this Commonwealth as a readjustment in a matter of detail; it is going to be interpreted as an endorsement of the present system without, I submit, cogent reasons having been presented to this Convention for endorsing the present system. I fear that it will color the deliberations of this Convention in the days that lie ahead of us.

So for this reason I rise at this time without apologies for the lateness of the hour, because I believe the issue here is a far-reaching issue; it is an issue which concerns all of us and that is the fundamental issue of the extent to which the legislative body of government in Pennsylvania will be responsive to the needs of the people in the years ahead.

There has been great comment here today that those who want to reduce the size of the legislature are speaking from the standpoint of cold and unrealistic theory. Well, I would like to speak from the vantage point of one who has served, although for only one term, in the Senate of Pennsylvania in favor of this amendment, because I am convinced that a smaller House will increase the ability of the individual legislator to be responsive to the needs of his constituents. I do not want to take legislators away from their constituents; I want to move them closer, but I submit, as many speakers here today have said, we have got to give them the tools that will permit them to move closer.

I do not believe that a reduction in its number will make the legislature a body only for the rich or place it beyond the scope of those of modest means. I do not dismiss lightly the countless studies that have been made by experts all across the country that say reduction is a good thing; reduction is in the public interest; reduction will mean more efficiency; reduction will mean a more responsive legislature. I do not dismiss them lightly, because I have studied them and I think they have substance and I weighed them in the light of my own experience in the Senate of Pennsylvania. I came from a district where I represented 234,000 people. Gentlemen, I say I could have done a better job if I had the staff and the facilities and the ability to be more responsive to the needs of my constituents.

I did the best that I could, as the members of this legislature do, but staff and the ability to research on matters of substance—they are not matters that go merely to the action—they go to the substance of what we are here to do.

This effort to reduce the membership of the House, therefore, has as its primary purpose the elevation and the dignity of the members of the General Assembly to permit them to take their rightful place where they belong in a democratic society.

It will make them more independent, I submit, of the executive on the one hand and the legislative leadership on the other, and this to my way of thinking is a desirable objective in the year 1968 in Pennsylvania. All of the writers who have commented on this, going back to the Federalist Papers and coming right on down through Senator George Norris of the state of Nebraska who was not a theorist, who was a man who believed in representative government in its purest form, these sources all agree that the ability of the House to function is directly proportionate to its size. Why, I ask you, if this amendment is so lacking in merit, why is it that so many members of the present House have spoken out in favor of reduction? Why is it that six members of the General Assembly issued a press release several weeks ago saying that this is a step forward in the direction of legislative reform? This will enable us to function better. This will enable us to serve our people better. I think it is extremely significant that the preponderance of statements that I have seen from the present membership of the House of Representatives is all in favor of reducing the membership in that body. For example, I have studied the witnesses who appeared before the hearings held by the Committee on Legislative Apportionment—Representative Worley, a Republican who served in this House, the Pennsylvania Democratic Study Committee, Representative Otto, Representative Kaufman, Representative Bonetto, Representative Lench—of varying political backgrounds, of varying constituencies in terms of rural versus urban, all agree that a reduction is a matter of substance and is not just window dressing, or is not change for the sake of change alone.

My experience in the Senate convinces me that there is validity to the conclusion that a smaller House would be more efficient and would not take the individual House member "away from the people," although that term has been variously defined in the deliberations here this afternoon.

A reduction to 150 in that neighborhood, and I submit that with the sliding scale inherent in this amendment that this is about where the number is going to result in practice. A reduction of that number would mean a constituency of about 73,000. I am using rough terms as compared with one now of about 56,000.

So I say to all of you and to myself that we have got to search our consciences very carefully on this particular vote because it is a vote that is going to set the tone for the entire Convention in my opinion.

I did not come here, and I do not think the people sent us here to preserve the status quo in Pennsylvania unless there is good and cogent reason for preserving the status quo. And I submit that good and cogent reason has not been demonstrated on the floor of this Convention in opposition to this amendment. Therefore I rise in support of the amendment.

PRESIDENT BRODERICK. Delegate Hook, do you wish to be heard as speaking against the amendment?

DELEGATE HOOK. I do, Mr. President.

PRESIDENT BRODERICK. You may proceed.

DELEGATE HOOK. Mr. President, members of the Convention, I rise against the amendment. I think we see an example today of one of the reasons why this Convention should have been open. I mention that because of the fact that in the beginning there was presented to this group a proposal on a unicameral legislature; also a proposal that the length of time of the General Assembly be kept at 180 days. Therefore I think that we have something that we can sell to the people in Pennsylvania if a recall is ever done for a Constitutional Convention where—by we cannot only consider legislative apportionment—that is, composition—but we can also take up the matter pertaining to the legislature itself. These two seem to me to run hand in hand. At this time I believe our hands are tied on this matter and, knowing this, these proposals that were made were rightfully ruled out for the floor in the beginning.

Some of the major things that occurred in 1967 which brought the newspapers throughout the State to view the legislature in bad omen were the different things which occurred throughout the year, and in these matters the legislature received a black eye. While I was home at Christmas time I heard the "Ev and Charlie" program from Washington, D. C., and one of their principal statements was that the 90th Congress was a good Congress because the President of the United States did not have a rubber stamp in his General Assembly or his Congress. I think that in 1967 it is also true that the members of the legislature served as a balance against the executive powers of the government and, therefore, served in their capacity, and that is what matters.

Our forefathers came to this country from England, and they came here for a reason. They came here to have freedom and freedom of speech, and to give to one another the manner of government they wanted. In 1776 we had the Declaration of Independence, and in 1787 we had our first Constitution, which existed for years to come. In 1873 the Pennsylvania Constitutional Convention met and determined that the Constitution should be on the basis of 200 in the General Assembly, and this stayed in existence for years. I see nothing that has been offered here today by any delegate speaking to give me any incentive to change my stand. I admit that I come from a rural area like Delegate Scales' area. I came in with dust on my feet, but at the same time we came in here prepared to fight for what we think is right for the people.

If you look at the State of Pennsylvania, we do have a rather large State and a unique State, in that in certain areas the growth is tremendous. This is the reason why our present Constitution is out of line and the Supreme Court has ruled, in *Baker versus Carr*, that it should be reapportioned.

I say to you, Mr. President, and the delegates here, I campaigned in 1967, as did Bob Casey and Governor Scranton and other people here, for the call of this Convention. But at no time did I speak on the composition of the legislature, nor did I have any questions raised to me by any voter of this State in the area that I went into and campaigned.

Our major things, and I agree with Delegate Fohl that the things which we have to come later are much more

important to the people. The judiciary, the local government and the taxation problems are tremendous and I feel to spend time on this is only taking up the time needed for these other valuable proposals. Therefore, I will now sit down.

PRESIDENT BRODERICK. Thank you, Delegate Hook.

POINT OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, several delegates have asked me what the status is right now, and I want to ask some short questions so that this will be clarified.

There is at present an amendment to a proposal. If that amendment should fail, would it be in order for other amendments to be made to the proposal?

PRESIDENT BRODERICK. Yes.

SECRETARY MICHENER. I have no further questions.

PRESIDENT BRODERICK. In order to close, the Chair recognizes Delegate Gouger.

DELEGATE GOUGER. Mr. President, I promised you I would make it brief. As a matter of fact, my wife is in the back of the room and for the last 30 minutes she has been giving that long-recognized signal: Make it short. So I have two reasons for making it short.

Ladies and gentlemen of the Convention, you have heard men and women give logical and I hope persuasive reasons in support of amendment No. 2 to Proposal No. 1. I shall not summarize the main thesis of our presentations as I had planned to do. As delegates, the dignity of your office calls for you, as individuals, to pass judgments on proposed changes in our Constitution, and I emphasize "as individuals." Your judgments are distilled from facts as God gives us the wisdom to recognize them and they should be tested by only one criteria: What is best for the people of Pennsylvania.

I mention the dignity of your position because when we came here as men and women of high purpose, dedicated to the concept of this Convention that our Constitution, in the interest of all the people of Pennsylvania, needs meaningful changes, not status quo concepts.

When we convened this historic Convention, we were extolled by famous educators, jurists, ministers, as well as past and present men of our political hierarchy. We were called, and I quote: "Men chosen by the people in whom they had confidence;" "Men with a rendezvous with history;" "Men by whose wisdom and courage the great Commonwealth of Pennsylvania would be better equipped to deal with the 20th and the 21st Century."

We were told that we would be relied upon to selflessly and unselfishly serve our State above all else. Then upon our breast was pinned a gold medal bearing the proud seal of our Commonwealth that all might know and identify us as people engaged in this noble endeavor. We took this symbolic badge with firm resolution and we have worn it with pride. I call upon you today to wear it with distinction.

For this Convention stands today in the stark white light of public judgment. It matters not what we say here today—to paraphrase a very famous man—but it does matter what we do here today, because it will be forever engraved in the history of our Commonwealth. There will be engraved that we are men and women of morality and high purpose willing to subordinate personal

interests, party interests and special interests of all kinds to the higher purpose of serving our fellowmen; or, our sons and the sons of our sons may read someday with dismay that we failed at the first hurdle.

Delegate Buck has set forth, I think, the fundamental concept and the only one on which I shall comment, and that is, we were mandated to come here and to make recommendations for changes—and I repeat “changes”—meaningful changes in our State Constitution. Now we are asked to adopt a proposal that says to the people: We give you no choice; we recommend the status quo. If the people vote yes, we have the status quo. If the people vote no, we have the status quo. What a sad reflection, my fellow delegates, we would cast upon the inalienable right of the people to judge and upon their ability to judge. If we recommend a change in the size of the legislative branch, the people will have a choice. If they find our recommendations unacceptable, they can simply vote them down. If they find them acceptable, they may simply vote in the affirmative, and so it will be. While this is in less eloquent terms than the detailed presentations you have heard, I submit to you, ladies and gentlemen, this summary of our reasoning on this vital subject.

We have, however, another reason for giving sober, unselfish and prayerful consideration to this amendment, not only upon its merits, but upon its implications. Proposal No. 1 will be symbolic to the people of Pennsylvania. Make no mistake about it. They are watching; they are listening. They are prepared to believe that we are men and women above petty partisanship or selfish consideration. If this, the first proposal of this Convention, is a do-nothing status quo recommendation, and if, in effect, we say to them that we failed to take our first hurdle, then we shall damage something basic to the very preservation of constitutional government—confidence of the people in the goodness of men, confidence in their integrity. A great political observer in recent years said that if we damage the people's confidence in constitutional government, we shall do irreparable damage to democracy.

By these very words I may have confirmed the charges that have been hurled against many of us who have spoken for this proposal, that we are amateurs, idealists, dreamers and do-gooders. We accept these charges. When men lose their ideals, they have lost any chance for immortality. When men cease to dream, then the tomorrows become a mockery. Men can only scale the heights by first dreaming. I do not think goodness needs a defense.

We submit, however, we amateurs, that in the world of management and in the direction of people, in the effective utilization of the talents of people, and in meeting needs of people, there are those backing this amendment who can point with some pride to proven skill and experience in this area. And what we deal with here is just basically that, the effective administration and utilization of the skills in people.

In conclusion, Mr. President and fellow delegates, we call upon you to join us on the high, clean plane of fidelity. We call upon you to record your names in the history of this great Convention as men and women of high purpose. We call upon you to add lustre to the badge that you proudly wear, symbol of a great State, conceived in noble purpose, nurtured by men of morality and now to be preserved and carried forward by men and women of judgment and courage.

Thank you, Mr. President.

QUESTION OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup. For what purpose does the delegate rise?

DELEGATE STROUP. Mr. President, I rise to a question of personal privilege and question of information.

PRESIDENT BRODERICK. The delegate will state it.

DELEGATE STROUP. Is it my understanding, Mr. President, that there would be the possibility of another amendment being offered after the vote on this amendment?

PRESIDENT BRODERICK. Yes. There is always a possibility of another amendment being offered after the vote on this amendment.

DELEGATE STROUP. Thank you, Mr. President.

POINT OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. I, too, would like to rise to a point of information.

If I understand correctly, we are not voting on the marvelous arguments and oratory that were made here today. We are voting on what is written on this piece of paper which has been offered as an amendment. Is that correct?

PRESIDENT BRODERICK. That is correct.

DELEGATE O'DONNELL. If I read what is written correctly, it says that the General Assembly shall divide the State into representative districts. I understood through my fellow Delegate Curran from the 26th Senatorial District that an explanation had been given to him at sidebar, as it were, by committee counsel that does not mean apportion the State. But I find it impossible to comprehend how that decision was reached. Could I have an explanation?

PRESIDENT BRODERICK. Would you state your question briefly?

DELEGATE O'DONNELL. Yes, sir. The proposal reads: The General Assembly shall divide the State into representative districts. Does that not mean apportion the State and fix the districts?

PRESIDENT BRODERICK. No, the Chair through the opinion of counsel has recognized that that is not so. If you read on down, I think it clarifies itself as already explained by Delegate Gouger when he was interrogated by Delegate Curran.

PRESIDENT BRODERICK. The debate having been closed, we are ready for the question.

On the question,

Will the Convention agree to the amendment offered by Delegate Gouger?

The voting machine will be unlocked and those voting “aye” will vote to support the amendment. Those voting “nay” are voting against the amendment.

The roll was recorded as follows:

YEAS—40

Baldus	Cosetti	Leimbach	Ruth
Brennan	Cunningham	Manderno	Scott
Brown	Dumbauld	McGeary	Shettig
Buck	Feather	Michael	Sprogett
Bunting	Gerber	Michener	Stout
Burkholder	Gouger	Miller, R.	Swope
Caputo	Gray	Otto	Tate
Caron	Henderson	Pelleher	Tomascik
Casey	Johnson	Popl	Thorburgh
Conley	Kelly	Roberts	Welsh

NAYS—103

Aberman	Fagan	Krill	Rappaport
Allison	Fawcett	Laputka	Redick
Amsterdam	Fay	Leach	Reynolds
Aurentz	Filson	Lee, K.	Richter
Bagenstose	Fleming	Lee, L.	Rovner
Baldrige	Fohl	Leonard	Sahli
Baldwin	Forster	Levin	Scales
Barron	Fortney	Mangery	Scarlett
Bashoff	Gehrlein	Markley	Scranton
Benedict	Goldman	Mattioni	Shapiro
Benfield	Goldstein	McGlynn	Shively
Braham	Griffith	Meyer	Shoemaker
Broderick	Hannum	Miller, D.	Solomon
Butera	Harding	Moorhead	Strickler
Cain	Hatter	More	Stroup
Camardella	Heyburn	Morton	Thomson
Clark	Himes	Murray	Tully
Corey	Hocker	Nelson	Van Sant
Cortese	Hook	O'Donnell	Waldron
Croop	Irvs	Orban	Westerberg
Curran	Jrolanio	Orbin	Whittum
Dailey	Kauffman	Pasquerilla	Wilcox
Desmond	Keller, J.	Pott	Wilmarth
Devlin	Keller, M.	Powell	Woodring
Donaldson	King	Prendergast	Woodside
Erwin	Kline	Quiles	

NOT VOTING—20

Banes	Freeman	Lane	Sebastian
Barry	Gabreski	Musselman	Sharp
Bloom	Horne	Pechan	Shrager
Clinger	Hosteller	Percey	Silverman
Donolow	Huggins	Rea	Warman

The majority having voted in the negative, the question was determined in the negative, and the amendment was not agreed to.

MOTION TO RECESS

PRESIDENT BRODERICK. The Chair recognizes the delegate from Dauphin, Delegate Hocker.

DELEGATE HOCKER. Mr. President, I have an amendment to the proposal. Am I in order or are we going to chow down and then go at it?

PRESIDENT BRODERICK. You are in order unless the Chair hears over your voice a motion that we recess or adjourn.

DELEGATE HOCKER. I make a motion that we recess for dinner and then come back.

DELEGATE IRVIS. Mr. President, would you ask the delegate to yield the floor for a moment?

PRESIDENT BRODERICK. Delegate Hocker, would you yield to Delegate Irvis?

DELEGATE HOCKER. I shall, Mr. President. I always have. Your slightest wish is my command, leader.

DELEGATE IRVIS. It never was that way when he served on the floor of the House.

PRESIDENT BRODERICK. The Chair recognizes Delegate Irvis.

MOTION TO ADJOURN

DELEGATE IRVIS. Mr. President, I suspect that there are others on this floor who are as tired as I, and there must be some who are more tired, who have indulged in this long debate. I would suggest that there are at least two and possibly five other amendments to be offered to this proposal. I also suggest if we were to adjourn now and come back tomorrow morning, nothing would be lost and we would have gained some time to rest and think.

I therefore move, Mr. President, that the Constitutional Convention hereby adjourn until 9:30 a.m., e.s.t., February 6, 1968.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Shrager.

DELEGATE SHRAGER. My vote did not register although I voted "nay."

PRESIDENT BRODERICK. The gentleman will be so recorded. We will check the roll call.

COMMITTEE MEETING

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President, two questions. Might there be any committee announcements before we adjourn? Two, I wonder who Delegate Ritter is? Do we have a Delegate Ritter?

PRESIDENT BRODERICK. Richter.

The chairman and subchairman of the Taxation and State Finance Committee would like to have a meeting tonight at 8:30 p.m.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Irvis for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE IRVIS. Mr. President, I move that this Convention do now adjourn until Tuesday, February 6, 1968, at 9:30 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Irvis and seconded by Delegate Gray that this Convention do now adjourn until Tuesday, February 6, 1968, at 9:30 a.m., e.s.t.

The motion was agreed to and (at 6:19 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Tuesday, February 6, 1968

Number 37

The Convention was called to order at 9:30 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND T. DONALD HAMILTON, Pastor of the New Bethlehem First Presbyterian Church of New Bethlehem, Pennsylvania, offered the following prayer:

Let us pray: Eternal God, Who moves and works in the political affairs of men, we ask Thy blessing upon this Constitutional Convention to continue in their midst. Let Thy light shine upon them. Give them the needed strength to complete their work; the needed wisdom to separate the meaningful from the miscellaneous; the needed courage to believe in what is essential for our Commonwealth, regardless of countless pressures; the needed humility to permit the expression of thought, rather than self, and the ability to measure their words by value, rather than volume.

We appreciate, O God, the sacrifices made by these constitutional delegates as they continue their faithful work for our Commonwealth. Be with them and be their God. Through Jesus Christ, our Lord. Amen.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. There are no Journals to be approved this morning.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following delegates have made requests for leaves of absence:

The delegate from the 44th District, DELEGATE MORTON, for February 7, on account of business;

The delegate from the 45th District, DELEGATE BARRY, for February 2 and 5, on account of business;

The delegate from the 22nd District, DELEGATE SCRANTON, for February 12, on account of business.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

ANNOUNCEMENT BY SECRETARY MICHENER

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. I have a letter from our esteemed and hard-working co-chairman of the Judiciary Committee, who requests permission of this delegation to be absent on February 12.

I realize it would be improper for me to point out that February 12 is Lincoln's birthday, the day of great feasting and celebration, so I will not do that. But I will say that more than half of the membership of this body wishes the Governor Godspeed on his venture on February 12.

QUORUM CALL

PRESIDENT BRODERICK. We will now call the roll for the purpose of determining a quorum. The delegates will please record their presence by voting "aye."

The roll was recorded as follows:

Aberman	Desmond	Kelly	Redick
Amsterdam	Devlin	King	Reynolds
Aurentz	Donaldson	Krill	Richter
Bagenstose	Dumbauld	Laputka	Roberts
Baldrige	Erwin	Leach	Rovner
Baldus	Fagan	Lee, L.	Sahh
Baldwin	Fawcett	Leinbach	Scales
Banes	Fay	Levin	Scarlett
Barron	Feather	Manderino	Scott
Barry	Filson	Mangery	Sebastian
Bashoff	Fleming	Mattioni	Shapiro
Benedict	Fohl	McGeary	Shettig
Bloom	Forster	McGlynn	Shively
Braham	Forney	Michael	Shoemaker
Brennan	Gabreski	Michener	Shrager
Broderick	Gehrlein	Miller, D.	Silverman
Brown	Gerber	Miller, R.	Solomon
Buck	Goldman	Moorhead	Sprogel
Bunting	Goldstein	Morton	Stout
Burkholder	Gouger	Musselman	Strickler
Cain	Griffith	Nelson	Stroup
Camardella	Hannum	O'Donnell	Swope
Caputo	Harding	Orban	Tate
Caron	Hatter	Orbin	Thornburgh
Casey	Henderson	Otto	Tomascik
Clark	Himes	Pelletier	Tully
Clinger	Hocker	Percey	Van Sant
Conley	Hook	Popil	Waldron
Corey	Horne	Pott	Welsh
Cortese	Iris	Powell	Westerberg
Cosetti	Jirolanio	Prendergast	Whittum
Croop	Johnson	Quiles	Wilcox
Cunningham	Kauffman	Rappaport	Wiltmarth
Curran	Keller, J.	Rea	Woodring
Dalley	Keller, M.		

PRESIDENT BRODERICK. The electric roll call tabulator indicates there are 138 delegates present, which constitute a quorum.

The Chair also notes the presence of the following delegates:

Allison	Leonard	Pasquerilla	Scranton
Butera	Meyer	Pechan	Sharp
Gray	More	Ruth	Woodside
Kline	Murray		

INTRODUCTION OF COMMITTEE PROPOSALS

PRESIDENT BRODERICK. The next order of business would be the introduction of committee proposals but this part of our work has been completed.

DELEGATE'S PRESENCE NOTED

PRESIDENT BRODERICK. The Chair recognizes the delegate from Montgomery, Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, will you kindly record the presence of the eminent co-chairman of the Judiciary Committee, who was too exhausted from the completion of his article to register his presence?

RESOLUTIONS

PRESIDENT BRODERICK. The next order of business is resolutions.

Do we have any resolutions to come before the Convention this morning?

The Chair recognizes Delegate Roberts.

DELEGATE ROBERTS. Mr. President, it is with a feeling of sorrow that Lewis Lee and myself announce the death of Mrs. Mame C. Wilmarth, who is the mother of fellow Delegate Walter F. Wilmarth of the 20th Senatorial District. Mrs. Wilmarth had been ill for the past several years.

I move that the members of this Convention for constitutional revision do hereby express their sympathy and compassion to our fellow delegate on this occasion of great loss for him.

Mr. President, I offer the following resolution:

In the Constitutional Convention, February 6, 1968.

The Constitutional Convention of Pennsylvania notes with sadness the passing away of Mrs. Mame C. Wilmarth, the mother of Delegate Walter F. Wilmarth, on Tuesday, January 30, 1968.

Mrs. Mame C. Wilmarth was born on August 7, 1881 at Hartford, Pennsylvania. She was married on September 7, 1904 to Lew E. Wilmarth and enjoyed a full and rewarding life.

In addition to her son, she is survived by a daughter, Ruth H. Giles, five grandchildren and four great-grandchildren; therefore be it

RESOLVED, That the Constitutional Convention of the Commonwealth of Pennsylvania hereby extends its condolences to Delegate Walter F. Wilmarth and his family.

LEWIS B. LEE
JOHN N. ROBERTS.

PRESIDENT BRODERICK. I am sure that I express the feeling of all my fellow delegates when I say that we are deeply sympathetic to Delegate Wilmarth on the death of his mother.

On the question,
Will the Convention agree to the resolution?
It was agreed to.

PRESIDENT BRODERICK. The resolution is unanimously adopted. The Chair is requesting that a copy of the resolution be sent to Delegate Wilmarth.

CALENDAR**COMMITTEE PROPOSAL ON SECOND CONSIDERATION**

Agreeable to order,
The Convention proceeded to the second consideration
Committee Proposal No. 1, Printer's No. 1, entitled:

A Proposal amending the Constitution of Pennsylvania providing for apportionment of legislative districts.

PRESIDENT BRODERICK. Today on the calendar we are still on Proposal No. 1, printer's No. 1. Let me say that unless the Chair hears some objection, we shall continue on the basis of Delegate Fagan's motion of yesterday, that we first consider, debate and amend Section 17 of the committee proposal that is Proposal No. 1, and then we shall take up the second portion of that section, which is Section 18.

Before proceeding, I would like to point out that the Chair regrets the delay we had yesterday in connection with the amendment that was offered by Delegate Roberts. I want to explain that that delay was due to Delegate Roberts' desire to amend the amendment and his amendment was not in the proper form; it was in the form of an amendment to a proposal.

PREPARATION OF AMENDMENTS

The Chair wishes this to be made clear: Hereafter, whenever any amendment is offered, if the amendment is not in proper form, we will proceed until the delegate has his amendment in proper form. In other words, the Chair will be required to return the amendment if it is not properly prepared.

In order to expedite the preparation of an amendment or an amendment to an amendment, the Convention Drafting Bureau will have available for your help, a representative sitting right over here next to the press to my right. They will aid you in preparing a quick amendment if one should be desired.

One other thought that will aid us in expediting the work of the Convention: All amendments should, insofar as is practicable and possible, be delivered to John Ingram prior to the session, in order that they may be reproduced for the purpose of having them distributed when that amendment is offered.

SUGGESTIONS FOR EXPEDITING PROCEDURE

PRESIDENT BRODERICK. The Chair recognizes Delegate Strickler.

DELEGATE STRICKLER. Mr. President, just a few remarks in connection with the calendar. Everyone knows that for the next three or four weeks we are going to have long hours of considering proposals, amendments and debate thereon.

From my experience as a member of the House of Representatives and later as Lieutenant Governor and President of the Senate for four years, I have made some observations.

May I advisedly make a few suggestions for moving along a little faster:

First, leaders in favor of proposals, as well as those opposed, who are for or against amendments marshal their forces and agree on a limited number of spokesmen.

Second, avoid repetition.

Third, so as not to keep anyone for or against a proposal from speaking, have those not chosen to speak at length simply rise and endorse what one or more of the selected speakers formerly said.

Fourth, this will expedite the procedures, although I realize that it is difficult to know in advance all those who are for or against changes.

Fifth, these suggestions should not in any way prevent delegates whose positions are not known in advance from speaking at length within the time limit under the rules.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Strickler. Personally, the Chair thinks they are excellent suggestions.

I want to say that the Chair would appreciate your co-operation from now on in expediting debate. We do not wish to curtail anyone or cut anyone off who wishes to speak, but I do think that we can make our speeches shorter and faster and get to a vote a lot quicker. If we do that, our Rules Committee is not going to be required to pass drastic rules which in the last days of this Convention may inhibit us in some way.

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes Delegate Barron.

DELEGATE BARRON. Mr President, just briefly I have a point of order.

As I believe most of the delegates are aware, yesterday afternoon, after hearing about three hours of debate on a proposed amendment, this delegate thought he had divined the feeling of this Convention and moved the unfortunate words "previous question."

Following this the delegate thought a current of approval, I might say, ran through the House. Alas, the current was promptly short-circuited by you, Mr. President, and I suggest quite properly so. Nonetheless, a seeming current of approbation turned in a flash to the lightning of opprobrium of this body.

I would, therefore, before pressing on, advise the Convention that I had no intention of using a laser beam when something less powerful would do. The purpose was limited to seeking a vote on the amendment then on the floor.

My point of order is this: Do I understand that a subtle but sharp distinction is to be drawn between moving the previous question and moving merely the question, or is this Convention limited to imploring limitation of debate as the sole means of demanding a vote on an issue raised as an amendment or as an amendment to an amendment of a proposal? This point is no challenge to the Chair whose ruling was correct under the rules and this delegate erred in the procedure to carry out his desire. However, Mr. President, I am well aware, as has been expressed, that there are 21 days left if Saturdays are included for our deliberations. I expect and I full well realize we shall rise sine die on February 29. I hope to rise cum opus magnum on that same day.

I, therefore, ask, Mr. President, for a clear-cut expression from the Chair of what it takes at the end of three hours' limitation of debate to bring the matter to a vote.

PRESIDENT BRODERICK. First of all, the Chair wishes to repeat that debate on the proposal is limited under our rules to three hours. Each speaker, when we are debating a proposal under our rules, is limited to 15 minutes. When we are debating an amendment, there is no overall limitation, but each speaker, in connection with an amendment or an amendment to an amendment is limited to 10 minutes.

The House of Delegates at any time, if a motion is made, can limit debate on any particular amendment just as it is limited, for instance, in the rules, so that your pro-

posal yesterday, if it had been in the form of a motion to limit the debate on the amendment we were then debating, we will say to X number of minutes more or X number of hours, would have been in order and we would have voted on it.

I just want this body to know that when we are in the process of debating amendments, we can set our own ground rules as to that particular amendment and say that the debate on this amendment will be limited to X number of minutes, X number of hours or to a certain time.

I hope I have answered your questions.

DELEGATE BARRON. Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you. I want to say again that I think all of us have the same desire, and that is, to expedite the handling of the business of the Convention. If each in his own individual determination will make an effort to be short and concise, we will move along pretty well without any stringent rules.

HOCKER AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes the delegate from Dauphin, Delegate Hocker.

DELEGATE HOCKER. Mr. President, I want to present an amendment to Committee Proposal No. 1.

On the question.

Will the Convention agree to the proposal on second consideration?

DELEGATE HOCKER offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, line 15, by striking out "two hundred three"

Amend Sec. 1 (Sec. 17), page 2, line 16, by inserting after "territory": , each such district having a population of sixty thousand persons, or

Amend Sec. 1 (Sec. 17), page 2, line 16, by inserting after "equal" thereto

Amend Sec. 1 (Sec. 17), page 2, line 17, by inserting after "each" such

Amend Sec. 1 (Sec. 17), page 2, lines 19 and 20, by striking out "The representative ratio shall be as-" in line 19, and all of line 20.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. Delegate Hocker, before you start, may I ask if you have anyone other than yourself who wants to speak either for or against your amendment?

DELEGATE HOCKER. No, I am standing here all alone, Mr. President. I am sure some of them will jump in, but I have none planned.

PRESIDENT BRODERICK. You are a strong, brave man.

DELEGATE HOCKER. Only fools do this, I realize that.

Mr. President, I had this amendment drafted yesterday because I hate to see a fixed figure of any type as to numbers in a constitutional document. I personally think this is legislation and I think that we here must start to draw a line between legislating and writing a Constitution. If this is supposed to last for another 100 years—and I hope we are all here then to run again—maybe some of you will not want to, but I will be here and I will run again.

This is very simple. I might say before I start on this figure of 60,000, the way this House is set up today is by a mandate of the Supreme Court of the United States which said that one-man, one-vote must exist. After this ruling was made, and I was a member of this House then, we had the job of falling in line with that. As usually happens, no one wants to lose anything; no one wants to leave the House of Representatives, so we got into a quarrel which we could not straighten out.

The Supreme Court of Pennsylvania, on three occasions, said, if you do not do it, we will. We must abide by the Constitution of the United States.

So through political arguments of who was going to lose what, whether the Democrats were going to lose seats, or whether the Republicans were going to lose seats, we could not agree after many months of hard work and arbitration. We have a man here who is now an ex officio member, who is an elected member from Bucks County, Senator Keller, who handled this reapportionment deal, handled it well and spent many, many nights at it.

When the court did it, I was not too happy with it. I thought that the court had gotten into the political arena. Many of my friends were of the same opinion, that they set it up to take care of political parties. But it did not work that way. It worked the opposite from what all of us thought.

Today I think this House of Representatives at 203 members is a good operating House of Representatives. It is not an unwieldy thing. The people of Pennsylvania are being well represented if the Representatives so choose. Figures mean nothing unless a man wants to come here and work. For my 20 years in the House of Representatives, I represented all of Dauphin County outside of the city of Harrisburg, which was about 125,000 people. It was too big a territory; it was 60 miles long. Being an active legislator and trying to do what I felt was right for my constituents, I found that the days were not long enough, that I did not have enough envelopes to answer the mail and I did not have money enough to buy stamps to send them out because we were getting only \$1,500 a year at that time. Every man in this body had to look somewhere else for a living. But after the Supreme Court mandated and said that one-man, one-vote, the figure that they came up with, the bright, shining figure, was 58,000, give or take 15 per cent either way.

Ladies and gentlemen, this worked and it will work. People say the legislature stays in too long, and I disagree. I hate to see the day when you have a bunch of trained seals in these seats, that the front office sends word over that this is what they take and they take it. I hate to think of that day. If anything, I want more people in this body, more people who will argue with the front office or the department heads. A legislator is in a terrible position. First of all, the Governor makes the promises to be elected, then the department heads spend the money, and the legislators are only here for one reason, to get the money to operate the government of Pennsylvania. They are the men who have to put the taxes on. No one else can do it.

Ladies and gentlemen, I am going to make this very quick. I have come up with a figure of 60,000. If we lose population, the House will decrease. If we gain population, it will increase. It is not a fixed number. Some people say that this could go to 300 in years to come. Let me tell you something: If we have that population

explosion—and I disagree with them because I do not think people can afford to have big families any more with the tax structure that we have in the Federal Government and in Pennsylvania and all the other states. We are no different than anybody else. The day of people having eight or ten children and sending them through college is over because they positively cannot afford it, with the dollar that is left to them after the tax bite. If you want good representation, you stick with the 60,000 figure. A figure does not mean anything if a man does not want to work. You can give him 25 people and he will not work, or you can give him 200,000; it means nothing. But I say to you, if we go to 20 million, then your House, if you want representation back home, should go along with it. They should not be trained seals; they should be in here fighting, not for the guy in the front office, not for the department heads, but for you back home. They are your men here in Harrisburg, and if they do not do a good job, fire them.

PRESIDENT BRODERICK. Sorry to interrupt you, Delegate Hocker, but you have two minutes.

DELEGATE HOCKER. You ought to get a whistle and blow it like they do in the football games.

Thank you, Mr. President.

So I say to you, you have to make a decision, but do not cut the size of this House down. You are only abusing yourself and your people back home. Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio. Do you wish to speak against the amendment?

DELEGATE JIROLANIO. Yes.

PRESIDENT BRODERICK. You may proceed.

DELEGATE JIROLANIO. Mr. President, members of the Convention, I agree on one thing with Delegate Hocker and that is this: He agrees that the number of members of the House of Representatives in the Commonwealth today is a good and fair number. My only objection to his proposal is as follows: The figure of 60,000 is entirely too rigid. The population of Pennsylvania, according to the 1960 census, was 11,319,366. If you divide that by 60,000, you are going to come up with 188 members. The projected population, according to the figures of the Department of Commerce of the Commonwealth of Pennsylvania for the year of 1970 will be 12,262,862. If you divide that by 60,000, you will come up with a figure of 204. The committee proposal of 203 is very close to the figure of 204. I believe, because of the rigidity of the proposed amendment, we would be in serious trouble.

Let us assume that we would follow that particular figure. What would happen if you go into a district, or a division, or a ward and you could not actually come up with a figure of 60,000 but you would have come up with a figure, maybe, of 60,500 or 61,000? Where would the variance be? What would the courts construe? Would the courts construe it to mean exactly 60,000 or thereabouts, or would it construe the figure to be maybe 61,000 or 62,000?

Therefore, because of the rigidity of the language and the method in which it is put, I rise in opposition to the same.

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, having been a member of the House for four years, having been on the Reap-

portionment Committee of the House at one stage, I am somewhat familiar with the problems of reapportionment. I am also very well aware of the capabilities of Delegate Hocker, who is one of my favorite Representatives.

I would like to go one step further than the good Senator did with respect to the projection of the Pennsylvania State Planning Board on population. That figure in 1980 would be 13,596,000. And just so the delegates know what the jump would be from one ten-year period to another, there would be 23 additional members who would be added, based on the amendment that we have here today. So that, possibly, for every ten-year period thereafter, if the projection would stay approximately the same, you would be talking in terms of adding 23 additional members every 10-year period.

Therefore, I think that in line with my previous stand on reduction, I must oppose this tremendous increase in the size of the House.

DELEGATE HOCKER. Mr. President, I would just like to point out to Mr. Jrolanio that if he reads the language in here which is not stricken out, "The State shall be divided into two hundred three representative districts of compact and contiguous territory as nearly equal in population as practical," that would take care of the 15 per cent or 10 per cent variance that we had in the last reapportionment. The courts used a 15 per cent variance up or down, and this language in here, I am sure, would take care of the same thing. Let us vote, Mr. President, win, lose or draw.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Hocker?

The roll was recorded as follows:

YEAS—14

Barron	Himes	Lee, L.	Orbin
Brennan	Hocker	Levin	Seranton
Camardella	Hook	Orban	Wilmarth
Cozetti	Keller, M.		

NAYS—118

Aberman	Devlin	Krill	Richter
Amsterdam	Donaldson	Laputka	Roberts
Aurentz	Dumbauld	Leach	Rovner
Bagenstose	Elwin	Leinbach	Ruth
Baldrige	Fagan	Manderino	Sahl
Baldus	Fawcett	Matthou	Scales
Baldwin	Feather	McGeary	Scarlett
Banes	Filion	McGlynn	Scott
Barry	Fleming	Meyer	Sebastian
Bashoff	Fohl	Michael	Shapiro
Benedict	Forster	Michener	Shetig
Bloom	Fortney	Miller, D.	Shively
Braham	Gabreski	Miller, R.	Shoemaker
Broderick	Gehrlein	Moorhead	Shrager
Brown	Gerber	More	Silverman
Buck	Goldman	Morton	Solomon
Bunting	Goldstein	Murray	Stout
Burkholder	Gouger	Musselman	Strickler
Cain	Griffith	Nelson	Stroup
Caputo	Hannum	Otto	Swope
Caron	Harding	Pelletier	Tate
Casey	Hatter	Percey	Thornburgh
Clark	Henderson	Popil	Tomasick
Clinger	Horne	Pott	Tully
Conley	Irvin	Powell	Van Sant
Corey	Jrolanio	Prandergast	Waldron
Croop	Johnson	Rea	Welsh
Cunningham	Kauffman	Redick	Westerberg
Dalley	Keller, J.	Reynolds	Wilcox
Desmond	Kelly		

NOT VOTING—31

Allison	Gray	Leonard	Sharp
Benfield	Heyburn	Mangery	Sprogel

Butera
Cortese
Curran
Donolow
Fay
Fineman

Hostettler
Huggins
King
Kline
Lane
Lee, K.

Markley
O'Donnell
Paquerilla
Pechan
Quiles
Rappaport

Thomson
Warman
Whitlun
Woodring
Woodside

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

MICHAEL AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Michael.

DELEGATE MICHAEL. Mr. President, I move to amend committee Proposal No. 1 with the following Proposal for 151 delegates in the House of Representatives.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE MICHAEL offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, line 15, by striking out "The" and inserting: Prior to the year 1972, the

Amend Sec. 1 (Sec. 17), page 2, line 16, by inserting after "districts": and for the election of representatives beginning in the year 1972 and thereafter, the State shall be divided into one hundred fifty-one representative districts,

Amend Sec. 1 (Sec. 17), page 2, line 19, by inserting after "ratio": prior to the year 1972

Amend Sec. 1 (Sec. 17), page 2, line 20, by removing the period after "three" and inserting: and for the election of representatives for the year 1972 and thereafter by the number one hundred fifty-one.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. You may proceed with your statement, Delegate Michael.

DELEGATE MICHAEL. Mr. President, and fellow delegates, I think the issues were clearly drawn yesterday concerning keeping the House of Representatives at the present number of 203 or lowering the number. The only statement I wish to make in relation to this proposal is that we are setting the number at 151 with no ups or downs as far as changing ratios or changing numbers. This proposal sets the number of Representatives at 151.

PRESIDENT BRODERICK. Thank you, Delegate Michael.

Is there anyone who wishes to speak against the amendment offered by Delegate Michael?

If no one wishes to speak against it, we can be ready for the vote. Therefore, I restate the question.

Will the Convention agree to the amendment just offered by Delegate Michael?

The roll was recorded as follows:

YEAS—40

Baldus	Conley	Henderson	Rea
Berry	Cozetti	Johnson	Ruth
Brennan	Cunningham	Leinbach	Shettig
Buck	Dumbauld	Manderino	Sprogel
Bunting	Feather	McGeary	Stout
Burkholder	Forster	Michael	Swope
Caputo	Gabreski	Michener	Tate
Caron	Gehrlein	Otto	Thornburgh
Casey	Gerber	Percey	Tomasick
Clark	Gouger	Popil	Welsh

NAYS—97

Aberman	Fagan	Leach	Richter
Amsterdam	Fawcett	Lee, L	Rovner
Aurentz	Filson	Levin	Sabb
Bagenstose	Fleming	Mangery	Scales
Baldridge	Fohl	Matt. om	Scarlett
Baldwin	Fortney	McGlynn	Scott
Baron	Goldman	Meyer	Seanton
Bashoff	Goldstein	Miller, D	Sebastian
Benedict	Gr. fith	Miller, R	Shapiro
Bloom	Hannum	Moorhead	Shively
Braham	Harding	More	Shoemaker
Broderick	Humes	Morton	Shrager
Brown	Hocker	Murray	Silverman
Cain	Hook	Musselman	Solomon
Canardella	Horne	Nelson	Strickler
Chnger	Ivies	O'ban	Stroup
Corey	Jr. olanie	Orbin	Tully
Cortese	Kaufman	Pelleuer	Van Sant
Croop	Keller, J	Polt	Waldron
Curran	Keller, M	Powell	Westenberg
Dailey	Kelly	Prendergast	Whittum
Desmond	King	Quiles	Wilcox
Devlin	Krill	Redick	Wilmarth
Donaldson	Laputka	Reynolds	Woodside
Erwin			

NOT VOTING—26

Allison	Gray	Lee, K	Rappaport
Banes	! ather	Leonard	Roberts
Benfield	Hoyburn	Markley	Sharp
Butera	Hosteller	O'Donnell	Thomson
Donolow	Huggins	Pa querdlle	Warman
Fay	Kline	Pechan	Woodring
Fineman	Lane		

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

GERBER AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. Mr. President, fellow delegates, it seemed to me yesterday, from the debate on both sides of the issue, that there is not a total sympathy with freezing this House at 203.

Therefore I offer the following amendment:

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE GERBER offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, line 15, by striking out "The" and inserting: Prior to the year 1972, the

Amend Sec. 1 (Sec. 17), page 2, line 16, by inserting after "districts": and for the election of representatives beginning in the year 1972 and thereafter, the State shall be divided into one hundred fifty-one representative districts,

Amend Sec. 1 (Sec. 17), page 2, line 19, by inserting after "ratio": prior to the year 1972

Amend Sec. 1 (Sec. 17), page 2, line 20, by removing the period after "three" and inserting: and for the election of representatives for the year 1972 and thereafter by the number one hundred fifty-one.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. You may now proceed, Delegate Gerber.

DELEGATE GERBER. Thank you, Mr. President.

The purpose of this amendment is to give the people of Pennsylvania the opportunity to determine for themselves

what size House of Representatives they should have. If we adopt the proposal of the committee, we are giving the people of Pennsylvania no choice

First, we are freezing, until a further Constitutional Convention decides, the size of the House at 203.

It seems to me that when the people of Pennsylvania voted to have a Constitutional Convention, they asked us to come here and think and discuss and debate the issues. One of the issues was the size of the House and apportionment of the General Assembly.

For us to go home and say to them that if you vote "yes" on April 23, you get 203, and if you vote "no" on April 23, you still get 203, to me, it is denying them the right of choice. I do not think they voted for a Constitutional Convention and sent us here to deny them any choice.

Secondly, it seemed to me from the debate yesterday that there were enough voices in this House that wanted to consider giving the people of Pennsylvania a choice, however, they felt that the two proposed amendments yesterday suggested more drastic change than you, the delegates to this Convention, were willing to accept.

The purpose of this amendment is to provide less drastic change so as to give the House a more opportune chance to function more effectively and more responsibly. I think the people who addressed themselves yesterday to the question of reducing the size of the House consistent with reform of the General Assembly did so more eloquently than I.

I think that Delegate Casey's statement in the late afternoon summed up the issues best for us and for those of us who feel that this General Assembly should have its size reduced in order to function more responsively to the people, and more effectively.

It seems to me that this is a consistent step with the leaders of the General Assembly's own position to initiate a commission to study reform of the General Assembly for the purpose of being more responsive to the people and more effective in its duties. It seems it is also equally consistent with the proposed plan to have an executive wing in the Capitol and to give greater office space here and greater staff and research assistance to the members of the General Assembly.

It seems as equally consistent with the bill introduced by Representative Butera of the 150th Legislative District for certain ethics proposals and regulations for the members of the General Assembly. It seems to me that this size would be more consistent with the size of legislatures of comparable states in an effort to be more responsive to the electorate.

This also gives the people an opportunity to vote not once, but twice. It gives them the opportunity to vote on April 23 of this year to determine whether they want 203 or whether they want to reduce it meaningfully to the more effective size of 175. It also gives them a further opportunity to determine whether or not a reduction of the House has proven to be what those of us who think it can be, in that it would be more effective and more responsive to the electorate. And then, a referendum will be placed on the ballot five years later offering the people of this Commonwealth the opportunity to determine once again whether they want to remain at 175 or reduce it to 151.

I think to deny the people of Pennsylvania an opportunity of choice is to say, we do not want you, the voters, to have anything to say about how many people repre-

sent you and where they come from. I think that this is unfair; I think it is grossly unfair to the electorate who sent us here to not offer them an opportunity, not offer them choice. Therefore, Mr. President and ladies and gentlemen of this Constitutional Convention, I would ask you to have faith in the electorate of Pennsylvania and to let them decide. They sent us here to draft proposals to give them the opportunity to decide. That is why the questions are going on the ballot.

If what we did here was firmly conceived as constitutional law because we passed it without going to the people, then my arguments would have little merit. But in view of the fact that the efforts of all four standing committees must go to the people, I think that it behooves all of us here not to deny them the opportunity to think, not to deny them the opportunity to choose, not to deny them the opportunity to select a more workable, more effective, more efficient, a more responsive House of Representatives.

Thank you very much.

PRESIDENT BRODERICK. Thank you, Delegate Gerber.

Is there anyone who wishes to speak against the amendment being offered by Delegate Gerber?

The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President and members of the Convention, I rise in opposition to this proposed amendment. I do so for several reasons. First of all, this amendment would say that in the year 1972 there would be 175 members in the House of Representatives. Five years thereafter, you would be given an opportunity to vote. If you look at the language of this proposed amendment, it is very, very deceiving to me as an attorney. If you vote "no" at that time, you will continue with 175. If you vote "yes," you then would have 151. What happens five years from then? If the sponsor of this amendment believes that five years from 1972 the people have the right to a referendum to find out if they want to stay at 175 or if they want to stay at 151, why would not the same 12 million people and more of the Commonwealth of Pennsylvania have the right to say we want more than 175?

If you want to be fair to the people and allow them to vote, then give them the first chance to exercise their prerogative in a fair and distinctive manner. I think this amendment is bad because of the manner in which it is drawn. It is drawn in a deceptive fashion. Usually the word "yes" would affirm something that you have, and "no," in this particular case, would affirm what you have and that, in itself is deceptive. I believe at this time the amendment should fail because of what it is attempting to do.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Forster.

DELEGATE FORSTER. Mr. President, I wish to speak in favor of this amendment. I do not think there is any deception implied as Delegate Jirolanio has suggested. I think each of us is here to vote his own convictions and the wishes of his constituents. I think the merits of this argument were well expressed in the debate yesterday. However, in my area, there was, before last fall and there is now, sentiment for reducing the size of the legislature. I think this figure of 175 is not too drastic; therefore, I urge its adoption.

PRESIDENT BRODERICK. Thank you, Delegate Forster.

The Chair now recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, I would like to associate myself with my young friend from Montgomery County and parenthetically say that I think it is a fine thing that this Convention has a good number of young people. I think this augurs well for the future of our State.

I favor this amendment because I think it does help those who want to vote for a reduction in the size of the House but who were quite unwilling to go to the possibility of 101 members yesterday. I fail to see that the language of this amendment is at all vague or is at all contrary to the normal procedures of seeking a referendum at a later date. The question on the referendum would be: Do you want your House to go to 151 members after you had it at 175 for five years? Obviously, the answer would there be, yes, I want it to go to 151. I think the charge that this language is vague and obscure is not well founded. Therefore, I favor the amendment offered by Delegate Gerber, from Montgomery County.

PRESIDENT BRODERICK. Thank you, Delegate Swope.

The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, fellow delegates, I rise not to object to the reduction in the size of the House to 175, but to object to the total impact of this amendment. It seems to me that this is an extremely cumbersome way to approach the problem.

You are asking the people really to make two decisions within a ten-year period. I do not think that any decision on our part which is clear-cut and decisive is a denial of the vote of the people of this Commonwealth. They obviously will decide in the upcoming election whether they will accept this decision or not. I think we ought to give them a decision which is clear, concise and precise. Here, it seems to me, we are fixing a figure for almost ten years hence. We are saying to the people that you will vote in a referendum that might come. When? In the year 1977? And you shall vote on a figure of 151. I do not particularly see why we should project this kind of preciseness ten years hence. If we must go to this device of a referendum—and I would oppose it—then it seems to me we should leave the figure up to that voting generation and not fix it at this time. It seems to me that we can find a more direct solution to our problem than the one proposed here.

PRESIDENT BRODERICK. Thank you, Delegate Pelletier.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Gerber?

The roll was recorded as follows:

YEAS—39

Baldus	Dumbauld	Leimbach	Roberts
Banes	Forster	Manderino	Shelton
Barry	Fortney	Mattison	Sprogeil
Bunting	Gabreski	McGeary	Stout
Burkholder	Gehrlein	Michael	Swope
Caputo	Gerber	Michener	Tate
Caron	Henderson	Miller, R	Thornburgh
Conley	Hook	Otto	Tomasek
Cosetti	Irvin	Popel	Welsh
Cunningham	Johnson	Rea	

NAYS—102

Aberman	Donaldson	Laputka	Reynolds
Aurentz	Erwin	Leach	Richter
Bagenstose	Fagan	Lee, L.	Rovner
Baldridge	Fawcett	Levin	Sahl
Baldwin	Fay	Mangery	Scale
Barron	Feather	McGlynn	Scarlett
Bashoff	Filson	Meyer	Scott
Benedict	Fleming	Miller, D.	Scranton
Bloom	Fohl	Moorhead	Sebastian
Braham	Goldman	More	Shapiro
Brennan	Goldstein	Morton	Shively
Broderick	Gouger	Murray	Shoemaker
Brown	Griffith	Musselman	Shrager
Buck	Hannum	Nelson	Silverman
Cain	Harding	O'Donnell	Solomon
Camardella	Hatter	Orban	Strickler
Casey	Hines	Orbin	Stroup
Clark	Hocker	Pelletier	Tully
Clinger	Horne	Percey	Van Sant
Corey	Jrrolanio	Poit	Waldron
Corlese	Kauffman	Powell	Westerberg
Croop	Keller, J.	Prendergast	Whittum
Curran	Keller, M.	Quiles	Wilcox
Dailey	Kelly	Rappaport	Wilmarth
Desmond	King	Redick	Woodside
Devlin	Krill		

NOT VOTING—22

Allison	Gray	Lee, K.	Ruth
Amsterdam	Heyburn	Leonard	Sharp
Benfield	Hostetler	Martley	Thomson
Butera	Huggins	Parquerilla	Warman
Donolow	Kline	Pechan	Woodring
Fineman	Lane		

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

LEAGUE OF WOMEN VOTERS FROM CHESTER COUNTY WELCOMED

PRESIDENT BRODERICK. The Chair would like to take this opportunity to welcome the members of the League of Women Voters from Upper Main Line Area, Chester County, with their president, Mrs. William Mil-lager.

They are the guests of Delegates Hannum, Thomson, and O'Donnell of Chester County. Will they rise so that we can give them our welcome, please?

LEAGUE OF WOMEN VOTERS OF LEWISBURG WELCOMED

PRESIDENT BRODERICK. I understand we also have in the gallery and we welcome the members of the League of Women Voters of Lewisburg, Union County.

They are the guests of Delegate Fortney of Northumberland County and Delegates Croop and Percey of Columbia County. The Chair welcomes these guests to the Convention.

LEAGUE OF WOMEN VOTERS OF SOUTHERN CHESTER COUNTY WELCOMED

PRESIDENT BRODERICK. Also in the gallery, we have the members of the League of Women Voters of Southern Chester County with their president, Mr. Thomas Swoboda.

They are the guests of Delegates Hannum, Thomson, and O'Donnell of Chester County. The Chair welcomes these ladies to the Convention.

STUDENTS FROM THE WAYNESBORO AREA SCHOOL WELCOMED

PRESIDENT BRODERICK. Last but not least, we have in the gallery, students from the Waynesboro Area School.

They are the guests of Delegate Barron of Mifflin County and Delegates Keller and Gouger of Franklin County. The Chair would point out that among this group is David Keller, a son of our esteemed Delegate John W. Keller. Will you please stand so that we can give you our cordial greetings?

OTTO AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, I offer an amendment to Proposal No. 1.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE OTTO offered the following amendment which was read by the clerk:

Amend Sec 1, (Sec. 17), page 2, line 19 by inserting after "district": No district shall include the territory of more than one senatorial district.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK The Chair now recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, the purpose of my introducing this amendment to Proposal No. 1 is to bring the attention of this body to one thing which we have not discussed as yet. This was discussed in our standing committee and it was decided not to put anything specific in with respect to gerrymandering of legislative districts. What will occur, in my opinion, if this amendment is adopted is, that to a significant degree, gerrymandering will be discontinued. As I said previously, I served on a House Legislative Reapportionment Committee and I must admit that I saw reapportionment and gerrymandering firsthand.

I would call to the attention of the body that the State of Maryland, in its new constitution proposal, included the statement: "Each Senate District shall be subdivided into three districts for the election of members of the House of Delegates." In doing this, I think that you are going to enhance our senatorial districts, regardless of the number of delegates or representatives who are selected.

For instance, if you have 150 House members, you would have three in every senatorial district plus a senator. This would amount to four representatives in Har-risburg in the General Assembly who would represent the people. I think that in time it would help the senatorial districts to recognize who they should call upon. For instance, in my own senatorial district we have seven House members and only two of them live in the senatorial district. Gentlemen, I think that you will have to agree that this shows unusual representation.

Certainly the proposal that I am making today—and I do not know which other States have a similar setup; Maryland's I think is a step in the right direction—if we

are really sincere and want to try to prevent gerrymandering to some degree, I would urge that the members support this. This does not designate any particular numbers of House members or Senate members. It is really a policy, a guideline, that I think should be established as insurance. I, therefore, ask that the membership support this amendment.

Thank you.

PRESIDENT BRODERICK. The Chair at this time asks if there is anyone who wishes to speak against the amendment being offered by Delegate Otto?

The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President, I rise in opposition to this particular amendment, based upon three reasons. Those who have had the privilege and the honor of working on trying to set up legislative districts realize the problem that you face when you attempt to define various districts. The passing of this particular amendment would pose great, grave difficulties in the making up of certain districts. It would create an artificial barrier. I understand that the United States Supreme Court very recently held in a case coming out of Texas that doing something similar to this would be unconstitutional, that it would be a hardship and would create an artificial barrier and not give to the persons who are residing in the area the authority and the principle of being able to use some variances.

There may be a possibility also that you may have to go into another county. Let us assume that a county would have 260,000 population, and let us assume that the present figure of 58,000-and-some-odd would be the ratio used. For that you would have four members and you would have a spillover of about 24,000 or 25,000. Then what would happen to that? You could say that under variances you could put 10 per cent over and 10 per cent above, but you still would be faced with the problem that you would have to go into another county and, therefore, it would raise difficulty, in my mind, to go for this particular amendment. I ask that you vote it down.

PRESIDENT BRODERICK. Thank you, Delegate Jirolanio.

The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, I rise to speak in opposition to this proposed amendment. It would seem to me, without unduly belaboring this point, that in all of our discussions as to numbers—and it is nice to be off the number game for a few minutes—but all of the numbers suggested have been odd numbers. Those numbers have been odd, I believe, for a particular reason. If we too equally divide a legislative district into a senatorial district, a single, compact senatorial district, we are standing the great risk of having the senator being the senior elected official from this entire senatorial district, which would then include any smaller number of legislative districts. By having this equal division, I am concerned that the senator would be the supreme officeholder who would have no more under him than just simple legislators who were fulfilling his particular wish and his particular will.

Secondly, and most important, I think, we are not really getting a representative feeling of the people by having this equal division. It would be my thought that if we have legislative districts that cut across senatorial lines, then we will get a more representative feeling of

the people's demands and desires in both houses of the Assembly.

PRESIDENT BRODERICK. Thank you, Delegate Goldman.

The Chair recognizes Delegate Percy.

DELEGATE PERCEY. Mr. President, I would just like to make an inquiry of the delegate who introduced the amendment. In light of the first sentence in section 16, would this not require that the size of the House be a multiple of 50—150, 200, 250?

PRESIDENT BRODERICK. Will Delegate Otto permit himself to be interrogated at this time?

DELEGATE OTTO. I do not think necessarily that it need be in terms of 50s. We have not talked on the senatorial section. There could be 40, there could be 60, there could be 30 senators, so I do not think you need to talk in terms of 50. Certainly it would have to be a number that would be divisible by the number of senators established by this body later.

PRESIDENT BRODERICK. The Chair recognizes Delegate Devlin.

DELEGATE DEVLIN. Mr. President, fellow delegates, I just want to bring to your attention that in our committee this particular proposal was examined by counsel for the committee and counsel for the Convention. Then I went over to the Attorney General's office and they were all in complete agreement that this would lead to a constitutional test case. In their opinion, they felt that any type of what we call political gerrymandering, keeping certain legislative districts within barriers that they cannot move, would be unconstitutional.

PRESIDENT BRODERICK. Thank you, Delegate Devlin.

The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, I would like to answer several of the suggestions that were made by fellow delegates.

First of all, I do not subscribe to the idea that having a senator and three, four or five House members in the same senatorial district makes the senator any kind of a dictator. On the other hand, I think in the case of some of the senators, he may find that some of the House members might be breathing down his neck if he is not doing his job properly.

I think that it would certainly make for a more competitive position in the senatorial districts. Certainly, this is what industry does day in and day out—groom those men to slap them into higher executive positions. I think this is good planning, and I think this is what we are here for—for a modernization of this Constitution—and we certainly need all the planning ahead that we can give the people. I certainly do not think that any of our senators should be in the overlord position as emphasized by Delegate Goldman.

With respect to the fact that we may have a constitutional case on our hands if we were to pass this proposal, I do not think this proposal is any different than anything else with respect to reapportionment that we might pass. We certainly should not scare off because we think maybe somebody might take us to court. I certainly do not subscribe to that theory. Certainly the Reapportionment Committee, if it had done a more effective job in researching, might have found out why Maryland put this into their constitutional proposal.

Therefore, in view of the advantages that we get the protection that is built in to limit gerrymandering at least to a degree, I think that we should move on and that we should pass this amendment.

Thank you very much.

PRESIDENT BRODERICK. Thank you.

On the question recurring.

Will the Convention agree to the amendment offered by Delegate Otto?

The roll was recorded as follows:

YEAS—11

Baldus	Dumbauld	Leinbach	Stout
Bunting	Fohl	Orbin	Welsh
Cosetti	Hook	Otto	

NAYS—126

Aberman	Devlin	Leach	Richter
Alison	Donaldson	Lee, L	Roberts
Aurentz	Erwin	Levin	Rovner
Bagenstose	Fagan	Manderino	Sahl
Baldrige	Fawcett	Mattioni	Scales
Baldwin	Fay	McGeary	Scarlett
Banes	Feather	McGlynn	Scott
Barron	Filson	Meyer	Scranton
Barry	Fleming	Michener	Sebastian
Bashoff	Forster	Miller, D.	Shapiro
Benedict	Fortney	Miller, R.	Sharp
Bloom	Gabreski	Moorhead	Shettig
Braham	Gehrlein	More	Shively
Brennan	Gerber	Morton	Shoemaker
Broderick	Goldman	Murray	Shrager
Brown	Goldstein	Musselman	Silverman
Buck	Griffith	Nelson	Solomon
Burkholder	Hannum	O'Donnell	Sproggell
Cann	Harding	Orbin	Strickler
Camardella	Hatter	Pechan	Stroup
Caputo	Henderson	Pelletier	Swope
Caron	Himes	Percey	Tate
Casey	Hocker	Popil	Thornburgh
Clark	Horne	Pott	Tully
Clinger	Jrolamo	Powell	Van Sant
Conley	Johnson	Prendergast	Waldron
Corey	Kauffman	Quiles	Westerberg
Cortese	Keller, J.	Rappaport	Whittum
Croop	Keller, M.	Rae	Wilcox
Curran	Kelly	Redick	Wilmarth
Dalley	King	Reynolds	Woodside
Desmond	Krill		

NOT VOTING—26

Amsterdam	Gray	Laputka	Pasquerilla
Bennfield	Heyburn	Lee, K.	Ruth
Butera	Hosteller	Leonard	Thomson
Cunningham	Huggins	Mangery	Tomaszek
Donahew	Irvie	Mankley	Werman
Flaerman	Kline	Michael	Woodring
Gouger	Lane		

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

MORTON AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton.

DELEGATE MORTON. Mr. President. I offer the following amendment to Proposal No. 1:

Amend Sec. 1 (Sec. 17), page 2, line 15, by striking out "two hundred three" and inserting: not less than one hundred and not more than two hundred

Amend Sec. 1 (Sec. 17), page 2, line 20, by striking out "two hundred three" and inserting: of districts

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton.

DELEGATE MORTON. This amendment brings us back to the numbers game. It is designed for one thing and one thing only, and that is the issue which I feel is more pressing and more important than that which we discussed yesterday—a problem of flexibility. I would like to see us be flexible and not have a fixed number in the Constitution, that in the future if we want to go down—I am anticipating that we would adopt the commission proposal—that we can decrease the number. If they want to increase it, they can increase it.

I have no pride of authorship in the 100 to 200 members. If you notice, you have a blank out. At one time when I was going to propose this, I thought about 150 to 200. There might be merit in going to 150 to 225, or anything. The sole purpose is to get our focus on what I consider to be the most important issue, the question of flexibility. In fact, it might be that we do not even want any number in the Constitution but to let the commission set it. That is all this proposal was designed for—to provide a vehicle of flexibility so that we can meet changes in the future.

Like my good friend, Delegate Hocker, I am not brave, but I do stand alone and I have no names to submit for or against it.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bunting.

DELEGATE BUNTING. I wish to interrogate Delegate Morton on a question which I think is inherent.

PRESIDENT BRODERICK. Delegate Morton, will you permit yourself to be interrogated by Delegate Bunting?

DELEGATE MORTON. I will be glad to.

PRESIDENT BRODERICK. You may proceed.

DELEGATE BUNTING. Delegate Morton, as I read this, is it intended that the General Assembly would make the determination as to what the number would be between 100 and 200?

DELEGATE MORTON. No, the General Assembly would not make that determination. It would come up when we get to Section 2 as to the commission. If we adopt a commission, it would be my anticipation that the commission would not only reapportion as to the geographical phase, but also make the determination of the number.

DELEGATE BUNTING. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, I would like to ask a question of Delegate Nelson, who is the Co-Chairman of the Committee on Arrangement, Submission and Address to the People.

PRESIDENT BRODERICK. Does this question pertain to this amendment?

DELEGATE BALDRIGE. Yes, it does, very definitely.

PRESIDENT BRODERICK. Would you permit yourself to be interrogated, Delegate Nelson?

DELEGATE NELSON. Yes, Mr. President.

DELEGATE BALDRIGE. Delegate Nelson, if any change in these proposals from the Committee on Legislative Apportionment are made, do we get one or two places on the ballot?

DELEGATE NELSON. That is a good question, Delegate Baldrige. You have raised a legal question. Act No. 2 says there should be at least a separate question for each substantive article and another question for reapportionment. The act is singular, so you have the

legal question. Entirely apart from that, it would seem to me that we will have to find out what this Convention adopts in the way of proposals before the committee can intelligently consider the number of questions.

DELEGATE BALDRIGE. Delegate Nelson, my question is this: I consider that the real important thing, important change, for the people that the Committee on Legislative Apportionment is recommending is Proposal No. 2. I do not want something in Proposal No. 1 that might, because the people were objecting to Proposal No. 1, vote down No. 2. That is my only worry here.

PRESIDENT BRODERICK Thank you, Delegate Baldrige.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Morton?

The roll was recorded as follows:

YEAS—25

Banes	Feather	Michael	Sprogel
Barry	Gabreski	Miller, R	Stout
Broderick	Gerber	Morton	Swope
Bunting	Hook	Rea	Tate
Burkholder	Laputka	Scranton	Thornburgh
Caputo	Leinbach	Shapiro	Welsh
Cosetti			

NAYS—112

Aberman	Devlin	Keller, M.	Prendergast
Allison	Donaldson	Kelly	Quiles
Amsterdam	Dumbauld	Krill	Rappaport
Aurentz	Erwin	Leach	Radick
Bagenstose	Fagan	Lee, L.	Reynolds
Baldrige	Fawcett	Levin	Richter
Baldus	Fay	Manderino	Rovner
Baldwin	Filson	Mangery	Ruth
Barron	Fleming	Mattioni	Sahh
Bashoff	Fohl	McGeary	Scalco
Benedict	Forster	McGlynn	Scarlett
Bloom	Fortney	Meyer	Scott
Braham	Gehlein	Michener	Sebastian
Brennan	Goldman	Miller, D.	Sharp
Brown	Goldstein	Moorhead	Shettig
Buck	Griffith	More	Shively
Camardella	Hannum	Murray	Shoemaker
Caron	Harding	Musselman	Shrager
Casey	Hatter	Nelson	Silverman
Clark	Henderson	O'Donnell	Solomon
Clunger	Himes	Orban	Strickler
Conley	Hocker	Orbin	Stroup
Corey	Horne	Otto	Waldron
Cortese	Irvis	Pechan	Wetlerberg
Croop	Jroslawo	Pelletier	Whittum
Curran	Johnson	Percey	Wilcox
Dalley	Kauffman	Pott	Wilmarch
Desmond	Keller, J.	Powell	Woodside

NOT VOTING—26

Benfield	Gray	Lee, K.	Thomson
Butera	Heyburn	Leonard	Tomascek
Cain	Hosteller	Markley	Tully
Cunningham	Huggins	Pasquerilla	Van Sant
Donolow	King	Popil	Warman
Fineman	Kline	Roberts	Woodring
Gouger	Lane		

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

STROUP AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP Mr. President, I read in place and present to the Chair the following amendment to Proposal No. 1.

When the amendment has been read by the clerk, I desire to be recognized and speak very briefly, Mr. President. This amendment has been mimeographed and it is ready for distribution to the members of the Convention.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE STROUP offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, line 15, by striking out "two hundred three" and inserting, no less than one hundred seventy-five and no more than one hundred ninety-nine

Amend Sec. 1 (Sec. 17), page 2, line 20, by striking out "two hundred three" and inserting established by law.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup for his statement.

DELEGATE STROUP. Mr. President, I do not intend to belabor the issues which have been so clearly defined by excellent debate yesterday and this morning.

I call attention only to the fact that this is an effort to compromise so that it may be possible for this Convention to pass a proposal with a great majority of votes. Maybe this will bring us together

According to the Census Bureau of October, 1967, in 1970 Pennsylvania will have a population of 11,758,000; in 1980, 12,682,000; in 1990, 14,069,000.

If this amendment were adopted and the number determined should go to 199, by 1990 each House member would represent 70,700. If the number were dropped to 175, by 1990 each member would represent 80,390 or thereabouts.

I believe, Mr. President, that this amendment that I offered this morning may bring us together and I hope that the delegates will see fit to vote in favor of the amendment to the proposal.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Stroup.

The Chair recognizes Delegate Gouger.

DELEGATE GOUGER. Mr. President and fellow delegates, with all due respect to our distinguished colleague, Delegate Stroup, 199 seems to me to be an offense to not only those of us gathered here, but to the voters.

This makes no change. This simply permits a spurious atmosphere of virtue that we did change something. Our mandate here called for meaningful change. This is no more a meaningful change than to put it at 202½, and I am surprised that this one has not come up at this point.

This is not meaningful change. This is not within the purview and the mandate of why we came here. Anybody knows that it is going to stay at 199 for the foreseeable future. From 203 to 199 I submit to you is offensive to the voters of this State.

Thank you.

PRESIDENT BRODERICK Thank you, Delegate Gouger.

Delegate Stroup, if there is no one else who wishes to speak, we will call on you for a summation.

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I have been listening for two days about the mandate for change and the mandate for meaningful change.

I am not at all certain that the voters of the 19th Senatorial District and voters in Chester County who sent me here sent me here to vote for that which is solely change. I believe I was sent here to vote for improvements, and I have seen no evidence whatever that a substantial reduction in the size of the legislature will produce meaningful change in Pennsylvania.

"It is too often mistaken for progress what is merely change," said our 16th President, Abraham Lincoln, and I think today here it is being mistaken for progress what is merely change.

I, therefore, urge the adoption of this amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Devlin.

DELEGATE DEVLIN. Mr. President, fellow delegates, I would like to address you on this very important and, certainly, very noteworthy problem that we have.

It is very interesting that a Senator gets up and reduces the House by a motion on this floor as a compromise. It seems to me that when you have a compromise, someone gives and someone takes. I am indeed—and I speak for all the 29 other members of my committee—grateful for the way in which you have sustained the hard work which our committee went through.

I would like to tell you a few stories that had me aggravated no end. I have been under pressure from the administration to make a change, to make a change for the sake of change, and I said, "No, give me some substance; give me an argument. Prove to me why we should have a change and I shall take it up with my committee."

I have been under pressure by some of my friends here to make a change to between 199 and 205. This will satisfy them. Now "them" happens to be some of the people who write in the Press, some of the people who belong to organizations. I say to them that they speak to the people; we speak for the people. There is a difference.

What would 199 to 205 mean? It would mean a difference of what we would normally say would be a five per cent difference in ratio. To me, this is intellectual dishonesty, and it is intellectual dishonesty to the lowest degree that you can come to, when you are dealing with the types of people whom you have in the particular assembly.

There is no substance for change for change's sake. There is no substance when you say the status quo is bad, or heaven forbid that all those who are in heaven today will want to get out.

Let me say this: We arrived at 203 by trying to meet the needs and satisfy the arguments that were presented to our committee. We envision in the next 100 years that the population of Pennsylvania will double and that a Representative will represent 100,000 or thereabouts of the people. He now represents one to 50,000 or 55,000.

We felt that we had within the bounds of Pennsylvania, the geographic bounds, I mean, districts which are big enough for the Representatives to move around in. We believe that we satisfied the rural vote, which have large districts now. We believe we satisfied our urban people that they would have proper representation, and would not be cut back. We tried to bring about a compromise of ideas with a figure, and one might say: "Well, why did you not arrive at 201?" Because we felt as some of my friends have said to me—and they were very well-mean-

ing—"You must give us a few numbers to play with." What that means is that when they want to punish somebody or they are going to gerrymander someone out, they have room to do it.

There is no need for playing around with these numbers, none whatsoever. A hundred seventy-seven to 199 is not of any substance; it is a compromise of numbers. It is a compromise with the rural vote, if those who want to do it want to punish the rural vote and make the districts larger. It is a compromise with politics. If you want to keep it approximately where it is today, you leave it there, and the thinking is that the legislature will do this guessing game between, we shall say, the range of 150 to 203.

We are opening ourselves up to political suicide when you have a span of any numbers, whether it will be a commission which will have political forces exercised upon it or whether it will be the legislature, which is purely an unadulterated political activity. We are asking the rural people to sacrifice, if need be, by opening up the districts in geographic size and area. We are asking the urban people, such as I from Philadelphia, and you from Pittsburgh and the other cities, to sacrifice our representation by making districts larger. I honestly believe, that if we stay with a figure of 203, and may I speak on the other side, if we stay with the Senate at 50, we will have a balance of political power, a balance of geographic size, a balance of population that we can live with for the next 100 years. I think that this is what we must think about and on which we must concentrate. Within the next few years, say the next 50 years, if we want a change, the mechanism that we have in our Constitution can bring that change about.

I, frankly, stand behind my committee's work. I think we have done an intelligent job and a thorough job. I think it will be proven to be a successful job if you sustain the committee's effort and work that it put forth.

Thank you very much.

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, I would like to comment briefly. Delegate Gouger called this a spurious effort, which I take very close to heart. Actually a number to be determined under whatever system is determined by this Convention in Proposal No. 2 will be some place between 175 and 199.

As we progress on to the next number of years into 2020 and more, we would, therefore, under this amendment be able to preserve effective representation so that it does not become too large for each individual member of the House insofar as the population being served is concerned. I believe that it would bring about effective, close representation insofar as the people of Pennsylvania are concerned.

It does one other thing, gentlemen and ladies of the Convention: It gives our people a choice in the present system and that is its particular merit.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Stroup.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto. For what purpose does the delegate rise?

DELEGATE OTTO. Mr. President, I rise to a parliamentary inquiry.

PRESIDENT BRODERICK. The delegate will state it.

DELEGATE OTTO. Mr. President, my inquiry is with respect to Committee Proposal No. 1, Section 17, dealing with representative districts' ratios. My question is whether this proposal and this section is properly before this body. The reason that I am asking this question is that the minutes of the full Committee on Legislative Apportionment held on January 16, 1968 state, "On the question, the Committee voted to accept the report of the subcommittee for 203 representative districts." The vote was 14 "ayes" and 6 "nays." Would the Chair rule as to whether this complies with Rule No. 22 in our rules with respect to majority?

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio. Are you going to speak to the same question?

DELEGATE JIROLANIO. I am going to make a point of order in that the gentleman, Mr. Otto, is not talking on the subject matter and, therefore, is out of order. This is not the proper place or time to bring up that matter.

RULING BY THE CHAIR

PRESIDENT BRODERICK. The Chair will rule on that matter.

Rule No. 22 does provide that a committee proposal shall be reported to the Convention by a majority vote of the entire Standing Committee.

Now, if there was any objection to the proposal, it should have been made at the time the proposal was introduced. The proposal is—and the Chair so rules—now properly before this House. If the vote was otherwise, the matter has been waived by not making objection at the proper time. This is a matter that should have been objected to in Committee. If the proper action had not been taken in Committee, it should have been taken on the floor of the House when the proposal was introduced. The Chair feels that the delegate is out of order at this time in bringing that matter before the Convention.

DELEGATE OTTO. Mr. President, one correction. The question was raised in the Committee, and we were told by the chairman that a simple majority was all that was required. The same applied in the subcommittee where there was a five-to-four vote and there was not a majority.

PRESIDENT BRODERICK. Any objection should have been made at the time the proposal was brought to the floor. We are now in the process of considering this. Does anyone else wish to speak on the amendment being offered by Delegate Stroup?

On the question recurring,

Will the Convention agree to the Stroup amendment?

The roll was recorded as follows:

YEAS—35

Barry	Forster	McGeary	Roberts
Bloom	Gabreski	Michener	Strickler
Broderick	Gehrlin	Morton	Stroup
Bunting	Gerber	Musselman	Tate
Burkholder	Hook	Nelson	Thornburgh
Caputo	Irvin	O'Donnell	Tomasick
Cosetti	Johnson	Orban	Welsh
Cunningham	Laputka	Pechan	Woodside
Feather	Manderino	Rea	

NAYS—104

Aberman	Desmond	Kelly	Redick
Allison	Devlin	Kruli	Reynolds
Amsterdam	Donaldson	Leach	Richter
Aurentz	Dumbauld	Lee, L.	Rovner
Bagenstose	Erwin	Lembach	Ruth
Baldrige	Fagan	Levin	Sahlh
Baldus	Fawcett	Mangery	Scales
Baldwin	Filson	Mattioni	Scarlett
Banes	Fleming	McClynn	Scott
Bashoff	Fohl	Mayer	Scranton
Benedict	Fortney	Michael	Sebastian
Braham	Goldman	Miller, D.	Shetig
Brennan	Goldstein	Miller, R.	Shively
Brown	Gouger	Moorhead	Shoemaker
Buck	Griffith	More	Shrager
Cain	Hannum	Murray	Silverman
Camardella	Harding	Orbin	Solomon
Casey	Hatter	Otto	Sprogel
Clark	Henderson	Pelletier	Stout
Clinger	Hines	Percey	Tully
Conley	Hocker	Popil	Van Sant
Corey	Horne	Pott	Waldron
Cortese	Jirolanio	Powell	Westerberg
Croop	Kaufman	Prendergast	Whitum
Curran	Keller, J.	Quiles	Wilcox
Dailey	Keller, M.	Rappaport	Wuhrarth

NOT VOTING—24

Barron	Fineman	Kline	Shapiro
Benfield	Gray	Lane	Sharp
Butera	Heyburn	Lee, K.	Swope
Caron	Hosteller	Leonard	Thomson
Donolow	Huggins	Markley	Warman
Fay	King	Pasquerilla	Woodring

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

BUCK AMENDMENT

PRESIDENT BRODERICK. And now the Chair recognizes Delegate Buck.

DELEGATE BUCK. Mr. President, I read in place and present to the Chair the following amendment to Committee Proposal No. 1: I believe it has already been mimeographed and is ready for distribution.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE BUCK offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, line 15, by striking out "The" and inserting: Prior to the year 1972, the

Amend Sec. 1 (Sec. 17), page 2, line 16, by inserting after "districts": and for the election of representatives beginning in the year 1972 and thereafter, the State shall be divided into one hundred sixty-one representative districts,

Amend Sec. 1 (Sec. 17), page 2, line 19, by inserting after "ratio": prior to the year 1972

Amend Sec. 1 (Sec. 17), page 2, line 20, by removing the period after "three" and inserting: and for the election of representatives for the year 1972 and thereafter by the number one hundred sixty-one

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair now recognizes Delegate Buck.

DELEGATE BUCK. Mr. President, the only thing which I want to add in support of this amendment fixing the size of the House at 161 is that I would like to incorporate,

by reference, everything which has been said on this floor in support of a reduction in the size of the House. And if I may be so presumptuous, I would also like to ask the delegates to strike from their minds everything which has been said unfavorably to that position.

Thank you very much.

PRESIDENT BRODERICK. Unless there is someone who wishes to speak for or against the amendment, we shall vote.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Buck?

The roll was recorded as follows:

YEAS—48

Baldus	Conley	Henderson	Percey
Banes	Cosetti	Hook	Popil
Barry	Cunningham	Johnson	Rea
Bloom	Curran	Kelly	Roberts
Brennan	Dumbauld	Leinbach	Ruth
Brown	Feather	Manderino	Shettig
Buck	Forster	McGeary	Sproggell
Bunting	Fortney	Michael	Stout
Burkholder	Gabreski	Michener	Swope
Caputo	Gehrlain	O'Donnell	Tate
Casey	Gerber	Otto	Tomaschik
Clark	Gouger	Pelletier	Welsh

NAYS—86

Aberman	Erwin	Levin	Richter
Allison	Fagan	Mattioni	Rovner
Amsterdam	Fawcett	McGlynn	Sahli
Aurentz	Filson	Meyer	Scales
Bagenstose	Fleming	Miller, D.	Scarlett
Baldrige	Pohl	Miller, R.	Scott
Baldwin	Goldman	Moorhead	Scranton
Barron	Goldstein	More	Sebastian
Bashoff	Griffith	Morton	Shively
Benedict	Hannum	Murray	Shrager
Braham	Hatter	Musselman	Silverman
Broderick	Himes	Nelson	Solomon
Cain	Hocker	Orban	Strickler
Camardella	Horne	Pechan	Stroup
Clinger	Ireis	Pett	Van Sant
Coley	Kauffman	Powell	Waldron
Cortese	Keller, J.	Prandergast	Westerberg
Croop	Keller, M.	Quiles	Whitum
Dalley	Krill	Rappaport	Wilcox
Desmond	Laputka	Redick	Wilmarth
Devlin	Leach	Reynolds	Woodside
Donaldson	Lee, L.		

NOT VOTING—29

Benfield	Heyburn	Lee, K.	Sharp
Butera	Hosteller	Leonard	Shoemaker
Caron	Huggins	Mangery	Thomson
Donolow	Jiruliano	Markley	Thornburgh
Fay	King	Orbin	Tully
Fineman	Kline	Pasquerilla	Warman
Gray	Lane	Shapiro	Woodring

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

GABRESKI AMENDMENT

PRESIDENT BRODERICK. The Chair now recognizes Delegate Gabreski.

DELEGATE GABRESKI. Mr. President, delegates to this Convention, I would like to read in place and offer an amendment to Committee Proposal No. 1.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE GABRESKI offered the following amendment which was read by the clerk.

Amend Sec 1 (Sec 17), page 2, line 15, by striking out "The" and inserting: Prior to the year 1972, the

Amend Sec. 1 (Sec 17), page 2, line 16, by inserting after "districts"; and for the election of representatives beginning in the year 1972 and thereafter, the State shall be divided into one hundred seventy-five representative districts,

Amend Sec 1 (Sec. 17), page 2, line 19, by inserting after "ratio": prior to the year 1972

Amend Sec 1 (Sec 17), page 2, line 20, by removing the period after "three" and inserting: and for the election of representatives for the year 1972 and thereafter by the number one hundred seventy-five.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. Did you wish to make a statement in support of your amendment, Delegate Gabreski?

DELEGATE GABRESKI. If I may

PRESIDENT BRODERICK. You may proceed

DELEGATE GABRESKI. Mr President and delegates to this Convention, I feel that we have come to a point of compromise and we are going up the ladder. The sentiment seems to be turning to 161, and I wanted to test the sentiment of this Convention to see if it wishes to support the feeling perhaps that Delegate Pelletier has, and our good delegate, Delegate Forster, and our fellow Delegate Casey has, and Delegate Gehrlain has with regard to the reduction of the number of members

I would like to point out and just simply make a brief referral to the fact that we are dealing with generations to come. We are talking about all the issues that you have heard so beautifully explained here in the last two days. When we test this sentiment, I feel that we have to keep our feet on the ground and our heads in the clouds to bring to the people of this Commonwealth some substantial vision whereby the figures—I do not think they are magic numbers—are the type that will bring better government to this Commonwealth.

In that regard, we respectfully submit the favorable action on this proposal and your reaction to having this compromise finally result.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, I think that at this point somebody ought to take the floor and speak to the fundamental issue here because it involves every one of us in this room and it involves each of the three proposals that lie on our desks behind this one.

This is the moment right now. We have disposed of some amendments which could be called trivial; we have disposed of some amendments which were so far away from the general thinking that they were not going to receive wide support. But here we have an amendment late in the day which comes right down to grips with the issue. It seems to me the issue is threefold.

First, it is right that a change be offered the voters of this State next April. It is right; it is morally right; it is politically right; it is good for this Convention; it is good for the State. I have not heard a single word which would

destroy that first basic issue. This is the right thing to do and many of you know that.

The second point though is to me more important. This is the first action of this assembly. This is the bugle call that is going to sound through this Commonwealth. The press is going to echo what we do in the next few minutes. It is going to be the initial trigger for the response of all those agencies which are going to have to support this Convention if the Convention is going to succeed at the polls, because that is not our job. This is the first test of what we are all here for. This is where our figure before the public is going to be drawn in colors that we ourselves choose. We are not going to be able to duck behind this vote. This figure of 175 is a good figure. It offers us a legislature which is about in harmony with the other great legislatures of this Federal Union.

Therefore, we are going to be judged across this Commonwealth in all the papers tomorrow, in all the organs of opinion, by all the agencies which are watching us most closely.

Third, and this is where it hits each one of us right in the chairs in which we are sitting, if this goes down carelessly, without a manly effort on the part of everybody searching his conscience for what he can do, then a great deal of the rest of the splendid work of this Convention is going to go down.

You men have not brought in your great proposals in taxation, in local government and in judiciary naked. They are all tied together. They must come before this body. They must come here for their final approval. We are all tied together, friends, believe me, and if a coalition is now able, on the floor of this Convention, to prevent the people of Pennsylvania from having a logical choice, then I assure you that coalition will remain in existence against all the good things that you have worked for.

You are not going to bring in your proposals easily, friends. You are going to have to bring them before the bar of this Convention, and I do not want to see the bar of this Convention contaminated at the beginning because some very splendid work has yet to be done. Unless we have the support of all the men and women who came here in early December with stars in their eyes, hoping to accomplish good things, those good things are going to be lost by default. The same group that would carelessly vote this down will vote down your good things in the three weeks to come.

I, therefore, beg everybody to consider three points very seriously here. This is a good proposal; it is in harmony with American political action; it is something that you can be proud of.

Secondly, this is the great bellwether-vote of this Convention, the one coming up right now; this is it. We are not saving ourselves for anything else, believe me.

Finally, this is the vote that is going to tell you young lawyers whether you will get through the good proposals that you have managed so far. This is the vote that is going to tell you good young political scientists whether you are going to get through the proposals that you have been working on so hard; this is the vote that is going to tell you young economists whether you will get through the economic measures that you have worked on so valiantly for this Commonwealth. This is it, friend; this is the vote that counts and we had all better vote right.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, I have but one comment. If we should pass this amendment and the normal population increase as is presently estimated by the Census Bureau should continue, by approximately the year 2,020 to 2,030, each member of the House will be representing very close to 200,000 people.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Fleming. Would you yield for one second, Delegate Fleming? Delegate Pelletier has been up at that microphone for some time and I shall come right down and take you next.

DELEGATE PELLETIER. I shall yield to Delegate Fleming and he may speak now.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fleming.

DELEGATE FLEMING. Mr. President, I probably am clearly out of order, but I believe that Delegate Michener was a little bit out of order.

I would defend at all times his right to be for or against any proposal, but when he makes a statement on the floor of this Convention that those delegates who might be in opposition to this proposal are not acting in as good faith, I certainly disagree with him, sir. Certainly every member of this Convention has the right to represent his district as he sees fit. I have great confidence that the delegates, the ladies and gentlemen of this Convention, will vote as they see fit and will vote for those measures or against those measures that they feel, in the first instance are for the good of Pennsylvania and, in the second instance, those measures that are against the good of Pennsylvania. Certainly he has no right to say on the floor of this Convention that those who have voted against some of these measures and those who might vote against this proposal now are attempting in any way to do something that is detrimental to all the citizens of Pennsylvania.

PRESIDENT BRODERICK. Thank you, Delegate Fleming.

The Chair now recognizes Delegate Pelletier, who yielded for Delegate Fleming.

DELEGATE PELLETIER. Mr. President, fellow delegates, I am sure that I do not need to speak for Delegate Michener, but I am sure that he did not, in any way, mean to suggest that any delegate here would do anything contrary to the best interests of the Commonwealth as he, that delegate, saw it. I think what Delegate Michener was asking us to do was to look at our own consciences and at this issue. If you will bear with me for a moment, I would like to do that, and I do it with reluctance because it seems to me that we trod this ground yesterday in full. But I cannot forego making these remarks because of some comments offered by Delegate O'Donnell and Delegate Devlin.

As I have listened to this debate, it has reminded me again and again of what I have sometimes said to my classes, and that is, even a teacher has to be careful not to say more than he knows. I would ask you ladies and gentlemen if you have not said at times more than you know and you have not thought more than you really know?

I have thought about this issue, and it is a real emotional one, from my viewpoint. I grew up in a Maine town where the town meeting was extremely close to the people. I now live in a metropolitan State and frankly, this puts us, I think, into an emotional crisis that is hard to meet. While we are in a metropolitan State, some 40 of our

counties are really rural counties. We have, really, a matter of split personality, and it is not easy to put this split personality back together again and I find some trouble in doing that, fellow delegates.

When Delegate O'Donnell suggests that this proposal is change for change's sake, I am faint at heart. I am a political scientist and I know of no study of state legislatures—and I know of a great many which have been done carefully and, I think, as scientifically as we can do them when we are dealing with human relations—that does not, almost to a man, suggest that deliberative assemblies can do a better job if they have more manageable numbers. If you do not trust the political scientist, then turn to the businessman and read carefully the study of the Committee for Economic Development which, I think, represents some of the best business leadership in this Country. What do they say? Do they say this is change for change's sake? I think not, if you will read it carefully. It is a little late now, but even if the vote goes the other way, read it.

Let us look at the empirical evidence of this legislature itself. I feel for the gentlemen of this body, but I think that obviously the reduction in number is not the sole answer. I would submit, fellow delegates, that this legislature has to face the problem of legislative organization. This is a metropolitan State with metropolitan problems. The evidence, as I see it, does not suggest to me that this is change for change's sake. I can find other evidence. Other States have made this change and have not suffered and, as a matter of fact, seem to have prospered under it.

Let us now turn to the other side of the equation, the side that touches me emotionally. I want my Representative to this Assembly to be close to me emotionally but, you know, up until the present Representative, I never really knew the man, and I would suggest that anywhere from 40 to 50 per cent of the present district would not be able probably to give his name. I would suggest to you that representation does not exist exactly as we see it and, if it does exist, as some members of this Assembly described it yesterday, I am aghast. Frankly, if the members of the House of Representatives of this great State are here to get automobile registrations and to run that kind of errands for their constituents, then this State is being denied the kind of leadership that it so desperately needs.

What happens to this representative character of our Representatives when they come here to a caucus? Do they really represent me after they have been in a caucus of the Democratic Party or the Republican Party if they are to abide by that caucus? I will not spell out the story further, fellow delegates, but I think we really have an issue here that is important.

Yesterday someone said, this is not important; let us vote it and get on to the really important issues of this Convention.

Fellow delegates, the sovereign body of the Commonwealth of Pennsylvania is this legislature; it is the governing body. If there is anything more important, it is this body, and we ought to, to the best of our ability, help it to be the representative, the responsible body that this Commonwealth needs.

I shall vote for this proposal. I should like to vote for something more. I frankly cannot go down to 101 because I think this does hurt rural representation too much. But I think somehow we ought to try to balance these two different forces, the utter demand of the state for a respon-

sible representative working body and the desirability of making our representatives as close to the people as we can possibly make them.

There is no simple answer; there is no permanent answer; there is no final answer; but let us try to get the best answer that we can for this day.

Thank you, Mr. President

PRESIDENT BRODERICK. Thank you, Delegate Pelletier.

The Chair now recognizes Delegate Murray.

DELEGATE MURRAY. Thank you, Mr. President.

We have just heard remarks from both sides of the question. I am speaking against the proposal. I am speaking for the status quo, as we said. There seems to be a great deal of razzle-dazzle about some great public demand to reduce the number in the House. I see this move as a form of punishment, punishment for the tax increases and for the pension-plan problems which took place early in the year. The voters will punish those individuals if that is the way they feel, but I do not think this should be a guideline which should set the pattern for the next 100 years.

The news media have been telling us about this great public demand to reduce the number of seats in the House, but the people have not.

I think change for change's sake—this has been kicked around a lot—is ridiculous. We would not change the name of the Commonwealth of Pennsylvania. Why should we? There is nothing wrong with it. Furthermore, I do not think the people care about the size of the membership of the House of Representatives. What they do care about is the quality, not the quantity.

So I speak against this item. I think we should retain the 203-member House.

Thank you, sir.

PRESIDENT BRODERICK. The Chair recognizes Delegate Leinbach.

DELEGATE LEINBACH. Mr. President and fellow delegates, at the risk of being redundant, I should like to reiterate one of the thoughts which I presented yesterday. It is in regard to a young freshman legislator who appeared at the public hearing in December to register his objections to the stone wall which a freshman is up against when he enters the legislature.

He made another statement which made quite an impression on me. He told about that convention in Florida which he attended and which was attended by distinguished and prominent legislators from every State in the Union who gathered there to talk about not only what was good for the United States of America, but for each and every one of their respective States. And he said that there was a unanimity of opinion there that a state House of Representatives the size of Pennsylvania could not continue to function effectively. So I am for this amendment and I would even go to 151.

Among the activities in which I engage is passing merit badges to boy scouts. They come to me for the citizenship badges, and when I ask them the names of their State Senator and Representative in the House of Representatives, they are utterly unable to give them.

So, Mr. President, I urge support of this amendment.

PRESIDENT BRODERICK. Thank you, Delegate Leinbach.

The Chair recognizes Delegate Allison.

DELEGATE ALLISON. Mr. President, I believe that the statements just made were diabolical. On the one hand he is talking to the effect that the freshman member of the House was shunned by leadership, and on the other hand that he was sent to Florida on a commission. It does not make much sense to me. I think he was treated very well, being in the House just one year.

Finally, if numbers mean anything, I would suggest that I cannot figure out how session after session many, many, many pieces of good legislation every year come out of a 203-member House, a 209-member House, a 211-member House, and die in a 50-man Senate.

Thank you

PRESIDENT BRODERICK. Thank you, Delegate Allison.

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. I speak purely on a point of personal privilege. I think that our distinguished delegate from the 50th Senatorial District, Delegate Pelletier, perhaps misunderstood my remarks. At that time I was speaking in favor of a proposal which would reduce the members of the House of Representatives in this State. I have voted twice and am about to vote thrice in favor of reducing that number. My remarks were addressed solely to those arguments which purported to claim that there should be change for the sake of change alone.

PRESIDENT BRODERICK. Thank you, Delegate O'Donnell.

The Chair recognizes Delegate Donaldson.

DELEGATE DONALDSON. Thank you, Mr. President.

My batting average for '68 is just about where my '67 average was. I might say that many of you have been bloodied in combat for the first time in the last two days and have experienced losing a proposal in which you were quite interested. I certainly share your feelings and I guess I understand as much as anybody else how that feels.

I voted against I think all of the proposals that have come up so far and I may vote against all of the rest for a reason that I would like to have on the record.

I am speaking against this particular proposal, Mr. President. The phrase "a more manageable House" is one that has a great deal of interest for me. Certainly I have never been able to manage this one; nobody else has, and I do not think anybody really wants "a manageable House"—whatever that is supposed to mean.

Now a long time ago, before Delegate Pelletier came to Allegheny College, I went to Allegheny College and, believe it or not, I earned a degree in political science from that august institution. It seems to me that the real issue here is, are we going to repeat the very mistakes that brought us here 90 years ago, by writing statutes; or are we going to present to the people of this Commonwealth a new Constitution, a framework within which legislative government and representative government can work?

I think it is wrong to pick any number, any number, be it 203, 175, 101, 34, or any other number. Numbers do not belong in a Constitution. And the basic reason we are here is because those people 90 years ago insisted on writing a detailed document that throttled this government for that entire century.

I will support, and it will be offered, an amendment that will set no numbers and leave that for the future generations and the future legislatures that have to live

with it and survive with it. I think we have no business in that field. I, personally, believe that the present size of the House is pretty good, but I am not here to argue that. I am asking you, as Delegate Michener asked you but I come to a different conclusion; let us write a Constitution, and if we are honestly writing a Constitution, let us write one within which representative government can and will work and that means no numbers.

PRESIDENT BRODERICK. Thank you, Delegate Donaldson.

The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, I would just like to say that I agree with this gentleman 100 per cent. I have been waiting for this all day.

I will not vote for any number in the Constitution.

PRESIDENT BRODERICK. Thank you, Delegate Scranton.

The Chair recognizes Delegate Baner.

DELEGATE BANES. Mr. President, I rise in support of the amendment and also to set the record straight.

Many of the speakers whom we have heard have made statements that a vote on a particular proposal fixing a number will fix the number of legislators who will serve this Commonwealth. Nothing is further from the truth. Those of us who are supporting proposals for reduction in the number of legislators strenuously object to these statements and implications that this body is now voting to change the number of our legislators.

The only question to be voted upon is whether or not this Convention will place on the ballot, come this spring primary, a proposal which will permit the electorate to exercise a choice as to whether or not it wants to reduce the number of its legislators. If they vote "no" on any proposal which comes before them reducing the number, the number of legislators will remain at 203.

PRESIDENT BRODERICK. Thank you, Delegate Baner.

The Chair recognizes Delegate Scales.

The Chair at this time would request the delegates to be as brief as possible so that we can proceed to vote.

DELEGATE SCALES. Mr. President, I will be brief, but I rise to speak against the current amendment.

The number of 175 may, 20 years from now, be the number that should be used, and the number of 200 may be the number that should be used at that time. The number 230 may be the proper number to be used at that time. I speak with those who have suggested this morning that no number is proper in this Constitution.

It is my understanding that an amendment has been prepared and is now in the hands of Delegate Mattioni that would eliminate any number from this Constitution.

I suggest, therefore, that we vote against this kind of amendment.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Mr. President, I would like to just respond to two comments that were made here with respect to whether this is a constitutional issue.

I submit that the size of the legislature is a Constitutional issue, clearly is, and I believe that the people have sent us here to fix the number in our Constitution.

An examination of the constitutions of other States indicates that clearly it is perceived in other States of our Nation to be a Constitutional issue.

We were sent here to make this decision, not to pass the buck on this decision and send it back to the legislature, but to make it ourselves. I believe that 175 is a proper number, and I urge the support of that amendment.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Baldus.

The Chair recognizes Delegate Welsh.

DELEGATE WELSH. Mr. President, fellow delegates, I concur with Mr. Baldus and Mr. Michener, and I rise in support of this amendment.

I direct your attention with regard to whether this is or is not a constitutional issue, and I direct your attention to Article III, entitled, "Legislative Branch," Section 3.03 of the proposed Maryland Constitution, entitled, "Composition of the General Assembly": "The number of members of each House of the General Assembly shall be prescribed by law, but the number of delegates shall not exceed 120 and the number of Senators shall be one-third of the number of delegates." I submit that to you as to what is being done for now and for the next 100 years.

I suggest to you that we do what we are mandated to do, set the size of the House; not set it in the size or in the way that it did in 1874, with certain ratios and increments which could be a permissive increase of the size. If we mandate the size to the citizens of Pennsylvania, we still give them a choice as distinguished from no choice at all.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Welsh.

The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Mr. President, I want to speak to one point. I do not believe we are at Armageddon and that by voting one way or the other in this we stand for the Lord.

When I say that, I want to express the greatest appreciation of the speeches that have been made here by Mr. Cosetti and by Mr. Michener, our Secretary, and by Mr. Pelletier.

When I started to study law, I did not know whether at the conclusion I would want to practice law or be a professor of political science. Unfortunately, I seem to have fallen away from the dual purpose since that time. A man cannot do everything he would like to do, but I must confess that this business of shrinking the legislature had not occurred to me as a burning issue until I heard Mr. Cosetti. I am very grateful, especially to Mr. Pelletier, because I have belonged to committees of this State, important committees, where I have said time after time that I wish we had some political scientists and some braintrusts on our committee because I feel we do not have enough to give the lift to these new ideas which we ought to have.

However, let me say that I was not aware that this was an issue until I came to this Convention. I attended many speeches and I made a few speeches myself on this Constitutional Convention. It never occurred to me that under legislative apportionment we would have the question of shrinking the legislature. I do not know of anybody who had discussed it. I am very grateful to the people who have come here and discussed it here, but all I want to say is, do not condemn people out of hand because they are on the other side.

I think, for example, of this circumstance: The legislature of this State was unable to reapportion it. They

passed the buck to the Supreme Court, the body which never should have had that task imposed upon it. It did the best it could. There is a sense in which that subject is still up in the air. Now, to require reapportionment again at this time seems to me to thrust into the public consideration a subject that is already confused enough for them.

All I say is, let us not condemn one another for voting one way or the other on this. I am unable to concur in the idea that this is, in any sense, a decisive vote in the Convention.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bloom.

DELEGATE BLOOM. I should not really speak on this subject because I do not want to be misunderstood in any way, shape or form that I am speaking for or in behalf of any relative of mine. This is my own idea, my own thinking, my independent own thinking for the good of the people of Pennsylvania.

It is a question here, as I see it, of whether or not the Assembly could work more efficiently with a few less members. We are here to revise the Constitution and give them our honest opinion as to what the voters should do. What the voters will do is another question. I do not know and I do not suppose anybody in this room could say with any certainty what they will do. But I do believe that the voters should have some say. My own idea, which I want to express to this Convention is this, that this calls for a 12.5 per cent reduction in the House, which more than likely might mean that it would be more efficient and would get a better quality of representatives. We do have good representatives and I am not saying that in derogation, because all of the representatives of our districts are good men. I do not say anything derogatory of any of them. But what this amendment means is a 12.5 per cent reduction. My own idea is this: If this Assembly does reduce that 12.5 per cent to get better quality and efficiency in operation, it should do likewise with the Senate, because I would hate to see this body go on record getting away from the four representatives for each senator. I am a great believer in that, because I think we should have four representatives for each senator we elect.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Bloom.

Now let us get to the question. Let me say that unless the Chair hears objection, after we have voted on this amendment, which will probably be around 10 or 15 minutes after 12, I think we should recess until 2 o'clock.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Gabreski?

The roll was recorded as follows:

YEAS—50

Baldus	Cosetti	Johnson	Percey
Banes	Cunningham	Kelly	Popil
Barry	Dumbauld	Laputka	Roberts
Bloom	Feather	Leinbach	Ruth
Brennan	Forster	Mandernoo	Shettig
Brown	Fortney	McGeary	Spogell
Buck	Gabreski	Michael	Stout
Bunting	Gehrlein	Michener	Swope
Burkholder	Gerber	Miller, R	Tate
Caputo	Gouger	O'Donnell	Thornburgh
Caron	Henderson	Otto	Tomasick
Casoy	Hook	Pelletier	Welsh
Conley	Irvie		

NAYS—97

Aberman	Erwin	Leonard	Sahli
Allison	Fagan	Mangery	Scales
Amsterdam	Fay	Matthoni	Scarlett
Aurentz	Fawcett	McGlynn	Scott
Bagenstose	Filson	Meyer	Scranton
Baldridge	Fleming	Miller, D.	Sebastian
Baldwin	Fohl	Moorhead	Shapiro
Barron	Goldman	More	Sharp
Bashoff	Goldstein	Morton	Shively
Benedict	Griffith	Murray	Shoemaker
Braham	Hannum	Musselman	Shrager
Broderick	Harding	Nelson	Silverman
Butera	Hatter	Orban	Solomon
Cain	Humes	Orban	Strickler
Carnardella	Hocker	Pechan	Stroup
Clark	Horne	Port	Tully
Clinger	Jiroliano	Powell	Van Sant
Corey	Kauffman	Prendergast	Waldron
Cortese	Keller, J.	Quiles	Westerberg
Croop	Keller, M.	Rappaport	Whittum
Curran	Kung	Redick	Wilcox
Dailey	Krill	Reynolds	Wilmarth
Desmond	Leach	Richter	Woodring
Devlin	Lee, L.	Rovner	Woodside
Donaldson			

NOT VOTING—16

Benfield	Heyburn	Lane	Pasquerilla
Donolow	Hostetter	Lee, K.	Rea
Fineman	Huggins	Levin	Thomson
Gray	Kline	Markley	Warman

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

MOTION TO MOVE QUESTION

PRESIDENT BRODERICK. The Chair recognizes Delegate Croop.

DELEGATE CROOP. Mr. President, as I interpret the rules as set forth on page 20, rule 20, by the request or signatures of 15 or more members of this Convention, it shall be proper for me to place before the Convention the question, "Shall the question now be put?" I hold in my hand and shall read the names of some 25 signatures of delegates who request that this position be assumed.

The signatures are as follows: Jim Desmond, Victor Westerberg, Frank Croop, Leonard Hatter, Robert Baldridge, John Baldwin, Edward Meyer, Ralph Orbin, Gilbert Allison, Edward Dailey, Herbert Cain, Howard Erwin, Frank Fay, Philip Harding, Thomas Fagan, Howard Krill, Charles Leach, Joseph More, John Scales, Walter Wilmarth, Hobson Reynolds, Americo Cortese, Basil Scott, Thomas Wilcox and Bill Devlin.

I, therefore, move that this be the question now placed before the Convention.

PRESIDENT BRODERICK. Would you kindly hand up your motion to the Chair, and we will be at ease for just a minute and then I will recognize you.

DELEGATE CROOP. Mr. President, two of the names that I read are now withdrawn because of some subsequent motion they wish to make. One name has been added so I have made the corrections on the sheet in accordance with that. However, we are still far in excess of 15.

PRESIDENT BRODERICK. Please hand it up to the Chair.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Fleming.

DELEGATE FLEMING. A question of parliamentary

inquiry, please. If this motion is adopted, then do I understand, sir, that that precludes the possibility of offering any further amendments to this section?

PRESIDENT BRODERICK. That is correct.

DELEGATE FLEMING. Again, sir, may I ask if this motion is not debatable?

PRESIDENT BRODERICK. That is right. This motion is not debatable. Before the Chair ascertains whether the motion is in order, whether it has been properly seconded, the Chair wishes to explain what this motion means.

It means—this is a motion to move the question—that if we have 15 sponsors it is to be considered without debate. It means that we vote on the motion first and then, of course, we vote on the question. Since we have been only considering one part of this proposal, it would mean that there would be no debate nor consideration on the other part of the proposal if this motion carries.

The Chair recognizes Delegate Fleming.

DELEGATE FLEMING. A further point. I understand, sir, you ruled, and properly so, that the motion is not debatable. Would it be in order for me to suggest that the members vote this down? Is that in order?

MOTION WITHDRAWN

PRESIDENT BRODERICK. The Chair recognizes Delegate Croop.

DELEGATE CROOP. Mr. President, I was not trying to tie any hands, but I thought that we were playing this number game far enough considering the importance of why we are gathered here. Some of the tone of speech, in all due reflections and kind considerations, would indicate that this Convention goes or falls on one single issue, which in my judgment it does not. I thought that we had exercised enough time. I realize these amendments can be put in here anywhere from one to 200 or 500, or what have you. I thought that the tenure of the thing warranted that we have heard enough, we have voted often enough, and it was about time to withdraw, vote and do something about it. However, in view of the requests of a number of the delegates, I am going to withdraw the motion at this time.

PRESIDENT BRODERICK. As I understand it, you are withdrawing your motion?

DELEGATE CROOP. That is correct.

PRESIDENT BRODERICK. The motion has been withdrawn. On this list we have seconders. Am I to understand that you are authorized to speak for the seconders? Have they also withdrawn? Do I understand now that the motion has been withdrawn?

DELEGATE CROOP. That is right.

RECESS

PRESIDENT BRODERICK. As the Chair previously stated, it is now 12:15 and, unless there is objection, we will recess until two o'clock. The Chair is willing to hear objections to that if there are any.

The Chairs hears none, and the Convention is now in recess until 2 p.m.

AFTER RECESS

PRESIDENT BRODERICK. The time of recess having expired, the Convention will come to order.

BUNTING AMENDMENT

PRESIDENT BRODERICK. We are still on Section No. 17.

The Chair recognizes Delegate Bunting.

DELEGATE BUNTING. Thank you, Mr. President. I wish to offer an amendment to Section 17.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE BUNTING offered the following amendment which was read by the clerk:

Amend Sec 1 (Sec. 17), page 2, line 15 by inserting after "into" no more than

Amend Sec. 1 (Sec. 17), page 2, line 16 by inserting after "districts": , such number to be determined by the General Assembly,

Amend Sec 1 (Sec. 17), page 2, line 20 by striking out "two hundred three" and inserting: so determined by the General Assembly

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Bunting

DELEGATE BUNTING. Thank you, Mr. President. I wish to make this very brief. I think there is a fairly wide consensus that we do not want to have a fixed number of representative districts written into the Constitution. This amendment would create a ceiling of 203 representative districts but leave it up to the General Assembly to determine how that number should be adjusted as conditions and its own good judgment should dictate in the future.

We place a great deal of faith in our General Assembly in our proposal on local government. I think Mr. Gouger has indicated his faith in the General Assembly to be responsible. This range of flexibility should provide the vehicle that most of us can agree upon.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gouger.

DELEGATE GOUGER. It was just indicated by my esteemed friend, Mr. Bunting, that he thought that I shared in his great affection for the legislature, and that is correct. But I would like to address myself as having read the fundamentals of this thing as it appears to me.

To give the legislature by this mechanism completely unrestrained use of numbers by which the State may be reapportioned in such fashion as may be advantageous or not advantageous to them is to me to place in the hands of the legislature a form of unbridled political power without history in matters of this sort. I can envision a situation here wherein the legislature—and to pin honors on my own party—is completely democratic. We have now 253 members of the House and the Senate. It is determined that there is a small bunch of counties in the great midsection of the country which are a threat to the establishment. Thus, by reducing the size and forcing a reapportionment, they very efficiently remove this threat. Conversely they may decide to increase their number and thus perpetuate themselves. This results in a perpetuation of power that is reprehensible, I think, to the very essence of democratic government.

I am sure my friend, Delegate Bunting, does not envision this, but I can see herein a grant of power that is unwarranted and unheard of in legislative matters.

We are here assembled to try to draft, not precisely legislation, but philosophies. Are we here to draft a philosophy that would permit this form of political mechanization and, again, to take off the onus? Suppose my party concluded that it would like to do this. I would be horribly embarrassed to be a party to anything that would perpetuate my party forever, and through this mechanism I can see that it can be done.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Burkholder.

DELEGATE BURKHOLDER. Mr. President, ladies and gentlemen, my name is attached to this amendment. I would like to point out that it does not permit the legislature to increase the size beyond 203.

I was one of those who was in favor of a smaller House, and I so voted consistently. However, I realize when I am licked, but I do think that the remarks that were made, which indicated that the legislature should have something to say about the size of the House and that the Constitution should not rigidly attach to one number, were important. I was impressed by it and, therefore, I would like to give the legislature the right to decrease the number of members of the House, when, if and as it saw fit to do so.

PRESIDENT BRODERICK. Is there anyone else who wishes to speak either for or against this amendment? The Chair hears no response.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Bunting?

The roll was recorded as follows:

YEAS—41

Amsterdam	Cosetti	Lapotka	Rea
Barron	Feather	Manderino	Richter
Barry	Fleming	Mattioni	Roberts
Brennan	Fohl	Michener	Shapiro
Broderick	Fortney	Morton	Sharp
Buck	Gabreski	Nelson	Sprogeil
Bunting	Gerber	O'Donnell	Stroup
Burkholder	Goldman	Orban	Swope
Butera	Hook	Otto	Tate
Conley	Keller, M.	Poti	Waldron
Corey			

NAYS—96

Aberman	Dailey	Johnson	Rappaport
Allison	Desmond	Kauffman	Reynolds
Aurentz	Devlin	Keller, J.	Rovner
Bagenstose	Donaldson	Kelly	Ruth
Baldridge	Dumbauld	Krill	Sahl
Baldus	Erwin	Leach	Scales
Baldwin	Fagan	Leimbach	Scarlett
Banes	Fawcett	Levin	Scott
Bashoff	Fay	McGeary	Scranton
Benedict	Filson	McGlynn	Sebastian
Bloom	Forster	Michael	Shettig
Braham	Gehrlein	Miller, D.	Shively
Brown	Goldstein	Miller, R.	Shoemaker
Cann	Gouger	Moorhead	Shrager
Camardella	Griffith	More	Solomon
Caputo	Hammum	Murray	Strickler
Caron	Harding	Orbin	Thornburgh
Casey	Hatter	Pasquella	Tully
Clark	Henderson	Pelletier	Welsh
Clinger	Himes	Percey	Westerberg
Cortese	Hocker	Popli	Whittum
Croop	Horne	Powell	Wilcox
Cunningham	Irvis	Prendergast	Wilmarth
Curran	Jirolanio	Quiles	Woodside

NOT VOTING—26

Benfield	King	Markley	Stout
Donolow	Kline	Meyer	Thomson
Fineman	Lane	Musselman	Tomascik
Gray	Lee, K.	Pechan	Van Sant
Heyburn	Lee, L.	Redick	Warman
Hostetler	Leonard	Silverman	Woodring
Huggins	Mangery		

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Ruth. For what purpose does the gentleman rise?

DELEGATE RUTH. I rise to a parliamentary inquiry.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE RUTH. It has just been brought to our attention this morning by a delegate that the report of the Committee on Legislative Apportionment failed to obtain the required majority vote under the rules.

I have searched both the local rules that we have adopted and I have in my hand Mason's Rules of Procedure. I cannot find, and I wish to have the information, number one, what is the rule to cover objections to be made for a committee which reports out a proposal with insufficient or illegal votes, and if the delegation here was not aware of this?

The second question is: How could they waive the knowledge to raise the objection?

RULING BY THE CHAIR

PRESIDENT BRODERICK. I thought the Chair had answered that this morning by saying that this matter of insufficient votes should first have been raised in the committee, and if it was and was ignored at that time, then it should have been raised when the proposal reached the floor and was introduced.

It is the ruling of the Chair that the proposal, having been accepted, is now properly before us. Of course, as in all instances, if the body does not think the Chair has made a correct ruling in connection with this matter, it can always take an appeal.

DELEGATE RUTH. Mr. President, I do not wish to belabor the point. I was curious to address my attention to whatever rule covered the Chair's ruling, so that I might be able to note for myself whether or not an appeal would be proper.

PRESIDENT BRODERICK. Will you be at ease for one second, please?

May I call the delegate's attention to Mason's Manual, which I think you have in front of you there?

DELEGATE RUTH. Yes, sir.

PRESIDENT BRODERICK. Page 476, Section 681, subparagraph 1, says: "Neither the right of a committee to consider and report a bill, nor the validity of any action reported by a committee may be questioned after the house has begun its consideration of the bill or other matter reported."

DELEGATE RUTH. Mr. President, in lieu of that rule in Mason's, I would probably not take an appeal or push the issue at this time. I would like to, however, at least reserve that for the next 15 or 20 minutes so I can at least look at that section more closely, please.

PRESIDENT BRODERICK. You understand that the Chair ruled previously and repeats this ruling, that we are past the stage where the validity of the proposal can be questioned.

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I would like to follow up the point of procedure raised by Delegate Ruth and ask the Chair and the Parliamentarian what procedure could now be followed, not to appeal the Chair's ruling because I do not think the Chair realized any more than did this body that this proposal did not have the approval of the majority of its membership. May I ask, sir, what would be the procedure to suspend the rules in this regard so that this matter could be returned to that committee for proper consideration and be properly reported out?

PRESIDENT BRODERICK. There is always in order a motion to recommit, and this, of course, will depend upon the majority vote of the House of Delegates.

MOTION TO RECOMMIT

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. I move to recommit Committee Proposal No. 1. If I may, I would like to have an opportunity to express my reasons for it.

PRESIDENT BRODERICK. Delegate Dumbauld seconds the motion of Delegate O'Donnell to recommit Committee Proposal No. 1, which is now on second consideration.

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. I do not wish to engage in any of the splendid oratory that I have heard here, but I for one feel that I have been misled.

When a proposal comes out onto this floor, I certainly, for one person, assume that it has the backing of the majority of its committee. I certainly had the right, I think, to assume that that proposal had been submitted in accordance with the rules. I find later by papers that were distributed in this body that it did not have the majority approval of this committee. I submit, sir, that it is improper and I submit that it is one of the reasons we are engaged in this extensive debate today.

Thank you.

PRESIDENT BRODERICK. Thank you

The Chair recognizes Delegate Ruth.

DELEGATE RUTH. Mr. President, it is my understanding that on page 476 of the Mason's Rules and the very next paragraph following the one that the President read reads as follows: "If the question of whether a committee report is sufficient or has been properly authorized be raised, the question should be submitted to the body itself for decision rather than be decided by the presiding officer." I think, therefore, that the comments of the former delegates are in order.

PRESIDENT BRODERICK. Let me just say, Delegate Ruth, we are now on the motion to recommit. I just want to say to you that it is the interpretation of the Chair that that section you just read prevails when, and applies when the question is in order and it must be raised at the time that the proposal has been introduced.

Now we are on the motion to recommit. According to our rules, so everyone will understand before we vote, a

motion to recommit requires a majority vote of the delegates present.

I want to explain that all those voting "aye," vote to recommit. Those voting "no," vote against the motion to recommit.

On the question,

Will the Convention agree to the motion to recommit?

The roll was recorded as follows:

YEAS—34

Baldus	Gabreski	Popil	Shettig
Banes	Gouger	Rappaport	Shively
Barry	Henderson	Rea	Sprogeil
Buck	Hook	Redick	Stout
Burkholder	O'Donnell	Ruth	Strickler
Caputo	Otto	Scales	Swope
Casey	Paquerilla	Scarlett	Tate
Cosetti	Pelletier	Scott	Thornburgh
Dumbauld	Percey		

NAYS—114

Aberman	Desmond	Keller, M	Pott
Allison	Devlin	Kelly	Powell
Amsterdam	Donaldson	King	Prendergast
Aurentz	Erwin	Krill	Quiles
Bagenstose	Fagan	Laputka	Reynolds
Baldrige	Fawcett	Leach	Richter
Baldwin	Fay	Lee, L.	Roberts
Barron	Feather	Leinbach	Rovner
Bashoff	Filson	Leonard	Sahli
Benedict	Fleming	Levin	Seranton
Bloom	Fohl	Manderno	Sebastian
Braham	Forster	Mangery	Shapiro
Brennan	Fortney	Mattioni	Sharp
Broderick	Gehrlein	McGeary	Shoemaker
Brown	Gerber	McGlynn	Shrager
Bunting	Goldman	Meyer	Silverman
Butera	Goldstein	Michael	Solomon
Cain	Griffith	Michener	Stroup
Camardella	Hannum	Miller, D.	Tully
Caron	Harding	Miller, R	Van Sant
Clark	Hatter	Moorhead	Waldron
Clinger	Himes	More	Welsh
Conley	Hocker	Morton	Westerberg
Corey	Horne	Murray	Whittum
Cortese	Irvis	Muselman	Wilcox
Croop	Jrulanio	Nelson	Wimarth
Cunningham	Johnson	Orban	Woodring
Curran	Kauffman	Orbin	Woodside
Danley	Keller, J.		

NOT VOTING—15

Benfield	Heyburn	Lane	Thomson
Donolow	Hostetler	Lee, K	Tomasch
Fineman	Huggins	Markley	Warman
Gray	Khne	Pechan	

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

MATTIONI AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Mattioni.

DELEGATE MATTIONI. Mr. President, I read in place and present an amendment to Committee Proposal No. 1

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE MATTIONI offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, line 15, by striking out "two hundred three"

Amend Sec. 1 (Sec. 17), page 2, lines 19 and 20, by strik-

ing out "as-" in line 19, all of line 20, and inserting: determined by the Legislative Reapportionment Commission which may change the number of representative districts by increasing or decreasing that number by a percentage up to ten per cent of the then existing number.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. Delegate Mattioni, while we are having your amendment reproduced for distribution, you may make your statement in order to expedite.

We will not vote, fellow delegates, until you have had an opportunity to look at this amendment. I would appreciate it if in the future anyone who has an amendment that he is going to offer, would please get it up to Mr. Ingram so we can have it duplicated before we vote on it, because we must be careful and we do not want to make an error.

DELEGATE MATTIONI. My apologies to the Chair, Mr. President.

Mr. President, my personal feelings are that rigidity is not fundamental in a constitutional document. I first thought that perhaps we should remove numbers entirely and have come to that conclusion. I have two proposals. The first one has been submitted because, as stated, there should be some way to establish a ratio. The proposal that is before the Chair will, I think, allow for the flexibility that Delegate Gerber pleaded for this morning and allow also for the retention of fundamentals, as Delegate Pelletier and even Delegate Gouger have espoused heretofore. I think, more importantly, it will allow for the possibility of some reforms and will be done by the very commission that is proposed in the second part of this proposal, that is, by the minority and majority members of the House, along with the appointed fifth member. I think that holds within it a check-and-balance system and allows for meaningful change in the future, meaningful in the sense that it will not be radical. I think it would also retain the most important thing, and that is, the voice of the people.

I would like to remind everybody of one thing that happened to me yesterday morning. It was very simply this: A little lady who raised her own general assembly said to me one thing, "Do not take my voice." What she was referring to does not apply to her alone; it applies to the children, our children, in the future. I think we have to strengthen the General Assembly and we have to do it within mechanisms that are favorable to the General Assembly, and I think this might be one way. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, I desire to interrogate Delegate Mattioni.

PRESIDENT BRODERICK. Will Delegate Mattioni permit himself to be interrogated by Delegate Stroup?

DELEGATE MATTIONI. Yes, sir.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE STROUP. Mr. President, would the gentleman advise whether or not his proposal, which I do not have in front of me, presupposes the establishment in Proposal 2 of the legislative commission to set up the procedures and methods for apportionment?

DELEGATE MATTIONI. Yes, to some extent. But it does not eliminate the possibility that the legislative apportionment commission may be different than that set forth below. In other words, it may be composed of members of the General Assembly itself.

DELEGATE STROUP. Mr. President, if I understand the gentleman's comment and his response thereto, his amendment leaves the choice in Proposal No. 2 to whatever method may be used or whichever group may be assigned in Proposal No. 2 to follow through with the reapportionment procedures. Am I correct, Delegate Mattioni?

DELEGATE MATTIONI. Yes, sir.

DELEGATE STROUP. If that is true, then I want to be certain that it is a positive statement of fact insofar as the amendment is concerned. I want to be certain that this amendment, were it adopted, would not compel the delegates to adopt a legislative commission as opposed to some other method of arriving at apportionment procedures or methods.

I thank the delegate for his response.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Mr. President, I rise to oppose this amendment.

An answer, Mr. President, to this proposal rested on the desk of former President Truman. It was engraved on a famous little nameplate that said: "The buck stops here." On the issue of the size of the legislature, Mr. President, the buck stops here in this room.

There are two good reasons why we must not yield at this difficult time in our deliberations to a temptation to pass this problem either back to the legislature, back to a commission or back to the leadership of the legislature itself.

The first reason is that the size of the legislature is a constitutional issue. It should be decided by this Convention and ultimately by the people. To delegate the powers of this sovereign body, this Convention, and the sovereign powers of the people to a Commission of four legislators and one gentleman appointed by them, or even the deputies of the leaders of the legislature would, I submit, be a major abuse of our discretion. The four legislative leaders, able though they may be, would be elected by, and are directly responsible to, only a small segment of the total population of Pennsylvania.

In contrast, this Convention consists of 163 delegates elected from every corner of the State. Every Pennsylvanian is represented here. Because of the broad political responsibility of this body, we have been given total discretion in setting the size of the legislature. We are, in every way, a constitutional body with full constitutional powers to set the legislature's size. However, to give these powers—and that is what the proposal is here—to a group of five men with no limit except a ten per cent variation to guide them, with no check by the legislature or by the people through referendum or by the courts, would be a major departure from constitutional practice in this country.

The commission could reduce or increase the Senate to 45 or to 55 the next time it has this issue presented to it. It could reduce the House to 180 or increase it to 223 when it has the opportunity, the first time after the first decennial census. The next time it could reduce it to 163, or

had it increased it in the first instance, it could increase it to 243. When you consider the figures and the controversy that has surrounded the numbers game here today and the tremendous inability we have had to reach consensus on this, we, as a constituted body, you get a feeling for the important powers we would be delegating to this narrow group of men.

The size of the House would be subject to the absolute discretion and whim of this commission with no control by the people or the legislature. The possibility of abuse of such power in the hands of so small a group is, no doubt, the reason that no other State in the United States, that I have heard of, has adopted this radical proposal being offered here. The implications, I submit, of this approach would also be apparent to the people of Pennsylvania. Further, to expect the leaders of the legislature to propose some standard reform of the body in which they serve is more than can reasonably be expected. This is not to criticize the legislative leaders; it is merely a recognition of human nature. The reason is that each legislator's potentially direct interest in any such decision reducing the size seriously limits his capacity to act. In contrast, we are a short-lived body whose members, in the main, will not be affected by our recommendation on the size. If this decision is to be made, ladies and gentlemen, on fixing the size, it should be made by us.

There is also in this amendment an implication that more time and study are needed to make a proper decision on the size. This is simply not so. There is a wealth of experience in other States and there have been many studies. The only thing missing from this literature are responsible studies recommending a legislature as large as ours. The point is that the time for decision has arrived. If we cannot agree upon a new number, we should settle with 203.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Baldus.

The Chair recognizes Delegate Roberts

DELEGATE ROBERTS. Mr. President, I would also wish to speak against this amendment, if you would want to call on someone else to follow in the pattern you have established.

Mr. President, it is not an easy thing to rise to one's feet and to speak against a position held by such responsible citizens of our community as our former Governor, Delegate Scranton, who expressed a view this morning, and by Delegate Mattioni and other responsible members of this Convention. But this I must do, for it seems to me that this amendment before us allows the legislative commission to reduce the number of our legislature as it determines in future years. But we must remember, Mr. President, that it also allows for an increase in numbers in future times. To me, this possibility is intolerable, and we, who have this task before us, cannot tolerate this possibility.

Yesterday afternoon I expressed my feelings to the effect that it is imperative that our legislative body be drastically reduced in size and I moved that this Convention reduce the legislature to 101 in number. Of course, the Convention rejected this amendment as firmly as it also rejected other less liberal efforts at legislative reform. And certainly, Mr. President, I have been greatly disturbed. The amendment before us could conceivably open wide

the door to major increases in the size of our legislature, and I encourage my fellow delegates to defeat this amendment before us.

PRESIDENT BRODERICK. Thank you, Delegate Roberts.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair now recognizes Delegate Scales.

DELEGATE SCALES. Mr. President, before speaking on the amendment, I would like to state for the record that the two names erroneously included this morning in the motion to move the previous question were Delegate Scott's name and my own.

Delegate Gerber, my very good friend, this morning accused me of wearing a suit that had been purchased in Pittsburgh. I would like to state for the record and for Mr. Gerber's benefit that I buy all my suits in second class townships, Mr. President. It is only the labels that I buy in Pittsburgh.

Mr. President, I wish to speak for this amendment. As there is probably no one in this room who admires President Truman any more than I—and I certainly admire President Truman's determination and the sign that Mr. Baldus talked about in his office while in the presidency, about the buck stopping here—I hardly think, however, Mr. President, that that is the issue, because if there is anything that President Truman stands for, he stands for faith in people and he stands for a commitment to flexibility. Flexibility is the issue that we are now speaking to on this particular amendment.

I have worked very hard in our Local Government Committee, others have worked hard in that committee, in the Judiciary Committee, and in the Taxation and State Finance Committee, and I submit to the Chair that in all three of those committees the touchstone of what we were trying to do was flexibility.

I think this amendment is a good amendment. I think it provides for changing conditions in the future and I urge its adoption.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Scales. Does anyone else wish to be heard?

POINT OF ORDER

PRESIDENT BRODERICK. The Chair now recognizes Delegate Stroup.

DELEGATE STROUP. I suppose to get my point across I should rise to a point of order, but rather than doing that, Mr. President, I shall merely ask for a question of personal privilege for information.

As I read Committee Proposal No. 1, there is no reference whatsoever to a legislative commission in Proposal No. 1. There is, of course, in Proposal No. 2 the creation of a legislative commission. Now my point, Mr. President, is that the amendment offered by Delegate Mattioni is not germane to Committee Proposal No. 1 since it presupposes that this delegate body will approve of Committee Proposal No. 2, which it may or may not. Therefore, Mr. President, my question of information is as to whether or not the amendment offered by Delegate Mattioni is germane to the issue present before our body.

PRESIDENT BRODERICK. You are, in effect, asking

a ruling on this amendment as to whether or not it is germane. The Convention will be at ease.

RULING BY THE CHAIR

PRESIDENT BRODERICK. The Chair, after consultation with the Parliamentarian and counsel, feels that this amendment being offered is germane, recognizing that it is based on the assumption that when we come to the other portion of the proposal this would have to be defined.

The Chair recognizes Delegate Tate.

DELEGATE TATE. Mr. President, I speak in favor of this amendment. I have not spoken previously, yesterday or today, on any of the amendments or the main proposal, but I have listened with great interest. The thing which impressed me, I think most, yesterday and today, were the statements made by Delegate Donaldson and Delegate Scranton this morning, that we might be well advised not to consider any numbers at all in the constitutional provision which comes from this body.

There is no question that this amendment is a compromise and it is evident it will not satisfy many people on both sides of this question. It does not completely satisfy me. But I think that it does represent a compromise which would be workable, which is sensible, which derives some example from the federal example which does not make any mention of numbers in the Federal Constitution relating to the Federal Congress. I think, therefore, that this perhaps stands the best chance of acceptance by the people and approval by this body. I would urge all the members of this body to consider very carefully voting for this amendment.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Tate.

On the question recurring.

Will the Convention agree to the amendment offered by Delegate Mattioni?

The roll was recorded as follows:

YEAS—34

Barron	Fleming	McGeary	Scranton
Bunting	Fohl	Michener	Shapiro
Burkholder	Fortney	Morton	Sprogel
Clinger	Gerber	O'Donnell	Swope
Corey	Hook	Pelletier	Tate
Cosetti	Horne	Pott	Thornburgh
Cunningham	Kelly	Sahl	Van Sant
Curran	Mangery	Scales	Waldron
Feather	Mattioni		

NAYS—112

Aberman	Darley	Keber, J	Quiles
Allison	Dermond	Keller, M	Rappaport
Amsterdam	Devlin	King	Rea
Aurentz	Donaldson	Krill	Redick
Bagenstose	Dumbauld	Lapotka	Reynolds
Baldrige	Erwin	Leach	Richter
Baldus	Fagan	Lee, L	Roberts
Baldwin	Fawcett	Leinbach	Ruth
Banes	Fay	Leonard	Scarlett
Barry	Filson	Levin	Scott
Bashoff	Forster	Manderino	Sebastian
Benedict	Gabreski	McGlynn	Sharp
Bloom	Gehrlain	Meyer	Shively
Brashan	Goldman	Miller, D	Shoemaker
Breunann	Goldstein	Miller, R	Shrager
Broderick	Gouger	Moorhead	Silverman
Brown	Gray	More	Solomon
Buck	Griffith	Murray	Stout
Bulera	Hannum	Mueselman	Strickler
Cain	Harding	Nelson	Stroup
Camardella	Hatter	Orban	Tomascak
Caputo	Henderson	Orban	Welsh
Caron	Himes	Otto	Westenberg
Casey	Hocker	Pasquerilla	Whitman

Clark	Iris	Percy	Wilcox
Conley	Jurolamo	Popil	Wilmarth
Cortese	Johnson	Powell	Woodring
Croop	Kauffman	Prendergast	Woodside

NOT VOTING—17

Benfield	Huggins	Markley	Shettig
Donolow	Kline	Michael	Thomson
Fineman	Lane	Pechan	Tully
Heyburn	Lee, K.	Rovner	Warman
Hostetler			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

URBAN AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Urban.

DELEGATE URBAN. Mr. President, I submit an amendment to Committee Proposal No. 1.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE URBAN offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, line 15, by inserting after "into": not more than

Amend Sec. 1 (Sec. 17), page 2, line 20, by striking out "two hundred three" and inserting: of representative districts

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Urban.

DELEGATE URBAN. Mr. President, fellow delegates, it was not my intention to offer any amendment to this particular proposal; I was saving my amendments for the other proposal. However, in view of the large number of amendments and the subsequent votes, I concluded that we should now approach the problem from a little different direction. Unfortunately, Delegate Bunting took this approach, but my proposal differs in this respect: Delegate Bunting asked that the legislature set the number; Delegate Mattioni's proposal left it up to the commission; under my proposal it will be set by the body, whichever we decide upon in Proposal No. 2.

As a little boy I remember that I played the game of "Button, button, who's got the button?" Little did I think that at my age I would play the same game, but change the name to "Number, number, who has the elusive number?"

I have heard many statements on the floor of the Convention that the vote for the call of the Convention was a mandate for a change. These statements were so broad that one could only conclude that there are those who feel that the vote was a mandate to change every one of the four articles involved. I do not agree that such was the mandate, if there was a mandate. I am sure that there were many who voted for the call of the Convention, who had in mind changes in only one, possibly two or three articles. I am also sure, that there were those who voted with the idea that there should be changes in all four articles. I am equally sure that all the voters did not vote for changes in all of the articles. I am inclined to believe that the expressions of the delegates in the debate and by their votes represented the thinking of the people in their particular areas and what the voters in his or her district may have had in mind when they voted as to each article.

I am also aware that there may be a difference of opinion among delegates in the same senatorial district as to the significance of the vote in the senatorial district. Even though there may be a difference among the delegates in the same senatorial district, this does not by any means negate my prior statement that the delegates are representing the thoughts and thinking of the people in their senatorial districts. I believe that when there is a split in the delegation from a senatorial district, this is an exception and not the rule. The debate and the subsequent voting have indicated that this body does not want the elusive numbers 101, 151, 161 and 175. The voting has also established, by the vote on the amendments of Delegate Hocker and Delegate Otto on the multi-representative district, that there is no inclination to go beyond 203. Also, to the present time there has been no vote which has indicated that this Convention does not want 203.

My amendment will set a ceiling of 203 and the number will be fixed by the body that we determine in Proposal No. 2. I know the argument will be advanced that since 203 has been mentioned that will be the number accepted by the body. This does not necessarily follow. If the number is accepted by the body upon which we decide, then so be it. By the same token, if the body fixes 175 or 161 or 151 or 101, then so be it. The fact remains that under this proposal every delegate who has offered his amendment involving any one of the numbers has a chance for his number to go before the body which will fix the numbers.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you.

Does anyone wish to speak either for or against this amendment?

The Chair now recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, it seems to me this amendment does nothing that has not been voted on since yesterday noon in this Convention and that has been voted against. All it does is turn over to the legislature or a commission, the power to set the number. Two of the last very recent amendments show that this body does not approve of that, and I go along with that. I think, like some of the previous delegates, that the buck stops here. Although I am not a Democrat, Truman has always been my favorite President. I will probably get shot when I go home for saying that, but that is all right. I am not quite that strong of a Republican that I did not like happy Harry Truman.

Now we voted out nearly every number from 100 up to no limit except 103. This amendment, it seems to me, is going back to where we started yesterday afternoon. I think it is time, as Delegate Fohl so well said to us yesterday afternoon, that this is the simplest, least thing we have to decide, and we have wasted in my opinion, one whole day arguing about it. If we go that way we will be here until next July to get through Judiciary and Taxation and Local Government. I certainly think this amendment should be voted down and I hope the next amendment that comes in is something much different from what we have already been voting on.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Baldridge

Now the question recurs,
Will the Convention agree to the amendment?

The roll was recorded as follows:

YEAS—32

Amsterdam	Donaldson	Mattioni	Pott
Broderick	Fleming	Michael	Shapiro
Bunting	Fohl	Michener	Strickler
Burkholder	Gabreski	Morton	Stroup
Clinger	Hook	Musselman	Swope
Conley	Horne	Nelson	Tate
Corey	Laputka	O'Donnell	Thornburgh
Cosetti	Manderino	Orban	Waldron

NAYS—117

Aberman	Dumbauld	King	Richter
Aillson	Erwin	Krill	Roberts
Aurentz	Fagan	Leach	Rovner
Bagenstose	Fawcett	Lee, L.	Ruth
Baldridge	Fey	Leimbach	Sahli
Baldus	Feather	Leonard	Scales
Baldwin	Fulton	Lewin	Scarlett
Banes	Forster	Mangery	Scott
Barron	Fortney	McGeary	Seranton
Barry	Gehrlein	McClynn	Sebastian
Bashoff	Gerber	Meyer	Sharp
Benedict	Goldman	Müller, D.	Shetug
Bloom	Goldstein	Miller, R.	Shively
Braham	Gouger	Moorhead	Shoemaker
Brennan	Gray	More	Shrager
Brown	Griffith	Murray	Silverman
Buck	Hannum	Orbin	Solomon
Butera	Harding	Otto	Sprogel
Cam	Hatter	Pacquertilla	Stout
Camardella	Henderson	Pelletier	Tomasik
Caputo	Himes	Percey	Tully
Caron	Hocker	Popil	Van Sant
Casey	Irviss	Powell	Weish
Clark	Irolanio	Prendergast	Westerberg
Cortess	Johnson	Quiles	Whitum
Croop	Kauffman	Rappaport	Wilcox
Curran	Keller, J.	Rea	Wilmarth
Dalley	Keller, M.	Redick	Woodring
Desmond	Kelly	Reynolds	Woodside
Devlin			

NOT VOTING—14

Benfield	Heyburn	Lane	Pechan
Cunningham	Hostetler	Lee, K.	Thomson
Donolow	Huggins	Markley	Warman
Fineman	Kline		

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, may I ask a question?

PRESIDENT BRODERICK. Yes, proceed.

DELEGATE PELLETIER. Is it impossible for this body to use some device, such as, the Committee of the whole, to raise a couple of general questions as to whether or not we are in agreement?

For example, it seems to me we might very well ask: Is this House willing to reduce the size of the House of Representatives at all? Is it willing to deal with an indeterminate number? Otherwise, it seems to me we will be going on here trying these individual proposals until we are all exhausted and we will vote for something out of sheer desperation.

PRESIDENT BRODERICK. Of course, as the Chair has

indicated before, we can always limit the debate; we can always have a motion to limit the debate and, of course, the process in which we are now engaged is one that certainly determines what the attitude of the delegates is in regard to the number.

The Chair now recognizes Delegate McGeary

DELEGATE McGEARY. Mr. President, I stand here as one who has voted—I have not kept track of it—seven or eight times with the minority. I think that the legislature, the House of Representatives, should be a smaller body. I applauded my fellow political scientist loudly and sincerely when he made his talk this morning, but I must admit that I am ready to throw in the sponge.

I think with all our debate today and yesterday, it is pretty well proved now that a majority of this group wants the House to stay where it is. I hate to say this—and here is where I disagree with Dr. Pelletier, and to some extent with Mr. Michener—I do not think this is catastrophic for the Convention if we keep it at 203. I wish it were not at 203, but I still feel that there are more important things to come than whether this is 203 or 151. Therefore, I simply would announce that I am going to change my vote and vote for the original motion.

O'DONNELL AMENDMENT

PRESIDENT BRODERICK. The Chair now recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. The Chair asked the body a few moments ago whether there were any further amendments. There are. It was just handed to me a moment ago and I would like to have an opportunity to offer it. The copies are being distributed now.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE O'DONNELL offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, lines 15 to 20, by striking out "The State shall be divided into two hundred three repre—" in line 15, all of lines 16 to 20, and inserting: The House of Representatives shall, within one hundred twenty days following the Federal decennial census, determine the number of representative districts, but the number of such districts shall not exceed one district for each fifty thousand persons.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell. Would you proceed then to make your statement?

DELEGATE O'DONNELL. Yes. Without launching into oratory, this follows precisely the Federal model which I think has worked very well indeed since 1791 or thereabouts. It incorporates in large measure the suggestion of Delegate Mattioni and incorporates in large measure the proposal of Delegate Orban. That is to say what it does. Instead of leaving it to the hands of some indeterminate agency later, to wit, the Apportionment Commission—if there is to be one—it gives to the legislature the right to decide how many members it should have. I respectfully suggest that no one knows better than the legislature how many it should have. This also, I might

add, accords with the thinking of Delegate Scranton and others as expressed, that the Constitution should not fix precise numbers.

The only differences between this language and the language in the Federal model is that the Federal model says that they shall not exceed one for each 30,000 people. Of course, that was written in 1789. At the present time, considering the likelihood of the 1970 Federal decennial census, it will mean that the present House of Representatives, if the maximum is accepted, will approximate the 203 or 205 magic number which we now have.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gouger.

DELEGATE GOUGER. Mr. President and ladies and gentlemen, we who are about to die salute you.

As the most devoted proponent of the smaller House, I think we have now reached the point in this numbers game where we are getting cute and this, to me, is offensive to the voters. I would like, though, to chide my fellow delegate and make a point at the same time—Delegate Scales. I am going to recommend that he keep the label in his suit consistent with the suit because I find that when he pleads for flexibility, if the number is wrong, he votes "no"; if the number is right, he votes "yes." We are back to the numbers game again except we have a different suit on, but the label is exactly the same, or vice versa.

I stoutly stand by my moral convictions that our House membership is too high. But it would appear to be the consensus of this group here assembled that the status quo must prevail, and to my distinguished friend, Mr. Devlin, I apologize for that word "status quo." He does not like it and I can well understand why he does not.

I told Mr. Devlin—and this is symbolic of this, my last speech—when we were coming up on the elevator, that I was going to save my tin foil and I am going to have a crown made with little balls up on top of it and I am going to crown him with it as the crown prince of the province of Philadelphia. He told me that if I did that, they would secede and go over to Jersey. I do not think he was really too serious about that because he might not be able to do as well over there as he is obviously doing over here.

So, Bill, bloody but unbowed, I yield to superior strength. I know I am licked when I see it. I have violated the oldest, I guess, adage known to man, and that is: "Don't buck city hall." I have just, I am afraid, been stupid enough to do that, but it has been an awful lot of fun. On behalf of those of us who have spoken on behalf of the reduction of the legislature, we thank you for being patient and with this, my swan song. Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gray.

DELEGATE GRAY. Mr. President, as a respectful opponent of Mr. Devlin, the only thing I am asking of this body is: Will you give me the number so that I can tell my constituents how to play it?

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. I would like to point out there is a typographical error in here. There was no intention to eliminate lines 16 through 20, which would have the effect of not requiring districts of equal popula-

tion to be compact and contiguous. That part of the proposal should be deleted. It should read simply that line 15 should be replaced with the language which appears in it.

On the question recurring,
Will the Convention agree to the amendment offered by Delegate O'Donnell?

The roll was recorded as follows:

YEAS—21

Barron	Hook	Morton	Patt
Caputo	Ivins	Nelson	Sabb
Clark	Mangey	O'Donnell	Scales
Chinger	Mathoni	Orban	Shapiro
Cosetta	McGlynn	Orban	Stroup
Gray			

NAYS—127

Aberman	Devlin	Kelly	Richter
Allison	Donaldson	King	Roberts
Amsterdam	Dumham	Krail	Rovner
Aureant	Erwin	Laputka	Ruth
Egenstose	Fagan	Leach	Scarlett
Baldridge	Fawcett	Lee, L.	Scott
Baldus	Fay	Leinbach	Scranton
Baldwin	Feather	Leonard	Sebastian
Banes	Fikson	Levin	Sharp
Barry	Fleming	Manderino	Shettig
Bashoff	Fohl	McGeary	Shively
Benedict	Forster	Mayer	Shoomaker
Bloom	Fortney	Michael	Shrager
Braham	Gabreski	Michener	Silverman
Brennan	Gehrlein	Miller, D.	Solomon
Broderick	Gerber	Miller, R.	Sprengel
Brown	Goldman	Moorhead	Stout
Buck	Goldstein	More	Strickler
Bunting	Gouger	Murray	Swope
Burkholder	Griffith	Musselman	Tate
Butera	Hannum	Otto	Thornburgh
Cain	Harding	Pasquerella	Tomasick
Camardella	Hatter	Pelletier	Tully
Caron	Henderson	Perey	Van Sant
Casey	Himes	Popil	Waldron
Conley	Hocker	Fowell	Welsh
Corey	Horne	Prandergast	Westerberg
Cortese	Jrolamo	Quiles	Whittum
Croop	Johnson	Rappaport	Wilcox
Curran	Kauffman	Rea	Wilmouth
Dailey	Keller, J.	Redick	Woodring
Desmond	Keller, M.	Reynolds	

NOT VOTING—15

Benfield	Heyburn	Lane	Thomson
Cunningham	Hosetler	Lee, K.	Warman
Donolow	Huggins	Markley	Woodside
Fineman	Kline	Pechan	

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

LEVIN AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Levin.

DELEGATE LEVIN. I have an amendment to the proposal, Mr. President.

On the question recurring,
Will the Convention agree to the proposal on second consideration?

DELEGATE LEVIN offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, lines 15 to 20 by striking out "The State shall be divided into two hundred three repre—" in line 15 and all of lines 16 to 20 and inserting "The General Assembly shall determine the ratio

of the number of representative districts to the population.

On the question,
Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Levin for a statement on his amendment.

DELEGATE LEVIN. Mr. President and members of the Convention, in the last two days we have been trying to determine a formula whereby we, the House of Representatives and the State of Pennsylvania, can live for the rest of time.

We are supposing that we will know the efficiency of our representatives 10 years from now, and I think we are presuming too much.

We are trying to determine a ratio of the number of legislators to the population growth as of that period. We are forgetting the point that we cannot determine the efficiency of a representative as to the number of constituents within the ratio whereby the ratio will then determine the number in the House of Representatives.

I submit that the only way we can logically allow for an increase or a decrease, be either one necessary, is that we must first allow the General Assembly to determine the exact content of the ratio, be it 50,000, 60,000, 70,000, 80,000 or 100,000, by reason of the fact that the representatives themselves will determine the efficiency as to the number of people they can efficiently serve.

I, therefore, make the suggestion that when the time comes that the General Assembly must reapportion itself, we will then have the House of Representatives determine the count of the ratio that will be divided by the increased population of the State as of that time, and we will automatically have a number to submit to a commission, if we deem so necessary, to reapportion the State proportionately with the increase of the population at that time.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Levin.

Does anyone else wish to speak either for or against Delegate Levin's motion?

The Chair hears none.

Therefore, the question recurs,

Will the Convention agree to the amendment offered by Delegate Levin?

The roll was recorded as follows:

YEAS—14

Bunting	Fohl	Levin	Shapiro
Caputo	Hocker	Mattioni	Stroup
Cosetti	Hook	O'Donnell	Waldron
Fleming	Horne		

NAYS—132

Aberman	Dailey	King	Redick
Allison	Desmond	Krill	Reynolds
Amsterdam	Deylin	Laputka	Richter
Aurentz	Donaldson	Leach	Roberts
Bagenstose	Dumbauld	Lee, L.	Rovner
Baldrige	Erwin	Leimbach	Ruth
Baldus	Fagan	Leonard	Sahli
Baldwin	Fawcett	Manderino	Scales
Banes	Fay	Mangery	Scott
Barron	Feather	McGlynn	Scranton
Barry	Filson	Meyer	Sebastian
Bashoff	Forster	Michael	Sharp
Benedict	Fortney	Michener	Shettig
Bloom	Gabreski	Miller, D.	Shively
Braham	Gehrlein	Miller, R.	Shoemaker
Brennan	Gerber	Moorhead	Shrager
Broderick	Goldman	More	Silverman
Brown	Goldstein	Morton	Solomon

Buck	Gouger	Murray	Sprogeil
Burkholder	Gray	Musselman	Stout
Butera	Griffith	Nelson	Strickler
Cam	Hannum	Orban	Swope
Camardella	Harding	Orbin	Tate
Caron	Hatter	Otto	Thornburgh
Casey	Henderson	Pasquella	Tomasick
Clark	Hines	Pelleber	Tully
Clinger	Iris	Percey	Van Sant
Conley	Jirelano	Popil	Welsh
Corey	Johnson	Pott	Westerberg
Cortese	Kauffman	Powell	Whittum
Croop	Keller, J.	Prendergast	Wilcox
Cunningham	Keller, M.	Quiles	Wilmarth
Curran	Kelly	Rappaport	Woodring

NOT VOTING—17

Benfield	Huggins	Markley	Scarlett
Donolow	Kline	McGeary	Thomson
Fineman	Lane	Pechan	Warman
Heyburn	Lee, K.	Roa	Woodside
Hosteller			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

PRESIDENT BRODERICK. Do we have any further amendments to be offered?

The Chair hears none.

Therefore, there being no further amendments, no further debate on Section 17, we will now proceed.

RUTH AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Ruth.

DELEGATE RUTH. Mr. President, I wanted to try to get this run off. I would like to at least try it. I do not have it prepared to—

PRESIDENT BRODERICK. Is this an amendment?

DELEGATE RUTH. Yes, Mr. President. The only difference between this and Mr. O'Donnell's amendment—and I have consulted with him—in the interest of playing the numbers game, we changed 50,000 to 75,000, and left everything else the same. It is the only difference.

PRESIDENT BRODERICK. We have tried everything else, so we will give this one a try.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE RUTH offered the following amendment which was read by the clerk:

Amend Sec 1 (Sec. 17), page 2, lines 15 to 20, by striking out "The State shall be divided into two hundred three repre-" in line 15, all of lines 16 to 20, and inserting: The House of Representatives shall, within one hundred twenty days following the Federal decennial census, determine the number of representative districts, but the number of such districts shall not exceed one district for each seventy-five thousand persons.

On the question,

Will the Convention agree to the amendment?

MOTION

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, I believe all the delegates are familiar with the amendment offered.

I, therefore, move to dispense with the duplicating and to proceed with the voting on the amendment.

PRESIDENT BRODERICK. I have just been advised by the staff, and I want you to know before you vote on this thing—they have difficulties keeping track of this. Until we get a copy, we just do not have this on the record. A copy is being made now.

We will, therefore, proceed with the understanding that we will make a copy, and you will, in effect, have a copy by the time we are finished voting.

On the question,

Will the Convention agree to the motion?

The motion was agreed to.

The question recurs,

Will the Convention agree to the amendment offered by Delegate Ruth, which, as he explained, is changing 50,000 to 75,000, the amendment which was offered by Delegate O'Donnell?

The roll was recorded as follows:

YEAS—38

Amsterdam	Dumbauld	Michael	Sahl
Baldus	Gabreski	Michener	Seranton
Banes	Gehleleu	O'Donnell	Shapiro
Barry	Gerber	Pelletier	Shettig
Bunting	Gauger	Percey	Swope
Burkholder	Gray	Popil	Tate
Caputo	Henderson	Rappaport	Thornburgh
Conley	Hocker	Roberts	Tomasick
Coetti	Kelly	Ruth	Van Sant
Cunningham	Leimbach		

NAYS—110

Aberman	Devlin	Krill	Rea
Allison	Donaldson	Laputka	Redick
Aurentz	Erwin	Leach	Reynolds
Bagenstose	Fagan	Lee, L.	Richter
Baldridge	Fawcett	Leonard	Rovner
Baldwin	Fay	Levin	Scales
Barron	Feather	Manderino	Scarlett
Baschaff	Filson	Mangery	Scott
Benedict	Fleming	Matthoni	Sebastian
Bloom	Fohl	McGlynn	Sharp
Braham	Forster	Meyer	Shively
Brennan	Fortney	Miller, D.	Shoemaker
Broderick	Goldman	Miller, R.	Shrager
Brown	Goldstein	Moorhead	Silverman
Buck	Griffith	More	Solomon
Butera	Hannum	Morton	Spragell
Cain	Harding	Murray	Stout
Camardella	Hatter	Musselman	Strickler
Caron	Hines	Nelson	Stroup
Casey	Hook	Orban	Tully
Clark	Horne	Orbin	Waldron
Clinger	Irvy	Otto	Weish
Corey	Jirolante	Pasquerilla	Westerberg
Cortese	Johnson	Poff	Whitman
Croop	Kaufman	Powell	Wilcox
Currato	Keller, J.	Prendergast	Wilmarch
Dalley	Keller, M.	Quides	Woodring
Desmond	King		

NOT VOTING—15

Benfield	Hosteller	Lee, K.	Thomson
Donofew	Huggins	Markley	Warman
Fineman	Kline	McGeary	Woodside
Heyburn	Lane	Pechan	

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

HOOK AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. Mr. President, I rise to offer an amendment to Proposal No. 1.

PRESIDENT BRODERICK. You are offering an amendment to Section 17, the one we have been on?

DELEGATE HOOK. Section 17. Part of this was written before the original proposal.

On the question,

Will the Convention agree to the proposal on second consideration?

DELEGATE HOOK offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 2, line 15 by striking out "two hundred three"

Amend Sec. 1 (Sec. 17), page 2, lines 19 and 20 by striking out "The representative ratio shall be as" in line 19 and all of line 20

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. Mr. President, I believe that this is again eliminating the numbers game that has been played here now for two days.

This would mean, in reading the following language: "The State shall be divided into districts of compact and contiguous territory as nearly equal as possible in population as practicable, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a representative district."

Then we strike out the words, "The representative ratio shall be ascertained by dividing the total population of the State by the number 203."

This proposal has been supported by Mr. Mattioni, myself, Mr. Morton and Mr. Scales. We believe that this is a good compromise to all of the arguing that has occurred here for the past two days.

PRESIDENT BRODERICK. The Chair recognizes Delegate Donaldson.

DELEGATE DONALDSON. Mr. President, may I interrogate the delegate, please?

PRESIDENT BRODERICK. Would you consent to interrogation by Delegate Donaldson, Delegate Hook?

DELEGATE HOOK. I would.

PRESIDENT BRODERICK. You may proceed with your question.

DELEGATE DONALDSON. Is it my understanding that if this proposal were adopted, there would be no number set in the Constitution of this State for the composition of the lower House? Is that basically correct?

DELEGATE HOOK. That is correct, and that is exactly what it does.

DELEGATE DONALDSON. I thank the gentleman. May I speak on the proposal, Mr. President?

PRESIDENT BRODERICK. You may.

DELEGATE DONALDSON. Mr. President, it seems to me we are just about at this point: We are either going to adopt this kind of terminology or we are going to adopt the figure 203. I personally think 203 today is a pretty good membership of this House of Representatives. I do not know if it will be a good membership 10 years from now or 20 years from now or 50 years from now and, frankly, I doubt that it might be.

It seems to me, Mr. President, that in line with the remarks I made earlier today, this is the proposal we should adopt.

Let me point out another kind of a technical problem, but it is a very realistic problem that anybody who ever had anything to do with reapportionment should be aware of. When you start with an absolute number—and it does not matter what that number may be, but let us say it is 203—it becomes extremely difficult to reapportion. Frankly, when reapportionment of this General Assembly last took place, the basic figure around which all the preparatory work was done was the figure 200. It happened to work out that 203 became convenient. You are talking here about relatively small districts. You just do not move them around to suit the convenience of 203 as you might like to do.

Mr. President, I think these are the only two alternatives we have left—203, an absolute number that will be set for a long time. I think that is wrong; I think that is bad organic law. I do not think there is any magic in that number, although I approve it at the present time. I think this permits the leeway the representative government ought to have in which to work and it is a proper constitutional provision. I support this amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fleming.

DELEGATE FLEMING. Mr. President and fellow delegates, what I might say would probably be superfluous and I know you have heard so much on it, but I certainly endorse everything that Mr. Donaldson has said. I think we have all come here with the best intentions in the world of writing for Pennsylvania a guideline, if you please, by which the government shall be run and by which the General Assembly shall keep its actions within the confines of that document.

I am afraid that some of us—and probably I could be an offender the same as anyone here—have attempted in many instances to legislate rather than to provide for the General Assembly and for all departments of government certain basic guidelines that must be followed. I certainly believe that the best guideline we could give in the composition of the General Assembly would be the abolition of any number at all in either the House of Representatives or the Senate of Pennsylvania, because presumably we are giving to the people of Pennsylvania, for the acceptance or their rejection, on April 23, a document that will govern for possibly the next 75 or 100 years. As Mr. Donaldson so ably pointed out, how can we possibly know what conditions are going to be even 10 years from now? Maybe 203—and I agree wholeheartedly with him that this is a fine number at the present time; I think it has worked out very fine. But how do we know that 10 years from now 203 is the correct number? How do we know that 25 or 30 years from now, when many of us will be gone, that we have laid down for those people the type of a guideline in the Constitution that we should? I might say, parenthetically, if I may, Mr. President, that we are all concerned with a better type legislative body, a type of a body that will at least be put on an equality with the executive branch of government. And I would submit to my fellow delegates that this can best be accomplished, not by an absolute control of the number of State Senators or the number of Representatives in the House that you might have, but better by providing for them adequate staff, adequate research and an ability to serve all

the people of Pennsylvania so that the type of legislation that is passed by the General Assembly, in the House and in the Senate, be that which will be in the best interests of all the citizens of Pennsylvania.

I thoroughly believe that these gentlemen who have offered this last amendment have offered one that is in the best interests of all the people of Pennsylvania and I would urge anybody and everybody who possibly could to see to it that they vote for this very, very constructive amendment.

PRESIDENT BRODERICK. Thank you, Delegate Fleming.

Does anyone else wish to be heard?

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. I would like to be recorded as endorsing the observations of Delegates Donaldson and Fleming.

PRESIDENT BRODERICK. Thank you, Delegate O'Donnell.

Does Delegate Cosetti wish to be heard?

DELEGATE COSETTI. Yes, sir. I wish to be heard as opposed to this amendment. This is the same suit of clothes, I think, that Delegate Scales referred to earlier with another label.

The very problem that every legislature in the United States has had for the last 50 years has been the problem of reapportionment. I do not criticize the legislature on this matter. This is a problem of dealing with your own size in your own district. It is a very difficult problem and every legislature in the United States has had it. It has been such a problem that the United States Supreme Court has had to go into this matter, a matter which they previously called "the political thicket." It is because the legislatures, because they are directly involved themselves, have been unable to deal with this problem. I do not think we can pass the buck back to the General Assembly—this is the same problem over again—nor do I think we can present to the voters a real choice by saying you can have 203 or an indefinite number. Mr. President, I oppose this.

PRESIDENT BRODERICK. Thank you, Delegate Cosetti.

The Chair recognizes Delegate Gerber.

DELEGATE GERBER. I must respectfully disagree with my friend, Delegate Cosetti. I think that we have gotten to a point now where it is either 203 or 203, or, as Delegate Donaldson said, an opportunity not to freeze. Now as a proponent for a smaller House, as an individual who has felt that a smaller House would most effectively, at least more effectively, represent the people of the Commonwealth, in the midafternoon of the second day it seems to me that the choices are becoming rather limited.

I do think that, as Delegate Donaldson said and as Delegate Fleming said, this does give the people of Pennsylvania, through their elected representatives, or any commission that this Constitutional Convention can set up in Proposal No. 2, the opportunity to determine as time goes by whether or not a smaller House would be able to be more effective. And right now we are faced with a decision of either 203 or 203 if we accept the proposal as it came out of committee, or we have an opportunity for a flexible, fluid Constitution dealing with this section so that the people of Pennsylvania as time goes by have an

opportunity to be heard as to whether they want to keep it at this number or, through their elected representatives, reduce it, or, if they think at that time, enlarge it. In many ways it gives a choice. It also creates the flexibility that a Constitution should create.

Thank you.

PRESIDENT BRODERICK. You have an opportunity to close, Delegate Hook.

The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, I would like to interrogate Delegate Hook, if he permits himself to be interrogated.

PRESIDENT BRODERICK. Would you permit yourself, Delegate Hook, to be interrogated by Delegate Stroup?

DELEGATE HOOK. I shall, Mr. President.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE STROUP. Mr. President, I am puzzled by the amendment I have before me, that which has been circulated throughout the Convention. I see some cross lines here, Delegate Hook.

I would like to know just exactly which of these strikeouts are being proposed.

DELEGATE HOOK. Delegate Stroup, I answer that very readily. The last two lines starting with, "Amend Sec. 1 (Sec. 17), page 2, line 15 by striking out 'two hundred three.'"

This was prepared earlier and is being taken off now, because we want to do the same thing when we come back but dealing with the Senate.

DELEGATE STROUP. I suppose then, if I follow through with Delegate Donaldson's inquiry of you, we are now leaving the determination as to the composition of the House of Representatives to the General Assembly. Is that correct?

DELEGATE HOOK. That is correct.

DELEGATE STROUP. I thank the gentleman, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gouger.

DELEGATE GOUGER. Mr. President, I promised to sit down, but people just keep bringing up this same suit of clothes; it is still the same suit of clothes, and it is offensive to my intelligence to say that you have given the people a choice. A choice of what? A 203 or 203, it would appear to me. Sure, we give the legislature an opportunity. Have they availed themselves of this opportunity in the past?

It seems to me that it is time that we quit attempting to delude people by saying this provides you with a choice or this provides you with flexibility, flexibility between 202½ and 203½ or something equally ridiculous.

We are here faced with the basic problem; let us get on. Those of us who have favored a smaller legislature have agreed with you, but quit putting a different label on the same suit of clothes and bringing it back to us over and over again.

PRESIDENT BRODERICK. The Chair recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, I rise in favor of the passage of this amendment and in so doing, I would like to clear up what I fear has become a misconception on the part of some of the members of this body because of statements that have been previously made.

It has been said that a variable number or no number at all is contrary to all legislative practices. This is not the case.

The National House of Representatives has the number of members that the Congress of the United States decides, and when the present number, 435, was picked some 40 years ago, the ratio was about half of what it is today.

Yet, the Congress of the United States has been able to resist pressures that have been brought to increase the size of the House in view of the fact that many States, ours included, have been constantly losing representatives because of the shift of population to other areas of the country.

Therefore, I say that this amendment, which I heartily support, is in complete accord with the legislative practice of the greatest legislative body in the world, the Congress of the United States.

PRESIDENT BRODERICK. Thank you, Delegate Swope.

The Chair recognizes Delegate Caron.

DELEGATE CARON. Mr. President, I would like to repeat a question asked earlier:

Number one, I do not understand the amendment because it does not make sense the way it is spelled to me.

Number two, if it speaks for an unlimited number, I wonder what I am doing here, because I am getting more confused as the hours go by.

I fully felt that we were here, basically, to give the people a choice, and I cannot help but think that if unlimited numbers are the choice, a choice of what? I think we have a responsibility to correct it. I have a responsibility to come up with something for the people in which they can make a choice. so I ask two questions:

Number one. I would like to know what this amendment really says, because it does not speak English to me.

Number two, I am against it if it is for an unlimited number.

PRESIDENT BRODERICK. As I understand it, Delegate Caron, you wish to interrogate Delegate Hook as to what the meaning of his amendment is?

DELEGATE CARON. If he would just read it in context rather than read off a piece of paper the ins and outs of it. There are others in back of me who said the same thing—they do not understand it.

PRESIDENT BRODERICK. Would you answer the question, Delegate Hook?

DELEGATE HOOK. I will.

Taking your Committee Proposal No. 1 and beginning on line 15, it will read as follows: "The State shall be divided into districts of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a representative district."

In other words, what we are doing by this proposal is that we are taking out numbers. We are leaving it such that in the future, if the General Assembly wants to cut the size, they have this right to do it. This is making it flexible; this is not making it set by a given number. This is for the future, not for today.

DELEGATE CARON. I appreciate your explanation. Unfortunately, I do not understand it and I am still against it.

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Mr. President, as I understand this proposal, it would leave to the legislature in one operation the right to fix the size of the districts, to determine the ratio, and thus fix the number in the House. This seems to me to make possible gerrymandering unlimited.

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, I hesitate to rise again on this amendment, but now I understand the amendment after the explanation of Delegate Hook, and I, therefore, have come to the conclusion that the determination of representation would be finally decided by what we do in Proposal No. 2 and not necessarily in the General Assembly.

PRESIDENT BRODERICK. The Chair recognizes Delegate Banas.

DELEGATE BANES. Mr. President, just one statement in addition to what Delegate Hook said. It seems that we have gone full circle from the fights and battles to try to reduce the number of our legislators to a proposal now that Delegate Hook said should give the legislature the opportunity to reduce it, but he did not say that it also gives the legislature the opportunity to increase its number.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Fleming.

DELEGATE FLEMING. Mr. President, I apologize to the delegates for rising again, but I believe there has been an erroneous impression given that the legislature, if this were left to them—and I agree with Senator Stroup that it depends on what happens in Section 2—but I think we are losing sight of the fact of the United States Supreme Court ruling of one-man, one-vote, which certainly would set up the guidelines and give us the absolute directive of what we have to do in ratios, regardless of the number that the General Assembly would decide upon. I would not care, Mr. President, if they decided on 80, 100, or 300. It would still have to be with a variance—I believe they permitted us to have, if I remember correctly, a 15 per cent variance—but it would have to be within that.

PRESIDENT BRODERICK. The Chair recognizes Delegate Barry.

DELEGATE BARRY. Mr. President, I would like to interrogate Delegate Hook.

PRESIDENT BRODERICK. Delegate Hook, would you permit yourself to be interrogated by Delegate Barry?

DELEGATE HOOK. I shall.

PRESIDENT BRODERICK. The gentleman consents and you may proceed with your question.

DELEGATE BARRY. Mr. President, is Delegate Stroup's conclusion correct, that you envision that if there is a disagreement, then the size of the legislature would be decided in accordance with Section 2 of the proposal?

DELEGATE HOOK. I believe this would be correct.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, I am evidently very dense, but I cannot see anything in this amendment. I would like to ask Delegate Hook a question.

PRESIDENT BRODERICK. Delegate Hook, would you permit yourself to be interrogated by Delegate Baldrige?

DELEGATE HOOK. I would.

PRESIDENT BRODERICK. The gentleman consents; you may proceed with your question.

DELEGATE BALDRIGE. Delegate Hook, as I understand it, does this proposal of yours permit the legislature to increase its number?

DELEGATE HOOK. I believe this would be possible, yes, sir. It depends upon the situation.

DELEGATE BALDRIGE. As I read it, they can either reduce it to zero or increase it to any number. Is that right?

DELEGATE HOOK. That is right.

PRESIDENT BRODERICK. The Chair recognizes Delegate Horne.

DELEGATE HORNE. Mr. President, fellow delegates, I am not a lawyer so I cannot add much to this confusion. There are many brilliant people in this Convention; there are many able people here; however, we are writing a Constitution which is to serve the people of Pennsylvania for years to come. I think we must assume that there will be brilliant people in the generations that are to follow.

I do not think we have any right to limit by number in any way the future as to how the House or the Senate shall be constituted. I speak in favor of this amendment. I think this is first of all something which is giving an indication that we believe the people of the future can determine their own needs, and that we are thinking too much in terms of the present, of the today. I believe in a smaller House for today, but next year I may not believe in it, and 25 years from now I may believe in a larger House. I think the people of tomorrow should have the right of that same belief. I speak in favor of the amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Welsh.

DELEGATE WELSH. Mr. President, I rise in opposition to the amendment because I think it would be very inconsistent for this delegation to vote in favor of this amendment where they have already voted against the Mattioni, Orban, O'Donnell and Levin amendments.

PRESIDENT BRODERICK. Thank you, Delegate Welsh.

The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, as most of you know, I have been very quiet yesterday and today and intended to remain so. I have been trying to remember always what President Eney of the Maryland Constitutional Convention said, and that is, that there are always too many of us who feel compelled to speak on every subject. Knowing I am going to have to do a lot of talking when it gets to the judiciary, I tried to be quiet on this subject. Quite frankly, at this point I cannot.

The only other delegate to this Convention who has served in the U. S. House of Representatives besides myself is Delegate Swope and apparently both of us are thinking along the same lines at this instance. Just what are those lines and why do we think that way? They are as follows:

If you want the ultimate in efficiency in a legislative body, then you should be for a unicameral legislature because that is the smallest and the easiest to operate. But

I say to you that the unicameral system misses on two other criteria as to whether you have a good legislative body or not.

The first is adequate deliberation for the process of making a law. This is one of the two main reasons why we have two bodies in most of the legislatures and in the Congress of the United States, so that if one body goes off half-cocked, the other one can bring it to bay before the law is passed.

The second criteria which is extremely important in any democracy or republic is representation for the people in the legislative body, which is where their first and foremost representation lies. It is not in the judiciary, which is a protector of the minority. It is not necessarily in the executive, although that is of secondary importance. In this aspect to the legislature because the executive is also elected by the majority. But representation lies primarily in the legislative or the Congressional arm of our three-armed form of government.

There are other ways of achieving efficiency than through the composition of the body. The most efficient legislature in the United States of America today is New York's and the primary reason for this is that they have a system whereby all of the work that is done in committee is done before the actual legislature opens and then they bring the bills to the floor and they are debated and passed upon and the legislature adjourns in rather rapid time.

Most of you know that I am one of those who believe thoroughly in the reform of the legislative body of our government and I made this point rather strongly in a speech to the legislature in January 1967.

As for gerrymandering, the Supreme Court of the United States, seconded by the State Supreme Court, has made it perfectly clear in recent decisions that in the event of excessive or even just some gerrymandering, any such apportionment is struck down. If they attempt such in the legislative body, it no longer would be upheld.

I say to you that if you establish a set number of members of the legislature in this Constitution, remember there is one feature of this Constitution which has not been changed and cannot be changed by us. That is how you amend a Constitution. Unfortunately we must still amend the Constitution in the most laborious and difficult manner that has ever been conceived in a democratic form of government; namely, by two successive legislatures approving said amendments—and I ask you how often that would be accomplished on this issue—and in addition by approval of the electorate thereafter.

I am a strong believer in the division of powers in our government, and the determination of what should be the make-up of the body of the House of Representatives and of the Senate is little or no business of the Governor or the executive office. It should be of little or no business of the judiciary. They are only forced to intervene in the event of some irregular performance in establishing the number of members or of districts.

Now may I point out to you what happened—and I happen to think that the State of Pennsylvania and most of the legislatures of the United States, but particularly ours, are exactly in the same condition that the House of Representatives of the Congress of the United States was about 60 years ago, when the population of the United States was growing very rapidly. There is a provision in the Constitution that has been pointed out here about

the House of Representatives. The Congress has the opportunity to determine this, and they did determine it over a period of time and then when they decided that their House was too large to operate any larger in the future, they worked within the body to change the system of how they operated, and, consequently, have a better committee system; they have a better arrangement and they work better.

I happen to think that our legislature is just exactly at that point. There has been tremendous criticism of the legislature in the last year particularly, some of it well taken and some of it not well taken, in my opinion. You have seen the opinions as charted recently by the leaders of the legislature. They are now alert to this criticism and the need for reform.

It would seem to me to be a great mistake to put in our Constitution a limitation on the number of legislators that there should be, because I feel very strongly that this is a thing that should be determined by the legislative body and not by the Constitution, because none of us sitting here, no matter how clairvoyant, has any idea of really what is going to happen populationwise in this country, though every indication, all the research, and all the experts at the moment tell us a population explosion is upon us.

I say to you just as strongly as I can that here is your opportunity to remember that there are three separate powers and three separate arms of the governmental system in our Constitution. I will sincerely hope that you will give the legislature the opportunity to be the kind of mature legislature that I think it now wants to be and which is absolutely essential for the reputation of government in this State, just as we are going to do some reforming of the judiciary, so that it can have that reputation and just as many of us have advocated it for the executive, because the most important thing in a republic or democracy is to make sure that people have faith in their government—all arms of it!

The problem is that in the last couple of years they have lost faith in the legislature. I think the legislature recognizes this fact and to take it out on them forever, when they are just now coming to the point where they realize it, is a mistake. Instead, I think we should give them this opportunity, and the Congress of the United States accepted that opportunity in much the same condition not so terribly long ago. Then you will have a better legislature, you will have a better government and the people will be served better as they wish it.

I strongly favor this amendment.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Miller.

DELEGATE R. W. MILLER. Mr. President, fellow delegates, I rise in support of this amendment. I believe we have finally come up with the answer to the numbers game, and that is, the elimination of the numbers. We have now given flexibility to this proposal which will permit our future legislators to adjust their membership to meet the needs of their times, not ours.

Thank you.

PRESIDENT BRODERICK. Does anyone else wish to be heard on this question? Delegate Otto has the microphone.

DELEGATE OTTO. Mr. President, I wonder if Delegate Hook would mind being quizzed for a few minutes.

PRESIDENT BRODERICK. Would you, Delegate Hook, stand to be interrogated by Delegate Otto?

DELEGATE HOOK. Yes, I would.

PRESIDENT BRODERICK. He will. Present your questions to the Chair.

DELEGATE OTTO. Mr. President, I am wondering if this novel proposal which we had not taken up in the Reapportionment Committee, what background—

POINT OF ORDER

DELEGATE RAPPAPORT. Mr. President, a point of order, please?

I understood that Delegate Fohl had the floor and he graciously yielded to Governor Scranton. I wonder if Delegate Fohl still wants the floor.

PRESIDENT BRODERICK. There is no question that Delegate Fohl is entitled to the floor.

DELEGATE FOHL. I yield the floor, yes.

DELEGATE OTTO. Thank you, Mr. President.

PRESIDENT BRODERICK. You may proceed.

DELEGATE OTTO. I am wondering what the background of this type of proposal is in relationship to other large States in the country? What is the research on this particular proposal, since we have not discussed it in the Legislative Reapportionment Committee? I think that a measure of this sort certainly should have some backup material.

PRESIDENT BRODERICK. I think Delegate Hook now has your question. Would you answer that?

DELEGATE HOOK. Mr. Otto, I believe this has come about because of the activities in the past few days. There is very little research other than stating the fact that Governor Scranton has very well put it, and Delegate Swope, that it is based after the Federal Constitution, allowing the House and the Senate to set their numbers—not the Senate, but the House.

DELEGATE OTTO. Mr. President, that was my main point here. I just wondered what other States—I know that California, Illinois and Maryland just recently stuck to the numbers. I know that the people in Ohio voted for 33 and 99 at the last election. The reason I referred to this is because this is novel; this is the first time that I heard it, and I just call it to your attention. This is something new and probably new throughout the United States.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Would Delegate Hook be interrogated, please?

PRESIDENT BRODERICK. Will Delegate Hook stand to be interrogated by Delegate Baldus?

DELEGATE HOOK. I shall, Mr. President.

DELEGATE BALDUS. Delegate Hook, do you know if the legislature of this State since 1873 has ever proposed a constitutional amendment which would have reduced its size by any amount?

DELEGATE HOOK. I do not.

DELEGATE BALDUS. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Barry.

DELEGATE BARRY. I would like to propose an amendment to the amendment that the State shall be divided by the commission specified in Proposal No. 2 into 203 representative districts. In other words, I would like

Mr. Hook to agree to an amendment by which the State will be divided by the commission specified in the second part of the proposal rather than just be established in general language.

DELEGATE HOOK. I would not.

PRESIDENT BRODERICK. Now, do I understand, Delegate Barry, you were asking Delegate Hook whether he would agree to such an amendment?

DELEGATE BARRY. Yes

DELEGATE HOOK. I would not.

PRESIDENT BRODERICK. He has turned it down.

The Chair now recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I have asked the Convention Drafting Bureau to prepare an amendment to the amendment and I am waiting for that. I wonder whether you would prefer that I give the gist of it at this time or wait until the material comes back?

PRESIDENT BRODERICK. We will be at ease a minute until we find out the location of your amendment to the amendment.

AMSTERDAM AMENDMENT

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Hook to Committee Proposal No. 1?

DELEGATE AMSTERDAM offered the following amendment to the amendment offered by Delegate Hook:

Amend the amendment by inserting after the first line: Amend Sec. 1 (Sec. 17), page 2, line 17 by inserting after "representative.": The number of such districts shall not be changed unless approved by two-thirds of each house of the General Assembly.

On the question,

Will the Convention agree to the amendment to the amendment?

PRESIDENT BRODERICK. You may proceed, Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President and delegates, the amendment to Delegate Hook's amendment which I have put before the Convention provides that in order to change the number of representatives in the House from time to time, there must have been a vote of two-thirds of the Assembly, that is, two-thirds of each house of the Assembly. That means that changes may not be made capriciously from time to time by that particular party that seeks to be in power or is in power at the time.

If we leave it up to a legislature without restrictions, it may very well be that when the Democrats have the control the number will be changed in their favor and when the Republicans have the control the numbers will be changed in their favor. When you provide that two-thirds of each house shall be necessary to make a change in the number, you are giving the very flexibility that those who have spoken before seem to want, because we will not require the tortuous progress of an amendment to the Constitution where two separate legislatures must approve and then the amendment goes to the electorate. This will permit an amendment in the number from time to time providing there is an approval of both houses so that neither one of the political parties, presumably, unless they have tremendous control, which is not usually the case in

the State of Pennsylvania, will have to consult one another, and any amendment in the number will have to be satisfactory to both parties.

It seems to me this gives you the flexibility you want. It gives you the 203 to begin with that we all seem to feel is desirable, at least a majority—I would not say all, but a majority—seem to think that the number 203 at the present time is desirable. That is retained and yet there is an ability to change from time to time as the exigencies of the situation in the next 100 years may require; hence the amendment, Mr. President.

POINT OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton. For what purpose does the gentleman rise?

DELEGATE MORTON. I rise to a point of information, Mr. President. It would appear to me that under the proposal as made by Delegate Hook, which I cosponsored, that all we are talking about is deletion of numbers. The method of apportionment would be under a separate section, whether it be a commission or the legislative body, and it would appear to me that this is where this amendment would belong at this time.

PRESIDENT BRODERICK. Would you wish to be interrogated on that, Delegate Amsterdam? Delegate Morton has a question.

DELEGATE AMSTERDAM. I shall be glad to submit myself to interrogation by Delegate Morton.

DELEGATE MORTON. My point is that the proposal as made just eliminates numbers; it does nothing as to whether the General Assembly is going to do the apportionment or the determination of numbers. That would be under Proposal No. 2, which would be taken up. My point is, if we are going to write in two-thirds, three-fourths, or anything, that that would be where this should belong.

DELEGATE AMSTERDAM. Delegate Morton is advised that I simply accepted the statement of Delegate Hook to the effect that the number would be fixed at 203 to begin with, that is today fixed by the legislature and, therefore, the number would be unchanged under Delegate Hook's amendment. I am not trying to change the number either. If it is 203 under this amendment, it may still continue to be 203. All I want to provide is, that if the number is changed, it may not be changed without the consent of two-thirds of each House of the Assembly.

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Mr. President, I would like to speak a little more fully on the point I raised. I was trying to be too over-dramatic, I believe. I have the same fear expressed by Delegate Amsterdam that when one party is in power controlling both Houses, they can, within 15 per cent or thereabouts, allow, under the decisions of the Supreme Court, gerrymandering of the districts so that they can improve their position as they like. To be sure, we have the protection of the Supreme Courts of the United States and Pennsylvania, but let us remember how far the Congress went away from the then norms before those decisions were handed down, and let us remember how far our own Supreme Court departed from those norms before the present decisions came to control.

I, therefore, fear that if we give this unlimited power to the legislature, we will have the same thing that has been talked about, we will have Pandora's box opened all right and there will be many things emerge.

I think there is a great deal of merit in Delegate Amsterdam's proposal, because I think this ought not to be untrammelled. We ought not turn this over to the untrammelled will of the legislature, when before them there is an inviting prospect of improving their political positions.

PRESIDENT BRODERICK. Thank you, Delegate Braham.

The Chair recognizes Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, after listening to all this conversation, I am getting more confused. I think there are some very serious questions in my mind and I think in the minds of some of the other delegates. I would like to ask Delegate Hook a question, if he will permit himself to be interrogated.

PRESIDENT BRODERICK. The gentleman has indicated that he will consent to interrogation. You may proceed, Delegate Pasquerilla.

DELEGATE PASQUERILLA. I would like the delegate to tell us, if we approve this amendment, how often do we change the House?

DELEGATE HOOK. This would be dependent upon what is done in number two. This would have to be set aside by the guidelines there, and this I could not tell at this time.

DELEGATE PASQUERILLA. Mr. President, I submit to you and to the delegates here, that if we adopt such an amendment I do not know how we can vote on it without considering both proposals at the same time. It seems to me that I am in no position to vote on this amendment unless I know what action we are going to take on Proposal No. 2.

Several weeks ago the question was asked: How are we going to discuss these proposals? We had stated in our committee that we were going to come out with one proposal in the hope that we could discuss the whole proposal at one time. It appears now that we have arrived at that problem. For instance, I do not know how I can intelligently vote on this amendment without knowing what we are going to do with Proposal No. 2. I think this is a very serious, important part of the overall consideration of these amendments.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. I wanted to point out to Delegate Pasquerilla that that is the very reason why I put in the amendment to the amendment, because I have the same fear that he has.

Therefore, under the amendment which I have proposed, you can only change upon the occasion of getting two-thirds of the House and two-thirds of the Senate approving such a change. That gives quite a bit of stability to the entire proposal that is being made before us at the present time.

The question recurs,

Will the Convention agree to the amendment to the Hook amendment offered by Delegate Amsterdam?

The roll was recorded as follows:

YEAS—66

Aberman	Cunningham	Kelly	Sahl
Amsterdam	Dailey	Kline	Scales
Bagenstose	Devlin	Laputka	Shoemaker
Baldus	Dumbauld	Leinbach	Silverman
Baldwin	Erwin	Leonard	Sproggell
Barry	Feather	Manderino	Stout
Braham	Filson	Mattioni	Swope
Broderick	Fortney	Meyer	Tate
Burkholder	Gabreski	Michael	Thornburgh
Camardella	Gehrlin	Michener	Tomascik
Caputo	Goldstein	Miller, R.	Westerberg
Casey	Gray	Murray	Whittum
Clark	Himes	Percey	Wilcox
Clinger	Hook	Popil	Wilmarth
Conley	Horne	Rea	Woodring
Cortese	Irvis	Reynolds	Woodside
Cosetti	Johnson		

NAYS—79

Aurenz	Fawcett	McGeary	Richter
Baldrige	Fay	McGlynn	Roberts
Banes	Fleming	Miller, D.	Rovner
Barron	Fohl	Moorehead	Ruth
Bashoff	Forster	More	Scarlett
Benadict	Gerber	Morton	Scott
Bloom	Goldman	Musselman	Scranton
Brennan	Griffith	Nelson	Shapiro
Brown	Hannum	O'Donnell	Sharp
Buck	Harding	Orban	Shettig
Bunting	Hatter	Orbin	Shively
Butera	Henderson	Otto	Shrager
Cann	JiroJanio	Pasquerilla	Solomon
Caron	Kauffman	Pelletier	Strickler
Corey	Keller, J.	Pott	Stroup
Croop	Keller, M.	Powell	Tully
Curran	Krill	Prendergast	Van Sant
Desmond	Leach	Quiles	Waldron
Donaldson	Lee, L.	Rappaport	Welsh
Fagan	Levin	Redick	

NOT VOTING—18

Allison	Heyburn	Lane	Fechan
Benfield	Hocker	Lee, K.	Sebastian
Donolow	Hosteller	Mangery	Thomson
Fineman	Huggins	Markley	Warman
Gouger	King		

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

PRESIDENT BRODERICK. The Chair recognizes Delegate Devlin.

DELEGATE DEVLIN. Mr. President and fellow delegates, we are at a very crucial point, politically speaking, and I want to bare my soul to you, even though I am going to be in opposition to Delegates Donaldson, Fleming and Stroup, and my dear friend, Governor Scranton, Republicans all.

Mr. Amsterdam's amendment, in my opinion, was a good amendment, if we are going to vote "yes" on the amendment itself. It has a built-in safeguard that would prevent either political party that might have control of the House to butcher the other political party and put it out of business.

The amendment, as it stands right now, I cannot vote for because it allows this. It allows a small group of people to turn on the other party, to reduce the numbers. It allows them to create an imbalance between the rural and the urban, between the Republicans and the Democrats. It can destroy good, representative government in these hallowed halls. It can allow the Governor himself, whether he be Democrat or Republican, to be in the midst of this type of political gerrymandering.

I cannot say anything else, but we are going to a politi-

cal slaughter, since we defeated Mr. Amsterdam's safeguards, if we vote "yes" on this amendment.

Thank you, sir.

PRESIDENT BRODERICK. The Chair recognizes Delegate Irvis.

DELEGATE IRVIS. Mr. President, I have refrained from taking this microphone until this moment under a rule which I laid down for myself a number of years ago, to speak only when necessary and then only when I was absolutely sure it was necessary. I have reached that point now.

I think all of you, or many of you, at least, are aware that my personal preference is for a unicameral General Assembly. I do not hope to live long enough to see this in the Commonwealth of Pennsylvania.

It is not too frequent that I disagree with such a distinguished delegate as the delegate from Scranton, the former Governor William Scranton, but I do here disagree today. I could have voted for the Hook amendment, had the Amsterdam amendment to that amendment been accepted. But I thoroughly endorse the words of calm wisdom given to this delegate assembly by Mr. Devlin a few minutes ago. We cannot give to either political party the power to reapportion, to redistrict by district and numbers any time it suits the political necessity of that party to do so. That is precisely what the Hook amendment would do, if either major political party were in charge of both the Senate and the House of Representatives at the same time.

I do not trust any small group of men to reapportion the House and the Senate, but I certainly do not trust the political parties, driven as they are very often by a parochial view of any given situation, to reapportion willy-nilly as they see reapportionment ought to be brought about.

The safeguard was offered to us of the two-thirds vote and we have rejected it. We will be making a grave error today if we accept the Hook amendment, because to accept it would be to permit whichever political party happens to be in charge of both houses at the same time to perpetuate its power, and this is a basic denial of the right of the people to be fairly represented here. I speak against the amendment and I ask its defeat.

PRESIDENT BRODERICK. Does anyone else wish to be heard?

The Chair recognizes Delegate Forster.

DELEGATE FORSTER. Mr. President, I respectfully disagree with Delegate Devlin and Delegate Irvis because if you read carefully Section 17 as it would be amended by the Hook amendment, it does not say anything about who will do the division. That is covered in the Section of Report No. 2, and we will have ample opportunity to put the Amsterdam safeguard in that one at that time, as Delegate Morton earlier raised.

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton.

DELEGATE MORTON. Mr. President, the purpose of my raising a question with Mr. Amsterdam was specifically to bring in focus that I felt we should not piecemeal one and two together. For example, we could have said, "furnished every decennial census," and this brings in Proposal 2. It is my position on Proposal No. 1 as to whether we want to have a flexible element in the Constitution whereby if, as we have heard, a great number of legisla-

tures are screaming, "reduce it," we can reduce it, or it can be increased.

When we get to Proposal No. 2, which I would visualize as the method of apportionment, this is the place where I say Delegate Amsterdam's proposal is, the same as I would say the proposal would be if it would only be every 10 years at each decennial census. It comes under the method of apportionment, the point that you are directing yourselves to, and not as to whether there should be a fixed number in the Constitution. And after hearing your points and Delegate Irvis' points, I think this body would be very willing to follow them, but it is a question as to which area do they belong in.

If we adopt the flexible feature of Delegate Hook's proposal, then we can meet the point raised by you under the method of apportionment and decide whether it is going to be by a commission or by the legislative body and what numbers would be involved in it.

Thank you.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK The Chair recognizes Delegate Braham.

For what purpose does the gentleman rise?

DELEGATE BRAHAM I rise to a parliamentary inquiry.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE BRAHAM I rise to a parliamentary inquiry, which is really raised by the remarks of the last speaker.

Would it be in order at this time to move to postpone consideration of this question until it could be considered with what has been referred to as the other part of the procedure, namely, the consideration of the body which is to determine the reapportionment?

PRESIDENT BRODERICK. Yes, we can always make a motion of that nature. I want to remind the delegates that we have already had a motion, of course, by Delegate Fagan, that we take these up individually. I want to point out that as far as the proposals themselves are concerned, they will be voted on as one. The only thing we are doing now is considering the amendment and voting on the amendment.

MOTION TO POSTPONE

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Then, Mr. President, I move that the consideration of the pending question be postponed until there has been consideration of what has been referred to as the second half of the problem.

PRESIDENT BRODERICK. My understanding is now that you are talking about Proposal No. 2 and not the second half of this proposal. I misunderstood you.

Proposal No. 2, of course, we have not taken up yet. We have only taken up and have only been discussing and offering amendments to Section 17, which is the latter half of Proposal No. 1.

DELEGATE BRAHAM. I meant to postpone this until we could consider the other parts of the problem which were involved when the motion for division was adopted.

PRESIDENT BRODERICK. You make that in the form of a motion? Has anybody seconded that motion?

The Chair recognizes Delegate Gray.

DELEGATE GRAY. I would like to second that motion, but with your permission I would like to make an observation, which I think is basic and fundamental.

Unlike Representative Irvis, because I am not in this hall often enough, I did not intend to talk at all during this Convention and I promised, after my choir sang, that would be all I would have to say. But it seems we are going into something here, Mr. President, which is fundamental, and I am sure you are aware of it, and that is, we have had the advice of the two co-chairmen of the Judiciary Committee, who have not been on this committee. I think this is going to be repeated, that the people with different points of view who could advise us and who have not been able to meet and work with this committee are going to come here and uproot our thinking. Certainly it has caused me a great deal of frustration here after listening to Governor Scranton and after listening to Mr. Amsterdam and after listening to Mr. Hook, too. Mr. Hook, I wanted to put you in that good company.

Therefore, Mr. President, I think I can second this motion. I think we ought to try to work out some machinery whereby we can refer some of these questions, which will arise on the floor, back to the committee and then the committee will come back to us with a revised proposal the next day.

Thank you, sir and I will sit down.

PRESIDENT BRODERICK We have had a motion on the floor by Delegate Braham, seconded by Delegate Gray to postpone the consideration of Proposal No. 1 until we have considered Proposal No. 2. We can speak to that motion at this time.

The Chair recognizes Delegate Barron. Do you wish to speak to this motion?

DELEGATE BARRON. I will speak to this motion, Mr. President. In this fashion: I would advise you that there are two members of this House who had, but for this motion, planned to move to reconsider it. Frankly, this particular speaker had a great deal of difficulty comprehending, in the brief amount of time for study, the suggestions of my dear friend, Delegate Hook. I have, with the pressure of events, made something of that time, and so, speaking to the motion now on the floor, I would urge its defeat with the suggestion, sir, that I promise to this House that I shall submit a motion to reconsider the Amsterdam amendment in the light of the fresh thoughts here presented.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fagan.

DELEGATE FAGAN. Mr. President and delegates, I merely rise for the purpose of clarification. When I made the motion on the question to divide, which was approved by this particular body, it was on the difference between the composition of the House of Representatives and the Senate, and had no reference whatsoever to Proposal No. 2, which is on the method of apportionment. I merely wanted to clear that up for the benefit of the delegates.

MOTION WITHDRAWN

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Mr. President, if it is in order, I would like to withdraw my motion to postpone. with

the understanding that Delegate Barron is to make a motion to reconsider. No, I voted for that; I could not move to reconsider it.

PRESIDENT BRODERICK. I understand you have agreement of the seconder. The motion is withdrawn.

MOTION TO RECONSIDER

PRESIDENT BRODERICK. The Chair recognizes Delegate Barron.

DELEGATE BARRON. Mr. President, I would move to reconsider the Amsterdam amendment, lately defeated. I was one of those who voted "nay," which prevailed. I understand my good friend, Delegate John Keller, will join me in this motion.

PRESIDENT BRODERICK. May I ask Delegate Keller how he voted?

DELEGATE J. W. KELLER. I voted "nay."

PRESIDENT BRODERICK. It has been moved by Delegate Barron and seconded by Delegate Keller that the vote by which the Amsterdam amendment was defeated should now be reconsidered.

On the question,

Will the Convention agree to the motion to reconsider?

The roll was recorded as follows:

YEAS—87

Aberman	Corey	Johnson	Reynolds
Amsterdam	Cortese	Keller, J.	Richter
Badenstose	Coretti	Kelly	Sahl
Baldridge	Curran	Kline	Scales
Baldus	Dalley	Laputka	Seranton
Baldwin	Devlin	Lee, L.	Sharp
Barron	Erwin	Lembach	Shoemaker
Barry	Feather	Leonard	Silverman
Bashoff	Filion	Manderino	Sprogeil
Benedict	Fortney	Mattioni	Stout
Bloom	Gabreski	McGeary	Swope
Braham	Gehrlein	McGlynn	Tate
Brennan	Gerber	Meyer	Thornburgh
Broderick	Goldman	Michael	Tomasick
Brown	Goldstein	Michener	Tully
Bunting	Gouger	Miller, D.	Westerberg
Burkholder	Gray	Miller, R.	Whittum
Caputo	Griffith	Moorhead	Wilcox
Casey	Himes	More	Wilmarth
Clark	Hook	Morton	Woodring
Cinger	Horne	Popl	Woodside
Conley	Irvis	Rappaport	

NAYS—58

Aurentz	Forster	O'Donnell	Ruth
Banes	Hannum	Orban	Scarlett
Buck	Harding	Orbin	Scott
Butera	Mattier	Otto	Sebastian
Cain	Henderson	Parquerilla	Shapiro
Caron	Hocker	Pelletier	Shettig
Croop	Jrnlano	Pott	Shively
Desmond	Kauffman	Powell	Shrager
Donaldson	Keller, M.	Prendergast	Solomon
Dumbauld	Krill	Quiles	Strickler
Pagan	Leach	Rea	Stroup
Fawcett	Mangery	Redick	Van Sant
Fay	Murray	Roberts	Waldron
Fleming	Mueselman	Rovner	Welsh
Fohl	Nelson		

NOT VOTING—18

Allison	Fineman	Lane	Pechan
Benfield	Hayburn	Lee, K.	Percy
Camardella	Hosetler	Levin	Thomson
Cunningham	Huggins	Markley	Warman
Donolow	King		

The majority having voted in the affirmative, the question was determined in the affirmative, and the motion was agreed to.

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Delegates to this Convention, it has been my privilege to have served on reapportionment conference committees in 1963 and 1965. During those long hours of struggle, we did everything we possibly could to resolve our differences. I think you will recall that we practically did resolve and had resolved rather effectively the reapportionment of the State Senate, but we did get into problems with some eight, nine, ten or eleven districts in the House.

We were not able, in the time limit assigned to us, to resolve those difficulties; hence, the matter came to the Supreme Court of Pennsylvania. We did furnish that court with all the facts, all the statistics, the delineations of all the matters that we had. They used them, I think, to some advantage.

The point I am trying to make, Mr. President, is this: We had great difficulty trying to get reapportionment through the General Assembly. If you now ask the General Assembly to go to a two-thirds vote, I wonder if you realize how extremely difficult that is certainly going to be.

I must say, too, despite what Delegate Devlin said, I have made no decision yet upon the proposal which is presently before us, that is, the Hook proposal. I do subscribe most soundly to the presentation made here by Delegate Irvis and I fear the consequences of political overtones that will master the whole situation. I doubt very much whether a two-thirds vote will correct those possible political consequences.

Thank you, Mr. President

PRESIDENT BRODERICK. The Chair recognizes Delegate Wilmarth.

DELEGATE WILMARTH. Mr. President, there seems to be a great deal of confusion, including for myself. We defeated an amendment to an amendment. We are now reconsidering that amendment. For clarification, and because the original amendment is sort of piece-meal, I personally would like to see that we take a few minutes and have our gentlemen in the rear rewrite the whole amendment, including the amendment and the amendment to the amendment, so that we could clearly see it and clearly understand what we are doing.

PRESIDENT BRODERICK. Do I understand that you are putting that in the form of a motion?

DELEGATE WILMARTH. I will put that in the form of a motion, because I think we could better understand what we are doing if we could clearly see everything written down for us. We are voting on fragmentary parts of the amendment. It is deleting this and adding that, and now we are on the amendment to the amendment, which has been reconsidered and brought back for a vote. I think we would better understand and could better vote if we could see all of this and wait, maybe five minutes, to have it printed and then put in our hands, and I so move.

PRESIDENT BRODERICK. I am advised by the Parliamentarian, Delegate Wilmarth, that that cannot be done because we are now considering solely the amendment to the amendment, and this is the only thing now before the House. Therefore, unless somebody wants to speak pro or con on the amendment to the amendment, I think we are ready to vote.

The Chair recognizes Delegate Barron.

DELEGATE BARRON. I would like to say, sir, in support of the amendment to the amendment, which I voted against on its initial consideration, that this delegate has had a great deal of difficulty resolving this problem. As many of you know, I come from a rural county and I could not take the philosophical or intellectual concept of alternative pleading by voting for an option that created less representation from my district and then going to the district and urging its defeat. I now, however, accede the possibility that, with the safeguard both as to increase and decrease, as suggested in this, Mr. President, I would strongly urge the adoption of this two-thirds protection as suggested in the amendment of Delegate Amsterdam.

Thank you, sir.

The roll was recorded as follows:

YEAS—94

Aberman	Cortese	Keller, J.	Sahli
Amsterdam	Cosetti	Kelly	Scales
Aurentz	Cutran	Kline	Scranton
Bagenstose	Dailey	Krill	Sebastian
Baldrige	Desmond	Laputka	Shetig
Baldus	Devlin	Leinbach	Shively
Baldwin	Dumbauld	Leonard	Shoemaker
Barron	Erwin	Manderino	Shrager
Barry	Feather	Mangery	Silverman
Benedict	Filson	Mathoni	Sprogel
Bloom	Gabreski	Meyer	Stout
Braham	Gehrlein	Michael	Swope
Brennan	Gerber	Michener	Tate
Broderick	Goldman	Miller, D.	Thornburgh
Buck	Goldstein	Miller, R.	Tomaschik
Bunting	Gray	Moorhead	Tully
Burkholder	Griffith	More	Walsh
Caputo	Harding	Morton	Westerberg
Caron	Hatter	Murray	Whitlam
Casey	Humes	Orban	Wilcox
Clark	Hook	Popil	Wilmarth
Clinger	Hoone	Rappaport	Woodring
Conley	Iris	Reynolds	Woodside
Corey	Johnson		

NAYS—47

Banes	Forster	O'Donnell	Rovner
Bashoff	Hannum	Orban	Ruth
Brown	Henderson	Otto	Scarlett
Butera	Hocker	Pasquerilla	Scott
Cain	Jrnlano	Pelletier	Shapiro
Croop	Kauffman	Prendergast	Sharp
Donaldson	Keller, M.	Powell	Solomon
Fagan	Leach	Pott	Strickler
Fawcett	McGeary	Rea	Stroop
Fay	McGlynn	Redick	Van Sant
Fleming	Muselman	Richter	Waldron
Fohl	Nelson	Roberts	

NOT VOTING—22

Allison	Fortney	Lane	Pechan
Benfield	Gouger	Lee, K.	Percey
Camardella	Heyburn	Lee, L.	Quiles
Cunningham	Hosetler	Levin	Thomson
Donolow	Huggins	Markley	Warman
Fineman	King		

The majority having voted in the affirmative, the question was determined in the affirmative, and the amendment was agreed to.

PRESIDENT BRODERICK The Chair recognizes Delegate Woodside.

DELEGATE WOODSIDE. Mr. President, I think that the point which has just been made concerning the difficulty that we may now have in reading this amendment into the amendment and into the proposal is a difficult thing to do with the matter now before us, so I concur in the thought that we ought to have the whole thing made up

and presented to us. Before doing so, I would like to state my present understanding of what it is. In case a sponsor or anybody else has a different idea, I would be glad to have them present it.

It is my understanding that if we adopt the amendment which is now proposed as amended to the proposal, the House of Representatives will be 203 members and it will take a majority of the members of the House of Representatives and a majority of the Senate and the signature of the Governor to divide the State into the 203 districts. If, however, the House of Representatives, by a two-thirds vote, and the Senate, by a two-thirds vote, presumably without the signature of the Governor, sets the number of members in the House at something other than 203, that number will then be the number of representatives and the number of districts into which the Commonwealth will then be divided. In the dividing of that new number, whatever is set by the Senate and the House, the Senate, again by a majority vote, and the House, by a majority vote, with the approval of the Governor, will then determine the districts. If that is not what it says, then I would like to know what it does say.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK In answer to Delegate Woodside's question, he is correct.

PRESIDENT BRODERICK. The Chair recognizes Delegate Wilmarth.

DELEGATE WILMARTH. Mr. President, would I now be in order to make the motion that this be printed?

PRESIDENT BRODERICK. Yes, Delegate Wilmarth, the Chair has taken your suggestion. It is now in order that since the amendment to the amendment has carried, we will have it distributed.

DELEGATE WILMARTH Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodside.

DELEGATE WOODSIDE. Mr. President, in making the remarks immediately before the recess, I was assuming that the districting would be made by the legislature and not by a commission as provided in Proposal No. 2. Under the present Constitution the legislature divides the State into districts, and I was making that assumption rather than assuming the acceptance of Proposal No. 2 whereby it would be made by a commission. I wanted the record to show that. I understood that there will be some other matters before the Convention at this time and I have nothing further to say on the point.

PRESIDENT BRODERICK The Chair recognizes Delegate Hook.

DELEGATE HOOK. Mr. President, one of the matters that came up during the break while in conference with other delegates was the question as to what number we start with if this proposal passes. So rather than having a saving clause to be added to the proposal as now before you, I entertain a motion that on line 2, "the State shall be subdivided into 203 representative districts of compact and contiguous territory." This would, therefore, eliminate the necessity of adding a saving clause to the proposal that I have made here in the form of an amendment.

HOOK AMENDMENT

PRESIDENT BRODERICK. Delegate Hook, do I understand that you are now offering an amendment to the amended amendment?

DELEGATE HOOK. I am offering an amendment to the amended amendment, that is correct.

PRESIDENT BRODERICK. And that amendment is, as I understood, to put in 203 at a place in that amended amendment?

DELEGATE HOOK. That would be the case, yes.

PRESIDENT BRODERICK. Do we have that printed? Would it be distributed, please?

DELEGATE HOOK. This is merely to eliminate the use of a saving clause at the end of the proposal, if approved, which would have to be done.

PRESIDENT BRODERICK. The Chair will ask the clerk to read the amendment offered by Delegate Hook.

On the question recurring,

Will the Convention agree to the amended amendment?

DELEGATE HOOK offered the following amendment which was read by the clerk:

Representative Districts: Ratio.—The State shall be divided into 203 representative districts of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one representative. The number of such districts shall not be changed unless approved by two-thirds of each house of the General Assembly. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a representative district.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Bloom.

DELEGATE BLOOM. I would just like to make a few remarks so that everybody will understand what we are doing here. I am not going to say how I am going to vote, but you can judge from the remarks that I make, which follow:

Under the other proposals, the revised proposals that we made as to numbers, the people were going to vote on that, and they were going to have a say on the number who were going to be in the legislature. By this amendment and by this proposal, you are taking this right of the people to speak directly as to whether or not this legislature should be increased or decreased. You are taking that right away from them, whereas, the other way, if there had been additional numbers or anything like that, you would be giving the people the right to vote as to whether they wanted to decrease the House of Representatives. In this way you are taking away the right to amend, because under our present Constitution if the people decide that they want to increase or decrease, they will say by the referendum process that they are going to vote on it.

I think that by taking this action and putting it completely in the hands of the legislature by Constitution, you do not give the people the right to say anything about it.

PRESIDENT BRODERICK. Thank you, Delegate Bloom.

The question before the House, and we want to make it clear, is that what has happened here is that Delegate

Hook has offered an amendment to the amended amendment and that amendment frankly includes or specifies that the State shall be divided into 203 representative districts.

First, we are going to vote on that amendment to the amendment, and this is the question before the House and this is the question to which we will now recognize anyone who wants to speak pro or con.

The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. I just raise a question, Mr. President, as to what we have actually done. The amendment as originally presented by Mr. Hook, and I read, said, "strike out 203." That part of his amendment was not amended; yet, without having brought that to a vote, we are voting on striking out what we have already not voted on to strike out.

PRESIDENT BRODERICK. The only thing I can say is that you are absolutely right.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. If I read Rule 27, Section 4, correctly, which appears on page 45 of the booklet, it reads: An amendment may be amended, but an amendment to an amendment may not be amended.

I do believe that we seem to be amending an amendment to an amendment.

PRESIDENT BRODERICK. Let me just say to you that, according to our Parliamentarian, and the Chair so rules, since we have accepted the amendment to the amendment, we now have an amended amendment; therefore, we cannot entertain an amendment to the amended amendment.

DELEGATE O'DONNELL. Mr. President, I take it that our Parliamentarian and the rules then illustrate to the body the difficulty which the legislature may later have by suggesting, perhaps, that this vote here be by two-thirds.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER. I merely wish to propose a question to the Chair concerning the printed material which has been distributed. Am I to understand that the question before the delegation at this time, if approved, would replace the entire part of Section 17, lines 15 through 20? Is that the intent of the amendment? It is not clear, at least to me.

PRESIDENT BRODERICK. Delegate Shoemaker, my understanding is that the amendment now being offered to the amended amendment only suggests the inclusion of the sentence: "The State will be divided into 203 representative districts." This is the amendment to the amendment we are now voting on.

What has been distributed for the ease of the members in voting is a compendium of the amendment, the amended amendment and now the amendment to the amended amendment. We are now voting on whether or not the 203 should be included.

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes Delegate Caron.

DELEGATE CARON. A point of order, please. May I ask Mr. Amsterdam to explain a point?

PRESIDENT BRODERICK. Delegate Amsterdam, do you wish to be interrogated?

DELEGATE AMSTERDAM. I shall be very happy to answer any questions.

DELEGATE CARON. Mr. Amsterdam, the motion that is now before the Convention reads, two-thirds of each House. Would this be interpreted as two-thirds present or two-thirds elected?

DELEGATE AMSTERDAM. Actually, it is my understanding that we are not on that yet, but I will still be glad to answer the question. It was my intent that it would be two-thirds of the total membership of each House.

DELEGATE CARON. As elected?

DELEGATE AMSTERDAM. That is correct.

DELEGATE CARON. Would this then be an order that that be specified by the Style and Drafting Committee later?

PRESIDENT BRODERICK. I just want to say, Delegate Caron, we are now on the question as to whether to amend that amended amendment by just inserting the sentence that has been offered by Delegate Hook, the sentence being that the State will be divided into 203 representative districts. That is the question that is now before the House that we are going to vote on, whether or not to accept that amendment to the amended amendment.

DELEGATE CARON. I apologize. It is the next time.

PRESIDENT BRODERICK. It is the next time that you will have to ask that question and we will discuss it.

Assuming that there is no one who wishes to be heard further in connection with the amendment to the amended amendment, we will now unlock the voting machines and vote.

Those voting "aye" will vote to include the 203 sentence in the amended amendment; those voting "nay" will vote to reject it.

On the question,

Will the Convention agree to the amendment to the amended amendment?

The roll was recorded as follows:

YEAS—98

Aberman	Desmond	Kelly	Reynolds
Amsterdam	Devlin	Kline	Rovner
Aurentz	Erwin	Krill	Sahli
Bagenstose	Fagan	Laputka	Scales
Baldridge	Fay	Leach	Scarlett
Baldus	Feather	Leonard	Scott
Baldwin	Filson	Levin	Sebastian
Barron	Fortney	Manderino	Sharp
Bashoff	Gabreski	Mangery	Shively
Benedict	Gehrlein	Matthoni	Shoemaker
Braham	Goldstein	McGlynn	Shrager
Brennan	Gray	Meyer	Silverman
Broderick	Griffith	Michael	Solomon
Burkholder	Hannum	Michener	Stroup
Butera	Harding	Miller, D.	Swope
Cain	Hatter	Miller, R.	Tomaselk
Caron	Heyburn	Moorhead	Tully
Casey	Himes	More	Van Sant
Clark	Hook	Murray	Westerberg
Clinger	Horne	Orbin	Whitum
Corey	Jrrolano	Pasquerilla	Wilcox
Cortese	Johnson	Popil	Wilmarth
Croop	Kaufman	Rappaport	Woodring
Curran	Keller, J.	Bedick	Woodside
Dailey	Keller, M.		

NAYS—43

Banes	Fawcett	Morton	Roberts
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Barry	Fleming	Musselman	Scranton
Bloom	Fohl	Nelson	Shapiro
Brown	Forster	O'Donnell	Shetlag
Buck	Gerber	Orban	Sprogeil
Bunting	Goldman	Otto	Stout
Caputo	Henderson	Pelletier	Tate
Cosettil	Hocker	Poti	Thornburgh
Cunningham	Irvia	Fowell	Waldron
Donaldson	Leinbach	Rea	Welsh
Dumbauld	McGeary	Richter	

NOT VOTING—22

Allison	Gouger	Lee, L.	Quiles
Benfield	Hostetler	Markley	Ruth
Camardella	Huggins	Pechan	Struckler
Conley	King	Percy	Thomson
Donolow	Lane	Prendergast	Werman
Fineman	Lee, K.		

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

PRESIDENT BRODERICK. Is there any discussion on the Hook amendment as amended?

You have the language of that on your desks.

PARLIMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Caron. For what purpose does the gentleman rise?

DELEGATE CARON. I rise to a parliamentary inquiry.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE CARON. Is now the time I ask the question as to whether or not the two-thirds means two-thirds of the elected present or two-thirds of those elected in toto to the office?

PRESIDENT BRODERICK. I assume you are posing that question to Delegate Amsterdam who offered that amendment. Do you wish to be interrogated on that, sir?

DELEGATE AMSTERDAM. Mr. President, as I indicated, that was my intention. However, I suppose we ought to ask counsel whether the words used express that intention. The intention is that there be two-thirds of the total House and two-thirds of the total Senate as elected.

PRESIDENT BRODERICK. We have had a strange coincidence happen here. All the counsel have agreed that as the language now reads they will volunteer the statement that it means two-thirds of those present and not two-thirds of those elected, as that wording is used in this particular amendment.

DELEGATE AMSTERDAM. Mr. President, I should like to propose as amendment that the words "as elected" be included, so that it will be two-thirds of the House as elected and two-thirds of the Senate as elected, and that we could determine promptly what the rule of this body is.

On the question,

Will the Convention agree to the amended amendment?

DELEGATE AMSTERDAM offered the following amendment which was read by the clerk:

Representative Districts: Ratio.—The State shall be divided into two hundred three representative districts of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one representative. The number of such districts shall not be changed unless approved by two-thirds of the members elected to each house of the General As-

sembly. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a representative district.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Would you ask your able attorneys up there what is the difference between this language and the language that we use when we work on nonpreferred legislation in the House of Representatives? That is two-thirds of those elected, not in attendance.

PRESIDENT BRODERICK. Delegate Hocker, they still insist that, in their opinion, the way this wording was offered in the Amsterdam amendment it did not mean two-thirds of those elected. Now since Delegate Amsterdam has offered an amendment adding the words, let me just ask you if we all agree on this wording. I am starting now with the second sentence: "The number of such districts shall not be changed unless approved by two-thirds of," and then insert, "the members elected to." And then it would go on: "each house of the General Assembly." I think that we will have no question then and we will not have to pay any legal fees.

DELEGATE HOCKER. I will second Mr. Amsterdam's motion.

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Would Delegate Amsterdam agree to be interrogated on his motion?

PRESIDENT BRODERICK. Would you stand for interrogation, Delegate Amsterdam?

DELEGATE AMSTERDAM. Mr. President, I have been interrogated by Delegate O'Donnell now for something like eight or nine weeks, and I must say it has been a liberal education. I will be very glad to have some further education by listening to his interrogation.

PRESIDENT BRODERICK. I think he said yes.

DELEGATE O'DONNELL. One of the difficulties with my education has been the nature of most of his answers.

Mr. Amsterdam, is it your intention with this proposal that you have just now made by way of an amendment to see to it that the 203 figure is never changed except by an act of God? I merely ask you, do you intend to bring about that result?

DELEGATE AMSTERDAM. Mr. President, the answer is no.

DELEGATE O'DONNELL. Thank you.

PRESIDENT BRODERICK. And now, as I understand it, we have before us again another amendment to this language, and that is to insert "the members elected." Now, I would like to ask all those in favor of inserting the term "the members elected" to say "aye." Anyone opposed, say "nay."

The "ayes" have it.

And now the words are "members elected to."

The question recurs,

Will the Convention agree to the Hook amendment as amended?

The roll was recorded as follows:

YEAS—95

Aberman	Desmond	Keller, M	Reynolds
Amsterdam	Devlin	Kelly	Richter

Aurentz
Bagenstose
Baldridge
Baldwin
Barron
Bashoff
Benedict
Braham
Brennan
Broderick
Burkholder
Butera
Cain
Caron
Casey
Clark
Clinger
Corey
Cortese
Croop
Curran
Dailey

Erwin
Fagan
Fawcett
Fay
Feather
Filson
Fortney
Gabreski
Gehrlein
Gerber
Goldman
Goldstein
Gray
Griffith
Hannum
Harding
Hatter
Hook
Horne
Irwin
Jrolanio
Keller, J

Kline
Kroll
Leach
Leonard
Levin
Manderino
Mangery
Mattioni
Meyer
Michael
Michener
Miller, D.
Miller, R
Moorhead
Musselman
Nelson
Orban
Orbin
Pasquerilla
Popil
Rappaport
Redick

Rovner
Sahl
Scales
Scarlett
Scott
Sebastian
Shoemaker
Shrager
Silverman
Solomon
Strickler
Stroup
Swope
Tate
Tomascik
Tully
Van Sant
Westerberg
Wilmarth
Woodring
Woodside

NAYS—49

Baldus
Banes
Barry
Bloom
Brown
Buck
Bunting
Caputo
Cosetti
Cunningham
Donaldson
Dumbauld
Fleming

Fohl
Forster
Henderson
Heyburn
Himes
Hocker
Johnson
Kauffman
Laputka
Lembach
McGeary
McGlynn

More
Morton
Murray
O'Donnell
Otto
Pelletier
Pett
Powell
Prendergast
Quiles
Rea
Roberts

Scranion
Shapiro
Sharp
Shettig
Shively
Sprogel
Stout
Thornburgh
Waldron
Welsh
Wilcox
Whitum

NOT VOTING—19

Allison
Benfield
Camardella
Conley
Donolow

Fineman
Gouger
Hostetler
Huggins
King

Lane
Lee, K.
Lee, L.
Markley
Pechan

Percey
Ruth
Thomson
Warman

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

PROPOSAL No. 1, SECTION 16

PRESIDENT BRODERICK. There being no further debate nor amendment to Section 17, we will now proceed with the consideration of Section 16, if that is the desire of the Convention.

The Chair now recognizes Delegate Fohl.

DELEGATE FOHL. A point of information, Mr. President. Have we completely disposed of the original motion?

PRESIDENT BRODERICK. Yes, on the Hook amendment. We have amended the committee's proposal by the Hook amendment.

DELEGATE FOHL. Then we have amended the committee's proposal?

PRESIDENT BRODERICK. That is right.

DELEGATE FOHL. Does it not then require another passage of the proposal?

PRESIDENT BRODERICK. Yes, but now we have got to discuss the second part, or I should say, the first part of the proposal, which is Section 16. We had a motion to divide, and you remember when we started today we assumed that the motion to divide would continue, and the Chair now recognizes our chairman of the Legislative Apportionment Committee, Delegate Fagan.

DELEGATE FAGAN. Mr. President and fellow delegates, because of the action that has been taken by this body on the amendment to Section 17, the committee at this time would like to make the same amendments to Section 16. We have turned it in to be printed and if it can

be passed out to the delegates, we will continue from there.

PRESIDENT BRODERICK. Do I understand that you are now offering an amendment?

DELEGATE FAGAN. That is correct, Mr. President, along the same lines as Section 17.

On the question,

Will the Convention agree to the proposal on second consideration?

DELEGATE FAGAN offered the following amendment which was read by the clerk:

Section 16. Senatorial Districts; —The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as [may be] practicable, and each district shall be entitled to elect one Senator. [Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No] The number of such districts shall not be changed unless approved by two-thirds of the members elected to each House of the General Assembly. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a district. [The senatorial ratio shall be ascertained by dividing the [whole] total population of the State by the number fifty.]

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. Delegate Fagan, you heard the reading. Was that your amendment that was just read?

DELEGATE FAGAN. Yes, Mr. President, that was the amendment that has been submitted at this time. The purpose of it, as I stated before, is that it follows the amendment that was accepted here by the delegates on Section 17.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, the last sentence that was read by the clerk was out and should not have been a part, as I understand it, of the amendment.

PRESIDENT BRODERICK. It will be reread.

The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, before the amendment is read, it has been pointed out to me that the words "as elected" were omitted. I take it that they will be inserted so that the amendment will be the same with regard to Section 16 that we had in Section 17.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fagan.

DELEGATE FAGAN. That is the position of the committee, Mr. President, as stated by Delegate Amsterdam

that the identical language apply as far as the Senatorial Districts are concerned.

PRESIDENT BRODERICK. You heard the reading of the amendment. Is that in conformity with the language that you submitted?

DELEGATE FAGAN. Yes, that is correct, Mr. President.

PRESIDENT BRODERICK. You may proceed to make your statement in connection with this amendment.

DELEGATE FAGAN. Mr. President, very briefly, because of the lateness of the hour, I would like to point out that the reason we asked for the question to be divided, I think, is self-evident because of the many amendments that were submitted to our original proposal and the intelligent debate, in my opinion, that has taken place here in the last two days. I think that it was very vigorous and I feel that something constructive has come out of these debates among the delegates.

Whenever the committee was deliberating on this particular problem, we recognized that there were many differences of opinion, not only from the standpoint of the committee but also of the delegates. It was enjoyable for me the last two days to listen to the lively debate that took place because I feel that it is the beginning of a solution of the four provisions of the Constitution that will intelligently be decided here and finally accepted by the electorate.

As far as the committee is concerned, we gave much consideration to the problem of the Senate of Pennsylvania. It has been said here in the last two days of debate that the numbers of 203 and also of 50 are something arrived at without due consideration. I would like to say that our committees have made a reasonable and sound study of the 50 districts of the State of Pennsylvania which represent the senatorial districts and which have been broken down in such a manner that much interest has been given to the electorate. What I mean by that is that the Senators from these particular areas have been divided into counties and cities and boroughs in such a manner that they have been able to represent the best interests of their constituents.

I feel that the amendment that has been accepted here today is a reasonable one because of the fact that the legislature and the State Senate, are in the best position to make the final determination as to how the State should be divided legislatively into districts so that the best type of representation can take place.

So, Mr. President, on behalf of the committee, I move you on this question.

PRESIDENT BRODERICK. The Chair recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, this section, as it now reads, deals entirely with the subject of districts and has eliminated the last sentence dealing with ratio, and I, therefore, suggest that the word "ratio" should be eliminated from the title.

PRESIDENT BRODERICK. Thank you very much.

Does anyone wish to speak further, either for or against this amendment?

DELEGATE CAIN. I wish to second the motion. I do not believe anyone did.

PRESIDENT BRODERICK. Yes, Delegate Cain. We have an amendment which has been read and what I am waiting for is, they are reproducing it now and I think maybe you should have the exact language in front of

you. They tell me it will be ready in one minute. I ask the body to be at ease until we distribute it with the corrections made.

The Chair recognizes Delegate Forster.

DELEGATE FORSTER. The word "ratio" is also in the heading on Section 17, and it should properly come out of there also.

PRESIDENT BRODERICK. The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. Mr. President, I have one question. I never thought I would get to this point in the debate, but I was going to be willing to endorse the amendment as it came out of committee. I feel that we have not improved this amendment one whit by what we have done here on the floor. I realize I do not have the votes to change it, but I feel I must go on record in this matter.

We have now not only put 203 in the Constitution, which we were urged not to do, in order to give it flexibility, but we have now put rigidity in this provision by requiring a constitutional two-thirds majority to change that. Not only that, but all the pressures from the debate of yesterday indicated that the pressure would be on raising this number. We have now introduced an amendment in both the House and Senate portion of this which would permit the Legislature of Pennsylvania to raise the number without a vote of the people. Not only have we not given the people the choice on a smaller number, we have, as Delegate Bloom pointed out, given the legislature the right to raise the number without giving the people of this State the right to vote on it.

I truly did not think I would be speaking in favor of the amendment as it came out of committee, but I have a feeling right now that that is an improvement on this amendment as we have it right now.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President and fellow delegates, I am sure these remarks are not necessary, because I think my position is clear. I simply could not close this day without saying that to me it has been incredible. We started out in search of a more flexible Constitution, and we have succeeded in tying it up in knots. Ladies and gentlemen, I am not happy.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scott.

DELEGATE SCOTT. Mr. President, I simply concur with Delegate Pelletier. I am not happy, either. We have bound it up in more red tape than ever.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Scott. Are there any other persons to be heard? Shall we vote upon this amendment? Does anyone else wish to be heard? We have two members coming to the microphone at the same time. We shall recognize the man in the middle aisle, Delegate Reynolds.

DELEGATE REYNOLDS. Mr. President, I have been made very happy. I believe that by having a large number of delegates we give the common person a better opportunity to get elected. We will not make any castles for a few favorite people of our State to be elected. I believe that the people back home in every community are going to be happy. We say that the people have had

a choice. We have put it in the people's hands. When they elect their legislators, all they become is the voice of the people, so we have put it back that way where they have a chance to say something.

PRESIDENT BRODERICK. The Chair recognizes Delegate Buck.

DELEGATE BUCK. Mr. President, I would just like to make one comment. As I understand the provisions in our present Constitution dealing with amendments, I believe that all it would take to amend our Constitution so as to increase the number of members in the House or Senate would merely require that the House and the Senate pass a proposed amendment increasing the number by a majority vote at two successive sessions of the legislature and then have that amendment or proposal approved by the people at an election. If I am correct in my assumption, all that is required is a majority of the members of the House and a majority of the members of the Senate to vote an increase in the size of both Houses at two successive sessions of the legislature, and then submit it to the people for approval.

It seems to me that the proposal that we now have in the amendment that is before the Convention not only takes away from the people an opportunity to approve an increase in the size of the House, but also, from what I have heard on the floor here today, creates a rather impossible situation when it requires the approval of two-thirds of the members of both Houses.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I do not understand that what we have done removes a method of amending the Constitution with regard to this matter, as Delegate Buck indicates. We still can amend the Constitution by changing the very provision we are talking about by a majority of the House and the Senate over two legislative periods with a vote of the people. We are adding an additional way of doing it; we are not taking away a method which is in existence today, if I understand what we are doing. If somebody disagrees with that, I would like to know just where we have changed that.

PRESIDENT BRODERICK. The Chair recognizes Delegate Buck.

DELEGATE BUCK. I do not disagree with that, Delegate Amsterdam. All I am saying is that we are adding a method of changing the size of the legislature by merely requiring the action of two-thirds of the members of both Houses, which certainly does not give the people of Pennsylvania an opportunity to decide 10 years from now that they would like to have the size of the present House increased. The legislature is going to have the right to make that decision and I feel that that is a right we certainly should not take away from the people, and that would be my reason for opposing the present amendment that is now before the House.

REASON FOR VOTE

PRESIDENT BRODERICK. The Chair recognizes Delegate Murray.

DELEGATE MURRAY. Thank you, Mr. President.

Mr. President, I would like to explain my vote on the last roll call.

First of all, the amendment was not bad. I buy the

concept of 203 as a fixed number, but I see a built-in flaw in it which may not take place for quite a number of years. Thirty years from now there is a possibility of political landslides in a presidential year, for instance, where one party could gain control of two-thirds of the House and Senate; just on a blue moon, one-shot thing one party could gain control of this. Automatically, the political party in power would run to the maps and the butchering would then start. As Delegate Devlin said—and Delegate Devlin and I do not agree on very many things—the political party would then re-slice the State to its own advantage and the other party would never have an opportunity to come back into power with two-thirds. There is a built-in flaw and this is the reason I voted no, even though I fully support the 203 number.

I just wanted to clarify my vote and to explain why I preferred the original proposal as to the amendment. Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bloom.

DELEGATE BLOOM. The only reason I am saying this is: We are supposed to be forward-looking delegates; we are trying to avoid all pitfalls. I say we are creating a possible pitfall. I do not like to lock the door after the horse is stolen.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Bloom.

The question recurs,

Will the Convention agree to the amendment offered by Delegate Fagan?

The roll was recorded as follows:

YEAS—93

Aberman	Erwin	Krill	Redick
Amsterdam	Fagan	Leach	Reynolds
Bagenstose	Fawcett	Leimbach	Richter
Baldridge	Fay	Leonard	Rovner
Baldwin	Feather	Levin	Sahli
Barron	Filson	Manderino	Scales
Beshoff	Fortney	Mangery	Scarlett
Benedict	Gabreski	Mattioni	Sebastian
Braham	Gehrieln	McGlynn	Shively
Brennan	Gerber	Meyer	Shoemaker
Broderick	Goldman	Miller, D.	Shrager
Butera	Goldstein	Miller, R.	Silverman
Cain	Griffith	Moorthead	Solomon
Caron	Harding	More	Stroup
Casey	Hatter	Murray	Swope
Clark	Heyburn	Musselman	Tate
Clinger	Hook	Nelson	Tomaseik
Corey	Irviss	Orban	Tully
Cortese	Jirolano	Orbin	Van Sant
Croop	Keller, J.	Pasquerilla	Westerberg
Curran	Keller, M.	Popil	Wilmarth
Dalley	Kelly	Prendergast	Woodring
Desmond	Kline	Rappaport	Woodside
Devlin			

NAYS—43

Aurentz	Donaldson	McGeary	Shapiro
Baldus	Dumbault	Michener	Sharp
Banes	Fleming	O'Donnell	Shettig
Barry	Fohl	Otto	Sprogel
Bloom	Forster	Pelletier	Stout
Brown	Henderson	Pott	Thornburgh
Buck	Himes	Powell	Waldron
Bunting	Hocker	Rea	Welsh
Caputo	Johnson	Roberts	Wilcox
Coeletti	Kauffman	Scott	Whittem
Cunningham	Laputka	Scranton	

NOT VOTING—27

Allison	Gouger	Lane	Percey
Benfield	Gray	Lee, K.	Quiles
Burkholder	Hannum	Lee, L.	Ruth
Camardella	Horne	Markley	Strickler

Conley
Donolew
Fineman

Hosieller
Huggins
King

Michael
Morton
Pechan

Thomson
Warman

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

PRESIDENT BRODERICK. Both portions of Proposal No. 1 will go over as amended and be placed on the calendar tomorrow as amended, under our rules, still on second consideration.

CALENDAR

PRESIDENT BRODERICK. Now, before we entertain any motion to adjourn, I want to say that we have on the calendar here proposals on first consideration.

Proposal No. 3, Printer's No. 3, amending the Constitution in connection with indebtedness.

Proposal No. 4, Printer's No. 4, amending the Constitution specifying audit control.

Proposal No. 5, Printer's No. 5, amending the Constitution regulating exemptions from taxation and providing for the taxation of public utilities.

COMMITTEE PROPOSALS ON FIRST CONSIDERATION

Agreeable to order,

The Convention proceeded to first consideration of Committee Proposal No. 3, Printer's No. 3, entitled:

Amending the Constitution of Pennsylvania further providing for Commonwealth indebtedness.

And said proposal having been considered for the first time,

Ordered, To be laid aside for second consideration.

Agreeable to order,

The Convention proceeded to first consideration of Committee Proposal No. 4, Printer's No. 4, entitled:

Amending the Constitution of Pennsylvania specifying audit control of public moneys and establishing and regulating a balanced State budget for the next fiscal year and financial plans for the succeeding five years.

And said proposal having been considered for the first time,

Ordered, To be laid aside for second consideration.

Agreeable to order,

The Convention proceeded to first consideration of Committee Proposal No. 5, Printer's No. 5, entitled:

Amending the Constitution of Pennsylvania further regulating exemptions from taxation and providing for the taxation of real property of public utilities.

And said proposal having been considered for the first time,

Ordered, To be laid aside for second consideration.

DELEGATE SHAPIRO. Mr. Chairman, in order to forestall the same question arising belatedly that arose here today, may we have a report from the chairman of Taxation and Finance as to whether the approval of these articles was by a majority of the committee?

PRESIDENT BRODERICK. I just want to say to the

Delegate that under the ruling of the Chair any objection as to whether or not the proposal is reported pursuant to the rules should have been taken up when the proposal was introduced. The proposal is already on the calendar, so I say that has been waived.

MEETING OF COMMITTEE ON TAXATION AND STATE FINANCE

PRESIDENT BRODERICK. The Chair recognizes the Chairman of the Committee on Taxation and State Finance, Delegate Leonard.

DELEGATE LEONARD. Mr. President, I just wanted to say after that unanimous approval of the first consideration of Proposal Nos. 3, 4 and 5, and after this long day of debate, I regret to announce that we are going to have a meeting of the Taxation and State Finance Committee this evening at 9 p.m. in the Senate Majority Caucus room. I believe most of the members have been notified of that.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. Chairman, all of the taxation members ought to bring with them their proposals, the reports and any other supporting data for consideration.

PRESIDENT BRODERICK. Thank you, Chairman Woodring.

MEETING OF COMMITTEE ON RULES

PRESIDENT BRODERICK. The Chair recognizes Delegate Leach.

DELEGATE LEACH. Mr. President, at the risk of being shot, Chairman Gabreski and I are requesting a meeting of the Rules Committee and the officers immediately

upon the adjournment of this session, in Room 401, which is two stories above your office.

Thank you, sir. Immediately upon the adjournment.

PRESIDENT BRODERICK. Before we come to the adjournment resolution, let me explain to you what is happening tomorrow. The General Assembly is called, I understand, for 12 m., indicating that we would be out of here by 11 a.m., in order to eliminate confusion.

The suggested time for getting in tomorrow, according to the adjournment resolution, is at 9 a.m. We will work from 9 a.m. until 11 a.m. and then come back at 3 p.m., which we think will give ample time to the General Assembly to have cleared the hall. We will work from 3 p.m. until whatever time is your pleasure.

DELEGATE CARON'S FAMILY WELCOMED

PRESIDENT BRODERICK. The adjournment resolution is in the hands of Delegate Caron, from Berks, and before recognizing him, I just want you to know that his wife Catherine and his two children, Linda and Sandra, have been here all day. I think we ought to give them a round of applause for putting up with us.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Caron for the adjournment motion.

DELEGATE CARON. Mr. President, I move that this Convention do now adjourn until Wednesday, February 7, 1968, at 9 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Caron and seconded by Delegate Fleming that this Convention do now adjourn until Wednesday, February 7, 1968, at 9 a.m., e.s.t.

The motion was agreed to, and (at 6:20 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Wednesday, February 7, 1968

Number 38

The Convention was called to order at 9 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR.

PRAYER

THE REVEREND H. CLAYTON MOYER, pastor of the Trinity United Church of Christ of Waynesboro, Pennsylvania, offered the following prayer:

Let us pray: Almighty and Eternal God, we come to Thy presence with grateful hearts for the privilege of serving in this Constitutional Convention. May the pride of participation in this historical event be tempered with the knowledge that ours is an awesome responsibility.

We thank Thee that every one of us is of concern to Thee, that Thou hast a stake in us, that Thou hast given us work to do and dost add our hearts and brains to the working capital of Thy providence.

We thank Thee that Thou dost not let us live in vain, if we live at our best. May Thy presence be with us to guide our minds and strengthen our high resolves. Grant unto each delegate the courage to stand firm for that which is right and good. As we confront the barriers of our own personal prejudices, instill in us all that gift of love which alone can conquer the pettiness of self will.

May the results of our labors bring forth a renewal of reverence for politics; and from this Convention may there come a Constitution that assures the blessings of justice and responsible freedom for all the peoples of our beloved Commonwealth. Amen.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. There are no Journals to be approved this morning.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate ex officio, DELEGATE FINEMAN, for February 6, on account of illness;

The delegate from the 7th District, DELEGATE AMSTERDAM, for February 7, on account of business;

The delegate from the 41st District, DELEGATE FILSON, for February 9, on account of court;

The delegate from the 16th District, DELEGATE MARKLEY, for February 6, indefinitely, because of illness.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

ANNOUNCEMENTS BY SECRETARY MICHENER

PRESIDENT BRODERICK. The Chair recognizes the Secretary, Delegate Michener.

SECRETARY MICHENER. It is my unhappy responsibility to say that Mrs. Markley of the 16th District, who has been attending this week although very ill—she wanted to be present during the presentation of her committee's work—had to be taken home yesterday by private car.

She will be away from the assembly for an indefinite period. She is not, however, going into a hospital, and we hope that she will be back with us in the weeks to follow.

I have on my desk and will have for some time the copies of the Maryland Constitution, and I have our Journals for February 1 and 2.

QUORUM CALL

PRESIDENT BRODERICK. We shall now proceed to the taking of the roll to determine whether there is a quorum present.

The delegates will proceed to record their presence.

The roll was recorded as follows:

Aurentz	Desmond	Kelly	Redick
Bagenstose	Devlin	Krill	Reynolds
Baldrige	Donaldson	Leach	Richter
Baldus	Dumbauld	Leimbach	Roberts
Baldwin	Erwin	Leonard	Rovner
Banes	Fagan	Levin	Sahli
Barron	Fawcett	Mangery	Scales
Barry	Fay	Mathon	Scarlett
Bashoff	Filson	McGeary	Scott
Benedict	Fleming	McGlynn	Scranton
Benfield	Fohl	Meyer	Sebastian
Bloom	Fortney	Michael	Shapiro
Braham	Gabreski	Michener	Sharp
Brennan	Gehrlein	Miller, D	Shettig
Broderick	Gerber	Miller, R	Shively
Brown	Goldman	Moorhead	Shoemaker
Buck	Goldstein	More	Shrager
Bunting	Gouger	Morton	Silverman
Butera	Griffith	Murray	Sprogeh
Cam	Harding	Musselman	Stout
Camardella	Hatter	Nelson	Swope
Caputo	Henderson	O'ban	Tate
Caron	Himes	Orban	Thornburgh
Casey	Hocker	Otto	Tomasick
Clark	Hook	Pasquerilla	Tully
Clinger	Horne	Pelletier	Van Sant
Conley	Huggins	Popil	Waldron
Corey	Ivins	Pott	Welsh
Cortese	Jurolanio	Powell	Westerberg
Coseth	Johnson	Prendergast	Whittum
Croop	Kauffman	Quiles	Wilcox
Cunningham	Keller, J.	Rappaport	Wilmarth
Curran	Keller, M	Rea	Woodring
Dalley			

PRESIDENT BRODERICK. One hundred and thirty-three delegates having been recorded, a quorum is present.

The Chair also notes the presence of the following delegates:

Burkholder	Kline	Pechan	Stroup
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Forster
Hannum
Heyburn

Lee, K.
Lee, L.
O'Donnell

Ruth
Strickler

Thomson
Woodside

INTRODUCTION OF COMMITTEE PROPOSALS

PRESIDENT BRODERICK. The next order of business is the introduction of committee proposals.
The Chair hears none.

REPORT OF COMMITTEES

PRESIDENT BRODERICK. Are there any committee reports today?
The Chair hears none.

RESOLUTIONS

PRESIDENT BRODERICK. Are there any resolutions?
The Chair hears none.

EAST STROUDSBURG STUDENTS WELCOMED

PRESIDENT BRODERICK. I think this might be an appropriate time to recognize that we have in the gallery 50 students from the Stroud Union High School in East Stroudsburg. They are the guests of Delegate Roberts of Monroe County, Delegates Lee and Wilmarth of Susquehanna County, and Delegates Clark, Jirolanio and Woodring of Northampton County.

Would you please stand so that we can give you our warm, cordial greeting?

MRS. CORTESE WELCOMED

PRESIDENT BRODERICK. I am also very happy to announce that we have with us this morning Mrs. Cortese, the wife of our delegate from Philadelphia.

Would you stand up, Mrs. Cortese, so that we can give you our welcome.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, what is the proper procedure in trying to raise a question in terms of interpretation of the constitutional significance of what we did yesterday? Is this the proper time?

PRESIDENT BRODERICK. If you will state your question, I think we can recognize you for a question at this time.

DELEGATE PELLETIER. My question is a two-part one really. As I understand it, there is a prescribed method of amending the Constitution, which is beyond our jurisdiction. We have placed the number of 203 in the Constitution, and we have provided for a means of changing that number without going through the regular constitutional procedures of amendment. It would seem to me that in changing that number, we are amending the Constitution. If we are not amending the Constitution, then would it be equally proper for a measure to be introduced so that the number might be changed by initiative from the people and a referendum vote without any action by the legislature whatsoever?

OPINIONS BY COUNSEL AND PARLIAMENTARIAN

PRESIDENT BRODERICK. As I understand that ques-

tion, it is a legal question and we are going to consult counsel and see if we can give you an answer.

Delegate Pelletier, according to our counsel, the answer to your first question is that we have not provided a new method of amending the Constitution insofar as our actions yesterday on the amendment to Proposal No. 1.

In answer to your second question, we have on the calendar today, under second consideration, the amended Proposal No. 1, and any amendments, of course, since it is still under second consideration, can be offered along the lines that you have just pointed out.

The Parliamentarian cautions that just changing the number would not be in order, but adding something that is not already in the amendment could be in order.

Have I answered your question?

DELEGATE PELLETIER. It would not be in order to attempt to change the 203, but it would be in order to provide an alternate method of doing this in the future. Is that what you are saying?

PRESIDENT BRODERICK. Yes. I am saying that we are on second consideration in connection with Proposal No. 1, which is printer's No. 8, and that is the amended proposal as amended yesterday, and I say it is in order to offer an amendment as long as that amendment does not change what you did yesterday.

DELEGATE PELLETIER. What if it adds to it?

PRESIDENT BRODERICK. That is perfectly all right.

DELEGATE PELLETIER. Thank you.

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order.

The Convention proceeded to the second consideration of Committee Proposal No. 1, Printer's No. 8, entitled:

Amending the Constitution of Pennsylvania providing for apportionment of legislative districts.

On the question.

Will the Convention agree to the proposal on second consideration?

PRESIDENT BRODERICK. We are now on Proposal No. 1, printer's No. 8, which is a proposal on second consideration, amending the Constitution of Pennsylvania, providing for apportionment of legislative districts. This is the proposal we amended yesterday.

The question is, will the Convention agree to the proposal on second consideration?

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Irvis. For what purpose does the delegate rise?

DELEGATE IRVIS. I rise to a point of parliamentary inquiry.

PRESIDENT BRODERICK. The delegate will state it.

DELEGATE IRVIS. I must confess that the ruling of the Chair has further confused me. I do not allege that because of the ruling of the Chair, but simply because of my normal mental state.

Does the Chair mean to state that this body is unable, once it has amended a proposition, to change its mind and re-amend that proposition? For example, would an amendment to delete yesterday's amendment be out of order in this body?

PRESIDENT BRODERICK. What the Parliamentarian is saying, Delegate Irvis, is this: The amended proposal is now on second consideration and we can have any amendments offered today, while we are on second consideration, to this proposal which do not specifically change the amendment that we accepted yesterday. If you wanted to change that amendment, that number, you would have to vote to reconsider what you did yesterday.

Delegate Pelletier has asked whether he could add something to it. That type of an amendment is acceptable at this point. Otherwise, we would have to have a vote to reconsider the vote by which we accepted yesterday's amendment.

DELEGATE IRVIS. Does the Chair mean to state that, if it were the wish of this delegate body to delete one single word from the amendment as accepted yesterday, a vote to reconsider the total effect of yesterday's debate would have to obtain before that could be reconsidered?

PRESIDENT BRODERICK. Let me say just this: If we knew the single word that you were talking about, I think we could rule on it more intelligently, but what the Parliamentarian has repeated is this: You should have a vote to reconsider if you are changing the purport of yesterday's amendment.

A POINT OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Irvis.

DELEGATE IRVIS. Mr. President, it has been suggested that I request this: Suppose I were to move to delete on page 3 of Committee Proposal No. 1, lines 3 and 4, reading, "changed unless approved by two-thirds of the members elected to each House of the General Assembly".

Would it be necessary to move to reconsider the entire proposition?

PRESIDENT BRODERICK. I am advised by the Parliamentarian that a vote to reconsider would be necessary.

DELEGATE IRVIS. All right. Thank you, Mr. President.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair now recognizes Delegate Fleming.

DELEGATE FLEMING. A further point of parliamentary inquiry. Would a motion to revert to a prior printer's number be in order or would it not, sir?

PRESIDENT BRODERICK. We understand that that would be in order, but we would be right back where we started from, without any amendments.

DELEGATE FLEMING. I understood, but I was only trying to be guided in the future.

Thank you, sir.

POINT OF INFORMATION

PRESIDENT BRODERICK. The Chair now recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER. Mr. President, a point of information concerning the procedure and the rules. The Chair was kind enough on January 24 to send to the delegates an interpretation of the rules. I question the interpretation in that letter with regard to rule 26, subparagraph 11. You ended that memorandum of the 24th by stating that when a proposal is reported back to the Con-

vention by the Committee on Style and Drafting, it will be considered in the same manner debatewise as on second consideration except that it cannot be amended unless by unanimous consent.

PRESIDENT BRODERICK. Delegate Shoemaker, yes. Some of those letters unfortunately got out without correction. That last sentence is wrong and should be changed to say, "a consent of the majority voting on it."

DELEGATE SHOEMAKER. Thank you very much.

PRESIDENT BRODERICK. Yes, you are absolutely correct. That was an error. We thought we had corrected it, but some of the letters got out without the correction being noted.

Now the question recurs in connection with Proposal No. 1, printer's No. 8.

Will the Convention agree to the proposal?

Do you wish to be recognized, Delegate Cosetti?

DELEGATE COSETTI. Yes, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. What is the significance of our agreeing to the question now?

PRESIDENT BRODERICK. The significance is that it goes over now to third consideration, which would put this in the Committee on Style and Drafting.

DELEGATE COSETTI. And at that time if we would want to, on third consideration, offer an amendment, we would have to ask for approval before we could do that?

PRESIDENT BRODERICK. That is correct. A majority of the delegates would have to so vote.

MOTION TO RECESS

PRESIDENT BRODERICK. The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. Would it be in order if I move to recess for 15 minutes, sir?

PRESIDENT BRODERICK. Yes. Do we have a second to your motion to recess for 15 minutes?

It has been moved by Delegate Cosetti, seconded by Delegate Gouger, that we recess for 15 minutes.

On the question,

Will the House agree to the motion to recess?

The roll was recorded as follows:

YEAS—74

Baldus	Cunningham	Huggins	Ruth
Banes	Curran	Irvis	Sahli
Bairry	Donaldson	Keller, M	Scott
Bashoff	Dumlauld	Kelly	Scranton
Bloom	Fay	Lee, L	Shapiro
Brennan	Feather	Leinbach	Sharp
Broderick	Filson	Levin	Shettig
Brown	Forster	Mangery	Sprogel
Buck	Fortney	Mattioni	Stout
Bunting	Gabreski	McGeary	Swope
Burkholder	Gehrlein	McGlynn	Tate
Butera	Gerber	Michael	Thomson
Camardella	Goldman	Otto	Thornburgh
Caputo	Goldstein	Pechan	Tomasick
Caron	Gouger	Pelletier	Tully
Casey	Henderson	Popil	Weish
Clinger	Hines	Rea	Whitum
Conley	Hook	Redick	Wilcox
Cosetti	Horne		

NAYS—59

Aurentz	Fleming	Miller, D.	Roberts
Bagenstose	Fohl	Miller, R.	Rovner

Baldridge	Griffith	Moorhead	Scates
Baldwin	Harding	More	Scarlett
Barron	Hatter	Musselman	Sebastian
Benedict	Heyburn	Nelson	Shively
Benfield	Hocker	Orban	Shoemaker
Braham	Jirolanio	Orbin	Shrager
Cortese	Johnson	Pasquerilla	Stroup
Croop	Kauffman	Pott	Van Sant
Dailey	Keller, J.	Powell	Waldron
Desmond	Krill	Prendergast	Wimmarth
Devlin	Leach	Rappaport	Woodring
Erwin	Lee, K.	Reynolds	Woodside
Fagan	Meyer	Richter	

NOT VOTING—30

Aberman	Fineman	Leonard	Percey
Allison	Gray	Manderino	Quiles
Amsterdam	Hannum	Mankley	Silverman
Cain	Hostettler	Michener	Solomon
Clark	King	Morton	Strickler
Corey	Kline	Murray	Warman
Donolow	Lane	O'Donnell	Westerberg
Fawcett	Laputka		

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

AFTER RECESS

The time of recess having expired, the Convention was called to order.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

MOTION TO POSTPONE

PRESIDENT BRODERICK. The Chair now recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, I think we are in a confused state here. I lived on a farm, and when it rained real hard our ducks would get so confused they would go around with their heads up in the air and their mouths open and they would finally drown. I am afraid we are about at the place where we are so confused that we might drown.

I want to make the motion that any action on Proposal No. 1 be delayed until such time as we finish or reach a certain point on Proposal No. 2, because I think they are germane to each other and I think it will have a lot of bearing, how we do it, on what we want to do in the other. And if we reach the point where we cannot agree on separate proposals, I have an amendment prepared that will tie the two together, No. 1 and No. 2, into one proposal.

My motion is that we delay action on Proposal No. 1 until we debate and finish Proposal No. 2.

PRESIDENT BRODERICK. It has been moved by Delegate Hocker that we pass over for the time being consideration of Proposal No. 1, printer's No. 8. Does the motion have a second?

DELEGATE SCOTT. Mr. President, I second the motion.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. I rise to a question of parliamentary inquiry before this vote is taken.

PRESIDENT BRODERICK. You may proceed.

DELEGATE JIROLANIO. I direct the Convention to take their rule book and turn to page 38. Under Rule 24, Section 4, you will read the following: "Second consideration of all committee proposals shall be completed on or before February 7, 1968", followed by Section 5: "The Committee on Style and Drafting shall complete its consideration of all committee proposals and make its recommendations on or before February 9, 1968."

Mr. President, one question I should like to have answered. It is impossible at this time to have a report on second consideration of the proposals. May I point out to the Chair that Proposal No. 7, Judiciary, is on first reading today and cannot be considered on second reading, under the rules, until tomorrow, which would absolutely be contrary to numerical No. 4 under Schedule of Consideration. This would mean to me that we would be contrary to the rules, and it would also, of course, be contrary to Section No. 5. This proposal or this amendment or this resolution, whatever you want to call it, now being presented could possibly fall in the same category. Therefore, I am asking the Chair whether or not at this time it would be proper if the motion would be reconsidered, to place a motion before the Convention to suspend Section 4 and Section 5 of Rule 24 until such time as the proposals can be given their proper study and returned to this body, because otherwise you are definitely falling into conflict with the rules.

PRESIDENT BRODERICK. There is no question but that the rules do provide as Delegate Jirolanio has pointed out. The parliamentary question is, can we have a motion to suspend these rules?

DELEGATE JIROLANIO. Oh, no. I know that we can have that motion, sir. I agree with the learned Parliamentarian. I am asking whether or not that motion should not be placed now to give due consideration, first of all, to those proposals, which are on the desk, which cannot be taken up today and, secondly, to the other proposals which cannot be studied today and, third, to the proposal as propounded by the learned gentleman which could be carried out or onward until tomorrow. I believe that the first matter should be the suspension of the rules in order to take care of the situation at hand.

PRESIDENT BRODERICK. Be at ease, please.

Delegate Jirolanio, our Parliamentarian has made the suggestion that we should get the chairman of the Rules Committee to sit down and discuss this matter and come up with a motion.

DELEGATE JIROLANIO. I would be glad to yield to him. Certainly he does not need to study it because if you are going to abide by the rules, Section 4 and 5 of Rule 24, you are going to have to do this. Unless my English is bad or my eyes are bad—

PRESIDENT BRODERICK. Everyone agrees that the rules provide as you have pointed out. The question is the best way to handle it, and what we want to do now, if it is agreeable to you, is, have the chairman of the Rules Committee sit down and provide a motion which would take care of the situation.

DELEGATE JIROLANIO. I agree.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Hocker.

DELEGATE HOCKER. I agree with Delegate Jirolanio in his thinking that we are going to have to do this sometime because obviously we cannot finish the work that

we have cut out for us by these dates. We must do it; it should be done. The only problem is when and how.

I have a motion on the floor, duly seconded, but I am willing to abide by the ruling of the Chair whether you take Delegate Jirolanio's motion first and mine second.

PRESIDENT BRODERICK. Your motion is on the floor, Delegate Hocker. It was moved by you and seconded by Delegate Scott. The motion is to postpone the consideration of Proposal No. 1, printer's No. 8, until we have had an opportunity to discuss Proposal No. 2, printer's No. 2.

On the question,
Will the Convention agree to the motion?
It was agreed to.

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. I now move that Proposal No. 1 be taken up immediately after Proposal No. 2 has been duly considered. I am doing that so we do not lose our position and fall into the rut, maybe, of being in back of other proposals. I would like to take them numerically as they appear now and get down to business and get rid of some of them that we have.

PRESIDENT BRODERICK. That was my understanding of Mr. Hocker's motion. Delegate Hocker, is that your understanding of the purport of your motion?

DELEGATE HOCKER. I beg your pardon; I was not listening; I was trying to convert.

PRESIDENT BRODERICK. My understanding of the motion that we voted on was that we were going to pass over, for the time being, consideration of Proposal No. 1, printer's No. 8, until we had discussed Proposal No. 2, printer's No. 2, and then come back to No. 1.

DELEGATE HOCKER. Amen. And according to the Good Man, that means "so be it."

PRESIDENT BRODERICK. So we do have such a motion that has been voted in the affirmative.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Lee.

DELEGATE L. B. LEE. Mr. President, I rise to a point of personal privilege under Rule 19.

PRESIDENT BRODERICK. State your point of personal privilege.

DELEGATE L. B. LEE. Due to an out-of-town business appointment yesterday afternoon, it was necessary for me to be absent when the vote was taken on the Hook amendment as amended by the Amsterdam amendment and on the Sections of 16 and 17 of Committee Proposal No. 1. Had I been present I would have cast a "yea" vote on the Hook amendment and on the approval of Sections 16 and 17.

Thank you, Mr. President.

PRESIDENT BRODERICK. Your remarks will be placed upon the record.

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to the second consideration of Committee Proposal No. 2, Printer's No. 2, entitled:

Amending the Constitution of Pennsylvania making changes relating to legislative apportionment.

On the question,
Will the Convention agree to the proposal on second consideration?

PRESIDENT BRODERICK. We are now considering Proposal No. 2, Printer's No. 2, and the question is, will the Convention agree to the proposal on second consideration?

The Chair now recognizes Delegate Keller.

DELEGATE J. W. KELLER. Would I be in order to ask that consideration of Proposal No. 2 be held up until we return this afternoon at 3 o'clock, or whenever we return?

PRESIDENT BRODERICK. My understanding of the motion that we have just voted on in the affirmative was that we were going to proceed immediately to the consideration of Proposal No. 2. This body can do anything it pleases under the rules and, if you wish to make a new motion and--

DELEGATE J. W. KELLER. Mr. President, I am sorry, I did not hear that motion, the first motion.

PRESIDENT BRODERICK. The first motion, Delegate Hocker's motion, was that we proceed now to the consideration of Proposal No. 2.

The Chair recognizes Delegate Fagan.

DELEGATE FAGAN. Mr. President, fellow delegates, on behalf of the Legislative Apportionment Committee, at this time I would like to submit Committee Proposal No. 2. You have it in front of you so I find it unnecessary at this time to read the entire proposal.

I would like to make some brief comments as to the nature of the proposal and the reasons why the Committee on Method of Apportionment and the Standing Committee on Legislative Apportionment make the following recommendations to the delegates:

We must bear in mind that this is a very important section of the Constitution because, as it presently exists in the Constitution of the Commonwealth of Pennsylvania, it is unconstitutional as declared by the ruling of the United States Supreme Court. Therefore, it was incumbent upon the committee to give careful consideration to a change that would, in effect, make this portion of the Constitution in compliance with the United States Supreme Court constitutionally. In the makeup of this particular proposal in changing the Constitution, as recommended here to the delegates, it was necessary to arrive at a method in which the reapportionment of the Commonwealth of Pennsylvania would take place. It was finally concluded by the committee that the appropriate group to make this change would be the legislature, because of the fact that they are more conversant with the State and also the legislative and senatorial districts and the method in which it should be divided in the best interests of the citizens of Pennsylvania. But because of the fact that in past considerations by this body they have been unable to conclude an agreement among themselves as to how the State should properly be apportioned, therefore, the duty was passed on to the Pennsylvania State Supreme Court.

Under this proposal it establishes a commission. The commission is composed of members of both the House of Representatives and the leaders in the Senate, and they

in turn will select a fifth member, who will be the chairman of this commission. It is felt by the committee that these five members can properly sit down and reapportion the State within the guidelines of the one-man, one-vote principle. Failing to do so, then it will pass on to the State Supreme Court, but it was the position of the committee that the first opportunity should be given to the leaders in both Houses and the fifth member to be selected by the four leaders of the House of Representatives and the State Senate.

Also in this proposal, time limits were applied so that within a reasonable length of time decisions could be made and the reapportionment could take place. The time limit is for the purpose of setting forth the time limitations as to when the State will properly be reapportioned. Failing to follow these time limitations and to make adequate decisions, then it will be passed on again to the State Supreme Court. Following that, any of the state citizens' groups or organizations have a right to appeal, after reapportionment has been made, to the Pennsylvania State Supreme Court.

It is the feeling of the committee that, if this proposal is adopted, it will do two things:

Number one and paramount, is to make the provision of the Supreme Court one-man, one-vote principle adhered to by the State of Pennsylvania and make it constitutional.

Secondly, we feel that by giving it to this commission that they can come up with the proper decisions of reapportionment that are in the best interest of all the citizens of Pennsylvania, and failing to do it, they have the final tie-breaker and final decision of the Pennsylvania State Supreme Court.

We feel that after giving consideration to all the proposals, to all of those who appeared at our public hearings that this concept we have in this proposal sets forth the best ideas and principles and will serve the best interests of the citizens of the Commonwealth of Pennsylvania

BALDRIGE AMENDMENT TO PROPOSAL No. 2

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, between the final draft of the committee and the proposal which reached the delegates' desks, an important five-word phrase was omitted on the time of appeal to the Supreme Court. I have the amendment which was prepared by the bureau. It is printed and ready for distribution and I move the adoption of that amendment because it was in our final report but did not reach the floor that way.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE BALDRIGE offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 22), page 2, line 29, by inserting after "right" within thirty days after the final plan is filed

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. The amendment is self-explanatory. It is the time to appeal to the Supreme Court.

PRESIDENT BRODERICK Thank you, Delegate Baldrige.

The Chair recognizes Delegate Otto

DELEGATE OTTO. Mr. President, during the interim I would like to know how Dr. Hocker's pills worked.

PRESIDENT BRODERICK I think the relationship between a doctor and his patient is a confidential one.

The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, when the delegates have had time to read this amendment, I move its adoption.

PRESIDENT BRODERICK. Does anyone else wish to be heard on Delegate Baldrige's amendment? The Chair hears no response.

The question recurs,

Will the Convention agree to the amendment offered by Delegate Baldrige?

The roll was recorded as follows:

YEAS—138

Allison	Devlin	Kline	Rovner
Aurentz	Donaldson	Kitt	Ruth
Bagenstose	Dumbauld	Leach	Sahli
Baldrige	Erwin	Lee, K	Scales
Baldus	Fagan	Lee, L	Scarlett
Baldwin	Fawcett	Leimbach	Scott
Banes	Fay	Leonard	Scranton
Barron	Feather	Levin	Sebastian
Barry	Filson	Mangery	Shapiro
Bashoff	Fleming	Maltson	Sharp
Benedict	Fohl	McGeary	Shettig
Benfield	Forster	McGlynn	Shively
Bloom	Fortney	Meyer	Shoemaker
Braham	Gabreski	Michael	Shrager
Brennan	Gehrlein	Michener	Silverman
Broderick	Gerber	Miller, D	Sprogel
Brown	Goldman	Miller, R	Stout
Buck	Goldston	Moorhead	Strickler
Bunting	Gray	More	Stroup
Burkholder	Griffith	Murray	Swope
Butera	Hannum	Nelson	Tate
Cain	Harding	O'Donnell	Thomson
Camardella	Hatter	Orban	Thornburgh
Caputo	Heyburn	Orbin	Tomasick
Caron	Himes	Otto	Tully
Casey	Hocker	Pott	Van Sant
Clinger	Hook	Powell	Waldron
Conley	Horne	Prendergast	Welsh
Cortese	Huggins	Quiles	Westerberg
Cosetti	Jirolano	Rea	Whitman
Croop	Johnson	Redick	Wilcox
Cunningham	Kauffman	Reynolds	Wilmarth
Curran	Keller, J.	Richter	Woodring
Dailey	Keller, M	Roberts	Woodside
Desmond	Kelly		

Henderson

NAYS—1

NOT VOTING—24

Aberman	Gouger	Manderino	Pelletier
Amsterdam	Hostettler	Markley	Percey
Clark	Ivis	Morton	Popl
Corey	King	Musselman	Rappaport
Donolow	Lane	Pasquerilla	Solomon
Fineman	Laputka	Pechan	Warman

The majority having voted in the affirmative, the question was determined in the affirmative, and the amendment was agreed to.

MOTION TO RECESS

PRESIDENT BRODERICK. The Chair recognizes Delegate Kline.

DELEGATE KLINE. Mr. President, I move that the

Convention stand in recess for this day's session until 3 p.m. this afternoon.

PRESIDENT BRODERICK. It has been moved by Delegate Kline and seconded by Delegate Van Sant that the Convention now recess until 3 o'clock.

The Chair recognizes Delegate Kline.

DELEGATE KLINE. Mr. President, as a point of explanation, it was my understanding that we were going to recess at 11 o'clock until 3 o'clock, anyway.

PRESIDENT BRODERICK. That is correct. We have to clear the hall by about 11 o'clock in order to make way for the General Assembly.

DELEGATE KLINE. There are many persons who have amendments to this proposal who have been discussing them during the break that we had. We had a difficult time yesterday afternoon and we felt it might be wiser if some of those who had amendments and ideas could get together and put them in a more orderly fashion.

If you want to reopen the war, I am happy to stay here and take part in it, but I think a little good sense at this time may help us all. We might be in much better shape to have a more orderly consideration of this proposal this afternoon.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, may I request permission to introduce an amendment and speak briefly on behalf of it and then postpone further consideration.

PRESIDENT BRODERICK. Delegate Shapiro, we have a motion on the floor to recess until 3 o'clock. I think we have to dispose of that motion first.

It has been moved by Delegate Kline and seconded by Delegate Van Sant that we recess until 3 o'clock this afternoon.

On the question,

Will the Convention agree to the motion to recess?

The roll was recorded as follows:

YEAS—42

Allison	Fay	Kline	Redick
Baldwin	Feather	Leach	Sahl
Banes	Fleming	Lee, K.	Sheltig
Broderick	Fortney	Mattioni	Shrager
Brown	Gehrslein	McGlynn	Silverman
Butera	Gerber	Michael	Swope
Casey	Hannum	Michener	Thomson
Conley	Heyburn	O'Donnell	Thornburgh
Cosetti	Hines	Pelletier	Tomascik
Donaldson	Hocker	Powell	Van Sant
Dumbauld	Keller, M.		

NAYS—95

Aurentz	Desmond	Lee, L.	Royner
Bagenstose	Devlin	Leinbach	Ruth
Baldrige	Erwin	Leonard	Scales
Baldus	Fagan	Levin	Scarlett
Barros	Fawcett	Mangery	Scott
Barry	Filson	McGeary	Seranton
Bashoff	Fohl	Meyer	Sebastian
Benedict	Forster	Miller, D.	Shapiro
Benfield	Goldman	Müller, R.	Sharp
Bloom	Goldstein	Moorhead	Shively
Braham	Gray	More	Shoemaker
Brennan	Griffith	Morton	Sprogel
Buck	Harding	Murray	Stout
Bunting	Hatter	Nelson	Strickler
Burkholder	Henderson	Orban	Tate
Cain	Hook	Orban	Waldron
Camardella	Horne	Otto	Welsh
Caron	Huggins	Pott	Westerberg
Clark	Jrolanio	Prendergast	Whitum
Clinger	Johnson	Quiles	Wilcox
Cortese	Kauffman	Rappaport	Wilmarth

Croop
Curran
Dailey

Keller, J.
Kelly
Krill

Rea
Reynolds
Roberts

Woodring
Woodside

NOT VOTING—26

Aberman
Amsterdam
Caputo
Corey
Cunningham
Donolow
Fineman

Gabreski
Gouger
Hostetler
Irvin
King
Lane
Laputka

Manderino
Markley
Musselman
Pasquella
Pechan
Percey

Popil
Richter
Solomon
Stroup
Tully
Warman

Less than the majority having voted in the affirmative, the question was determined in the negative, and the motion was not agreed to.

SHAPIRO AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, Proposal No. 2 as outlined by the co-chairman of the Committee on Legislative Reapportionment—

PRESIDENT BRODERICK. Do you have an amendment?

DELEGATE SHAPIRO. I do, sir.

PRESIDENT BRODERICK. It will help expedite it if we can get the page to bring your amendment forward and get the amendment distributed and read by the clerk before you make your statement.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE SHAPIRO offered the following amendment which was read by the clerk:

Amend Sec. 1, page 1, line 4, by striking out "four" and inserting: five

Amend Sec. 1 (Sec. 18), page 1, line 14, by removing the period after "certified" and inserting: or scheduled to be certified.

Amend Sec. 1 (Sec. 18), page 2, lines 4 and 5, by striking out "a majority of the entire membership of the Pennsylvania Supreme Court" and inserting: the Governor

Amend Sec. 1 (Sec. 20), page 2, lines 20 to 23, by striking out all of said lines

Amend Proposal, page 3, by inserting after line 7: Section 23. Apportionment by Governor.—In the event the commission does not file a report nisi within the time prescribed by section 19 herein, the Governor shall immediately proceed to reapportion the Senate and House of Representatives by districts. In such event the Governor shall have thirty days within which to file a report nisi, and thirty days within which to make corrections therein. Exceptions and appeals therefrom may be filed as provided in sections 21 and 22 hereof, and the Governor shall have thirty days after the date of filing of any such exceptions to file a revised final apportionment plan.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. First of all, let me tell the delegates, Mr. President, that the amendment as duplicated included a provision for amending line 30 of page 2 in a manner that has already been taken care of this morning by the previous amendment, and the clerk cor-

rectly omitted in his reading any reference to that amendment

PRESIDENT BRODERICK. We will consider that portion of the printed amendment distributed as having been deleted.

DELEGATE SHAPIRO. Proposal No. 2 as outlined by the co-chairman of the committee provides for the creation of a commission, a five-man commission, to handle reapportionment. It provides that four of the members of the commission be ex officio officers and leaders of the legislature or their deputies and that those four people select a fifth person to conduct and prepare the plan of reapportionment.

It further provides that in the event this commission fails to do its job within a stated period, the preparation of the reapportionment plan then becomes the duty of the Supreme Court. The amendment further provides for an appeal to the Supreme Court to test the legality of any plan that is so prepared.

The intent of my amendment, Mr. President, is directed at two specific provisions of the proposal. Number one: The selection of the fifth member of the commission, in the event that the four originally selected and designated by Proposal No. 2 are unable to agree on a fifth member, under my amendment, instead of the fifth member being selected by the Supreme Court, he would instead be designated by the Governor. Further, my amendment is directed at the provision dealing with the situation where the five-man commission fails to come up with a plan of reapportionment within the stated period. Under the proposal, the Supreme Court, as I said, would then have the duty of preparing a reapportionment plan. Under my amendment it would become the Governor's duty to prepare the plan in such event.

I submit, Mr. President, the two reasons for making this change are: Number one, I do not believe that reapportionment is a judicial function. The preparation of a plan is not a judicial function. It is a legislative function and delegating it to a commission which is primarily made up of legislators or their delegates, I think, is a proper plan.

Secondly, I think that this proposal in delegating the duty to the Supreme Court to appoint a fifth member or to prepare a reapportionment plan is doing the very thing that the Judiciary Committee has labored long and hard to prevent, which is the injection of our courts into the political arena. A reapportionment plan is a political action. I do not believe that it is properly the function of a court and particularly not the function of the Supreme Court.

Finally, Mr. President, I suggest that the paragraph of the proposal as prepared by the committee, which gives the Supreme Court original jurisdiction to hear all appeals contending that the reapportionment plan is illegal, would be most inappropriate in those cases where the plan has itself been prepared by the Supreme Court. I think it would be the height of idiocy to ask the Supreme Court to pass on the legality of a plan which it has, itself, developed.

Thank you.

PRESIDENT BRODERICK. Thank you, Delegate Shapiro.

The Chair now recognizes Delegate Murray.

DELEGATE MURRAY. Mr. President, I would like to interrogate Delegate Shapiro on a few items, if he would consent.

PRESIDENT BRODERICK. Delegate Shapiro, would you permit yourself to be interrogated by Delegate Murray?

DELEGATE SHAPIRO. I shall.

PRESIDENT BRODERICK. You may proceed.

DELEGATE MURRAY. Delegate Shapiro, is it your intention to have a condition where, if the key men in the Governor's party, regardless of political party, freeze and refuse to make the appointment of a fifth man, they automatically turn the control of reapportioning over to that one party?

DELEGATE SHAPIRO. It is not my intent to do that. I am afraid that that might be the result, but I am trying to take this duty away from, I think, an improper party to make that decision. If Delegate Murray has a suggestion as to how else it can be done, I would welcome it.

DELEGATE MURRAY. Do you not think that this leads to handpicking by the Governor's party? It is very simple to have one of your members in the House and one of your members in the Senate refuse to nominate the fifth man, thereby forcing it back to the Governor's office.

Yes, I think there is a way to solve it—tear up this paper. I do not believe that this breeds good government. Do you, Delegate Shapiro?

DELEGATE SHAPIRO. I do not think it breeds good government to turn over a legislative duty to the Supreme Court or any other court. I suggest that the same result might obtain if the Supreme Court, for example, had four members of the minority party as against three members of the majority party and the minority party refused to go along with the selection of the fifth member and thereby throw it into the hands of the four judges of the minority party.

DELEGATE MURRAY. Delegate Shapiro, in practical politics, does not this change give the Governor absolute control, through his party, of reapportioning?

DELEGATE SHAPIRO. Well, perhaps that would be the result, but would not reapportionment be in the control of the majority party, if they control the legislature and if we left it completely to the legislature? I think we are trying to solve an impasse and I suggest to Delegate Murray that no method is going to be perfect, but it seems to me that we are dealing with a political decision and, if the politics of the day dictate that one party has the majority of the legislature, it would be most natural that that majority party, through the legislature, would control the reapportionment plan.

DELEGATE MURRAY. Sir, that is a matter of opinion. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President, members of the Convention, I rise in opposition to this particular amendment whereby the apportionment of the legislature is placed in the hands of the Governor of the Commonwealth of Pennsylvania. Everyone knows that a governor has enough problems on his hands without giving him any additional problems. To give to the Governor of the Commonwealth of Pennsylvania the authority and the mandate at that time to reapportion the legislature is almost asking for the impossible.

First of all he would not have the time.

Secondly, of course, the Governor would have to be elected by a particular political party, naturally. Whether

he would like to or not, he would sort of lean toward one way and not the other, with the result that you would have the reapportioning made by a person with politics in mind.

Third, in my opinion, to give this authority to the Governor would be contrary to the wishes and desires and studies made by all the people whom I know of in the entire United States of America. There is no State that I know of that has given to the Governor the power to do this thing; therefore I ask that this be voted down.

PRESIDENT BRODERICK. Thank you, Delegate Jiralanio.

The Chair recognizes Delegate Goldman

DELEGATE GOLDMAN. Mr. President, I speak in opposition to this amendment. I concur with Delegate Jiralanio's comments in regard to the appointment of the Governor as the fifth member of this commission, but I would also like to comment about the Supreme Court passing on the finality of the commission's plan.

The Supreme Court, as a court of law, does have the obligation, and a natural obligation, to pass on the legality of the commission's plan. In addition to that, if it should find the plan to be at fault, it could simply return the plan to the commission with its comments as to why it is wrong. It does not necessarily have to set forth a new plan which the commission would then reconsider. I think this is the court's obligation, and the court would not be writing a plan of reapportionment but merely sending it back to the commission with its comments as to why it is wrong. This is the function of the court; this is its duty and its obligation. It is the natural place for the court to rule on such matters.

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Mr. President, I rise on a point of order. I heard no second to this amendment.

I will second the amendment for the purpose of getting it before the Convention and then make my brief remarks.

PRESIDENT BRODERICK. Thank you.

Our Parliamentarian says that we have not been requiring seconds to the amendments being offered, but we have a second here. We will now proceed.

The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. I wish to call the attention of the body to the fact that there are a number of States which follow this type of plan: The Governor is required to present a plan of reapportionment. If, within a certain period of time, the legislature indicates its dissent from that plan and itself prepares a plan, then the legislature's plan prevails. If the legislature does not act, then the plan prevails.

I think this is a very sensible thing when we consider the very wise comments that have been made in this matter. I believe when we have the contrary, we have the cart before the horse.

I do not recollect the names of the States at this time which have that type of procedure, but I am sure the staff has that information.

PRESIDENT BRODERICK. Thank you, Delegate Braham.

The Chair recognizes Delegate Fleming.

DELEGATE FLEMING. Mr. President, I am sure that Delegate Shapiro's proposal has much merit in the minds not only of him, the sponsor, but of many other delegates. But it is also my understanding, Mr. President, that a group of leaders in the Convention—and may I say, parenthetically, I am not one of them—are trying to work out some type of compromise measure on this that might be acceptable to a great majority of the members of this Convention.

I would very respectfully call it to the attention of the delegates here that—and I realize that it is not, possibly, too important to us in the legislature—we must get out of here by 11 o'clock in order that we can be prepared for the convening of the General Assembly in an hour. If it were possible, Mr. President, I wish the Chair would use his prerogative, which I am sure he has, and recess us now, and certainly with no thought in mind at all of killing Delegate Shapiro's suggestion but in order to give us all an opportunity to come back and thoroughly discuss it, if that would be in order. If that is not in order, I would be willing to make a motion that we lay it on the table until we reconvene, I believe it is at 3 o'clock. Is that correct, sir?

PRESIDENT BRODERICK. That is correct.

Delegate Fleming, I want to point out that we had a motion here that was made by Delegate Kline and seconded by Delegate Van Sant that we recess at the time that motion was made, which was about 20 minutes ago or 15 minutes ago.

I think you are perfectly in order if you want to make such a motion that we recess now, but I think the Convention will have to vote on it, in view of the motion we already have carried.

DELEGATE FLEMING. Thank you, sir.

MOTION TO TABLE

PRESIDENT BRODERICK. The Chair recognizes Delegate Fleming.

DELEGATE FLEMING. Before I make the motion, and to assure every member of this Convention that I have no thought in mind in any way of following any devious plan to get away from any consideration of Delegate Shapiro's proposal, I would now move that this proposal be laid on the table until we reconvene at 3 o'clock.

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. I would like to second that motion, Mr. President.

PRESIDENT BRODERICK. The motion of Delegate Fleming, seconded by Delegate O'Donnell, is that we lay the amendment of Delegate Shapiro on the table until we come back at 3 o'clock.

The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, on the motion, I have not had an opportunity to talk to my good friend, Delegate Fleming, but I have a suggestion that might help us this afternoon.

During this interim period, there could be a meeting set up of all the people who have amendments to this particular proposal. They could sit down and iron them out among themselves. I am sure there is no pride of authorship in this. We are just trying to straighten things out.

Along with the motion, I think the people who have amendments to this should gather, meet and decide whether the amendments conflict with one another or whether we could iron this out and do something sensible this afternoon on the floor of this Convention.

PRESIDENT BRODERICK. We have a motion on the floor that we recess until 3 o'clock and lay Delegate Shapiro's amendment on the table. Is that correct, Delegate Fleming?

DELEGATE FLEMING. That is correct, sir.

On the question,

Will the Convention agree to the motion to table the amendment and adjourn until 3 p.m.?

The roll was recorded as follows:

YEAS—118

Alison	Darley	Keller, M.	Reynolds
Aurentz	Desmond	Kelly	Ruth
Baldridge	Devlin	Krill	Scott
Baldus	Donaldson	Lesch	Scranton
Baldwin	Erwin	Lee, K.	Sebastian
Banes	Fagan	Lee, L.	Shapiro
Barron	Fawcett	Leimbach	Sharp
Barry	Fay	Leonard	Shettig
Bashoff	Feather	Levin	Shively
Benedict	Fleming	Martoni	Shoemaker
Benfield	Fohl	McGeary	Shrager
Bloom	Forster	McGlynn	Silverman
Braham	Fortney	Meyer	Sprogel
Brannan	Gabreski	Michener	Stout
Broderick	Gehrlin	Miller, D.	Stroup
Brown	Gerber	Miller, R.	Swope
Buck	Goldstein	Moorhead	Tate
Burkholder	Gouger	More	Thomson
Butera	Griffith	Murray	Thornburgh
Cain	Hannum	O'Donnell	Tomasick
Caputo	Harding	Orban	Tully
Caron	Hayburn	Otto	Van Sant
Casay	Himes	Pasquerilla	Waldron
Clinger	Hocker	Pelletier	Welsh
Conley	Horne	Popil	Westerberg
Cortese	Huggins	Pott	Wilcox
Cosetti	Irvin	Powell	Wilmarth
Croop	Jurolanio	Rea	Woodring
Cunningham	Johnson	Redick	Woodside
Curran	Keller, J.		

NAYS—20

Bagenstose	Hatter	Nelson	Sahli
Bunting	Henderson	Orbit	Scales
Camardella	Kauffman	Rappaport	Scarlett
Dumbauld	Kline	Roberts	Strickler
Goldman	Mangery	Rovner	Whittum

NOT VOTING—25

Abertman	Gray	Manderino	Percey
Amsterdam	Hook	Markley	Prendergast
Clark	Hestettler	Michaeli	Quiles
Corey	King	Morton	Richter
Donolow	Lane	Musselman	Solomon
Filson	Laputka	Pechan	Warman

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

LEAGUE OF WOMEN VOTERS OF MT. LEBANON WELCOMED

PRESIDENT BRODERICK. We welcome the members of the League of Women Voters of Mt. Lebanon, Allegheny County, with their president, Mrs. Bruce Barstow, in the rear of the chamber.

They are the guests of Delegates Goldman, Rea, and Redick of Allegheny County.

CAMP CURTIN JUNIOR HIGH SCHOOL STUDENTS WELCOMED

PRESIDENT BRODERICK. The Chair also recognizes 28 students from Camp Curtin Junior High School in Harrisburg, with Mr. Neal Luke in charge.

They are the guests of Delegates Hocker, Woodside, and Swope of Dauphin County.

CENTRE COUNTY WOMEN VOTERS WELCOMED

PRESIDENT BRODERICK. We also have with us today members of the League of Women Voters of Centre County, State College Chapter, the Nittany Council of Republican Women and the Centre County Democratic Women's Club.

They are seated at the rear of the chamber and they are the guests of Delegate Shively of Clearfield County and of Delegates McGeary and Sharp of Centre County.

LEAGUE OF WOMEN VOTERS FROM DELAWARE COUNTY WELCOMED

PRESIDENT BRODERICK. In addition, we welcome the League of Women Voters from Upper Providence, Middletown, Delaware County, who are seated in the gallery.

They are the guests of Delegates Bunting, Curran and Levin.

SENIOR CITIZENS FROM PHILADELPHIA AND DELAWARE COUNTIES WELCOMED

PRESIDENT BRODERICK. I also understand we have with us a group of senior citizens from Philadelphia and Delaware counties, who are retirees from Westinghouse Corporation in Essington; a committee of Retirees' Clubs of Delaware County; Vertol retirees from Morton; and Pennsylvania Railroad Company retirees.

They are the guests of Delegates Murray and Camardella of Philadelphia County and Delegate Harding of Delaware County.

LEBANON COUNTY LEAGUE OF WOMEN VOTERS WELCOMED

PRESIDENT BRODERICK. We have with us 10 ladies from the Lebanon County League of Women Voters. I believe they are in the rear some place.

They are the guests of Delegates Feather, Caron and Horne of the 48th District.

COMMITTEE MEETINGS

ARRANGEMENTS, SUBMISSION AND ADDRESS TO THE PEOPLE. Ad Hoc Arrangements Committee, standing committee, Room 517-A, North Office Building, Wednesday, February 7, 1968, at 1:30 p.m., e.s.t.; Ad Hoc subcommittee on Address to the People, Room 517-A, North Office Building, Wednesday, February 7, 1968, at 2 p.m., e.s.t.; Ad Hoc committee on Submission, Room 517-A, North Office Building, Wednesday, February 7, 1968, at 2 p.m., e.s.t.

RECESS

PRESIDENT BRODERICK. The Chair now declares a recess until 3 p.m.

AFTER RECESS

The time of recess having expired, the Convention was called to order.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

AMENDMENT TAKEN FROM TABLE

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, may I request that the Convention now proceed to consider my amendment?

PRESIDENT BRODERICK. Unless we hear objection, we call it from the table. In order that the delegates may know what we are considering, I am going to ask the clerk to read that amendment.

(The Shapiro amendment was read by the clerk.)

PRESIDENT BRODERICK. You have heard the amendment offered by Delegate Shapiro. It has been reread. I assume that everybody who wants to speak has already spoken on this.

The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, you caught me unaware. I thought there would be people speaking on this. I would like an opportunity to sum up, if I may.

I will withdraw that.

PRESIDENT BRODERICK. The question recurs,

Will the Convention agree to the amendment offered by Delegate Shapiro?

The roll was recorded as follows:

YEAS—6

Braham	Shoemaker	Tate	Thornburgh
Bunting	Stout		

NAYS—122

Allison	Donaldson	Kauffman	Powell
Aurentz	Dumbauld	Keller, J.	Prendergast
Bagenstose	Erwin	Keller, M.	Rappaport
Baldrige	Fagan	Kelly	Rea
Baldus	Fawcett	Krill	Redick
Baldwin	Fay	Leach	Reynolds
Banes	Feather	Lee, L.	Richter
Barron	Filson	Lembach	Roberts
Bashoff	Fohl	Leonard	Ruth
Benedict	Forster	Levin	Sahli
Benfield	Fortney	Mangery	Scales
Bloom	Gabreski	Mattioni	Scarlett
Brennan	Gehrlain	McGeary	Scott
Broderick	Gerber	Meyer	Seranton
Brown	Goldman	Michael	Sebastian
Buck	Goldstein	Michener	Sharp
Butera	Gouger	Miller, D.	Shettig
Camardella	Griffith	Miller, R.	Shively
Caputo	Hannum	Moorhead	Shrager
Caron	Harding	More	Strickler
Casey	Hatter	Murray	Swope
Clark	Henderson	Nelson	Thomson
Clinger	Heyburn	O'Donnell	Tomasik
Conley	Himes	Orban	Tully
Cortese	Hocker	Orbin	Waldron
Croop	Hook	Otto	Whitrum
Cunningham	Horne	Pasquerilla	Wilcox
Curran	Huggins	Pelletier	Wilmarth
Daley	Irvin	Popil	Woodring
Desmond	Jordanio	Poit	Woodside
Devlin	Johnson		

NOT VOTING—35

Aberman	Fleming	Markley	Silverman
Amsterdam	Gray	McGlynn	Solomon
Barry	Hostettler	Morton	Spiegel

Burkholder	King	Musselman	Stroup
Cain	Kline	Pechan	Van Sant
Corey	Lane	Percey	Warman
Cosetti	Laputka	Quiles	Welsh
Donolow	Lee, K	Rovner	Westerberg
Fineman	Manderino	Shapiro	

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

POWELL AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Powell.

DELEGATE POWELL. Mr. President, I read in place and present the following amendment:

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE POWELL offered the following amendment which was read by the clerk:

Amend Sec. 1, page 1, line 4 by striking out "four" and inserting: five

Amend Sec. 1 (Sec. 18), page 1, lines 8 and 9 by striking out "Legislative Reapportionment Commission.—" in line 8, all of line 9 and inserting: Apportionment by General Assembly.—The General Assembly within ninety days after the next Federal decennial census is certified and no later than ninety days after each subsequent Federal decennial census is certified, shall apportion the State into senatorial and representative districts in accordance with the next two preceding sections.

If the General Assembly shall fail to reapportion itself within the time prescribed herein, a commission, as hereinafter provided, shall apportion the State.

Section 19. Legislative Reapportionment Commission.—A Reapportionment Commission, consisting of five members, shall be elected as follows:

Amend Sec. 1 (Sec. 18), page 1, lines 10 to 12 by striking out all of lines 10 and 11 and "by any of them, shall be four of the members." in line 12 and inserting: (1) The majority and minority membership of the Senate and the majority and minority membership of the House of Representatives at their respective caucuses shall each elect one of their members to serve on such commission.

Amend Sec. 1 (Sec. 18), page 1, line 16 by striking out "select" and inserting: elect

Amend Sec. 1 (Sec. 18), page 2, line 1 by striking out "selected" and inserting: elected

Amend Sec. 1 (Sec. 18), page 2, line 3 by striking out "select" and inserting: elect

Amend Sec. 1 (Sec. 19), page 2, line 9 by striking out "19." and inserting: 20.

Amend Sec. 1 (Sec. 19), page 2, lines 9 and 10 by striking out "No later than ninety days after the commission has been duly constituted and certified or" and inserting: In the event that the General Assembly shall fail to apportion the Commonwealth within ninety days

Amend Sec. 1 (Sec. 19), page 2, line 11 by striking out: ", whichever is later in point of time"

Amend Sec. 1 (Sec. 19), page 2, line 11 by inserting after "commission": within thirty days thereafter

Amend Sec. 1 (Sec. 20), page 2, line 14 by striking out "20." and inserting: 21.

Amend Sec. 1 (Sec. 20), page 2, lines 17 to 19 by striking out all of said lines

Amend Sec. 1 (Sec. 20), page 2, line 20 by striking out "within the time prescribed" and inserting: as required

Amend Sec. 1 (Sec. 20), page 2, line 21 by striking out "19" and inserting: 20

Amend Sec. 1 (Sec. 20), page 2, line 22 by striking out "they shall forfeit all rights of compensation and"

Amend Sec. 1 (Sec. 21), page 2, line 24 by striking out "21." and inserting: 22.

Amend Sec. 1 (Sec. 22), page 2, line 29 by striking out "22." and inserting: 23.

Amend Sec. 1 (Sec. 22), page 3, line 2 by inserting after "commission" where it appears the first time: or the General Assembly

Amend Sec. 1 (Sec. 22), page 3, line 2 by inserting after "commission" where it appears the second time: or the General Assembly

Amend Sec. 1 (Sec. 22), page 3, line 4 by striking out "Reapportionment Commission's"

Amend Sec. 1 (Sec. 22), page 3, lines 6 and 7 by striking out "by the next reapportionment commission"

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK Delegate Powell, the Chair recognizes you to make a statement in connection with your amendment.

DELEGATE POWELL Thank you, Mr. President. The first concern of any reapportionment plan is to provide equal representation for all the citizens of the State. The key word, however, is "representation." A plan which places a number of citizens in a legislative district in which they can have virtually no hope of affecting the outcome of an election or the official conduct of the elected legislators can as effectively disenfranchise those people as a population imbalance. People are not so organized along the lines of legislative districts. To a large degree they are organized along the lines of political subdivisions. The legislative district, therefore, should be drawn on the basis of existing population organization in order to most effectively represent the people of the district.

Unfortunately, every general rule to determine proper legislative districts is subject to a number of exceptions and any constitutional requirement requiring absolute compliance will prohibit consideration of proper placement of the exceptional areas. Thus, strict compliance to compactness can result in two nonhomogenous districts of urban, suburban and rural areas, when the creation of a horseshoe or shoestring district may better divide the two districts into the areas in which the people themselves are already organized.

The perfect reapportionment plan is impossible to draft. For this reason the various qualities which should be considered in drafting a reapportionment plan cannot be made absolute constitutional requirements. Various weights and priorities can be given to these qualities, however, as long as freedom to deviate from them is permitted when the various requirements of a good plan are in conflict. The fact that frequent deviation from any particular requirement may be required should not, however, cause the omission of the requirement if it is otherwise a sound requirement of good apportionment.

The perfect apportionment should contain a number of qualities of various degrees of importance. They are: equality of population; no division of wards, boroughs or

townships; no division of city lines; no division of county lines; contiguous districts; compactness; geographic considerations; and community of interest.

It became obvious, upon actually working on an apportionment plan, that the final result, even in the best plan, will fall far short of perfection. This will be true regardless of the agency actually responsible for the drafting of the plan. The greatest difficulty in drafting a good plan lies in the vast amount of information necessary for the proper combination of political subdivisions into the best possible districts.

The population statistics are readily available, but use of these figures alone will not provide a good plan. They will not indicate which wards of cities will best combine with adjoining suburbs. They will not indicate which townships are separated by mountains or rivers, which areas of adjacent counties have the greatest community of interest, or which areas within a county have worked and organized together.

This information is available in only one existing governmental body, the legislature. It is the only body in which the peculiar and diverse interests and characteristics of every area of the Commonwealth are represented. It is, therefore, uniquely able to accumulate the information necessary for the preparation of a good plan. That the legislators have a personal interest in the final result does make the task particularly difficult for the legislature to accomplish. Their efforts to do so, however, produce the body of information and the alternative plans which are essential to the good and final result if the task is completed.

The continuous availability of this information is important right up to the final draft of the plan. This is so because no district in the State can ever be firmly fixed until the last has been finally determined. When county lines ceased to be inviolate, there occurred a Domino reaction in the drafting of legislative districts. Thus, a change in a district in suburban Philadelphia can require districts to be altered all the way to the New York State line; a district in Somerset can alter districts around State College; or an alteration in districts bordering on Lake Erie can solve problems in Greene or Fayette counties. It becomes necessary, therefore, at times, to sacrifice the best possible plan in one area in order to avoid the worst possible in another some distance away. Information must be obtained, therefore, concerning not only the best possible districting, but also alternative good or acceptable districting in every area of the State. It is fully available only from people who are familiar with all aspects of the area.

Gentlemen, basically the proposed amendments to Committee Proposal No. 2 would accomplish the following:

They would permit the legislature to apportion itself within 90 days following the certification of the census.

They would provide for the election of one member of the legislative reapportionment commission by the majority and minority House and Senate caucuses. These members would then select the additional member in the same manner and at the same time as is now provided in the committee proposal.

The commission would file a reapportionment plan only if the legislature failed to do so within 90 days of the census certification. In that event, it would be required to do so within 30 days. This is not an insufficient amount of time since the commission would be in existence

and operation during this 90-day period in which the legislature could act.

Since the commission might not be required to file a plan if the legislature acts, the provisions for withholding compensation from the commission have been deleted.

The Supreme Court would be permitted to remand a reapportionment plan to either the commission or to the legislature in the event neither acts.

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Powell.

The Chair recognizes Delegate Baldrige who has been designated by the Legislative Reapportionment Committee to present their position in connection with any amendments on Proposal No. 2.

DELEGATE BALDRIGE. Mr. President and fellow Delegates, the Subcommittee on Method of Reapportionment spent over two months in very detailed study of the many, many revisions and considered almost everything I heard here today before it adopted this proposal.

The first and primary aim of the committee in preparing this proposal was to keep legislative reapportionment as nonpolitical as any odd number of human beings could do. We considered almost every agency under the sun to do it and we came up with this program. When we considered letting the legislature do this because the legislature historically has done it and, except in three other States, still does it today, we were met at the outset with the complete ridiculousness of picking prejudiced judges to judge their own cases. If you consider that most of them are running for reelection, you have a judge with a financial interest in the outcome of the reapportionment before you even start.

We asked that question of the president of the Pennsylvania Bar Association at our public hearing, and he freely admitted that there was no other place in the law that he had ever heard of where you started out picking a prejudiced judge or one who had a financial interest in it to judge the case. We also recognize, as this amendment recognizes, that there are no people in Pennsylvania who know the legislative or senatorial districts better than the members of those two Houses. I can also say, and I am privileged to do it, that the minority leader of the present House of Representatives, one of the ex-officio delegates, worked very hard on this and agreed 100 percent with this proposal as the best thing we could come up with in this Constitution. We do pick in this proposal the four leaders or deputies appointed by them. One of the reasons we wanted to keep it out of the legislature was that we felt the legislators and the senators are elected for more important things than spending a year on reapportionment every ten years at least.

History has told us, and we can see it on any map of any State where legislative reapportionment is done by the legislature, that there are times when they do not even redistrict when they should. Our Pennsylvania history is plenty poor on when they have done it. The Senate one time was not reapportioned for 40 years, and even when they do, you get a poor political job one way or another. They use it to reward their friends or punish their enemies. One of the delegates in this Convention was reapportioned out when a town across the river from his district was included in his district. He had to go 10 miles either way out of his district to get to the other end of his district. There were no bridges across the river. We, in the committee, have no doubt that these four

legislative leaders, or their deputies, will certainly be told by their fellow members in the legislature when they are making a mistake. It was one of Mr. Fineman's proposals in particular that we allow those four leaders a period of 45 days from the time they are chosen—allowing a week or so for sickness, lie votes and so forth—to pick a neutral fifth member. We did not want the Governor or any political person involved in that. It was felt that they could possibly come up with someone like the president of the Chamber of Commerce, the president of the League of Women Voters, or some neutral civic-minded person. Certainly, if the representatives of either political party refused to accept some other good nonpolitical qualified neutral fifth party, when that came out it would be not to the good of that political party and those two leaders would not be very popular at the ballot. They would be subject to the ballot; they have to come up for reelection.

We also considered allowing people to run for the office, but since it is only for a short period every 10 years, it was felt that no one would have the money and the time to campaign statewide for such a job; it would be impractical.

Now then, as a stopgap, if those four leaders did not pick a person, the most nonpolitical governmental body that we have been able to find in the State was our Supreme Court, and when the seven judges had to agree on a person—certainly all the names that had been considered by the four leaders would be submitted to them—and they knew they were picking someone to head as neutral and nonpartisan a commission as it could be made, they would pick a good person. After that the commission has 90 days to do its work. We were advised that it could not be done any earlier. This present amendment gives it 30 days.

We were watching at all times the time schedule so that after the reapportionment was made the new legislators and senators who had to run in 1972, 1982, and so forth, would know their districts by January 1 of that year so they could know where they were campaigning. The time schedule was a little tight because we had to permit, first, the commission to file a report and give it 30 days for appeals to be filed to it or correct its own errors, and then, if it did not satisfy all the appeals, we gave it 30 days to hear the arguments and decide the appeals. That ran us clear up to September 15. Further, we allowed a period of 30 days for an appeal to the Supreme Court, which is normal time. The Supreme Court has, historically, always considered such cases as this emergency cases any they allow them to be argued first and very quickly after they are filed and make their decision very quickly. But their decision in this case, under the apportionment proposal by the commission, is sent back to the apportionment commission with directions for change. In this amendment proposal they have the Supreme Court telling the legislature, if they made the original apportionment, how to reapportion themselves. In spite of writing it in a constitution, that sounds rather wrong to me, the Supreme Court telling the legislature how to do its work. That is about as foreign in law to me as picking prejudiced judges to decide the case.

The committee proposal has one other thing in it which was criticized or it was intimated that it was omitted, and that was the compact, contiguous districts. It must be remembered by all delegates here that Committee Proposal No. 2 and Committee Proposal No. 1 will go

right together in the Constitution; Proposal No. 1 goes right above Proposal No. 2. In Proposal No. 1 we do provide for the compact, contiguous districts with no ward, borough, county, and so forth, lines being divided unless absolutely necessary under the one-man, one-vote rule.

For those reasons, Mr. President, I certainly recommend—and I know I am supported by all the members of the committee who examined this thoroughly on the method of legislative reapportionment, except one of our co-chairmen—and very thoroughly. This passed our committee 9 to 1—and we ask your support. We think we have done a good job, and if you have any questions, I will be happy to answer them.

PRESIDENT BRODERICK. The Chair recognizes Delegate Keller.

DELEGATE M. V. KELLER. Mr. President and members of the Convention, I would just like to say a few words in behalf of the amendment as proposed by Delegate Powell.

I would first like to clear up a little misunderstanding so far as the work of the Apportionment Committees of the House and Senate. They are past history.

I happened to be a member of the Reapportionment Committee in the House in 1953 and at that time the House was reapportioned successfully and became law. The Senate was reapportioned; however, upon final examination, we found that there was one township left out of that bill which made the bill unconstitutional and therefore was not put into effect.

In 1963 the House and Senate were again apportioned according to the Constitution of Pennsylvania. This was not acceptable to the Supreme Court. The Supreme Court said in effect that the Constitution of Pennsylvania did not conform to the decision of the Supreme Court of the United States. Therefore, the two bills that had been passed by the House and Senate were declared unconstitutional.

In 1965 at the direction of the Supreme Court, both the House and Senate were apportioned. The Senate bill was passed in the Senate by a vote of 47 to 1. The House bill here was passed. Unfortunately we ran into trouble. The bills went to a conference committee and the conference committee could not agree.

In 1966 the legislature of Pennsylvania reapportioned the Congressional districts, which is now in effect. The legislature has done a job; it has done what it could. I believe that it is the job of the legislature to at least make an attempt to reapportion both the House and the Senate. In fact, the Supreme Court in the original *Butcher v. Bloom* case noted: "The task of reapportionment is not only the responsibility of the legislature, it is also a function which can be best accomplished by that elected branch of government."

So it is recognized by the Supreme Court of Pennsylvania; it is recognized by the Supreme Court of the United States that this is a legislative prerogative.

I believe that the legislature should have the first opportunity. If it cannot—and I think this is the thing that has been bothering the voters of Pennsylvania, that if the legislature cannot agree, there is no place else to go—I believe there should be some place else to go to do this job and I believe that these amendments would provide for that.

As I understand these amendments, the legislature would

convene in January 1971; they have standing committees both in the House and the Senate; they would start to work. A commission would be created by the election of one member to that commission from each of the caucuses. This is a change from the original bill and I think a change for the better. I do not think that the leaders, the floor leaders of the House and Senate particularly, want the responsibility to reapportion. I do not think that the members of the legislature itself want the leaders to reapportion. I think it is a bad thing for the leadership to be put in a position where they do have a "big stick" over each member of their respective Houses.

I think that the caucuses should elect one of their number to represent that caucus on a commission which would provide four members of the commission. I further understand that this amendment would provide then that the four members would select a fifth person who would act as chairman of the commission.

The amendment provides that the legislature would have 90 days after the certification of the census in which to come up with a plan. If it did not, and I am quite sure there is provision for a time limit for the creation of the commission, the commission no doubt would be working with the two committees—the one in the House and the one in the Senate—on reapportionment. They would be working together and certainly they would have all the information that had been gathered by the two committees at their disposal. As I understand the amendment, then the commission would have 30 days in which to reapportion and come up with the final answer. If they do not, then it goes to the Supreme Court.

I believe that these amendments are good amendments. I do not believe that as far as the time of reapportionment is concerned. I honestly believe that every legislature in every State in these United States will have to reapportion after the decennial census. This they must do. If they do not do it, the courts will step in and do it themselves just as they did in 1965. They did it in many of our States, not only in Pennsylvania, but they have directed that the legislature reapportion. They did not direct that the Governor appoint a commission; they did not direct the Supreme Court or the Superior Court to reapportion. The Supreme Court directed the legislature to do the job, and I believe that these are the bodies which should at least attempt, make the first attempt, to reapportion both the House and the Senate and the Congressional Districts.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I intend to endorse the observations of Delegate Powell and of Senator Keller, but I have some reservations about the amendment in its precise form. I would like to merely state them for this body.

I, too, agree that those persons who know the most about reapportionment are the members of the Senate and House. I, too, agree that the Senate and House should be given the first crack at the job. We should at least have enough confidence in them to assume that they would be willing to undertake the chore and I think that they should be given that opportunity.

I, therefore, subscribe and agree with that much of the proposal as suggests that the Senate and House should have an opportunity to do it. I differ, however, with the

setup of the commission after it has failed, for these reasons: It seems to me that once the Senate and the House have failed to apportion the State, we then appoint a commission composed of the leadership of the very same bodies which could not make the grade in the first place and ask them to be able to do it. I suggest to you, sir, and to this body, that those members of the Senate and House who are under the great pressure from their membership and have the most devious and detailed and responsible position and most difficult position and sensitive position, if you will, are the very leadership of the respective caucuses. I believe that one of the reasons that our various States have failed to apportion—and not only Pennsylvania; this is not peculiar to Pennsylvania; this is peculiar to the entire United States—one of the reasons they have failed adequately to apportion themselves in the past is that we give them an impossible job. We ask those members to become the judges of their own case. In every other area of the law, a judge who is passing on the merits of his own problem is asked to disqualify himself.

Further, we ask them to do that which is asking a great deal, and that is to ask a member whether he wishes to district himself out of an office or district his colleague of many, many years out of an office. I say, sir, and to this body, I believe that despite those problems, the House and Senate should be given the first opportunity to do so. If they cannot do so, I then think that we should buy a form of legislative apportionment commission which would step in and perform the job which the House and Senate have been unable to perform.

I would, therefore, ask this body not to accept this proposal in its present form, but to suggest a different kind of reapportionment commission. My own proposal, which will be introduced, which would very well add to the one that is here would suggest an appointment of a seven-member commission, three by the Governor with the advise and consent of the majority members of the Senate, three by the Governor with the advise and consent of the minority members of the Senate, and a seventh selected by the six. I think that kind of a commission could succeed where this one is virtually built to fail.

PRESIDENT BRODERICK. The Chair recognizes Delegate Donaldson.

DELEGATE DONALDSON. I have something which I think the members might be interested in and I would like to interrogate Senator Keller, without taking any position on the amendment, for just a moment. I would also like the members to listen to the interrogation because I think it will enlighten them.

Sir, may I please?

PRESIDENT BRODERICK. Are you willing to be interrogated, Delegate Keller?

DELEGATE M. V. KELLER. I am, Mr. President.

PRESIDENT BRODERICK. Proceed.

DELEGATE DONALDSON. I am very pleased. It is very seldom that we in this chamber get to interrogate the distinguished members of the Senate of Pennsylvania.

Senator Keller, you mentioned that in 1953 the House of Representatives was reapportioned.

DELEGATE M. V. KELLER. Yes, sir.

DELEGATE DONALDSON. The Republican Party was in control of the House at that time. Is that right?

DELEGATE M. V. KELLER. That is correct.

DELEGATE DONALDSON. The next election was the election for the General Assembly of 1954. Who won that election, Senator Keller?

DELEGATE M. V. KELLER. I believe the Democrats took control.

DELEGATE DONALDSON. I am sure they did; that was my first term.

In 1963, Senator, you mentioned that there was a reapportionment passed by a Republican Assembly, and while it was later declared invalid, there was an election held in 1964. Under that plan, who won that election, Senator?

DELEGATE M. V. KELLER. I believe the Republicans.

DELEGATE DONALDSON. I believe the Democrats did.

DELEGATE M. V. KELLER. Oh, did they? I am sorry.

DELEGATE DONALDSON. In 1965 when we were unable to agree, it was our thinking that what the Supreme Court basically did was take the Democratic House plan and the Republican Senate plan, basically. Is this substantially correct? It would have been the Democratic House plan in 1965.

DELEGATE M. V. KELLER. That is right.

DELEGATE DONALDSON. Who won the House election in 1966?

DELEGATE M. V. KELLER. The Republicans.

DELEGATE DONALDSON. The Republicans.

I just call to the attention of the delegates that the last three times political parties have reapportioned this House—and this is a very political thing and they did it as well as they could—they lost the next election. Under one-man, one-vote, you cannot do all this in discrimination and gerrymandering. It cannot be done.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Prendergast.

DELEGATE PRENDERGAST. Mr. President, I rise in opposition to the amendment presented by Delegate Powell. I feel as Mr. Baldrige, that this committee worked long and hard at many meetings, listened to all experts and came up with a solution which I think is a good solution for the method of reapportionment.

If we accept this amendment, in my opinion—and I, too, was a conferee on reapportionment in 1965; if we accept this amendment—I think we take a step backwards because I feel that the proposal before us removes one possibility of an impasse by creating a commission in the first instance instead of leaving the committees in the House and the Senate to come up with plans.

If we have a divided legislature, I know that we could never agree. Under this plan we have the majority leader and minority leader in both Houses, plus the fifth member to be selected by them. I cannot believe that they will not get together and select a fifth member as chairman—a nonpolitical person—within 45 days. If necessary, of course, it does go to the Supreme Court and this is a check-and-balance sort of thing. But I really feel that these four men can get together.

Let me point out that they each have the right to appoint a deputy. If I were a leader in a situation like that, it is quite likely I would appoint as my deputy—if my caucus felt that I should not assume the job myself and I would bring it up in my caucus, I would probably appoint as my deputy—the chairman of the Committee on Elections and Reapportionment, who would not happen to have been appointed chairman in the first place if he

was not knowledgeable with respect to apportionment of the legislature.

I think the time schedule is very well set up and that apportionment can be achieved under the proposal before us. For this reason, I strongly oppose support of the amendment before us on the floor.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, now I am the speaker.

Mr. President, I hesitate, indeed, to rise and speak on this particular subject, and more particularly because my warm, personal friend for a good many years, Delegate Baldrige, is speaking on behalf of the committee.

You will note, however, Mr. President, that I am a co-sponsor of this amendment which is now at issue.

I want to speak first about the capacity of the General Assembly to do its own job. During the past number of weeks, we have heard time and time again expressions from the members of this delegation with relation to improving the effectiveness and the strength of the General Assembly.

I think I should go on record and I think my colleagues in the General Assembly would agree with me that, during the past four to five years, marked advancement and improvement has been made in the efficiency of the operation of the whole General Assembly. Efforts have been made by leadership, endorsed by the members of both Houses, for additional space; efforts have been made for staff and research and, indeed, Governor Scranton and Governor Shafer have been very cooperative in helping us with our space problems.

The time is coming along that this entire Main Capitol Building will be a legislative hall for legislative purposes solely, as it was originally intended back in 1903, and I think most of you know that there is an addition now planned and under architectural consideration in Harrisburg for construction and addition to the Capitol to take care of administration offices.

I envision, therefore, in the near future a much more modern, a much more effective, a much better staffed General Assembly to serve the people of the Commonwealth. I might point out to you, too, Mr. President, that insofar as cost is concerned at the present time, one-half of one percent of the total budget is for legislative purposes and that is a very small sum, so the matter of cost does not enter into it.

But the purport of my remarks primarily is this: I consider and believe that the General Assembly, number one, should have the right, and this delegation should give them the first right, to try to reapportion themselves. I do not think it should be denied, and I think all of us should have the confidence in our General Assemblies of the future that they will rise to the challenge and do the job that is required of them.

I would call your attention that during past years, the problem of representation as to population was a buried one. It was not until the Supreme Court decision came down that all the state legislators across the land were related to this particular problem and now they have responded, and I believe quite nobly, to meet that challenge.

I have every reason to believe, and I think you can believe, that if you would adopt this amendment and

give the General Assembly the first opportunity, they will be able to reapportion. That safeguard, nevertheless, is thrown into this amendment, that if they fail to do so within the allotted time, then you have the legislative reapportionment commission.

That legislative reapportionment commission, instead of earmarking the floor leaders alone as the ones who really are in a sensitive position in this problem, now would permit under this amendment the election of representatives of the minority and majority caucuses to serve. Very likely, and I would not doubt at all, they would be the chairmen of the respective legislation apportionment committees. They would be the ones who may very well be the representatives, rather than the floor leaders.

I think this is another significant advantage in this particular amendment, and that is that you have this commission already in being, and it will be studying and working, perhaps not on that part entirely with the General Assembly or with those who represent the General Assembly on the problem, but will be fully knowledgeable of all the facts, all the statistics, which are available. May I speak on that subject for a moment.

The General Assembly has now, within its files—I have them; our Legislative Apportionment chairman has them; both sides of the aisle—the statistics and the research from the many, many past years right at its fingertips to help to do the job and do it very well. I think, indeed, it is important for the dignity, for the confidence and for the justification of the General Assembly of Pennsylvania that this Convention give them this first opportunity. They may fail indeed. I have serious doubts that again they ever will, but if they do, you have the second safeguard. If that safeguard should fail, in this amendment then you have the Supreme Court.

I urge you to give very serious consideration to the amendment which is now before you.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, with all due humility, I rise to speak against this proposal in recognition that many of our most illustrious and famous senators and legislators have spoken in favor of it. I feel I must still take the position openly and for these reasons:

I do not believe this plan denies the legislators, the Assembly, the right to reapportion themselves. The only thing this plan does is establish who will speak in behalf of these bodies, rather than have the bodies speak for themselves in toto. I believe the sessions that we have had in the past several years have clearly indicated that when given such a politically oriented and base issue as apportionment, the legislature will undoubtedly become tied up and impossibly deadlocked in this vital task.

I suggest that the amendment be turned down and that the basic proposal, Proposal No. 2, be accepted for the reason that the legislators, the General Assembly, can select their own spokesmen to speak in their behalf without getting involved with almost 260 individuals, each trying to present his own point of view.

PRESIDENT BRODERICK. Thank you, Delegate Goldman.

The Chair recognizes Delegate Tomascik.

DELEGATE TOMASCIK. Mr. President and ladies and gentlemen of the Convention, the main thrust of

the amendment under consideration now, it appears to me, would be to insert a prior step by having the legislature apportion itself first before the subject goes before the apportionment commission.

Ladies and gentlemen, I think it is axiomatic that it is natural to expect that persons will not vote for their own extinction. I think that when you ask the state legislature, as we have in the past, there is a tendency to be reluctant to take the appropriate steps to comply with apportionment. That is why this Committee on Method of Apportionment worked long and hard and considered many, many proposals; in fact, we had all of the proposers of the many proposals concerning reapportionment appear before us in public hearings to obtain from them the ideas which they sought to convey to us in order that we might pass a proposal or a recommendation that would meet with the approval of this Convention.

We have had proposals where the Lieutenant Governor was to name the swingman; where the Governor was to name the swingman; and also a proposal where the Apportionment Committee was to be elected by the people. We found that to be too cumbersome, too awkward, and we came up with the proposal as Delegate Baldridge pointed out to this Convention this afternoon, embodying a situation that takes the problem of apportionment immediately at hand and seeks to apportion this Commonwealth according to the proper procedure. We take the benefit of the leadership of both Houses of the legislature by having those leaders or their deputies serve as four members of this commission. Then among themselves they select a nonpolitical or political person who is not an employe and does not receive compensation from any government whether local, state or national to be the swingman, and together these five persons then proceed to apportion the Commonwealth appropriately. We have very carefully watched the time schedules so that we came up with the idea that by January 10 of 1972—to take an example of the coming decennial census—apportionment would be in effect; it would have the force of law, and the candidates who would seek office for the various offices would know exactly where their districts might be.

I strongly recommend, ladies and gentlemen, that the proposal as explained by Delegate Baldridge be accepted and the amendment be turned down.

PRESIDENT BRODERICK. Thank you, Delegate Tomascik.

The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, I am no longer a member of the legislature and, so I feel free to speak, in all probability I never will be. Set your clock. I get carried away with this thing so badly, I may go on and on and on.

I will start out by saying that I agree emphatically with Delegate Keller and with Delegate Stroup. Thank you. I fooled you and your clock.

MOTION TO LIMIT DEBATE

PRESIDENT BRODERICK. The Chair recognizes Delegate Scott.

DELEGATE SCOTT. Mr. President, we have debated this amendment to this proposal exactly 59 minutes. I would like to make a motion that any future amendments to the committee proposals be limited to 30 minutes of debate.

PRESIDENT BRODERICK. That is a question for the Rules Committee. It will be submitted to the Rules Committee.

The Chair recognizes Delegate Mattioni.

DELEGATE MATTIONI. Mr. President, may I be given the privilege of questioning Delegate Keller?

PRESIDENT BRODERICK. Delegate Keller, would you consent to be interrogated by Delegate Mattioni?

DELEGATE M. V. KELLER. I shall, Mr. President.

PRESIDENT BRODERICK. You may proceed.

DELEGATE MATTIONI. In an instance where, perhaps, there is a significant population change and a person "aggrieved" brings a case of controversy that ends up in the Supreme Court of the United States and if the Supreme Court were to order a reapportionment in a year other than a year in which there is a Federal decennial census, does your proposal or your amendment to the original proposal allow for the establishment of the commission in the event the General Assembly does not reapportion?

DELEGATE M. V. KELLER. I believe the answer to your question, sir, is, yes, if the legislature does not reapportion at the direction of the Supreme Court, if I understand your question correctly.

DELEGATE MATTIONI. My question, sir, is specifically this: In the event the General Assembly does not reapportion, is there machinery in your proposal to establish the commission to do the same thing that your amendment to the proposal would do in years when the census is taken?

DELEGATE M. V. KELLER. Yes.

DELEGATE MATTIONI. Do I take it then, sir, also that in the event there would be an increase or decrease in the size of the Houses, if that is now possible, do I understand, and I think this is correct, that under *Butcher v. Bloom*, *Reynolds v. Simms* and *Baker v. Carr*, there would then have to be a reapportionment? Should that reapportionment occur in any year other than the years of the federal census certification, would the same machinery be possible in the amendment to the proposal?

DELEGATE M. V. KELLER. In my opinion, yes. However, the population figures, as certified by the census bureau, would revert back to the last decennial census.

DELEGATE MATTIONI. Then if I understand correctly, sir, the machinery does exist, for example, if instead of ten-year periods, the reapportionment becomes necessary because of an upward or downward redistricting because of increases or decreases in the House, the amendment to your proposal would come into play and, if the General Assembly would not reapportion, then it would go to the commission and the amendment that you have here allows that?

DELEGATE M. V. KELLER. I believe that is true.

DELEGATE MATTIONI. I have another question, sir. In the event an effort is made to meaningfully reapportion during the period that the federal decennial census is certified and it is found that perhaps there should be an increase or decrease in the numbers of either the House or Senate in order to make a meaningful reapportionment under one-man, one-vote, is the machinery within your amendment to the proposal to do that?

DELEGATE M. V. KELLER. Not to change the membership of the House or Senate, no.

DELEGATE MATTIONI. Then, as I understand, sir,

you would have to go to the General Assembly and get the approval of two-thirds of all of the elected members?

DELEGATE M. V. KELLER. That is correct.

DELEGATE MATTIONI. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Sahli.

DELEGATE SAHLI. Mr. President, I would first like to say that I concur completely in the remarks of Delegate Baldrige.

As a member of the Apportionment Committee, I can assure you that we considered all of the problems that were presented in the amendment proposed by Delegate Shapiro.

Along with many other potential problems, including that of past performance, we feel that after weeks of deliberation we have presented to you for your consideration a proposal that is clear-cut and clean and precise in the method that is to be employed.

I would urge you to vote against the amendment, in favor of the proposal as it now stands, and I would like to remind you of one thing: Be sure of what you want, you might get it. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Powell.

DELEGATE POWELL. Mr. President, I ask leave to sum this up after the other delegates are finished.

PRESIDENT BRODERICK. You will have that opportunity.

The Chair recognizes Delegate Otto.

DELEGATE OTTO. I would like the opportunity to question Delegate Keller.

PRESIDENT BRODERICK. Would Delegate Keller stand for interrogation by Delegate Otto?

DELEGATE M. V. KELLER. I shall, Mr. President. I would like it be known that this is Delegate Powell's amendment and not mine.

DELEGATE OTTO. I would be glad to quiz either delegate after I present the question.

PRESIDENT BRODERICK. You may proceed, Delegate Otto.

DELEGATE OTTO. On page 2 of the amendment it states, "Amend Sec. 1, (Sec. 20), page 2, line 22 by striking out 'they shall forfeit all rights of compensation and' . . ." I was not a party to that being in the proposal from the committee, but I wondered what the philosophy of the amenders was with respect to removing this from the proposal.

DELEGATE M. V. KELLER. There are several reasons for this, the first of which I believe is that in the original bill you provided that the four leaders of the House and Senate could name a deputy. That deputy could be anyone, not necessarily a member of the legislature, so in that case if you did that, you would naturally want to pay them for their services. But here you are spelling out that the four members of the commission shall be elected by their respective caucuses. They are being paid by the State for their services as legislators; therefore, we do not need to pay them a salary, and the legislature would not necessarily have to appropriate money for salaries. However, the bill still retains a provision that the expenses of the commission shall be paid by the legislature; therefore, we take out "they shall forfeit all rights of compensation." In other words, the members of the commission who are members of the legislature forfeit their

right for any additional compensation for the work they do on the commission.

Does that answer your question, sir?

DELEGATE OTTO. Mr. President, I merely asked the question for the clarification and the edification of the membership of the delegation.

Thank you.

PRESIDENT BRODERICK. Do you care to sum up, Delegate Powell?

The Chair recognizes Delegate Powell.

DELEGATE POWELL. Mr. President, Delegate Tomasek of Luzerne mentioned that there was testimony before their committee. I have notes here that in its testimony before this committee, the Committee of 70 recommended that the reapportionment function be placed in the legislature, basically because the last time the reapportionment function was accomplished they tried to do it. They specifically cited their own experience in trying to draft their reapportionment plan as the reason for their conclusion that the legislature was the only agency with sufficient accumulated knowledge of all areas of the State to accomplish the task properly. Furthermore, the Supreme Court—and we have heard this in the original *Butcher v. Bloom* case—also noted the fact that the legislature was the best agency to accomplish the task. There is a quote:

"The task of reapportionment is not only the responsibility of the legislature, it is also a function which can be best accomplished by that elected branch of government. The composition of the legislature and the knowledge which its members from every part of the State bring to its deliberations, its technique for gathering information and other factors inherent in the legislative process make it the most appropriate body for drawing the lines dividing the State into senatorial and representative districts." The Chief Justice, in his concurring opinion in the final *Butcher v. Bloom* case, referred to the legislature as especially qualified for this task. He further stated his reasons and cited the difficulties which the court encountered as follows:

"They had a composite knowledge of the legislature and the particular, essentially important qualifications because of their widespread representation and their personal knowledge of the various and varied and the common or diversified interests of virtually every community in every part of the State."

Thank you, Mr. President.

PRESIDENT BRODERICK. Thank you.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Powell?

The roll was recorded as follows:

YEAS—49

Baldus	Fohl	Kang	Richter
Baldwin	Forster	Lee, L.	Ruth
Barron	Gabroski	Mattioni	Scranton
Braban	Gehrlen	McGeary	Shapiro
Broderick	Gerber	Michener	Sheitz
Brown	Hannum	Nelson	Shoemaker
Buck	Hocker	O'Donnell	Stroup
Butera	Huggins	Orban	Tully
Casey	Irvia	Peehan	Van Sant
Clinger	Jirolanio	Poyil	Waldron
Donaldson	Keller, J.	Poit	Whitum
Fawcett	Keller, M.	Powell	Woodside
Fleming			

NAYS—86

Aurentz	Dailey	Kelly	Redick
Bagenstose	Desmond	Krill	Reynolds
Baldridge	Devlin	Leach	Roberts
Banes	Dumbauld	Lembach	Sahli
Barry	Erwin	Leonard	Scales
Bashoff	Fagan	Levin	Scarlett
Benedict	Fay	Mangery	Scott
Benfield	Feather	Meyer	Sebastian
Bloom	Filson	Miller, D.	Sharp
Brennan	Fortney	Miller, R.	Shively
Bunting	Goldman	Moorhead	Shrager
Burkholder	Goldstein	More	Sproge
Cain	Gouger	Murray	Stout
Camardella	Gray	Orbin	Strickler
Captuto	Griffith	Otto	Swope
Caron	Harding	Pasquerilla	Tate
Clark	Hatter	Pelletier	Thornburgh
Conley	Henderson	Prendergast	Tomasick
Cortese	Heyburn	Quiles	Westenberg
Croop	Horne	Rappaport	Wilmarth
Cunningham	Johnson	Rae	Woodring
Curran	Kauffman		

NOT VOTING—28

Aberman	Himes	Manderino	Rovner
Allison	Hook	Markley	Silverman
Amsterdam	Hostetler	McGlynn	Solomon
Corey	Kline	Michael	Thomson
Cosetti	Lane	Morton	Warman
Donolow	Laputka	Musselman	Welsh
Fuceman	Lee, K	Percey	Wilcox

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

OTTO AMENDMENT

PRESIDENT BRODERICK. The Chair now recognizes Delegate Otto. Do you have an amendment, Delegate Otto?

DELEGATE OTTO. Mr. President, I have an amendment.

PRESIDENT BRODERICK. I shall ask the clerk to read the amendment, while the pages are distributing the amendment.

I want to ask the delegates, if you do have amendments to offer, please be sure that you have given them to our executive director in advance so that they can be duplicated, and please also sign your name to the amendment so that we shall be able to identify it.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE OTTO offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 18), page 1, lines 9 to 17, by striking out "appointed as follows:" in line 9, and all of lines 10 to 17

Amend Sec. 1 (Sec. 18), page 2, lines 1 to 8, by striking out all of said lines, and inserting: elected in the year preceding the year in which the Federal decennial census is certified. Each political party may nominate no more than three candidates for the commission. The five candidates who receive the highest number of votes shall reappoint the General Assembly.

The commission shall select a chairman from its members.

Any vacancy in the commission shall be filled by appointment by the State committee of the political party which nominated the person whose seat is vacant.

Amend Sec. 1 (Sec. 19), page 2, line 10, by striking out "constituted and certified" and inserting: elected

Amend Sec. 1 (Sec. 20), page 2, lines 17 to 19, by striking out "be entitled to such compen-" in line 17, all of lines 18 and 19, and inserting: each receive twenty-five hundred dollars (\$2,500) for expenses in four equal installments. In addition, the members of the commission shall receive an allowance for traveling expenses of ten cents (10c) per circular miles per week, computed on the same basis as traveling expenses for State Senators, payable monthly.

On the question,

Will the Convention agree to the amendments?

PRESIDENT BRODERICK. You want to make a statement now, do you not, Delegate Otto?

DELEGATE OTTO. Mr. President, I would like to say at this time that I have changed my mind with respect to Proposal No. 2. When it was before the Reapportionment Committee, the standing committee, I had agreed that this was a good proposal, the best one that we had available to us at that time. However, after two and one-half days of hearing this proposal with respect to the numbers that would constitute the membership of the General Assembly, I conclude that it is awfully important to the people of this State that the composite of this Reapportionment Commission be proper. We need the safeguards, especially with respect to the handling of proposals in connection with No. 1. It is because of this that I have concluded that the best way to have people participate more closely in their government with respect to this problem is to have them elect this commission. I feel that we are moving too far away from the people and their wishes, basically as a result of what has happened in the last several days.

We cannot afford at this time to disappoint too many people because we have an important election coming up in April and we need the confidence of as many of the people as we can get. Let us not shatter this.

My amendment would permit the people of this State to elect members every 10 years to a Reapportionment Commission. It is a safeguard and it can be a real credit to the wisdom of this body. I sympathize with anybody having the job of legislative apportionment. I saw the General Assembly committees and leadership sweat this problem out numerous times. The minority and majority leaders are in the untenable positions and are subjected to pressures from within their own parties and their fellow members and are subject to immediate reprisals.

I can also recall that for many years for reasons of their own, our Senate members, because of weaknesses in our Constitution, did not see fit to reapportion their party.

Taking this responsibility away from the General Assembly leadership would be a god-send if a qualified group could be selected for this mission. What is so wrong in letting the people follow the same procedure for establishing this commission as they used for sending the 150 elected delegates to this Convention? Certainly the various parties would be forced to put up qualified individuals with prestige and background in a showdown election of this type.

If a final number is approved for the House and Senate under Proposal No. 1, the people's choice could limit itself to drawing the necessary boundary lines on an impartial basis. If, on the other hand, Proposal No. 1 is established at the number of 203 in the House and if it is required for change that two-thirds' approval is needed,

certainly the chances for the approved vote would be enhanced if it came from a people's choice commission.

On the other hand, if the membership of both legislative bodies is left open, as advocated by some of the delegates here, and still up in the air, then the people's commission could determine the number of House and Senate members during its studies.

I would also like to point out to the membership that a commission of this type would come down here with one purpose in mind, and that is, reapportionment. Certainly our present House and Senate membership and leaders have plenty of burdens and they could certainly do without this one.

Finally, Mr. President, this gives an opportunity to permit the people to have a greater voice in this, one of the worst problems plaguing the State. The inability of the House and Senate to do the job several years ago is a classic example of why we should have a change in the makeup of the people who are going to make this decision, and make it every 10 years in the future.

I, therefore, urge your consideration of this important amendment.

PRESIDENT BRODERICK. Thank you, Delegate Otto.

The Chair recognizes Delegate Tomascik.

DELEGATE TOMASCIK. Mr. President, I should like to ask whether Delegate Otto would consent to be interrogated on this amendment?

PRESIDENT BRODERICK. Delegate Otto, would you stand for interrogation by Delegate Tomascik?

DELEGATE OTTO. Mr. President, I am very pleased to stand and be interrogated. I would like to comment that I would like to praise this particular subcommittee for its outstanding work, and especially the fellow delegate who is interrogating me.

PRESIDENT BRODERICK. You may proceed.

DELEGATE TOMASCIK. Thank you, Mr. President. I know that I speak for the entire subcommittee of which I have the privilege of being co-chairman, that we are very grateful for the commendation of Delegate Otto.

However, on this so-called "Otto Amendment," I should like Delegate Otto to tell us, please, what is the length of service of the members of the commission envisioned in the amendment? How long would this commission serve?

DELEGATE OTTO. It would be my understanding that it would be within the same confines as the commission that has been established by your committee.

DELEGATE TOMASCIK. Is it true then, assuming there would be a decennial census in 1970 and one in 1980, that presumably the commission would be elected in those years to serve in the following years? Is that correct?

DELEGATE OTTO. I would say that the Secretary of State would make a determination as to the year that this should be done based on his consultations with the Census Bureau, whether the figures would be available in 1971 or 1972.

DELEGATE TOMASCIK. Is it not true that ordinarily the census is certified in the year following the actual taking of the census, in April of 1971 in this case?

DELEGATE OTTO. This is right. Therefore, there could be an election in November of 1971.

DELEGATE TOMASCIK. No, 1970. This apportionment commission would be elected in November of 1970 to serve in 1971. Would that be correct?

DELEGATE OTTO. Depending on the final certification. DELEGATE TOMASCIK. Assuming that there will be a decennial census in 1970, the certification will probably be made in April of 1971, so that this commission must already have been elected in 1970. Is that understanding correct?

DELEGATE OTTO. November, 1970. That would be right.

DELEGATE TOMASCIK. They would be elected in the general election of the decennial census year, is that correct? To serve in the following spring when the certification is made?

DELEGATE OTTO. That is correct, sir.

DELEGATE TOMASCIK. In the notes which you handed out to the delegates, Delegate Otto, I noticed here the statement that each political party may nominate no more than three candidates for the commission. Presumably, that is the same technique as has been followed for the nomination of delegates to this Convention.

DELEGATE OTTO. That would be my purpose, yes.

DELEGATE TOMASCIK. In other words, the executive committees of every political party in every county would then make the nomination of the person to serve. Is that correct?

DELEGATE OTTO. I do not envision how the state committees of both parties would bring it down to the local. This would certainly be their determination, the same as it was no doubt, in the selection of delegates.

DELEGATE TOMASCIK. Thank you, Delegate Otto.

PRESIDENT BRODERICK. The Chair recognizes Delegate Croop.

DELEGATE CROOP. Mr. President, I rise to speak in opposition to the amendment.

May I preface my remarks by saying that I think your indulgence, your patience, is unexcelled in my recent knowledge of several years. I realize the health problem under which you are struggling, the condition of your voice, and patiently you have been here through round after round after round of the same thing day after day. I want to say I extend to you my congratulations and my condolences for that. I hope that your throat will soon be in better shape but I do not know how it can be under these conditions.

I do not want to chastise the members of this body; I am one of them. But, Mr. President, we have been laboring with committees for two full months. If we think these committees did not do anything, then I can understand all that has transpired. But practically everything that has come on this floor has been debated and debated thoroughly before these committees in an intimate nature, where the men could be questioned or the ladies could be questioned and research could be made with ample knowledge when there was more time to find out what the truth was. But here we come—what we are actually doing, if you please in my version, is that we are debating each one of these numerous proposals that were presented to us. We are ignoring the attention of the respective committees, for which I have the highest respect, and I think that we all should have. This was the purpose of these committees, to digest this material and come out here with a concrete report that could be acted upon. Certainly, at the pace we are going, there will be no ending of this Convention by February 29.

Definitely, most of us are in business or a profession of

some other kind. I think when we thought we would like to be delegates down here, we thought we could believe that on February 29 we could accomplish the work which was assigned to us and that we could return home. I ask you delegates, if you please, would you think seriously of what you are putting your officers through, of what you are putting your fellow delegates through, by continually handing in amendment after amendment after amendment which, when they are boiled down, constitute little or no information that has not appeared before each one of these committees.

If a committee of this type or kind were to be elected at large in the State of Pennsylvania, I can visualize and imagine what that election would be and how the politics would then really get into it.

I have respect for the legislature, and may I say I was a member of that committee. It was not with any disrespect that we narrowed it down to the two leaders in the House and the two leaders in the Senate, constituting four out of these five. We merely narrowed it down to save work. We knew that they would speak for their constituents in each branch of the government. We thought they stood a better chance—with their fifth man as a chairman—of reaching a conclusion than to put the entire body up. We did not think for one single moment that each one of these leaders was going to speak individually, but that he was going to represent the group of which he was the leader, and that was our idea.

I think, properly, and I join the speakers who have talked about this, that the legislature does have the knowledge and the know-how and it was merely that we were narrowing it down. If we throw it out into the field like this, then I can see that anything might happen.

I urge my fellow delegates to vote against the amendment and please, Mr. President, let us stop this filibuster by this manner of amendments to these committee reports. Let us get down to business; let us be serious; let us do a job; let us not keep late hours here for advertising or something else; let us be serious about this. I do not want to treat anybody with disrespect, but if this continues to go on and we get into these large reports of the judiciary, taxation and the local government, I can just visualize us next Fourth of July being on the banks of the Susquehanna in Harrisburg. I certainly, for one, cannot do that. I would like to be here when this Convention ends.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, I do not expect to take much of the time of the Convention; I just want to say this: There was never any intention nor do I envision that this commission would not consult with the legislative leaders of both Houses. I think that should be made perfectly clear. In addition to that, anybody who wishes to make amendments, are certainly entitled to make them and I do not think that any committee should think that their proposals are that sacred that any proposal cannot be amended.

I, therefore, would urge consideration by the delegation.

PRESIDENT BRODERICK. Thank you, Delegate Otto.

The roll was recorded as follows:

YEAS—3

Bloom Dumbauld Otto

NAYS—131

Aurentz	Erwin	Krill	Roberts
Bagenstose	Fagan	Leach	Sahl
Baldrige	Fawcett	Lee, K	Scales
Baldus	Fay	Lee, L	Scallett
Baldwin	Feather	Leinbach	Scott
Banes	Filson	Leonard	Scranton
Barron	Fleming	Levin	Sebastian
Bashoff	Fohl	Mangery	Shapiro
Benedict	Forster	Mattioni	Sharp
Benfield	Fortney	McGeary	Shettig
Braham	Gabreski	Meyer	Shively
Brennan	Gehrlein	Michael	Shoemaker
Broderick	Gerbei	Michener	Shrager
Brown	Goldman	Miller, D	Sproggell
Buck	Goldstein	Miller, R	Stout
Bunting	Griffith	Moorhead	Strickler
Burkholder	Hannum	More	Stroup
Butera	Harding	Murray	Swope
Cain	Hatter	Nelson	Tate
Caputo	Henderson	O'Donnell	Thomson
Caron	Heyburn	Orban	Thornburgh
Casey	Hines	Orbin	Tomasick
Clark	Hocker	Pasquerilla	Tully
Clinger	Hook	Popil	Van Sant
Conley	Horne	Pott	Waldron
Cortese	Huggins	Powell	Welsh
Croop	Irv.s	Prendergast	Westerberg
Cunningham	Jirolanio	Quiles	Whittum
Curran	Johnson	Rappaport	Wilcox
Daley	Kauffman	Rea	Wilmarth
Desmond	Keller, J	Redick	Woodring
Devlin	Keller, M	Reynolds	Woodside
Donaldson	Kelly	Richter	

NOT VOTING—29

Aberman	Fireman	Laputka	Pelletier
Allison	Gouger	Manderino	Percey
Amsterdam	Gray	Markley	Rovner
Barry	Hostettler	McGlynn	Ruth
Camardella	King	Morton	Silverman
Corey	Kline	Musselman	Solomon
Cosetti	Lane	Pechan	Warman
Donolow			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Pechan.

DELEGATE PECHAN. Mr. President, I would like to be recorded as voting "no."

PRESIDENT BRODERICK. We will see that your remarks will be spread upon the record.

JIROLANIO AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President and members of the Convention, I offer the following amendment:

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE JIROLANIO offered the following amendment which was read by the clerk:

Amend Sec 1 (Sec. 21), page 2, lines 26 to 28, by striking out all of said lines.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. You may proceed to make your statement, Delegate Jirolanio.

DELEGATE JIROLANIO. Mr. President and members of the Convention, the reason I have offered this amendment is because if you will read those three sentences, it almost amounts to a mandate upon the commission to file a revised final apportionment plan after they have already filed one. A person who would object to the plan of apportionment as given by the commission, after almost up to the 30 days, can go in and file exceptions. By that I mean this: Let us read the language. "Any party aggrieved by the report shall have the same period of thirty days to file exceptions with the commission, in which case the commission shall have thirty days after the date of such filing to prepare and file a revised final apportionment plan." What you are actually giving a person who is objecting to it is two cracks at the box; he has a chance then and then later on has an appeal to the Supreme Court. By eliminating this particular language, you expedite the apportionment in its entirety and, at the same time, accomplish what you set out to do. I, therefore, would ask a vote in favor of that amendment.

PRESIDENT BRODERICK. Thank you, Delegate Jiro-lanio.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Jiro-lanio?

The roll was recorded as follows:

YEAS—28

Banes	Fohl	Keller, M.	Powell
Barron	Fortney	King	Scranton
Bashoff	Gabreski	Kline	Swope
Cain	Gerber	Mattioni	Van Sant
Fay	Harding	Orban	Waidron
Feather	Huggins	Popil	Whittum
Fleming	Irvs	Pott	Wilcox

NAYS—107

Aurentz	Desmond	Leach	Richter
Bagenstose	Devlin	Lee, K.	Roberts
Baldrige	Donaldson	Lee, L.	Ruth
Baldus	Dumbauld	Leimbach	Sahli
Baldwin	Erwin	Leonard	Scales
Benedict	Fagan	Levin	Scarlett
Benfield	Fawcett	Mangery	Scott
Bloom	Filson	McGeary	Sebastian
Braham	Forster	Meyer	Shapiro
Brennan	Gehrlein	Michener	Sharp
Broderick	Goldman	Miller, D.	Shetig
Brown	Goldstein	Miller, R.	Shively
Buck	Gouger	Moorhead	Shoemaker
Bunting	Gray	More	Shrager
Burkholder	Griffith	Murray	Stout
Butera	Hannum	Neison	Strickler
Camardella	Hatter	O'Donnell	Stroup
Caputo	Henderson	Orbin	Tate
Caron	Heyburn	Otto	Thomson
Casey	Himes	Pasquerilla	Thornburgh
Clark	Hocker	Pechan	Tomasick
Clinger	Hook	Prendergast	Tully
Cortese	Horne	Quiles	Westerberg
Croop	Kauffman	Rappaport	Wilmarth
Cunningham	Keller, J.	Rea	Woodring
Curran	Kelly	Redick	Woodside
Dailey	Krill	Reynolds	

NOT VOTING—28

Aberman	Donolow	Manderino	Percey
Allison	Funeman	Markley	Rovner
Amsterdam	Hostetler	McGlynn	Silverman
Barry	Jirolanio	Michael	Solomon
Conley	Johnson	Morton	Sprogeli
Corey	Lane	Musselman	Warman
Cosetti	Laputka	Pelletier	Welsh

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

PRESIDENT BRODERICK. Are there any further amendments at this time?

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, there is another amendment coming out of the machinery. I had one, as I mentioned earlier, which suggested the commission alone. I have asked that it be redrawn to incorporate the provisions and principles that are suggested in Delegate Stroup's and Delegate Powell's proposal which was, as I recall, endorsed favorably by Delegate Fleming and others.

PRESIDENT BRODERICK. May I ask Delegate O'Donnell where his amendment is now?

DELEGATE O'DONNELL. I am just getting ready to ask that question myself. I believe it is in the hopper over there.

PRESIDENT BRODERICK. I understand the copies are being made. Therefore, you are offering at this time your amendment. Do you have a copy of it there?

DELEGATE O'DONNELL. I do not. I understand the copies are being run off. Mr. President, I will yield to Delegate Tate.

TATE AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Tate.

DELEGATE TATE. I have an amendment, the adoption of which I move, which has been prepared and which has been copied and is ready for distribution.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE TATE offered an amendment which was read by the clerk as follows:

Amend Sec. 1 (Sec. 19), page 2, by inserting between lines 13 and 14: The report shall be published in newspapers of general circulation of each senatorial and House of Representative district of the State in a manner calculated to apprise all interested persons. Such publication shall contain a map of the State showing the overall apportionment and, in the individual area where published, a map showing the apportionment covering the area normally served by the publication. Such publication shall also state the population of the smallest and largest House of Representative and senatorial districts and the percentage variation from mean population of such districts.

Amend Sec. 1 (Sec. 21), page 2, by inserting between lines 28 and 29: Said revised final apportionment plan shall be subject to the same publication requirements prescribed by section 19 herein.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair now recognizes Delegate Tate to make his statement regarding the amendments he has just offered.

DELEGATE TATE. Mr. President, it is my hope, in offering this amendment at this time, that we shall have a brief interlude to the deliberations as to how we are going to compose the commission or otherwise dispose of the question we have been deliberating this afternoon.

It does relate to Proposal No. 2, but it relates to another aspect of it. Quite simply, this amendment provides and requires that the reapportionment plan with which we are working receive wide publicity throughout the State so that citizens throughout the Commonwealth will know what it is from which they have the right to take an appeal. Should they be so minded, they may do so in accordance with the standard procedure set forth in the proposal itself.

I am not sure how extensively if at all, this may have been considered by the committee which dealt with this overall problem. A short moment ago I spoke with the chairmen of the committee and it was the suggestion of one of the chairmen that this might properly be included in the schedule. I would be glad to yield to one or both of the chairmen of the Committee on Legislative Reapportionment for a statement on that if they so desire to speak.

I have nothing further to say; I think the amendment speaks for itself.

Thank you very much.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, at one time I had written this into our proposal, but we were advised by Style and Drafting that this was purely legislative and should not clutter up the Constitution, that the legislature would provide this automatically.

PRESIDENT BRODERICK. Thank you, Delegate Baldrige.

The Chair recognizes Delegate Hook. Did you wish to speak on this amendment?

DELEGATE HOOK. I would like to ask Delegate Baldrige a question.

PRESIDENT BRODERICK. Will you stand for interrogation by Delegate Hook?

DELEGATE BALDRIGE. Yes, sir.

PRESIDENT BRODERICK. Proceed, Delegates.

DELEGATE HOOK. Is there any objection to including this in the schedule?

DELEGATE BALDRIGE. Oh, no, none whatsoever. I was for it originally.

QUESTION OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Tate.

DELEGATE TATE. A point of inquiry, Mr. President. What is the proper procedure to make sure that something like this gets into the schedule? Is an amendment the proper procedure with the understanding that it is my intention that it be included in the schedule?

PRESIDENT BRODERICK. The question should be voted on. The Chair feels that this question should be voted upon, because the schedule is definitely a part of the proposal and if it is not in there now, it should be voted on.

DELEGATE TATE. I was wondering if it would be voted on, but this committee report does not have a schedule attached to it. Therefore, I merely inquire as to what is the proper procedure to have something of this nature put into the schedule if by a vote it should be adopted.

PRESIDENT BRODERICK. Does Delegate Baldrige wish to answer the question of Delegate Tate?

DELEGATE BALDRIGE. Our committee did not write

any schedule, but if this body thinks we need one to get this part of our proposal, I am perfectly willing to write a schedule which says this should be in. But again, I was told that it was not necessary, that it is purely legislative, and that our present Constitution has no similar provision and we should not clutter up the Constitution with things like this.

PRESIDENT BRODERICK. We feel that it should be voted on, and if approved at this stage, then it is up to Style and Drafting to place this amendment in its proper form.

DELEGATE TATE. That is perfectly satisfactory, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fagan.

DELEGATE FAGAN. Mr. President, I merely want to go on record to the extent that the full standing committee is not in opposition to this amendment.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Tate?

The roll was recorded as follows:

YEAS—88

Aurentz	Croop	Keller, M	Powell
Baldrige	Cunningham	Kelly	Rea
Baldus	Dailey	Krill	Redick
Banes	Devlin	Leach	Reynolds
Barry	Donaldson	Lee, K.	Richter
Bashoff	Dumbauld	Lee, L.	Roberts
Benedict	Fagan	Leimbach	Ruth
Benfield	Fawcett	Leonard	Sahl
Brennan	Filson	Levin	Scales
Brown	Forster	Mangery	Scarlett
Buck	Fortney	Mathoni	Scott
Bunting	Gabreski	Meyer	Sharp
Burkholder	Gehrlens	Michael	Shettig
Cain	Gerber	Michener	Shively
Caputo	Goldman	Miller, R.	Sprogel
Caron	Goldstein	Moorhead	Stout
Casey	Gouger	More	Swope
Clark	Griffith	O'Donnell	Tate
Clinger	Hook	Orban	Thornburgh
Conley	Horne	Orbin	Tully
Cortese	Jirolanio	Otto	Van Sant
Cosetti	Kauffman	Pelletier	Wilmarth

NAYS—41

Baldwin	Hannum	Miller, D.	Stroup
Bloom	Harding	Nelson	Thomson
Braham	Hatter	Popil	Tomasick
Broderick	Henderson	Pott	Waldron
Butera	Heyburn	Prendergast	Welsh
Curran	Humes	Scranton	Westerberg
Desmond	Hocker	Sebastian	Whittum
Fay	Huggins	Shapiro	Wilcox
Feather	Johnson	Shoemaker	Woodring
Fleming	Keller, J	Strickler	Woodside
Fohl			

NOT VOTING—34

Aberman	Fineman	Markley	Percey
Allison	Gray	McGeary	Quiles
Amsterdam	Hosteller	McGlynn	Rappaport
Bagenstose	Irviss	Morton	Rovner
Barron	King	Murray	Shrager
Camardella	Kline	Muselman	Silverman
Corey	Lane	Pasquerilla	Solomon
Donohew	Laputka	Pechan	Warman
Erwin	Manderino		

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

QUESTION OF INFORMATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Rea.

DELEGATE REA Mr President, I would like to bring a point of information before the Convention. The proposal that is submitted and that we are going to be asked to vote on provides for the majority and minority leaders of the Senate and the House forming this committee. I know today that we have a two-party system, but it runs in my mind that at some time in the future there may be more than one minority party. We already have a Constitutional Party in this State. What will happen if a third party elects 10 or 20 or 30 members of the House? Which party will constitute the minority party? I think it is here in the language, but I think this is the language, if we are planning for a Constitution for 100 years, that we should be more certain about. I would ask the committee whether they considered this and what is the answer to the question of multiple minority parties?

PRESIDENT BRODERICK. Delegate Baldrige, would you permit yourself to be interrogated by Delegate Rea?

DELEGATE BALDRIGE. I shall.

PRESIDENT BRODERICK. The answer is yes. You may proceed.

DELEGATE BALDRIGE. Number one, this committee did not want to promote any more minority parties. We hoped there would never be any more. We like the two-party system. But in the event one would come in and be there in, say, 1970 or 1971 or 1981 when such a commission was in view, I cannot imagine that our Supreme Court would require the Constitution to be amended. They would probably say that it was the intent of this body that all minority parties get representation, and the commission would be increased accordingly.

PRESIDENT BRODERICK. Thank you, Delegate Baldrige.

O'DONNELL AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I offer the following amendment.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE O'DONNELL offered the following amendment which was read by the clerk:

Amend Sec. 1, page 1, line 4 by striking out "four" and inserting: five

Amend Sec. 1 (Sec. 18), page 1, lines 8 to 12 by striking out "Legislative Reapportionment Commission.—" in line 8, all of lines 9 to 11 and "by any of them, shall be four of the members." in line 12 and inserting: Apportionment by General Assembly.—The General Assembly within ninety days after the next Federal decennial census is certified and no later than ninety days after each subsequent Federal decennial census is certified, shall apportion the State into senatorial and representative districts in accordance with the next two preceding sections.

If the General Assembly shall fail to reapportion itself within the time prescribed herein, a commission, as hereinafter provided, shall apportion the State.

Section 19. Legislative Reapportionment Commission.—A Reapportionment Commission, consisting of five members, shall be elected as follows:

(1) Two members of the apportionment commission

shall be appointed by the Governor with the advise and consent of those Senators who are members of the political party having the greatest number of members elected to the Senate. Two members of the apportionment commission shall be appointed by the Governor with the advise and consent of those Senators who are members of the political party having the second greatest number of members elected to the Senate.

Amend Sec. 1 (Sec. 18), page 2, line 2 by inserting after "Commonwealth.": All members of the apportionment commission shall be citizens of the United States and Commonwealth of Pennsylvania and none shall be a member of the General Assembly. The apportionment commission shall complete its work within one hundred twenty days and shall file the reapportionments in the same office in which acts of the General Assembly are filed.

Amend Sec. 1 (Sec. 19), page 2, line 9 by striking out "19" and inserting: 20

Amend Sec. 1 (Sec. 20), page 2, line 14 by striking out "20" and inserting: 21

Amend Sec. 1 (Sec. 21), page 2, line 24 by striking out "21" and inserting: 22

Amend Sec. 1 (Sec. 22), page 2, line 29 by striking out "22" and inserting: 23

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL That, sir, sounded very complicated. It is not half as complicated as it sounded. The substitution of numbers simply took place because of the insertion of a new section. Fundamentally this is the proposal made earlier by Delegate Powell and Delegate Stroup, with one change. Principally this amendment suggests that this job be done first by the legislature because the House and the Senate are those bodies who work with this information not once every ten years nor once every four years, but all year every year. They are the men who can be depended upon, I think and strongly feel, to have evaluated all of the information which is necessary to come up with a viable reapportionment plan.

It is the hope of this amendment that the House and Senate, having 90 days after the information is received from the Federal decennial census, will apportion themselves in an acceptable and in a constitutional manner. If they do, that is the end of it. Of course, there are provisions for appeal to the Supreme Court by aggrieved parties as there are contained in all other proposals.

The only difference between this proposal and the proposal which already received 49 votes in this body—and, frankly, this is a test of the direction and effort to see if there is not an area in which we can compromise and find a meeting of the minds. The fundamental difference here is that rather than put the job back into the hands of the leadership of the legislature—understand, the legislature under this proposal has already, after 90 days, failed to apportion itself—I feel, and I have mentioned before, I do not think then that it is an advantage to put the problem right back into the hands of the leadership of the legislature, not because of any lack of trust or confidence whatever, but because they have already been up to bat and failed to resolve the problem. What this does is

this: It puts nonlegislators in the position of the commission; it puts men on the commission who are not completely subject to the control of the House and Senate. But how do they get there? It charges the Governor of the Commonwealth with the responsibility of picking four men who will do a yeoman job, and it solves the question raised by Delegate Rea. It says that two of those members shall be appointed by the Governor with the advise and consent of those members forming the greatest number of senators in the Senate, and two with the advise and consent of those members who form the second greatest numbered party in the Senate, and the fifth member shall be selected by the four in the nature of commercial arbitration.

I submit, sir, to this body, that in this fashion we will be able to get persons who are acceptable to the General Assembly, but not under its control. They will not only be acceptable to the General Assembly, but they will have the advantage of having all the information placed in their hands on which the legislature has been working for 90 days. Of course, if this commission should strike out and fail to solve the problem, then, of course, it goes to the Supreme Court of Pennsylvania, and there seems to be no way of avoiding that problem.

In conclusion, I say that this proposal is not only my own, but it is endorsed by Delegate Sprogell of Montgomery County, Delegates Nelson, Stout, Levin, and others to whom I have spoken. Thank you.

PRESIDENT BRODERICK. Thank you, Delegate O'Donnell.

The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, the biggest thing wrong with this proposal is that it does not allow the time schedule to let the candidates for the legislature in 1972 to know their districts before they are already campaigning. Besides that, as I see it, it adds nothing new to what this Convention has already voted down in the other amendments.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER. Mr. President, it is with some reluctance that I take the floor on a subject which I have not studied in Convention to a great degree. Nevertheless, you may recall earlier in this Convention that I received some chiding on account of the fact that the Senatorial District from which I come, the 28th, has no senator. This came about by virtue of some judicial gerrymandering, and on account thereof, the candidates to be delegates to this Convention received a great deal of attention in the field concerning legislative apportionment. It was a campaign issue; it was discussed with the population. On account of this, again, I might say that the general consensus of the public sentiment which I would like to express to this Convention and which I, therefore, endorse, is to keep the Supreme Court out of the question of apportionment.

The committee proposal seems to me to have but a weak and very sketchy approach to apportionment before the Supreme Court gets its hands on the job. I want to state categorically that I could not, under any circumstances, vote for Committee Proposal No. 2 as it presently stands. I would heartily endorse the concept, the idea of this amendment; I would implore my fellow delegates to reconsider the possibility of the General Assembly hav-

ing the first opportunity at this task. It was, perhaps, with some malice aforethought that someone saw fit to place me on the Local Government Subcommittee as co-chairman of the Committee on Local Apportionment, and, by virtue thereof, we did consider apportionment, the concept and the ideals and principles. I believe you will find in the local government article the concept thoroughly embedded, that in the area of the people involved, the people particularly and intimately involved with the question should have the first right to decide the fate of their districts. It seems, therefore, that the amendment as proposed and now before this delegation would be along the same lines. I would ask those members of the Local Government Committee who debated for a day and one-half on the local apportionment issue to reflect the argument, the pros and cons and the reasons why we ended up doing what we did in the local government article on apportionment. It is crucial that we, of course, pass something and I, again, can merely conclude by imploring you all to examine carefully this concept before rejecting it.

PRESIDENT BRODERICK. The Chair recognizes Delegate Irvis.

DELEGATE IRVIS. Mr. President, I rise in opposition to the amendment suggested now to this delegate body for one simple reason very simply stated.

If I read correctly under Section 19, it states that the Governor, together with the advise and consent of the Senate—I am simplifying the language—shall appoint a commission which shall have the right to reapportion both the Senate and the House of Representatives.

My biases or my prejudices in these fields, I think, are of public notice. I cannot cast a vote in favor of any proposition which permits either the Governor or the Senate to reapportion the House of Representatives.

PRESIDENT BRODERICK. Thank you, Delegate Irvis.

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I think I am entitled to make a concluding comment here for less than a moment.

PRESIDENT BRODERICK. You are. You may proceed.

DELEGATE O'DONNELL. I might point out for those of you who would care to reconsider this that at the very time the Governor's tax matters and all of the other legislative problems are being considered and bargains and compromises are being proposed, this matter, if the legislature has failed to reapportion, is now in the hands of non-legislators and men who cannot be bargained with.

This is one of the reasons that I think it is a substantial improvement over the notion of the leadership being still saddled with this responsibility after the legislature has failed to act, plus the fact that those very men have other duties to perform for the rest of the year instead of continuing to go into this apportionment question and having to enter into compromises and so forth, which may involve matters entirely removed from the concern of reapportionment.

PRESIDENT BRODERICK. Thank you, Delegate O'Donnell.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate O'Donnell?

The roll was recorded as follows:

YEAS—29

Barry	Lee, K.	Richter	Stout
Braham	Levin	Roberts	Stroup
Buck	Michener	Ruth	Thomson
Bunting	Nelson	Scranton	Van Sant
Clinger	O'Donnell	Shapiro	Waldron
Fleming	Orban	Shoemaker	Whittum
Forster	Powell	Sprogeil	Woodside
Fortney			

NAYS—109

Aurentz	Desmond	Huggins	Pelletier
Bagenstose	Devlin	Irvig	Popil
Baldrige	Donaldson	Jirolanio	Potti
Baldus	Dumbauld	Johnson	Prendergast
Baldwin	Erwin	Kauffman	Quiles
Banes	Fagan	Keller, J.	Rappaport
Barron	Fawcett	Keller, M.	Rea
Bashoff	Fay	Kelly	Rediek
Benedict	Feather	Kline	Reynolds
Benfield	Filson	Krill	Sahli
Bloom	Fohl	Leach	Scales
Brennan	Gabreski	Lee, L.	Scarlett
Broderick	Gehrein	Leimbach	Scott
Brown	Gerber	Leonard	Sebastian
Burkholder	Goldman	Mangery	Sharp
Butera	Goldstein	Mattioni	Shettig
Cain	Gouger	McGeary	Shively
Canardella	Griffith	Meyer	Shrager
Caputo	Hannum	Michael	Strickler
Caron	Harding	Miller, D.	Swope
Casey	Hatter	Miller, R.	Tate
Clark	Henderson	Moorhead	Thornburgh
Conley	Heyburn	More	Tomasik
Cortese	Himes	Murray	Westerberg
Croop	Hocker	Orban	Wilcox
Cunningham	Hook	Otto	Wilmarth
Curran	Horne	Pasquerilla	Woodring
Dailey			

NOT VOTING—25

Aberman	Gray	Markley	Rovner
Allison	Hostettler	McGlynn	Silverman
Amsterdam	King	Morton	Solomon
Ausey	Lane	Muselman	Tully
Cosetti	Laputka	Pechan	Warman
Donolow	Manderino	Percey	Welsh
Fineman			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

CALENDAR PROCEDURE

PRESIDENT BRODERICK. The Chair sees no one else at the microphone and therefore assumes we have no more amendments to be offered. Under the rules this proposal, which is Proposal No. 2, having been amended, will go over and appear on our calendar tomorrow on second consideration.

According to the motion that was made earlier today we are now ready to take up Proposal No. 1.

At this time the Chair would just like to make a short statement in connection with any proposal that is on second consideration. The question we ask, of course, is, will the Convention agree to advance the proposal to third consideration? If the majority agrees, the proposal goes to Style and Drafting and when returned from Style and Drafting it then appears on third consideration.

I want to point out that it cannot be amended on third consideration unless the proposer of the amendment obtains the consent of a majority vote of those present. And, of course, if you do not agree to have the proposal advanced to third consideration, then the proposal remains on the calendar on second consideration. In effect, it does not move.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. I am not clear, Mr. President. I thought this morning you said that it would be possible to amend this proposal.

PRESIDENT BRODERICK. If I said anything different, I did not intend to. Certainly it is possible.

It is still on second consideration

DELEGATE PELLETIER. Is it possible also to make a motion to reconsider the vote?

PRESIDENT BRODERICK. It is also possible to make a motion to reconsider the vote by which the amendments were adopted

DELEGATE PELLETIER. Thank you, Mr. President.

MOTION TO RECONSIDER

PRESIDENT BRODERICK. The Chair recognizes Delegate Clinger.

DELEGATE CLINGER. Mr. President, I would like to move to reconsider the question of the Hook amendment as amended, on which I voted in the affirmative yesterday.

PRESIDENT BRODERICK. It has been moved by Delegate Clinger and seconded by Delegate Gerber that we reconsider the vote by which Delegate Hook's amendment was passed yesterday.

The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. If this motion for reconsideration passes, does that open up everything we have been debating in the last two or three days on this proposal? It seems like a week to me.

PRESIDENT BRODERICK. What we are doing now is reconsidering the vote by which the Hook amendment was passed.

DELEGATE BALDRIGE. My question is: What all is open after that if that reconsideration motion passes?

PRESIDENT BRODERICK. The Hook amendment will be voted up or voted down. First we have the motion.

The Chair recognizes Delegate Clinger.

DELEGATE CLINGER. Mr. President, the purpose for making this motion is for the purpose of clarification really. It has been my impression that it is the sense of this Convention that the House of Representatives remain at 203 members. This is certainly the number which I prefer at the present time.

On the other hand, I think that none of us is prepared to say what the House of Representatives should be 10, 20 or 50 years from now. At the same time, I think it is the sense of this Convention that there be some measure of flexibility in providing for change should the circumstances warrant it in the years to come. I suggest that in the action which we took yesterday we achieved one part of our two-fold objective. We did, indeed, establish that the House for the present and foreseeable future remain at 203 members. I suggest that we have utterly failed to accomplish the second half of our objective which is to provide for some workable and reasonable plan towards changing the size in the future should circumstances so warrant.

In striving for flexibility, we have, ironically, it seems to me, made it practically impossible to effect any change at all. It seems to me, frankly, that we would have been better off to have set the number at 203 and let it go at that.

We now have an alternative system for changing the size of the House of Representatives. Unfortunately, I think that the two are almost cumulative. In other words, in order to effect any change in the House as it presently stands, I suspect that you would have to go through the route of trying to get two-thirds of the House of Representatives and trying to get two-thirds of the Senate to approve either a reduction or an increase in the size of the House. Failing in that, the next step would be by constitutional amendment. Instead of making it an easier or at least more workable plan for flexibility, which I think we are all agreed we are striving to attain here in this Convention, I suggest that we have, in fact, made our provision much more rigid, much less flexible, than the present provision which is constitutional amendment alone.

I voted for the Amsterdam amendment yesterday because I was persuaded that without it, it would be relatively easy for the party in power to change the size of the House either up or down in order to maintain itself in power. I have since been convinced by those in a position to know—and I am referring here to legislators on both sides of the aisle—that this is, in fact, a groundless fear. I hope that they will speak in favor of this motion. In practice it is impossible for any one party to manipulate this thing to maintain itself in power.

In moving to reconsider, it is my hope that we can find our way back to a proposal that will truly reflect the sense of this Convention, and that is, to maintain the House at its present size by providing a reasonable and workable method for changing the size in the future if the situation warrants it. If this motion carries, I think we can do this by eliminating the number 203 from the present proposal and inserting it in the schedule so that there will be no gap or hiatus unless and until a change is made at some later date. Secondly, I think we can accomplish this by eliminating the requirements presently in our proposal and the proposal that we will submit to the people if there be a requirement of the two-thirds vote of the House and the Senate.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Mr. President, there was a majority of the House that feared giving the legislature untrammelled power over both the districts and the numbers. That was the occasion for the amendment requiring two-thirds. Unfortunately, that requirement of a two-thirds vote prohibited voting more than there were, but it also prohibited voting for less than 203. The irony of it all is that we all agree it is very dubious whether any Assembly will vote to make the number less.

Accordingly, in that situation, the proposal was made this morning that there be a referendum—that was Mr. Pelletier's motion, as I understood it—and I thought that was to have special consideration at this time. I was in the hope that that might give a break to our impasse, especially since it leads out toward the area where the people themselves could decide. In short, we have great difficulty in any event in finding a way by which the legislature will itself vote for a House of a lower number. They do not want to sacrifice Houses. The hope I had in this new proposal was that it might give the people the right to say that something we do not seem to be willing to do, at least at this time.

PRESIDENT BRODERICK. The Chair recognizes Delegate Sharp.

DELEGATE SHARP. Mr. President, for the last several days we have been listening to three propositions here with variations by amendment. It appears to me that we have three fundamental philosophies expressed here. The first philosophy is perhaps what we might call the most basic philosophy, and that is that the number remains constant and be set by the Constitution. I think there are many members in this assembly who are not in accord with this thought. I myself am one of them. I think the reasons therefore are too obvious to bear repetition at this time by me.

However, because there are those members who feel this way, the Hook amendment was yesterday introduced to reflect the thinking of those persons.

But there was also, apparently, some talk in this hall that for the legislature to be permitted to exercise its own destiny would be another method, and this was endorsed by many members of this assembly, however, with the limitation that some check or safeguard is required and that I believe in general was the Amsterdam amendment of two-thirds.

Now it strikes me that there are a number of propositions here that are the subject of compromise, or were the subject of compromise or attempted compromise. There are various inconsistencies in this that appear to me to be significant.

In the first place, I think it goes without saying that a safeguard that is placed here without real protection, without real insurance, is really no safeguard at all.

I believe also that we should understand that in the imposing of safeguards we should be able to present something that is real, something that is practical, and something that is workable. As I read the present Proposal No. 1, the House of Representatives, by a two-thirds vote, would be able to pass upon changes in numbers in the Senate, and the Senate, by a two-thirds vote, would likewise be able to pass on the House of Representatives and indeed each body on the other.

Now I am not familiar with statistics but at least in my memory—and I have checked with some of the legislators in this hall—there has not been a time, at least in modern times, when the minority party has not had at least 17 members in the upper House. I think all of us can visualize the harm that can result if we are to indulge in horsetrading in each of the Houses in order to accomplish this most significant thing. It seems to me this is not a change that is salutary; this is change in the nature of retrogression. It seems to me that all of us must look forward to the future, that we do not wish to "lock in"—as the expression has been used here—the legislature for the next 96 years, and that there should be a workable solution whereby we can achieve the degree of flexibility this problem demands. It is for that reason, because we do not know what the future holds, that I believe we should give this the most serious consideration and I support the reconsideration of this.

Thank you.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, I do not want to speak either for or against reconsideration, but it seems to me some explanations are due the delegates.

If I can reconstruct what happened yesterday, Mr. Hook presented an amendment which struck out the figures "203." Delegate Amsterdam then proposed an amendment which put in the words "approved by two-thirds." Delegate Hook then came back and inserted an amendment which put back the "203."

My question, Mr. President, is: If we vote for reconsideration of the Hook amendment, is Proposal No. 1 in its entirety open for reconsideration or does that automatically stop?

PRESIDENT BRODERICK. Proposal No. 1 is open for consideration, right back where we started.

DELEGATE PASQUERILLA. Thank you. That answers my question.

PRESIDENT BRODERICK. It has been moved by Delegate Clinger and seconded by Delegate Gerber that we reconsider the vote by which Delegate Hook's amendments were adopted yesterday.

The question is,
Will the Convention agree to the motion?

The roll was recorded as follows:

YEAS—69

Baldus	Cosetti	Kline	Scott
Banes	Cunningham	Lee, K.	Scranton
Barry	Donaldson	Mattioni	Shapiro
Bloom	Dumbauld	McGeary	Sharp
Brennan	Feather	Michael	Shettig
Broderick	Fleming	Michener	Shively
Brown	Forster	Miller, R.	Shrager
Buck	Gabreski	Murray	Sproggell
Bunting	Gehrlain	O'Donnell	Stout
Burkholder	Gerber	Pelletier	Strickler
Butera	Gouger	Popil	Swope
Camardella	Henderson	Pott	Tate
Caputo	Hook	Rea	Thornburgh
Caron	Horne	Richter	Tomascik
Casey	Huggins	Roberts	Waldron
Clark	Johnson	Ruth	Whittum
Clinger	Kelly	Sahli	Woodring
Conley			

NAYS—70

Aurentz	Fawcett	King	Powell
Bagenstose	Fay	Krill	Prendergast
Baldridge	Filson	Leach	Quiles
Baldwin	Fohl	Lee, L.	Rappaport
Barron	Fortney	Leunbach	Reynolds
Bashoff	Goldman	Leonard	Scales
Benedict	Goldstein	Levin	Scarlett
Benfield	Gray	Mangery	Sebastian
Braham	Griffith	Meyer	Shoemaker
Cain	Hannum	Miller, D.	Stroup
Cortese	Harding	Moorhead	Thomson
Croop	Hatter	More	Tully
Curran	Himes	Nelson	Van Sant
Dalley	Hocker	Orban	Westerberg
Desmond	Jirolanio	Orbin	Wilcox
Devlin	Kaufman	Otto	Wilmarth
Erwin	Keller, J.	Pasquerilla	Woodside
Fagan	Keller, M.		

NOT VOTING—24

Aberman	Heyburn	Markley	Redick
Allison	Hostettler	McGlynn	Rovner
Amsterdam	Irvy	Morton	Silverman
Corey	Lane	Musselman	Solomon
Donolow	Laputka	Pechan	Warman
Fineman	Manderino	Percey	Welsh

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Hocker. For what purpose does the gentleman rise?

DELEGATE HOCKER. Mr. President, I rise to a question of parliamentary inquiry.

PRESIDENT BRODERICK. The gentleman will state it.

DELEGATE HOCKER. Mr. President, since this motion failed, does my motion of this morning still prevail, that this will travel along with Proposal No. 2?

PRESIDENT BRODERICK. My understanding right now is that Proposal No. 1 is ready to advance to third consideration unless, of course, it is amended. Proposal No. 2 will be on the second consideration calendar tomorrow because it has been amended.

DELEGATE HOCKER. You turned down Delegate Pelletier's motion to reconsider. You have not reconsidered my motion of this morning that this proposal stay in an inactive state until such time as we conclude Proposal No. 2. I know that is as confusing as all get out.

PRESIDENT BRODERICK. My understanding of your motion this morning was that we pass over consideration of Proposal No. 1 until we had acted today on Proposal No. 2. We have acted on Proposal No. 2 and we now have before us Proposal No. 1.

The question is, will it go over to third consideration?

Since it was on the calendar as amended it is subject to amendment.

Delegate Pelletier said he had an amendment.

Are we at that point?

DELEGATE PELLETIER. Yes.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Let me ask this on parliamentary procedure: If Delegate Pelletier amends Proposal No. 1, then it will be on second consideration tomorrow?

PRESIDENT BRODERICK. That is right.

DELEGATE HOCKER. Then I might have to vote for a lousy amendment, but I will gamble.

ANNOUNCEMENT BY DELEGATE SWOPE

PRESIDENT BRODERICK. The Chair recognizes Delegate Swope.

DELEGATE SWOPE. As Co-Chairman of the Administration and Finance Committee I would like to announce to the delegates—that the coffee and drink machines are fixed and you can all have coffee now.

PELLETIER AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, I would like to present an amendment to Proposal No. 1.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE PELLETIER offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 17), page 3, line 4, by removing the period after "ASSEMBLY" and inserting: or by majority vote of the electors voting in a referendum on the question. Such question shall be placed upon the ballot in a general election by petitions which shall be in such forms as shall be prescribed by the officers of the Commonwealth having supervision over elections. Any such petition shall be filed with such officer and shall be signed

by a number of electors equal to five per cent of the total votes cast for the Statewide officer receiving the highest number of votes in the last general election.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, may I comment on this amendment?

PRESIDENT BRODERICK. Yes, indeed. It is your amendment and you, therefore, have the opening and the closing.

DELEGATE PELLETIER. I think this amendment is self-explanatory. It simply provides another means for changing the size of the General Assembly. The second means is by the procedure of initiative and referendum. If a number equaling five per cent of the vote cast for a candidate having the largest total vote in the last statewide election signs this petition, it is then submitted to referendum. I do not think I can say anything more than to say that this gives to the people of this State the right to determine, through the initiative of the referendum procedure, the size of this legislature and to provide an alternative method to that now existing of two-thirds vote by the legislature or by the regular procedure of a constitutional amendment.

I think, considering the two-thirds vote, that it is only fair that we give this alternative procedure to the people of this State.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Shapiro. Do you wish to speak in favor of or against the amendment?

DELEGATE SHAPIRO. I wish to speak in favor of the amendment and also to request of Delegate Pelletier whether he will permit a further amendment to his amendment?

I should like to suggest to this assembly, Mr. President, with all due respect to the statement of counsel yesterday, that Delegate Pelletier's amendment points up even further that what we are providing here, so long as there is a number of legislators designated to Section 16, we are providing an alternate method for the amendment of the Constitution. The Constitution, if this proposal is adopted, either as it now stands or as Delegate Pelletier proposes to amend it, will provide for 203 representatives and will further provide that that number can be changed by a method set forth in Section 16. I submit that is a method of amending the Constitution insofar as it sets forth a number of representatives and it is not within the call of this Convention since it is changing the method of amending the Constitution in that respect.

However, if we delete from Section 16 as it now stands the number 203, we will not be changing anything that is in the Constitution, either by changing the number of districts through the assembly or changing the number of districts through a referendum.

I therefore ask Delegate Pelletier whether he will agree to an amendment to his amendment to delete from line 29 of Proposal No. 1 the figures "203"?

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, may I ask then

what would be the status? As we have been proceeding, if the vote is then in the negative, the whole proposal would fall, as I understand it, if I accept this amendment.

PRESIDENT BRODERICK. Just a minute until we get a ruling on this.

The Chair rules that this would not be an amendment to Delegate Pelletier's amendment because there is nothing in Delegate Pelletier's amendment about the 203.

DELEGATE SHAPIRO. I shall withdraw my suggestion and make it a separate amendment, then.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair now recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, I rise to a point of parliamentary inquiry, and that is as to whether or not the amendment offered by Delegate Pelletier is within the purview of this Convention since it is an amendment to the process of amending the Constitution that is already set forth in the Constitution recently adopted by amendment at the last election.

PRESIDENT BRODERICK. Counsel has advised that it is within the call and we do have the authority to consider this amendment.

The Chair now recognizes Delegate Kline.

DELEGATE KLINE. Mr. President, I just want to point out two things, and I wish Delegate Pelletier would consider both of them.

One of them is that there could be a situation, I think, where there would have been no votes cast for a statewide office at the last general election, because we do not always have statewide offices at all elections every year.

And the second thing is, I wonder if he is satisfied with the number involved, because five per cent of the number of votes cast for a statewide officer can really get into astronomical figures where, as a practical matter, I do not think you would ever get enough petitioners to put this on the ballot.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Senator Kline really has, I think, fallen very nicely into something that I would have liked to propose but hesitated to do so. I would accept very gratefully an amendment of two per cent or three per cent. I felt, knowing the temper of this body, that such a figure would appear rather persuasive in the negative. I would be delighted to have this amended down.

PRESIDENT BRODERICK. The Chair recognizes Delegate Caron.

DELEGATE CARON. Delegate Pelletier, could I ask you a question, please? You have indicated that this amendment should cover the House of Representatives. Is there any reason in your thinking why it is not applicable also to the Senate for some time in the future? If it is merely an oversight, then the same wording has to come in for line six, I guess it is, or something like that.

DELEGATE PELLETIER. I think I would accept the principle of extending it to the Senate. This does not, but I would be perfectly happy to extend it to the Senate.

PRESIDENT BRODERICK. The Chair recognizes Delegate Murray.

DELEGATE MURRAY. Thank you, Mr. President. If

Mr. Pelletier will amend his motion to read two per cent, I will gladly second it. I think the people ought to have a say in this thing if they want it.

DELEGATE PELLETIER. I would be glad to accept an amendment of two per cent.

DELEGATE CARON. Mr. President, would you also accept the amendment to the Senate on the same basis?

DELEGATE PELLETIER. Yes, I will accept it.

PRESIDENT BRODERICK. Delegate Pelletier, frankly we are going to have to ask you to withdraw your amendment at this time and have the corrections made. I have heard a couple of them now and I think this body is going to be confused if we do not know exactly what you want to provide in that amendment.

DELEGATE PELLETIER. Mr. President, I know quite precisely what I want to provide, but I also know that I am perfectly willing to accept these amendments.

PRESIDENT BRODERICK. Would you state that again, please.

DELEGATE PELLETIER. I said I know precisely what I want to provide, but I also know that I am perfectly willing to accept the amendments that I have accepted.

PRESIDENT BRODERICK. Under the rules we should have our amendments in writing and right now the Chair has heard two or three suggestions about amendments. If you wish to withdraw this amendment right now, we will run off another amendment for you. We will have it redrafted immediately, before we proceed to vote on the amendment that is now on the desk.

DELEGATE PELLETIER. I would be glad to proceed in whichever way would be easier for you. If you like, I will withdraw it, accept the amendments that apply to the two per cent and to the Senate, have it redrawn and re-submitted.

PRESIDENT BRODERICK. I think it is your decision and not the Chair's. Right now if you wish the two per cent to be in and if you wish it to apply to the Senate as well as the House I suggest then that we consult the drafting service and have it prepared immediately for you if that is what you prefer; otherwise, we will go ahead and vote on this amendment.

The Chair recognizes Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, before we have it redrafted, I would like to ask a question of either the Chair or somebody up in the front who could answer, or Delegate Pelletier. On this referendum, how often does this take place?

DELEGATE PELLETIER. Presently that would be open-ended.

DELEGATE PASQUERILLA. In other words we could have a referendum every two years?

DELEGATE PELLETIER. You can have it, but there is a question here which has been bothering me. It seems to me that Section 2 would pretty well preclude any reapportionment of the House except every ten years, the way Section 2 is presently drawn.

DELEGATE PASQUERILLA. Would somebody clarify that for us so that we are able to vote intelligently on this, Mr. President?

PRESIDENT BRODERICK. This amendment is the amendment of Delegate Pelletier and I think he should answer since he has stood for interrogation. I believe he did answer you.

DELEGATE PASQUERILLA. And what was the answer?

DELEGATE PELLETIER. Open-ended.

DELEGATE PASQUERILLA. First he says it is open and then he says it is in Section 2. I would like to have a specific answer.

DELEGATE PELLETIER. I am at a loss because Senator Keller, I think, gave an answer to Delegate Mattioni to the contrary. As I read Section 2, it would be extremely difficult to have a reapportionment of the House except every 10 years. Now maybe I am misreading Section 2.

PRESIDENT BRODERICK. The Chair recognizes Delegate Barron.

DELEGATE BARRON. Would Delegate Pelletier submit to interrogation, please, for one question?

PRESIDENT BRODERICK. Delegate Pelletier, would you submit to interrogation by Delegate Barron?

DELEGATE PELLETIER. Well, I think I have messed things up enough already.

DELEGATE BARRON. I hope this was unintentional. However, the use of the word "officer" in the next to the last line would pose this question for me: Does the percentage in this hypothetical example, where a total of 100,000 people would vote for a Governor who would be that officer receiving the highest number of votes and, in turn, the winner would receive 55,000 votes, would the five per cent be taken of the 100,000 votes cast or would the five per cent be taken of the percentage of the winning officer's vote?

DELEGATE PELLETIER. It was meant to read the total vote.

DELEGATE BARRON. It was meant to read "office," not "officer."

DELEGATE PELLETIER. I would think it should read "officer."

PRESIDENT BRODERICK. The Chair recognizes Delegate Forster.

DELEGATE FORSTER. Mr. President, as I and several others suggested yesterday when we were considering the Amsterdam amendment, it belonged not in Section 1, but in Section 2. It is with some temerity that I suggest to the Co-Chairman of Style and Drafting that his amendment also belongs in Section 2 and that it does have to be repeated twice, once in the section for the House and once in the section for the Senate.

I think the discussion here indicates that it needs a little further thought before we vote on it.

PRESIDENT BRODERICK. The Chair recognizes Delegate Curran.

DELEGATE CURRAN. Mr. President, from reading the language in this suggested amendment, I really cannot comprehend where or what the number of the new numbered districts will come from or what it will be. Is the suggestion here that the number will be arrived at from the petition itself or from the officer of the Commonwealth who frames the question? What would the new number be and how would it be arrived at?

PRESIDENT BRODERICK. I understand you are interrogating Delegate Pelletier.

Will the gentleman permit himself to be interrogated?

DELEGATE PELLETIER. Yes, Mr. President.

The amendment reads, "Such question shall be placed upon the ballot." If the question were to increase the

House to 230, the question would so be put on the ballot. If the question were to reduce the House to 190, the question would so be put on the ballot.

DELEGATE CURRAN. The number would then come from the petition itself?

DELEGATE PELLETIER. That is right.

PRESIDENT BRODERICK. The Chair recognizes Delegate Murray.

DELEGATE MURRAY. Thank you, Mr. President.

Mr. President, Senator Kline's comment on the clarification of the last few words, I think, should be worked into this amendment. Inserting "statewide" before "general election," I think would clarify the condition and, if need be, back it up to the prior year when there was a statewide election. Would that be correct?

AMENDMENT WITHDRAWN FOR REDRAFTING

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, I have a feeling that we are wasting the time of this Convention. With your permission, may I withdraw this, reframe it in the light of these two comments and resubmit it?

PRESIDENT BRODERICK. Yes, I think that would be advisable. Would you come forward and we will see if we can get the legislative drafting service to make your changes immediately?

The Chair recognizes Delegate Fohl.

DELEGATE FOHL. I had wanted to interrogate Delegate Pelletier, also.

PRESIDENT BRODERICK. Will Delegate Pelletier still stand for interrogation by Delegate Fohl?

DELEGATE PELLETIER. I shall, Mr. President.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE FOHL. Mr. President, as Delegates Casey, Hannum and Pasquerilla know, about this time of the year when we have petitions involving statewide matters, there are provisions that there must be so many names on them from a minimum number of counties, and so on. Does your proposal envision, for example, that all the petitioners on the signing of the initiative could be from one county?

DELEGATE PELLETIER. There are no limitations as to the geographical location of the signatures.

DELEGATE FOHL. In other words, the answer is "yes."

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, I understand that Delegate Pelletier is going to redraft his proposed amendment. I shall withhold any interrogation of the good doctor until that redraft is submitted.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. I wish to amplify the suggestion made by Mr. Curran that there is difficulty here in this language: "The number of such districts shall not be changed unless approved by two-thirds or by a majority vote of the electors." This seems to me to indicate that one body begins by suggesting a change. The only body

that would do that would be the legislature, as I would see it, as this is drawn.

We have discussed how loathe the legislature would be to make any such suggestions, but a number has to start somewhere, unless it is intended by the petition, or by the referendum, to suggest a number. If it is to suggest a number, that would be an initiative perhaps rather than a referendum. If it is a referendum, we must have some number to begin with which is approved by the electorate.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, I would still like to ask Dr. Pelletier, when he is redrafting, if he would take a good look at the language. I am not saying that I am for or against it, but if this referendum or this particular amendment is inserted, we could have an election to change the Assembly every year. If that is his intention, we should make it known, if it is not, he should change it so that we are all a little bit better acquainted as to what we are voting on.

MOTION TO MOVE PREVIOUS QUESTION

PRESIDENT BRODERICK. The Chair recognizes Delegate Thomson.

DELEGATE THOMSON. Mr. President, in order to try to win this exercise in futility and to prevent this Convention from becoming a laughing stock, I move the previous question.

PRESIDENT BRODERICK. Moving the previous question requires that it be sponsored by 15 delegates. Are there 14 others who will go along with you?

DELEGATE THOMSON. I am quite sure there are.

PRESIDENT BRODERICK. Let us see the hands and the names, please. Will those who wish to support the motion to move the question, please stand. I am going to ask that a count be made.

It has been moved and properly seconded that the main question now be put. I want to state that it has been properly seconded by 15 delegates and now has to receive a majority of the vote of the delegates present. It means that we end the debate for today, and take up the question as to whether or not Proposal No. 1 goes over to third consideration.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, I rise to a question of parliamentary inquiry.

PRESIDENT BRODERICK. The delegate will state it.

DELEGATE HOCKER. Does it revert to Proposal No. 1, printer's No. 8?

PRESIDENT BRODERICK. That is what we are discussing.

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I rise to a parliamentary inquiry. I want to know what the effect of it is. In other words, I take it that we just recessed for 10 minutes or so to put Dr. Pelletier's motion for a referendum in shape for a vote. It would mean that it would not be possible then to vote on that amendment? Is that correct?

PRESIDENT BRODERICK. That is correct.

DELEGATE O'DONNELL. It would not be possible to vote for any change whatsoever in the two-thirds rule and so forth adopted yesterday?

PRESIDENT BRODERICK. That is correct.

The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. Mr. President, would it be out of order to ask this question—that I had agreed to move the previous question with several gentlemen here in the hall of the House after Dr. Pelletier's motion, is that—

PRESIDENT BRODERICK. Delegate Cosetti, you are now out of order, because we have the motion on the floor and it has been seconded by more than 15. Therefore, I am going to unlock the voting machine.

On the question,

Will the Convention agree to the motion?

The roll was recorded as follows:

YEAS—59

Aurentz	Fagan	Kauffman	Rappaport
Bagenstoss	Fawcett	Keller, J.	Reynolds
Baldrige	Fleming	Keller, M.	Richter
Baldwin	Fohl	King	Scott
Barron	Goldman	Krill	Sebastian
Bashoff	Goldstein	Lee, L.	Stroup
Benedict	Gouger	Leonard	Thomson
Benfield	Gray	Meyer	Van Sant
Cain	Griffith	Miller, R.	Waldron
Cortese	Harding	Moorhead	Westerberg
Croop	Hatter	More	Whittum
Dailey	Himes	Orban	Wilcox
Desmond	Hocker	Pasquerilla	Wilmarth
Devlin	Horne	Pott	Woodside
Erwin	Jirolanio	Prendergast	

NAYS—74

Baldus	Cosetti	Lee, K.	Scalles
Banes	Curran	Levin	Scarlett
Barry	Donaldson	Mangery	Seranton
Bloom	Durabault	Mattioni	Shapiro
Braham	Fay	McGeary	Sharp
Brennan	Feather	Michener	Shettig
Broderick	Filson	Miller, D.	Shively
Brown	Forster	Murray	Shoemaker
Buck	Fortney	Nelson	Shrager
Bunting	Gabreski	O'Donnell	Sprogel
Burkholder	Gehrlein	Orbin	Stout
Butera	Gerber	Pelletier	Strickler
Camardella	Hannum	Popil	Swope
Caputo	Hook	Rea	Tate
Caron	Huggins	Redick	Thornburgh
Casey	Irviss	Roberts	Tomasick
Clark	Johnson	Ruth	Tully
Clinger	Kelly	Sahli	Woodring
Conley	Leach		

NOT VOTING—30

Aberman	Heyburn	McGlynn	Powell
Allison	Hostettler	Michael	Quiles
Amsterdam	Kline	Morton	Bovner
Corey	Lane	Musselman	Silverman
Cunningham	Laputka	Otto	Solomon
Donolow	Leinbach	Pechan	Warman
Fineman	Manderino	Percey	Welsh
Henderson	Markley		

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, my apologies for the delay, but it was unavoidable, I guess.

The amendment now reads:

Amend Sec. 1 (Sec. 16), page 2, line 6, by removing the period after "ASSEMBLY" and inserting: or by majority vote of the electors voting in a referendum on the question. Such question shall be placed upon the ballot in a general election by petitions which shall be in such form as shall be prescribed by the officer of the Commonwealth having supervision over elections. Any such petition shall be filed with such officer and shall be signed by a number of electors equal to two per cent of the total votes cast for the Statewide officer receiving the highest number of votes in the last Statewide general election; petitions shall be circulated in at least twenty counties with no less than five hundred signatures in each county. Initiative on such a question shall not be submitted more often than once in ten years.

PRESIDENT BRODERICK. Do you have another amendment?

DELEGATE PELLETIER. There is another one being prepared in relation to the Senate; that is still in the process of preparation. It is the same amendment.

PRESIDENT BRODERICK. You have the privilege to present this amendment and then the other amendment. Perhaps we could proceed with this amendment while the other is being prepared.

DELEGATE PELLETIER. Mr. President, I assumed that two amendments could not be before the Convention at the same time, that is, this amends one provision and the other amends the other. This one amends the provisions in relation to the House and the other amends the provisions in relation to the Senate.

PRESIDENT BRODERICK. These amend the same proposal; this is on the calendar. We are still on Proposal No. 1, printer's No. 8. In other words, it would be one amendment if you offer this amendment.

DELEGATE PELLETIER. All right, I am offering it for both the Senate and the House.

PRESIDENT BRODERICK. If you are offering both amendments, we will have to wait until the other one is prepared. Where is it now? Is it in the process? Has it been typed?

DELEGATE JIROLANIO. Mr. President, we do not have the first amendment.

DELEGATE PELLETIER. Mr. President, while we are waiting for the next one I might make some explanation as to the changes here.

PRESIDENT BRODERICK. You may proceed.

DELEGATE PELLETIER. All right. The change which was suggested by Senator Kline from five per cent to two per cent was made. Also the suggestion was made that there should be some county provisions so that, as you will see, a petition must be circulated in 20 counties and must receive at least 500 signatures in each county.

Also it was suggested that the initiative should not occur more often than once in 10 years, and that is also included in here.

PRESIDENT BRODERICK. The Chair recognizes Delegate Murray.

DELEGATE MURRAY. Thank you, Mr. President. I rise to second this amendment.

I would like to make a couple of comments if we have a few minutes, Mr. President.

PRESIDENT BRODERICK. Proceed.

DELEGATE MURRAY. Thank you. It was a funny

little thing; it was almost like a sneaky little thing that just happened when the good doctor and I were running back from the room where the typewriter is and we found out that the Convention was starting to cut us off, shall we say? I would like to thank all of our fellow delegates who knocked down that motion which gave us a chance to express our voice.

That is all I wanted to say, sir.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pasquerilla.

DELEGATE PASQUERILLA. Mr. President, I would like to ask a few more questions of Delegate Pelletier, if I may.

PRESIDENT BRODERICK. Delegate Pelletier, would you stand to be interrogated by Delegate Pasquerilla?

DELEGATE PELLETIER. I shall.

PRESIDENT BRODERICK. You may proceed.

DELEGATE PASQUERILLA. I would like to ask now if under this proposal, as I understand it, the legislature with a two-thirds vote can change the size of the legislature? By the same token we have a referendum clause. What would happen to us if the legislature by a two-thirds vote decided to change its size and then we proceed and have a referendum changing its size? Who determines the final size of the legislature?

DELEGATE PELLETIER. Delegate Pasquerilla, I am no attorney, but I would assume that this is like any other statutory act in that the last prevails. That is, supposing the legislature decided to change its size and then decided again, its final action prevails.

DELEGATE PASQUERILLA. But under the proposal each body can only do it every 10 years.

DELEGATE PELLETIER. That is equally true here. This means that you might have one more change in each 10-year period.

DELEGATE PASQUERILLA. It could also mean that within the same year you could have the legislature by a two-thirds vote saying that we should have 150 members, and then you could have a referendum that says that we should have 300 members. I would like to know which one prevails.

DELEGATE PELLETIER. The latest.

PRESIDENT BRODERICK. The Chair recognizes Delegate Strickler.

DELEGATE STRICKLER. I wish to interrogate the sponsor of the proposal, Delegate Pelletier.

PRESIDENT BRODERICK. Delegate Pelletier, would you stand to be interrogated by Delegate Strickler?

DELEGATE PELLETIER. I shall.

PRESIDENT BRODERICK. You may proceed.

DELEGATE STRICKLER. Will you answer me, what would happen in a year if three or four groups decided to get up a petition and got the necessary number, two per cent, and they were all on the ballot at the same time?

DELEGATE PELLETIER. I would assume that the one that got the highest vote would win.

DELEGATE STRICKLER. It could happen that there would be three or four questions on the same ballot?

DELEGATE PELLETIER. I think it could.

DELEGATE STRICKLER. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Tomascik.

DELEGATE TOMASCIK. I wish to question Delegate Pelletier, please.

PRESIDENT BRODERICK. Would Delegate Pelletier stand for interrogation by Delegate Tomascik?

DELEGATE PELLETIER. I shall.

PRESIDENT BRODERICK. You may proceed.

DELEGATE TOMASCIK. Do I understand correctly, Delegate Pelletier, that the referendum may be held only once every ten years, but the change by the two-thirds of both Houses may be any time?

DELEGATE PELLETIER. I forgot what the original proposal in regard to the House said, quite frankly. I just do not recall. But this would not affect the provision in relation to the two-thirds vote by both Houses.

DELEGATE TOMASCIK. In the event that there is a biennial census, the referendum could still be held only every ten years. Is that correct?

DELEGATE PELLETIER. That would be correct.

DELEGATE TOMASCIK. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bunting.

DELEGATE BUNTING. Thank you, Mr. President.

I rise in favor of this amendment. A majority of the membership of this Convention has determined that the delegates should not compel a change in the size of the legislature. A majority also decided for all practical purposes, that the General Assembly shall not be able to change the number. Will the majority also deny that right to the people, or will the majority now provide a vehicle whereby the people of this Commonwealth will have a more direct voice in the composition of their government? We do not trust ourselves, we do not trust the legislature; it seems only the people are left. We have been elected by the people, and some delegates will seek election soon or in the near future, and I think we should be reluctant to deny the people the opportunity now being proposed. Thank you, Mr. President.

POINT OF ORDER

DELEGATE J. W. KELLER. A point of order here, Mr. President. Delegate Barron raised the question the last time this amendment came through without the changes as to whether we were referring to two per cent of the total vote cast for the statewide officer, or office. I understood Delegate Pelletier to say "office" and I see it still says "officer." Is this a typographical error, or is it intentional?

PRESIDENT BRODERICK. Delegate Pelletier, would you answer the interrogation?

DELEGATE PELLETIER. I shall. This is exactly what it says: "The statewide officer." If it were the Governor it would be the "gubernatorial candidate receiving the highest vote."

PRESIDENT BRODERICK. Now we are back to Delegate Camardella who made a motion that we proceed to vote on the question. The motion has been seconded by Delegate Bagenstose.

On the question,

Will the Convention agree to the motion?

It was agreed to.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Pelletier?

The roll was recorded as follows:

YEAS—71

Bagenstose	Clinger	Johnson	Scales
Baldus	Conley	Kelly	Scarlett
Banes	Cosetti	Leach	Scott
Barry	Croop	Leonard	Scranton
Berfield	Donaldson	Mattioni	Shapiro
Bloom	Dumbauld	McGeary	Sharp
Braham	Filson	Michael	Shettig
Brennan	Forster	Michener	Shively
Broderick	Fortney	Murray	Sprogel
Brown	Gabreski	O'Donnell	Stout
Buck	Gehrels	Otto	Swope
Bunting	Gerber	Pelletier	Tate
Burkholder	Gray	Popl	Thornburgh
Camardella	Henderson	Rea	Tomascik
Caputo	Hocker	Richter	Whittum
Caron	Hook	Roberts	Wilcox
Casey	Horne	Ruth	Woodring
Clark	Huggins	Sahl	

NAYS—65

Aurentz	Feather	Keller, M.	Prendergast
Baldrige	Fleming	King	Rappaport
Baldwin	Fohl	Krill	Redick
Barron	Goldman	Lee, K.	Reynolds
Bashoff	Goldstein	Lee, L.	Sebastian
Benedict	Gouger	Mangery	Shoemaker
Butera	Griffith	Meyer	Shrager
Cain	Hannum	Miller, D.	Strickler
Cortese	Harding	Miller, R.	Stroup
Curran	Hatter	Moorhead	Thomson
Dalley	Heyburn	More	Tully
Desmond	Himes	Nelson	Van Sant
Devlin	Irvie	Orban	Waldron
Erwin	Jrolanio	Orbin	Westerberg
Fagan	Kauffman	Pasquerilla	Wilmarth
Fawcett	Keller, J.	Pott	Woodside
Fay			

NOT VOTING—27

Aberman	Hostetler	Markley	Quiles
Allison	Kilne	McGlynn	Rovner
Amsterdam	Lane	Morton	Silverman
Corey	Laputka	Muselman	Solomon
Cunningham	Leinbach	Pechan	Warman
Donolow	Levin	Percey	Welsh
Fineman	Manderino	Powell	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, I was unable to vote on amendment No. 2 to Proposal No. 2, the Shapiro amendment, because I was busy trying to get your attention at the time the vote was taken. I should like to have the Journal record that had I had the opportunity to vote, I would have voted for the amendment.

PRESIDENT BRODERICK. Your remarks will be placed upon the record.

CALENDAR

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to the second consideration of Committee Proposal No. 3, Printer's No. 3, entitled:

Amend the Constitution of Pennsylvania further providing for Commonwealth indebtedness.

On the question,

Will the Convention agree to the proposal on second consideration?

LEONARD AMENDMENT

PRESIDENT BRODERICK. The next proposal on our calendar is Proposal No. 3, printer's No. 3. The question is: Will the Convention agree to the proposal?

The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Mr. President, I stand in place and present a correctional amendment to Proposal No. 3.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE LEONARD offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 4), page 2, line 1 by striking out "be authorized to"

Amend Sec. 1 (Sec. 4), page 2, lines 4 and 5 by striking out "be authorized to"

Amend Sec. 1 (Sec. 4), page 2, line 22 by striking out "obligation" and inserting: debt

Amend Sec. 1 (Sec. 4), page 2, line 23 by striking out "obligations" and inserting: debts

Amend Sec. 1 (Sec. 4), page 2, line 24 by striking out "no less" and inserting: not more

Amend Sec. 1 (Sec. 4), page 2, line 25 by striking out "obligation." and inserting: debt.

Amend Sec. 1 (Sec. 4), page 3, line 3 by inserting after "other": State

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

You may proceed to make a supporting statement in connection with your amendment, Delegate Leonard.

DELEGATE LEONARD. Mr. President, these are all wording amendments that the Committee approved unanimously to recommend as an Amendment to our Proposal No. 3. A few of them change a little bit of the meaning, but certainly not materially. The only one of any substance is the last one, which is Section 1, page 3, line 3, by inserting after the word "other", the word "State", in dealing with the exclusion from debt, we felt that we were only talking about that debt created by authorities for the joint benefit of this Commonwealth and some other State rather than some other government, so that is the major change.

On page 2, line 24, where we had "no less" and we meant "not more", this is the type of thing that was approved unanimously last night at about 11:00 p.m. by the Taxation and State Finance Committee. I so move its adoption.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Leonard?

The roll was recorded as follows:

YEAS—124

Aurentz	Desmond	Keller, J.	Reynolds
Bagenstose	Devlin	Kelly	Richter
Baldrige	Dumbauld	King	Roberts
Baldus	Erwin	Krill	Ruth

Saldwin	Fagan	Leach	Sahli
Banes	Fawcett	Lee, K.	Scales
Barry	Fay	Lee, L.	Scarlett
Bashoff	Feather	Leonard	Scott
Benedict	Filson	Levin	Scranton
Benfield	Fohl	Mangery	Sebastian
Bloom	Forster	Matthoni	Shapiro
Braham	Fortney	McGeary	Sharp
Brennan	Gabreski	Meyer	Shettig
Broderick	Gehrlum	Michener	Shively
Brown	Gerber	Müller, D.	Shoemaker
Buck	Goldman	Miller, R.	Shrager
Bunting	Goldstein	Moorhead	Sprogel
Burkholder	Gouger	More	Stout
Butera	Griffith	Murray	Strickler
Cain	Hannum	Nelson	Swope
Camardella	Harding	O'Donnell	Tate
Caputo	Hatter	Orban	Thomson
Caron	Henderson	Orbin	Tomaseik
Clark	Himes	Otto	Tully
Clinger	Hoeker	Pasquerilla	Waldron
Conley	Hook	Pelletier	Westerberg
Cortese	Horne	Popil	Whittum
Coseiti	Huggins	Pott	Wilcox
Croop	Jirulano	Rappaport	Wilmarth
Curran	Johnson	Rea	Woodring
Dailey	Kauffman	Redick	Woodside

NAYS—1

Irvin

NOT VOTING—38

Aberman	Fleming	Markley	Quiles
Allison	Gray	McGlynn	Rovner
Amsterdam	Heyburn	Michael	Silverman
Barron	Hostetler	Morton	Solomon
Casey	Keller, M.	Musseiman	Stroup
Corey	Kline	Pechan	Thornburgh
Cunningham	Lane	Percey	Van Sant
Donaldson	Laputka	Powell	Warman
Donolow	Leinbach	Prendergast	Welsh
Finegan	Manderino		

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

PRESIDENT BRODERICK. Under our rules, Proposal No. 3 will be placed on tomorrow's calendar, as amended, on second consideration.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Prendergast.

DELEGATE PRENDERGAST. Mr. President, I was not in my seat at the time the vote was taken. I certainly will not let my fellow leader stand alone, so I would like to be recorded in the negative.

COMMITTEE PROPOSAL No. 4 ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to the second consideration of Committee Proposal No. 4, printer's No. 4, entitled:

Amending the Constitution of Pennsylvania specifying audit control of public moneys and establishing and regulating a balanced State budget for the next fiscal year and financial plans for the succeeding five years.

On the question,

Will the Convention agree to the proposal on second consideration?

LEONARD AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Mr. President, I stand in place and submit another correctional amendment to Committee Proposal No. 4, which was unanimously adopted by our committee last evening.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE LEONARD offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 14), page 1, line 14 by inserting after "post-audit": of the fiscal affairs

Amend Sec. 1 (Sec. 14), page 1, line 15, by inserting after "wealth," and of all agencies which are recipients of or otherwise account for State funds,

Amend Sec. 1 (Sec. 14), page 1, line 16 by striking out all of said line and inserting, for pre-audit.

(c) The General Assembly shall enact legislation which shall (1) describe the

Amend Sec. 1 (Sec. 14), page 1, line 17 by striking out "standards,"

Amend Sec. 1 (Sec. 14), page 2, line 1 by striking out "or" where it appears the first time and inserting a comma

Amend Sec. 1 (Sec. 14), page 2, line 1 by inserting after "department": agency or body

Amend Sec. 1 (Sec. 14), page 2, lines 1 and 2 by striking out "to perform or have performed the other" and inserting: for the

Amend Sec. 1 (Sec. 14), page 2, line 2 by removing the period after "described" and inserting: , other than those set forth in subsection (b) of this section.

Amend Sec. 1 (Sec. 14), page 2, line 3 by striking out "(c)" and inserting: (d)

Amend Sec. 2 (Sec. 26), page 2, line 12 by striking out "by all proposed programs" and inserting: for each proposed program

Amend Sec. 2 (Sec. 26), page 2, lines 24 and 25 by striking out "all programs" and inserting: each program

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Mr. President, this late we dislike bothering the Convention with this kind of correctional amendments, but we thought it best to get them on the floor now. After we had several days to look at our proposals, several members came up with various thoughts, and we think that this should save a lot of time that may have been devoted to discussion on the floor had we not made these amendments.

These, all on Proposal No. 4 incidentally, are again what we call the cleaning-up-type amendments, and they are correctional. I so move their adoption.

PRESIDENT BRODERICK. I understand there has been some difficulty in having them run off. Unless I hear objection, I will proceed to ask the delegates if they are ready for the question. The Chair hears no objection.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Leonard?

The roll was recorded as follows:

YEAS—123

Aurentz	Dalley	Keller, J.	Reynolds
Bagenstose	Desmond	Kelly	Richter
Baldridge	Devlin	King	Roberts
Baldus	Dumbauld	Krill	Ruth
Baldwin	Erwin	Leach	Sahli
Banes	Fagan	Lee, K.	Scales
Barron	Fawcett	Lee, L.	Scarlett
Barry	Fay	Leonard	Scott
Bashoff	Feather	Levin	Scranton
Benedict	Filson	Mangery	Sebastian
Benfield	Fohl	Mattioni	Sharp
Bloom	Forster	McGeary	Shettig
Braham	Fortney	Meyer	Shively
Brennan	Gabreski	Michener	Shoemaker
Broderick	Gehrlein	Miller, D.	Shrager
Brown	Goldman	Miller, R.	Sprogel
Buck	Goldstein	Moorhead	Stout
Bunting	Gouger	More	Strickler
Burkholder	Griffith	Murray	Swope
Butera	Hannum	Nelson	Tate
Cain	Harding	O'Donnell	Thomson
Camardella	Hatter	Orban	Tomasick
Caputo	Henderson	Orbin	Tully
Caron	Heyburn	Otto	Waldron
Clark	Himes	Pasquerilla	Westerberg
Clinger	Hocker	Pelletier	Whittum
Conley	Hook	Popil	Wilcox
Cortese	Horne	Pott	Wilmarth
Cosetti	Huggins	Rappaport	Woodring
Croop	Johnson	Rea	Woodside
Curran	Kauffman	Redick	

NAYS—3

Irvia	Jirolanio	Prendergast
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NOT VOTING—37

Aberman	Gerber	Markley	Rovner
Allison	Gray	McGlynn	Shapiro
Amsterdam	Hostetler	Michael	Silverman
Casey	Keller, M.	Morton	Solomon
Corey	Kilne	Musselman	Stroup
Cunningham	Lane	Pechan	Thornburgh
Donaldson	Laputka	Percey	Van Sant
Donolow	Leinbach	Powell	Warman
Fineman	Manderino	Quiles	Welsh
Fleming			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

COMMITTEE PROPOSAL No. 5 PASSED OVER

PRESIDENT BRODERICK. We now move on to Proposal No. 5, printer's No. 5.

The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Co-Chairman Woodring seems to have disappeared.

PRESIDENT BRODERICK. He is right up here.

DELEGATE LEONARD. Fine. Excuse me. He is to take the microphone now.

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President, I ask leave of the Convention to pass over Proposal No. 5 at this time and call it up tomorrow morning.

PRESIDENT BRODERICK. The Chair hears no objection. Therefore, we will pass over Proposal No. 5, printer's No. 5, and it will still be on second consideration tomorrow.

DELEGATE WOODRING. Thank you, Mr. President.

PRESIDENT BRODERICK. We now have two proposals on first consideration.

COMMITTEE PROPOSALS ON FIRST CONSIDERATION

Agreeable to order,

The Convention proceeded to first consideration of Committee Proposal No. 6, Printer's No. 6, entitled:

Amending the Constitution of Pennsylvania providing for local government in Pennsylvania

And said proposal having been considered for the first time,

Ordered, To be laid aside for second consideration.

Agreeable to order,

The Convention proceeded to first consideration of Committee Proposal No. 7, Printer's No. 7, entitled:

Repealing article five of the Constitution of Pennsylvania relating to the Judiciary and adding a new Judiciary article.

And said proposal having been considered for the first time,

Ordered, To be laid aside for second consideration.

PRESIDENT BRODERICK. The Chair recognizes Delegate McGeary

DELEGATE McGEARY. Mr. President, perhaps I am saying the obvious, but it seems to me—and I know this is a matter for the Rules Committee—that the last three days have proved that it would be good for the Rules Committee to look at the rules of debate with the consideration of tightening them up to some extent. I would suggest as a starter—not that this by itself would accomplish a lot—where it says no delegate, committee co-chairmen excepted, shall be permitted to speak more than 10 minutes at any one time—I remember that the President of the Convention from Maryland said that very near the end they reduced that from 10 to five—it would seem to me to be desirable to reduce it to five and not wait until the end of the Convention. If we reduced it to five and the people at the end do not have more than five minutes where they now have 10, it seems to me it would be a little unfair. I would suggest that anybody can condense his remarks to five minutes.

PRESIDENT BRODERICK. We will ask our Rules Committee to study your proposal.

MEETING OF COMMITTEE ON RULES

PRESIDENT BRODERICK. The Chair recognizes Delegate Gabreski.

DELEGATE GABRESKI. Mr. President, in response to Delegate McGeary and in line with the many questions and problems that we are being confronted with, the Rules Committee wishes to meet this evening immediately after this session to discuss the business of the Convention and expedite it. In that regard, we have arranged for Room 401 in the Main Capitol building.

Thank you, Mr. President.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair now recognizes Delegate Cosetti for the adjournment motion.

DELEGATE COSETTI. Mr. President, I move that this Convention do now adjourn until Thursday, February 8, 1968, at 9 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Cosetti and seconded by Delegate Orban that this Convention do now adjourn until Thursday, February 8, 1968, at 9 a.m., e.s.t.

The motion was agreed to, and (at 6:55 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Thursday, February 8, 1968

Number 39

The Convention was called to order at 9 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND JACKSON TRUEITT, pastor of the First Baptist Church of Cornwall, Pennsylvania, offered the following prayer:

Eternal God, our Father, Who art in Heaven, we have come before Thee this morning asking Thee as the source of all wisdom and all goodness that Thou wouldst help us in our deliberations this day, that we might do the things that Thou hast ordained that we should do for the good of the people of this Commonwealth.

Help us, dear Heavenly Father, to accomplish the good that Thou hast ordained should be accomplished for the good of all of Thy children; that in the things that we do, may we see Thee as Thou art, a God of love, a God Who careth for all people. May, dear Heavenly Father, these men and women be endowed with wisdom, looking to Thee, dear Heavenly Father, Who is the source of all wisdom, asking Thee for guidance that we might do the things that are good for all the people of this great Commonwealth. And that the things that we do, may we realize, we will pass down as a heritage to our children that they may see that we have asked of Thee the things that are needed, that we might do the duties that are enjoined upon us, and that we may carry forth things that will be to the uplift of Thy honor and Thy glory, for we ask it in the name of Thy Son, Jesus. Amen.

PRESIDENT BRODERICK. I would just like to point out to the fellow delegates that Reverend Trueitt, our chaplain this morning, has had a long career in our state government. He has been with the State for 35 years, and he plans to retire in April. He has served under nine Governors and has done a magnificent job and made a great contribution to state government.

APPROVAL OF JOURNALS

PRESIDENT BRODERICK. There are no Journals to be approved today.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 25th District, DELEGATE GABRESKI, for February 9 and 12, on account of business;

The delegate from the 40th District, DELEGATE WELSH, for February 8 and 9, on account of business;

The delegate from the 20th District, DELEGATE ROBERTS, for February 9, on account of business;

The delegate from the 2nd District, DELEGATE KING, for February 9, on account of court;

The delegate from the 49th District, DELEGATE MOORHEAD, for February 9, on account of business;

The delegate from the 24th District, DELEGATE COREY, for February 7, on account of business;

The delegate from the 3rd District, DELEGATE GRAY, for February 9, on account of business;

The delegate from the 33rd District, DELEGATE BARON, for February 8, half day, on account of business.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

ANNOUNCEMENT BY THE CLERK

THE CLERK. There will be a meeting of the officers and the standing committee co-chairmen on Thursday, February 8, 1968, in Room 615, Main Capitol Building, to begin immediately following lunch break.

QUORUM CALL

PRESIDENT BRODERICK. Now we will take the roll. The voting machine is now unlocked. Has everyone had an opportunity to record his presence?

The clerk will record the roll.

The roll was recorded as follows:

Amsterdam	Dailey	Keller, J.	Rea
Aurentz	Desmond	Keller, M.	Redick
Bagenstose	Devlin	Kelly	Reynolds
Baldrige	Dumbauld	Krull	Richter
Baldus	Erwin	Leach	Roberts
Baldwin	Fagan	Lee, K.	Rovner
Banes	Fawcett	Lee, L.	Sehl
Barron	Fay	Leinbach	Scales
Barry	Feather	Leonard	Scarlett
Baskoff	Filson	Levin	Scott
Benedict	Fohl	Mangery	Sebastian
Benfield	Fortney	Mattoni	Shapiro
Bloom	Gabreski	McGeary	Shethy
Braham	Gehrlein	Michener	Shively
Brennan	Gerber	Muller, D.	Shoemaker
Broderick	Goldman	Miller, R.	Shrager
Brown	Goldstein	Moorhead	Silverman
Buck	Gouger	More	Solomon
Bunting	Gray	Morton	Sprogeil
Burkholder	Griffith	Murray	Stout
Butera	Hannum	Musselman	Strickler
Cam	Harding	Nelson	Swope
Caputo	Hatter	Orban	Tate
Caron	Henderson	Orbin	Thomson
Casey	Hayburn	Otto	Thornburgh
Clark	Himes	Pasquerilla	Tomascik
Clinger	Hoeker	Pechan	Tully
Conley	Hook	Pelleher	Van Sant
Corey	Horne	Percey	Waldron
Cortese	Huggins	Popil	Westerberg
Cosetti	Irlis	Pott	Whitum
Croop	Jrolanio	Powell	Wilcox
Cunningham	Johnson	Fredergest	Wilmarth
Curran	Kauffman	Rappaport	Woodring

PRESIDENT BRODERICK. The electric roll-call tabulator indicates that there are 136 delegates present.

The Chair also notes the presence of the following delegates:

Aberman	Forster	Manderino	Scranton
Allison	King	Meyer	Sharp
Camardella	Kline	Michael	Stroup
Fineman	Laputka	Ruth	Woodside

COMMITTEE MEETINGS

PRESIDENT BRODERICK. Are there any meetings that the committee chairmen would like to announce before we get under way?

The Chair hears none.

RESOLUTIONS

PRESIDENT BRODERICK. Are there any resolutions?

The Chair hears none.

BRANDYWINE HEIGHTS AREA HIGH SCHOOL WELCOMED

PRESIDENT BRODERICK. The Chair recognizes Delegate Benfield.

DELEGATE BENFIELD. Mr. President, we have in our midst, 90 seniors of the Brandywine Heights Area High School.

This group realizes that knowledge in youth is wisdom in age. Therefore, they wanted to attend a session of this historic event.

They are here under the supervision of Mr. Youst, Mr. Hertzog and Mrs. Bordner.

They are the guests of Delegates Bagenstose, Leinbach and myself of the 11th Senatorial District of Berks County.

I wish the Chair would extend to them a welcome.

PRESIDENT BRODERICK. The Chair would like these students to please stand so that we can recognize them with our usual warm greeting.

DELEGATE BENFIELD. Thank you.

CALENDAR

PRESIDENT BRODERICK. The Chair now recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, are we ready for proposals on second reading?

PRESIDENT BRODERICK. We are ready.

DELEGATE BALDRIGE. I move that Proposal No. 2, printer's No. 10, be advanced to third consideration.

PRESIDENT BRODERICK. We have to take them in order. We have Proposal No. 1, printer's No. 9.

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to second consideration of Committee Proposal No. 1, Printer's No. 9, entitled:

Amending the Constitution of Pennsylvania providing for apportionment of legislative districts.

On the question,

Will the Convention agree to the proposal on second consideration?

PRESIDENT BRODERICK. The Chair recognizes Delegate Devlin.

DELEGATE DEVLIN. Mr. President, fellow delegates, I know you all feel very tired this Thursday morning; I do, too. We have a great problem facing us, a very serious problem, the problem of getting the work of the Convention done as quickly as possible so that we can present to the voters of Pennsylvania the findings of our work.

We have been arguing on two proposals almost four whole days. This is not bad in itself, but I hope that we have come to a period of time where the will of this Convention has been expressed on these proposals. And indeed I think it has, as many proponents of amendments have said and have conceded, gentlemen as they are.

Certainly the patience of the Convention has been tested and it has shown that it is a strong, patient Convention. I have been approached by many people, including my good friend Governor Scranton and other gentlemen who have proposed some amendments to Proposal No. 1. They have said to me, "Bill, we just do not have a good proposal in Proposal No. 1 as it is amended and as we see it today." I could not agree with them more. I think that it is not well written and I think some of the amendments are not good amendments. I think it will reflect on the honor of this Convention.

I have been assured by the proponents of amendments, these advocates of their ideas, that they have no tricks up their sleeves, that they just want now to resolve this proposal to its original language and to move it ahead, along with the other six or seven proposals with which we are faced. We have tested the patience, but we have not tested the honor of the Convention. I shall not test the honor of the Convention, because I know all of you on a first-name basis and you are honorable people.

MOTION ON PROPOSAL No. 1

I would now like to move that Proposal No. 1, printer's No. 8, revert back—

PRESIDENT BRODERICK. Will the gentleman yield? On today's calendar, the proposal we are on is Proposal No. 1, printer's No. 9.

DELEGATE DEVLIN. I move that Proposal No. 1, printer's No. 9, revert back to printer's No. 1.

PRESIDENT BRODERICK. Is there a second? It was seconded by Delegate Michener. It has been moved and seconded.

As I understand your motion, the motion made by Delegate Devlin and seconded by Delegate Michener, that Proposal No. 1, printer's No. 9, revert to the prior printer's number, which would be Proposal No. 1, printer's No. 1, which, in effect, is the original language of that proposal. Are we ready for the question?

Do you want recognition, Delegate Hook?

DELEGATE HOOK. Mr. President, this would mean that we would be back where we were on Monday. Is that correct?

PRESIDENT BRODERICK. Exactly. It will be on second consideration in its original form. I am not sure what day, but it is where we were a couple days ago.

The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Am I to understand this would take us back to Committee Proposal No. 1, printer's No. 8?

PRESIDENT BRODERICK. No, it would take us back

to Proposal No. 1, printer's No. 1, which was, am I correct, the committee's proposal?

DELEGATE DEVLIN. Yes.

DELEGATE BRAHAM. I wish to speak in opposition to that. We would be back where we were if each one of these amendments can be renewed. We were unable to agree on any stated number to which we would lower the size of the legislature. We were stalled at every point. You had abandoned the two-thirds rule because that was unsatisfactory. We would have nothing.

I regarded, Mr. President, the suggestion of Delegate Pelletier as a very fortunate one because, in the impasse in which we found ourselves, it was necessary to find some authentic and genuine solution. I thought he had it. It would leave it with the people. What is wrong with that? I was surprised to find the head of opinion that had developed behind this change in the size of the legislature. I never thought about it before I came here. There must be other features of improvement to the legislature that these people have in mind. If they want to build that up and have an initiative before the people, I think it is entirely appropriate and I regard it as most unfortunate to undertake to go back now to where we were Monday. Then the people will say, Oh, well, we will just adopt what they tell us. This, at this moment, represents what the people think and we do not want to be taken back to this point and be told now, in the interest of time, do just what we tell you. I think this Convention will be against that.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, I think it is very well known in this Convention that I am not happy about the original statement that came out of the committee and I think it is also very well known that a number of other people are not, also. But I must say to you that after the effort that has been made over the last two days concerning this, it has become quite clear to a large number of people that the votes are there for 50 and 203. And may I also say, which is far more important to me than whether my way of thinking prevails in any body, including a Convention for a new Constitution, is that the head of Pennsylvania might stand high in this world.

Yesterday afternoon and last night and early this morning I took a good, long look and talked with a number of other people, people who have been on both sides of this fence during the last two days. I took a good, long look at the provision as it is now written and I would say to all of you that it is at least my opinion, and I think it is of all people who are conversant with constitutional law, that if Pennsylvania were to approve the provision of Committee Proposal No. 1 as it now stands in which it says that there will be 203 members of the House, except if the regular amendment process goes through or if two-thirds of the House and the Senate change it, or if the people of Pennsylvania by the electorate, two per cent of same, desiring some other kind of change, any other kind of change—we might have as many as three, incidentally, in any 10-year period—I say to you that if this is our final decision concerning Proposal No. 1, every leading constitutional lawyer in the United States of America will be using this provision as example No. 1 of what you must not write in a Constitution. It is without doubt, and I am just as respon-

sible for it as all of you—more so perhaps in some instances because, as you know, I got up and made a worthless eight-and-a-half minute speech, worthless because we never had an opportunity to vote on what I asked for. And may I say to you that I think if we allow this to go through as it is, we will not just be the laughing stock—and I do not care about that. I have been laughed at before—but we will literally put down in a Constitution the worst written provision that I have ever seen in any Constitution in the United States in any State, or for that matter, in our Federal Constitution.

It is just as bad as it is presently written as the one about dueling. Consequently, when others have the votes, the thing to do is to clean it up and make it at least a palatable constitutional provision, whether you like it or not, and that is why I support what Mr. Devlin is suggesting today though all of you are very well aware that I am not happy about having the number in the Constitution.

PRESIDENT BRODERICK. The Chair now recognizes Secretary Michener.

SECRETARY MICHENER. Mr. President, one of the proudest things I have done in this Convention is second the proposal made by our distinguished delegate from Philadelphia. I do so after a record of having opposed the committee report as vigorously as I could. I did so for reasons which were apparent and I lost. The sense of this Convention unmistakably was for the figure 203. I acknowledge that without any equivocation. It was an honorable try that we made and you delegates spoke out very firmly. I accept that without equivocation. However, I do share Delegate Scranton's serious concern about this and I share Delegate Devlin's concern about it.

I am the Secretary of this Convention and it falls to me to be in contact with other States and other people who are considering the Convention method. I would really be most unhappy if I had to send to them—and I have inquiries on my desk right now—Proposal No. 1, printer's No. 9, as an example of what the Convention method comes up with. Former Governor Scranton is entirely correct that this would be beneath the dignity of both this Convention and this great Commonwealth.

The remedy is very simple. Delegate Devlin has indicated of what it consists. It consists of cleaning up, by the committee method, a proposal which is at present confused, contradictory and constitutionally preposterous in that it does give three alternative methods, which might in the same year produce three alternative proposals.

The only thing I am speaking to, fellow delegates, as the Secretary of the Convention, is the mechanics of it. In good constitution-making it should be cleaned up. This is within the purview of this committee. Had Delegate Devlin not made his most proper and farsighted proposal, I was later on going to propose that a good deal of the mechanics of this be moved into the schedule; at least not to have this junky business in the main body of the Convention.

It is with keenest support that I back what Delegate Devlin has said and what former Governor Scranton has said in support of Delegate Devlin.

PRESIDENT BRODERICK. The Chair recognizes Delegate Buck.

DELEGATE BUCK. Mr. President, as all of you know, I, too, did not support Committee Proposal No. 1, but I

am pleased to support the motion to revert to the prior printer's number for the reasons that you have already heard and for the further reason that I respect the joint wisdom and the joint judgment of this Convention.

I, therefore, will support this motion to revert.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. Mr. President and fellow delegates, on Tuesday I thought I had a settlement that could be made and presented as a proposal to take out the numbers, as this seemed to be the consensus of opinion at the time among a lot of the delegates, to remove this from the Constitution. Since that time we have been, in the past and we are still, meeting and I would, therefore, at this time join in the proposal of Delegate Devlin and request that we revert back to Committee Proposal No. 1 and allow that proposal to stand as is.

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Mr. President, may I say we are not technically in an impasse, but we have achieved a solution which is unsatisfactory to a great many people. In form, it is entirely unsatisfactory to me. I ask all to remember that Mr. Pelletier's amendment was gotten up under great difficulty. If by this pending motion we propose to go back and give due consideration to the decisions already made, including an approval of Mr. Pelletier's idea, I have no objection to it at all; I am glad to join in it.

PRESIDENT BRODERICK. The Chair recognizes Delegate Brown.

DELEGATE BROWN. Mr. President, inasmuch as this seems to be true confessions, I, too, voted against the original proposal. However, it was twenty after three this morning before I finally went to bed, trying to find out what could be done to do just exactly what Delegate Devlin has done. I really take my hat off to him. He has shown what caliber man he is. I, therefore, will support this proposal.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bloom.

DELEGATE BLOOM. I was for this referendum to the people; I thought that it was a very good thing. Maybe it is not what may be constitutionally correct, however, we would like to avoid confusion. We have spent three days here arguing and spent quite a bit of time trying to correct it, but it seems as though nobody came up with a solution. I think for the good of this Convention—and I am only speaking on special privilege now—that we should not have wasted all this time. There should have been something fruitful come out of this Convention. With all the delegates and all the brains that we have, political experience and everything else, we should have come up with something that would have dealt with the future.

However, if we have to go back and stay at the 201, and so forth, without any elasticity whatsoever, I will go along with the majority. I think that this is the lesser of the evils and, therefore, I will vote for the reconsideration.

PRESIDENT BRODERICK. The Chair recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, I regretfully must say that I am somewhat appalled by what I am seeing here this morning. Being one of the youngest members of the Convention, I am not as well versed in parliamentary procedure inside and outside of the hall of the Convention. It appears to me that if I am to vote intelligently upon this question the proponents of this measure this morning ought to tell us whether they want us to accept Proposal No. 1, printer's No. 1 as it is, without any further amendments, or if they foresee any other amendments that justify the motion which they have put on the floor. I think they ought to tell this delegation what they have in mind.

Thank you, Mr. President.

PRESIDENT BRODERICK. The motion before the Convention is, shall Proposal No. 1, printer's No. 9, revert to its original printer's No. 1?

On the question,

Will the Convention agree to the motion?

The roll was recorded as follows:

YEAS—124

Allison	Desmond	Keller, M	Redick
Amsterdam	Devlin	Kelly	Reynolds
Aurentz	Erwin	Kline	Richter
Bagenstose	Fagan	Krull	Rovner
Baldrige	Fawcett	Laputka	Scales
Baldus	Fay	Leach	Scarlett
Baldwin	Feather	Lee, K	Scott
Banes	Filson	Lee, L	Scranton
Barron	Fohl	Leonard	Shapiro
Barry	Forster	Levin	Sharp
Bashoff	Fortney	Mattioni	Shively
Benedict	Gabreski	McGeary	Shoemaker
Benfield	Gehrlain	Michael	Shrager
Bloom	Gerber	Michener	Solomon
Brennan	Goldman	Miller, D.	Sprogel
Broderick	Goldstein	Miller, R	Stout
Brown	Gouger	Moorhead	Strickler
Buck	Gray	More	Stroup
Bunting	Griffith	Morton	Swope
Burkholder	Hannum	Murray	Thomson
Butera	Harding	Musselman	Thornburgh
Cain	Hatter	Nelson	Tomasick
Caputo	Heyburn	Orban	Tully
Caron	Himes	Orbin	Van Sant
Clinger	Hook	Pasquerilla	Waldron
Corey	Horne	Percey	Westerberg
Cortese	Huggins	Popl	Whitum
Croop	Jirolanio	Poti	Wilcox
Cunningham	Johnson	Powell	Wilmarth
Curran	Kaufman	Prendergast	Woodring
Daley	Keller, J.	Rappaport	Woodside

NAYS—15

Braham	Cosetti	Irvis	Roberts
Casey	Dumbauld	Leimbach	Sahl
Clark	Henderson	Otto	Shettig
Conley	Hocker	Rea	

NOT VOTING—24

Aberman	Hostetler	McGlynn	Ruth
Camardella	King	Meyer	Sebastian
Donaldson	Lane	O'Donnell	Silverman
Donolow	Manderino	Pechan	Tate
Fineman	Mangery	Pelletier	Warman
Fleming	Markley	Quiles	Welsh

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

MOTION TO ADVANCE PROPOSAL No. 1, PRINTER'S No. 1, TO THIRD CONSIDERATION

PRESIDENT BRODERICK. The Chair recognizes Delegate Devlin.

DELEGATE DEVLIN. Mr. President, I make a motion to move Proposal No. 1, printer's No. 1, to third consideration.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fagan.

DELEGATE FAGAN. Mr. President, I second the motion.

PRESIDENT BRODERICK. The motion has been made and seconded that Proposal No. 1, printer's No. 1, be advanced to third consideration.

The Chair recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER. I gather that this is just on Proposal No. 1 and does not affect Proposal No. 2?

PRESIDENT BRODERICK. That is right.

QUESTION OF PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Caron.

DELEGATE CARON. If Proposal No. 1 moves to third consideration, does it mean that it is accepted as originally written and that Delegate Swope's question has not been answered other than by this action?

PRESIDENT BRODERICK. Delegate Caron, that is a parliamentary inquiry and I want to say that if this motion carries, it will go over to third consideration in the form in which it was submitted by the committee, which was printer's No. 1. It then goes to the Committee on Style and Drafting and when it comes back from the Committee on Style and Drafting, it will then be on the calendar for third consideration and it can only be amended by majority vote.

DELEGATE CARON. It can still be amended by the majority vote?

PRESIDENT BRODERICK. With the consent of the majority an amendment can be offered.

DELEGATE CARON. Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, I think I recognize mass artillery when it is located as strategically as it is presently. I am a little interested that this body is so utterly predictable because as I went to bed last night I predicted that this is exactly what would happen. It just happened ten minutes faster than I had expected.

I would say, do not assume that you have a distinguished article if you vote for this one, because you have not. I would suggest to Delegate Scranton that he read the Louisiana Constitution; he will find some very interesting prose equalling anything that we can write.

I would plead that you at least, ladies and gentlemen, open it up to permit some variation for the convenience of apportionment; that is, at least let it go to 205 and to 199; give the apportioning body some flexibility. Thank you.

On the question,

Will the Convention agree to advance Proposal No. 1, printer's No. 1, to third consideration?

The roll was recorded as follows:

YEAS—99

Allison
Amsterdam
Aurentz

Devlin
Erwin
Fagan

Krill
Laputka
Leach

Rovner
Scales
Scarlett

Bagenstoss
Baldridge
Baldwin
Banes
Bashoff
Benedict
Benfield
Brennan
Broderick
Brown
Buck
Burkholder
Butera
Cam
Clinger
Conley
Corey
Cortese
Croop
Curran
Dailey
Desmond

Fawcett
Fay
Feather
Filson
Fohl
Fortney
Gerber
Goldman
Goldstein
Gray
Griffith
Hannum
Harding
Hatter
Heyburn
Himes
Horne
Jirolano
Johnson
Kauffman
Keller, J
Keller, M

Lee, K.
Lee, L
Leonard
Levin
Mangery
McGeary
Miller, D.
Moorhead
More
Murray
Musselman
Nelson
Orban
Orbin
Pasquertilla
Popil
Folt
Powell
Prendergast
Redick
Reynolds
Richter

Scott
Scranton
Sebastian
Sharp
Shively
Shoemaker
Shrager
Solomon
Stroup
Swope
Thomson
Tomasock
Tully
Van Sant
Waldron
Westerberg
Whittum
Wilcox
Wilmrath
Woodring
Woodside

NAYS—38

Baldus
Barron
Bloom
Braham
Bunting
Caputo
Caron
Casey
Clark
Dumbauld

Forsler
Gabreski
Gehrm
Gouger
Henderson
Hoeker
Hook
Huggins
Irviss
Kelly

Khne
Leimbach
Manderino
Mattoni
Michael
Miller, R
Morton
Otto
Pelletier

Percey
Rappaport
Rea
Roberts
Sahli
Shapiro
Sprengell
Stout
Thornburgh

NOT VOTING—26

Aberman
Barry
Camardella
Casetti
Cunningham
Donaldson
Donolow

Fineman
Fleming
Hostetter
King
Lane
Markley
McGlynn

Meyer
Michener
O'Donnell
Pechan
Quiles
Ruth

Shettig
Silverman
Strickler
Tate
Warman
Welsh

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Rappaport.

DELEGATE RAPPAPORT. Mr. President, I believe this is in the nature of parliamentary inquiry.

I have heard a great deal about the schedules that are going to be attached to this Constitution and they apparently will be very important in the articles on taxation, finance and the judiciary.

I would therefore make a request that counsel for the Convention prepare a legal opinion as to the effect of these schedules, can they be changed by legislation, by the General Assembly, are they constitutional, what is their effect. Will we vote on these schedules as well as debate them? I would ask that we have a copy of that opinion within the next few days.

PRESIDENT BRODERICK. Your request has been recognized and will be granted.

DELEGATE RAPPAPORT. Thank you, Mr. President.

PRESIDENT BRODERICK. We move to the next proposal on our calendar, Proposal No. 2, printer's No. 10.

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order.

The Convention proceeded to the second consideration of Committee Proposal No. 2, Printer's No. 10, entitled:

Amending the Constitution of Pennsylvania making changes relating to legislative apportionment.

On the question,

Will the Convention agree to the proposal on second consideration?

SHOEMAKER AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER. Mr. President, I read in place and present to the Chair an amendment to Proposal No. 2, printer's No. 10, and would ask the opportunity to speak to it.

On the question recurring,

Will the House agree to the proposal on second consideration?

DELEGATE SHOEMAKER offered the following amendment which was read by the clerk:

Amend Sec. 1, page 1, line 4 by striking out "four" and inserting: five

Amend Proposal, page 4, by inserting after line 16: Section 23. Reapportionment by General Assembly—If the General Assembly shall apportion itself prior to the report of the commission as provided in section 19 of this article, the apportionment plan of the General Assembly shall become law subject only to the provisions of section 22 of this article.

On the question,

Will the Convention agree to the amendment?

AMENDMENT PROCEDURE

PRESIDENT BRODERICK. I want to repeat a request of the Chair. If anyone has an amendment, please make sure that we get it in advance so that it can be reproduced in order to expedite the work of the Convention. I shall have copies made of the amendment as soon as we receive them and will submit them to the appropriate co-chairmen so that they can discuss these amendments with you, and you will have the benefit of their thinking before the amendment is offered. I think in some instances, after they have spoken with the co-chairmen of the appropriate committee, they may decide not to offer the amendment.

The Chair recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER. Mr. President, it is perhaps interesting, before discussing in particular the proposed additional amendment, to note that in 1789 the United States Congress, meeting in New York, prepared not seven original amendments to the Constitution, but twelve. The first of those amendments, like the first of our proposals, was on apportionment. It is also equally interesting to note historically that the first and second proposed amendments did not pass the people, but that the third through twelve did and became the first ten amendments to the United States Constitution. Perhaps this is of some interest.

The amendment which I present is not in any way a change in substance of Proposal No. 2. Yesterday, various amendments were submitted which would have given an opportunity in some method or other to the General Assembly to first have an opportunity to do its own ap-

portioning. I would call to your attention, gentlemen, that 49 delegates voted in favor of giving the General Assembly some right to apportion itself. That is over one-third of the delegates voting.

This amendment would merely give the General Assembly the right, if they could accomplish it prior to the commission as provided in Proposal No. 2. If they could agree, it would give them the first right to apportion themselves.

Section 19 referred to in the proposed amendment, an additional section, refers to the sessions of the commission and the time that they should file their plans. In other words, if the General Assembly could do the job prior to the filing of this plan, then the General Assembly apportionment procedure would become effective, subject, however, to section 22 of the proposal, which is the appeal section. This would not in any way change or alter the committee's recommendation.

I have tried in this amendment to meet the objections which have been somewhat strenuously raised by those people who felt that the General Assembly should have this first right. I have not tampered with the committee's procedure. I would call to your attention that many of the people who spoke against giving the General Assembly the right to apportion themselves did so on the basis that they failed to do so. So may it be. Nevertheless, if they failed, the commission would have been operative and they would then file a plan and that plan would become effective.

I would recall for your thought that many of the legislators among us supported this kind of proposal and we must recall also that this year when these amendments go on the ballot, the legislature will be running for re-election. They will be involved in the political arena, and certainly if we are taking something away from them, they would have every right to be vocal about this particular proposal on the ballot. I suggest to you that this is an innocuous addition; that it may well give the impetus to the entire apportionment proposal to pass the people. I would enlist your support.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, this proposal does weaken the committee proposal. One of the advantages of the committee proposal was that it brought Pennsylvania into a modern constitutional concept and lined us up with the States of Michigan, Missouri and Ohio, which have purely the commission form of reapportionment. We felt in the committee that we were relieving the legislators themselves of a very onerous duty; that in putting the burden of reapportionment in their lap, they were bound to be making enemies in even attempting to reapportion themselves, among their own members; that it was weakening their ability as legislators and was taking time that really they should not have been spending on it. We feel that to keep it away from them will make them better legislators because it does give them more time to pay attention to the ordinary business of the State.

Secondly, I call your attention to all those quotations in the so-called Bloom case and the Baker case. In the constitutions of the States being reviewed by the United States Supreme Court, in most cases every one of the state constitutions, including Pennsylvania's up to today, even

provide that the legislature should reapportion. That is why the Supreme Court said it was a primary duty. If we adopt this committee proposal wherein we take it away from the legislature, they would never use such language because our Constitution would be providing that it was not their duty. The legislators themselves, had they wanted to, could have set up a commission as they set up the Public Utility Commission and many other commissions to do part of their work within guidelines. We think this proposal is within the guidelines of Proposal No. 1 and that it would have been perfectly constitutional had they done it themselves. They never saw fit to do so because they were prejudiced judges and wanted to sit right on their own cases.

Now those, ladies and gentlemen, are the two reasons that the committee felt we should do this. We were also slugged in the head, so to speak, with an argument that if we did this they would go out and campaign against our Constitutional Convention. First of all, a lot of you know a good bit about politics and you know, No. 1, they are all going to be running for re-election next spring, or at least 90 per cent of them. If they do not have primary opposition I am sure they are all too smart to be hunting enemies any place else by starting on another fight. They usually duck all fights but their own, and very wisely so, and for that reason I will certainly ask that you support the committee proposal without any further amendments.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Irvis.

DELEGATE IRVIS. Mr. President, I have said over and over again that I think the reapportionment of the House ought to be a legislative function. I still think so, although I intend now to vote for Committee Proposal No. 2 because I think I have been here long enough to sense the feeling of the delegates.

The amendment suggested by Delegate Shoemaker would weaken this proposition for this practical reason: You must not assume that the leadership of the House of Representatives, or the leadership of the Senate, always gets unanimous support from the membership. It does not. It never does, in fact. There are always men and women who disagree or are suspicious of the motives of the leadership. If you provide, according to Delegate Shoemaker's amendment, that the General Assembly may be simultaneously working to reapportion itself at the same time as the commission, you are going to get rivalries between leadership and membership which could very well destroy the very purpose of reapportionment. You are going to get three or four or five reapportionment plans instead of one. This, in my opinion, would be a disastrous situation for reapportionment. It would be worse than none at all because it would create hostilities and enmities within the hall of the House and within the hall of the Senate.

I would suggest that if your purpose is to let the General Assembly reapportion itself, then you have the method of doing so by any one of the amendments that you offered yesterday, but this amendment would not serve that purpose. It would cause hostility, conflict and confusion, and I will vote against it and urge its defeat.

PRESIDENT BRODERICK. The Chair recognizes Delegate Ruth.

DELEGATE RUTH. I would like to make a short statement, Mr. President, for two reasons, because this hap-

pens to be sponsored by my co-delegate from my district, and I would like to add my support to it.

I am certain that we delegates from our district were very conscious of this, as Delegate Shoemaker pointed out yesterday, because of the fact that we are without a Senator. We both come from rural districts and sometimes Mr. Shoemaker may wear a suit that may come from the country—I do not know what labels he uses—but sometimes we agree and sometimes we disagree.

I would like to support him this time, but I would like to point out that we believe that the legislature is the prime group that should reapportion itself and in studying all the testimony presented to the Preparatory Committee by the Bar Association and the Modern Constitution Incorporated, all of these groups which did these studies recommended that the legislature still had the power to be backed up by a commission.

The primary thought of the Judiciary Committee is to keep things away from the courts which are political. I think because of the thinking that Delegate Shapiro had earlier and the thinking that Delegate Shoemaker has and that the Judiciary Committee has, we want to keep this out of the hands of the Supreme Court as much as possible.

Thank you.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Shoemaker?

The roll was recorded as follows:

YEAS—25

Banes	Keller, M	Seranton	Thomson
Clinger	Mattioni	Shapiro	Tully
Fawcett	Michael	Shoemaker	Van Sant
Fohl	Rea	Sprogeil	Waldron
Forster	Richter	Stout	Westerberg
Gouger	Ruth	Stroup	Woodside
Hook			

NAYS—113

Aberman	Cortese	Huggins	Otto
Allison	Croop	Irvis	Pasquerilla
Amsterdam	Curran	Juriano	Percey
Aurentz	Datley	Johnson	Popil
Bagenstoss	Desmond	Kauffman	Pott
Baldrige	Devlin	Keller, J	Powell
Baldus	Dumbauld	Kelly	Prendergast
Baldwin	Erwin	Krill	Redick
Barron	Fagan	Laputka	Reynolds
Barry	Fay	Leach	Roberts
Bashoff	Feather	Lee, K	Sahl
Benedict	Filson	Lee, L	Scales
Bloom	Fineman	Leimbach	Scarlett
Braham	Fortney	Leonard	Scott
Brennan	Gabreski	Levin	Sebastian
Broderick	Gehrlein	Manderino	Sharp
Brown	Gerber	McGeary	Shelting
Buck	Goldstein	Meyer	Shively
Bunting	Gray	Miller, D.	Shrager
Burkholder	Griffith	Miller, R.	Salomon
Eutera	Hannum	Moorhead	Strickler
Cain	Harding	More	Swope
Camardella	Hatter	Morton	Thornburgh
Caputo	Henderson	Murray	Tomasek
Caron	Heyburn	Musselman	Whitum
Casey	Himes	Nelson	Wilcox
Clark	Hocker	Orban	Wilmarth
Conley	Horne	Orbin	Woodring
Corey			

NOT VOTING—25

Benfield	Hostetler	McGlynn	Rappaport
Coseiti	King	McBener	Rovner
Cunningham	Kline	O'Donnell	Silverman
Donaldson	Lane	Pechan	Tate
Donatow	Mangery	Pelletier	Warman

Fleming
Goldman

Markley

Quiles

Welsh

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

PROPOSAL No. 2, PRINTER'S No. 10 MOVED TO THIRD CONSIDERATION

PRESIDENT BRODERICK. There being no further amendments to this proposal, we now take up advancing Proposal No. 2, printer's No. 10, to third consideration.

On the question,

Will the Convention agree to advance Proposal No. 2, printer's No. 10, to third consideration?

The roll was recorded as follows:

YEAS—133

Aberman	Curran	Johnson	Powell
Allison	Dailey	Kauffman	Prendergast
Amsterdam	Desmond	Keller, J.	Rea
Aurentz	Devlin	Kelly	Redick
Bagenstose	Dumbauld	King	Reynolds
Beldridge	Erwin	Krill	Richter
Baldus	Fagan	Laputka	Sahl
Baldwin	Fawcett	Leach	Scales
Banes	Fay	Lee, K.	Scarlett
Barron	Feather	Lee, L.	Scott
Barry	Filson	Leinbach	Scranton
Bashoff	Fineman	Leonard	Sebastian
Benedict	Fohl	Levin	Sharp
Bloom	Forster	Manderino	Shettig
Brabam	Fortney	Mathonl	Shively
Brennan	Gabreski	McGeary	Shrager
Broderick	Gehrlein	Meyer	Solomon
Brown	Gerber	Michael	Sprogel
Buck	Goldstein	Miller, D.	Stout
Bunting	Gouger	Miller, R.	Strickler
Burkholder	Gray	Moorhead	Stroup
Butera	Griffith	More	Swope
Cann	Hannum	Morton	Thomson
Camardella	Harding	Murray	Thornburgh
Caputo	Hatter	Musselman	Tomascek
Caron	Keyburn	Nelson	Tully
Casey	Himes	Orban	Van Sant
Clark	Hocker	Orbin	Waldron
Clinger	Hook	Otto	Whitum
Conley	Horne	Pasquerilla	Wilcox
Corey	Huggins	Percey	Winmarth
Cortese	Irvls	Popil	Woodring
Cosetti	Jirolanio	Pott	Woodside
Croop			

NAYS—6

Henderson	Roberts	Shoemaker	Westerberg
Keller, M.	Shapiro		

NOT VOTING—24

Benfield	Hosteller	Michener	Rovner
Cunningham	Kline	O'Donnell	Ruth
Donaldson	Lane	Pechan	Silverman
Donolow	Mangery	Pelletier	Tate
Fleming	Markley	Quiles	Warman
Goldman	McGlynn	Rappaport	Welsh

The majority having voted in the affirmative, the question was determined in the affirmative, and the proposal was advanced to third consideration.

PRESIDENT BRODERICK. The Convention has now agreed to pass Proposal No. 2, printer's No. 10, to third consideration. This means that it will move to the Committee on Style and Drafting and will appear on the calendar on third consideration.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair notes the pres-

ence of Delegates Sharp, Aberman, Ruth, Camardella, Laputka, Michael, Meyer, Kline, Fineman, King, Mand-
erino, Allison, Forster and Woodside.

MEETING OF COMMITTEE ON LOCAL GOVERNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. Mr. President, may I make an announcement?

PRESIDENT BRODERICK. Yes, indeed

DELEGATE PELLETIER. Before our co-chairman came in this morning, when you asked for committee meetings, I had not conferred with him. I wish to announce that the co-chairmen of all the subcommittees on Local Government will have a luncheon meeting at noon tomorrow, the place to be announced.

Thank you.

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to the second consideration of Committee Proposal No. 3, Printer's No. 11, entitled:

Amending the Constitution of Pennsylvania further providing for Commonwealth indebtedness.

On the question,

Will the Convention agree to the proposal on second consideration?

PRESIDENT BRODERICK. The next proposal on the calendar is Proposal No. 3, printer's No. 11.

The Chair recognizes Delegate Leonard

DELEGATE LEONARD. Mr. President, fellow delegates, last Thursday, just a week ago, we introduced Committee Proposal No. 3 pertaining to state debt. At that time we submitted our report, which was our explanation of the concepts which were embodied in that proposal. Hopefully, after you have all heard that and after having studied the proposal, there is not much more that I could say at this time as a way of explanation. I can read the one paragraph from our report which is the essence, really, of the proposal, which we as a committee, incidentally, recognize as a very technical proposal, but we in essence say that the committee proposal grants the General Assembly power to incur debt for projects set forth in the capital budget on its own initiative up to a limit determined by multiplying the average tax receipts for the past five years by a factor of one and one-half. And then at such time as the total debt outstanding exceeds this limit, or for projects which are not set forth in the capital budget, it then would be necessary to go to the public for a referendum to incur such debt.

I believe at this time, Mr. President, that in order for our committee to understand the concerns of the questions that they have, in order to understand the proposal, that we would be ready to be interrogated. At this time, Mr. President, I would invite those who have any questions to so state them and, with your permission, I will either answer them myself, the best I can, or designate that person on our committee who I think could answer it.

Thank you.

PRESIDENT BRODERICK. I want to compliment

Chairman Leonard because I do think this will help expedite the work of the Convention. If anyone is considering offering an amendment, he may discuss it, or it would even be better if it were discussed prior to the session, but we will proceed right here and now.

GRAY AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Gray.

DELEGATE GRAY. Mr. President, I have a very minor vocabulary suggestion in that I would like to propose an amendment to Section 4, page 2, lines 3 and 4, by striking out "riot, or civil disorder."

PRESIDENT BRODERICK. Perhaps we should have your amendment read.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE GRAY offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 4), page 2, lines 3 and 4, by striking out "riot, or civil disorder," and inserting: or other catastrophe

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Gray for a statement in connection with his amendment.

DELEGATE GRAY. What I would just hope, Mr. President, is that the delegates will understand the implications of this requested change, and I would rather not discuss it.

Thank you.

MOTION TO TABLE GRAY AMENDMENT

PRESIDENT BRODERICK. Does anyone wish to speak either for or against the amendment just offered by Delegate Gray? Does everyone have a copy of this amendment?

The Chair recognizes Delegate Tate. Are you speaking to the Gray amendment?

DELEGATE TATE. Yes I am, Mr. President.

Mr. President, in view of the procedure for interrogation which has just been established by the chairman of the standing committee, it would seem to me that it would be best to proceed with that interrogation and I, therefore, move to table Delegate Gray's amendment until such time as this question period may be concluded.

PRESIDENT BRODERICK. It has been moved by Delegate Tate and seconded by Delegate Scales that Delegate Gray's amendment be tabled.

On the question,

Will the Convention agree to the motion?

It was agreed to.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Scales.

DELEGATE SCALES. Mr. President, I do have certain questions I would like to direct to the chairman, Delegate Leonard, or to other member of his committee at his discretion.

First, Mr. President, I would like to say that I per-

sonally regard the article, Proposal No. 3, as an excellent article. I regard it as being rather well drafted. I regard it as approving a concept which in local government, and particularly in local finance, we have striven for very hard. I would like to think that the work we have done in local finance has had some influence upon the decisions made in Delegate Leonard's committee. I think perhaps the reverse may be true, that the fine work his committee has done has been very helpful to us in establishing our policies. It seems to me that there are two principal features of Committee Proposal No. 3 that are forward looking, which come to grips with bringing our financial articles into not only the 20th century, but also the 21st century, and I am speaking first of the problem of the whole concept of using a ratio for debt, the ratio proposed by this committee being one and one-half times a five-year annual average of revenue. We in local government and local finance felt it very important, Mr. President, to tie the borrowing power, whether we are talking about the State or whether we are talking about local communities, to tie that borrowing power into a revenue concept. Very frankly, we applaud the entire committee for taking this forward-looking step.

It also seems to me that another important feature of Committee Proposal No. 3 is the fact that it provides for fiscal responsibility and it gives the State the power and the right and the tools with which to plan ahead in arriving at its fiscal programs. I do have, personally and as a representative of various members of local government and others, certain questions and reservations concerning the article. My reservations, however, are not directed toward the basic concept and the basic plan which this committee has given to us. I have tried, as a member of the Local Finance Committee, to attend as many of the committee meetings of Delegates Leonard and Woodring as possible. One thing that I have drawn from those meetings is a feeling that perhaps the ratio itself should be further considered and further discussed on the floor. I would first ask Delegate Leonard to explain to the assembly the ratio concept, including the reason for using a ratio, the reason for tying it into revenue, to a revenue concept, and particularly as to whether any other figures other than one and one-half were considered by his committee, and why the figure of one and one-half was chosen by the committee as its recommendation?

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Thank you, Mr. President.

The concept of a ratio which was tied to revenue was to provide a moving debt limit that would move with the value of the dollar and the general size of the government. We felt that the size of the government can generally be measured by the tax revenues, in that whenever expenditures go up it is an automatic matter for taxes to have to go up, but we did not want to get locked into a situation where we would set a fixed dollar limit which would be on the value of the dollar today. We all agreed that the best thing was to have something that would be tied, in addition to the size of the government and the ability to pay, to the value of the dollar.

The committee did consider ratios other than one and one-half and, I believe, to best answer this question on the one and one-half, I will call on Delegate Whittum to discuss with the delegates the numbers that were used. I

can say for him before he starts, what an unbelievably difficult job it was to get numbers we could all rely on as being the correct numbers, but Delegate Whittum went along with the staff that gave him great assistance on this and spent many weekends checking and rechecking to be certain that at least we had the facts upon which to base our decisions.

PRESIDENT BRODERICK The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. Thank you, Mr. President. In striving to reach a formula which would be adequate for our purposes, we based it on three fundamental factors:

First, the previous history of the indebtedness of the State;

Secondly, the existing situation as it is today; and,

Thirdly, the projections of what will occur in the future to the best of our knowledge.

In doing this we realized that in order for a formula to be effective it must establish a ceiling in which the legislature can incur debt, a ceiling that will be neither too high nor too low. If it is too high, obviously, the entire formula is worthless; it does not accomplish anything. If the formula results in a ceiling that is too low, the effect is to restrict the State in the necessary capital investments it must make. So it was a difficult thing to arrive at a margin within which the legislature could operate. We recognize fully that we are projecting, but we are doing it to the best of our ability, using the figures and statistics supplied to us by the research staff and by the two departments most affected, which are the General State Authority and the Highway and Bridge Authority.

First of all, I would like to point out to you that this entire proposal, as far as the formula and limitations are concerned, applies only to debt in which the Commonwealth is obliged to repay this debt, either in the form of authority rentals or direct payments. It does not apply in any sense to obligations which are self-sustaining, such as the turnpike authority or the port authorities or the public school building authorities. These authorities have hundreds of millions of dollars of debt which are not included in any of our statistics. What we are really talking about is the actual Commonwealth direct obligations, the General State Authority and the Highway and Bridge Authority.

In arriving at the factor of one and one-half, we went back and tried to relate the outstanding debt in these three categories to the tax revenues that have been received over the past few years. In doing this we discovered that the ratio of debt in any one year as applied to tax revenues has ranged generally for the last five, six or seven years between the areas of 83 to 85 percent. I might add that our projections here are based on what we feel is the most conservative manner; it puts this formula probably in its worst light. For example, we are projecting an increase in debt far greater than has been experienced in the past.

Another point I would like to mention that I think is relevant here, is that the total debt outstanding at this point is approximately \$1,200,000,000. It has taken the State over two centuries to reach this point. However, in the next seven years the debt of this State is going to increase, to the best of our knowledge, to almost \$3,000,200,000, almost two and one-half times the outstanding debt that we have right now. This is an enormous increase.

The authorizations for this enormous increase have all been passed within the last year or two. In spite of this, the formula that we recommend of one and one-half times gives the legislature adequate leeway to incur this debt, to the best of our knowledge, projecting taxes based on Governor Shafer's budget message yesterday, and for the years after 1969, projecting increases of taxes at a rate which has actually been considerably less than our experience. The legislature should not exceed this ceiling at any time that we can see. This is fundamentally the basis or reason that we arrived at the number.

PRESIDENT BRODERICK The Chair has received only one amendment to Proposal No. 3, printer's No. 11. Are there any others who wish to offer amendments to Proposal No. 3, printer's No. 11? If so, I would appreciate if you would bring them up so that they could be prepared and distributed. Apparently, we only have the one and that is on the table.

The Chair recognizes Delegate Scales.

DELEGATE SCALES Thank you, Mr. President.

Mr. President, I wish to thank Delegate Leonard and Delegate Whittum for their explanation of this concept. I would like to ask a further question, if I may? It is my understanding that in committee there were four different ratios that were considered. It is my understanding that the one and one-half ratio which has been recommended by the committee was one ratio; another was one and three-quarters; another was two; and another was two and one-half. I wonder if either Delegate Leonard or Delegate Whittum would comment as to what groups or organizations had proposed those various figures and whether or not there was unanimity in the committee on one and one-half or whether there were substantial numbers who felt that the limit should be higher.

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. To the best of my knowledge, there were no proposals introduced with a ratio other than one and one-half. The one and one-half figure was the subcommittee's recommendation. We did discuss other ratios, but, to my knowledge, we never discussed the possibility of a figure of 2.5. We discussed very briefly, and passed it over rather rapidly, a figure of 2.0. As I recall, the standing committee's vote on a 1.5 ratio was 18 to 6. Since that was not the required majority we excluded a portion of the debt, the debt authorized for the conservation issues that has not yet been issued, \$520 million. Once we excluded that from within the formula, the vote for 1.5 was unanimous.

DELEGATE LEONARD. I would like to comment on that, Delegate Scales. There was a proposal not formally introduced, but that had been mentioned by several of our civic organizations, that a 2.5 ratio be used, but as Delegate Whittum pointed out, when that ratio was set forth, as I understood it, it included all debt, whether it be that which was previously authorized prior to now as yet not issued, whether or not it was going to be within the debt limit or not, but this was 2.5, and that was just discussed generally. The committee only voted on the 1.5 and 2.0.

DELEGATE SCALES. Delegate Leonard, would it be correct to say that if you used 15 percent of your revenues to retire debt that that would be approximately the same as a 2.5 ratio?

DELEGATE LEONARD. I do not know whether it may work out to be that now, but when you deal with a percentage of your income as the debt service, you then have the variable as to the term of bonds that you are dealing with and as to the interest rate in the particular money market in which the bonds were sold. We are dealing with a firm total of debt outstanding and we got away from the uncontrollable variables.

DELEGATE SCALES. I know the committee has done a great deal of work in preparing figures and attempting to project figures over the next five or six years so that we could understand where our borrowing power would be and where our anticipated actual debt would be three, four and five years from now if we accept the 1.5 ratio. I gathered from the meeting Wednesday night, which I attended with your committee, that there was some feeling that in 1972, by that time, with only a 1.5 ratio, we would be bumping our heads against the ceiling; that we would reach a point at or about that time, where this 1.5 ratio might be too confining; that the margin may be cut a little too thin. I wonder if you could comment on that?

DELEGATE LEONARD. At the meeting we had the other night, the fact that we had a good indication at one point that the debt ratio was just about up to the amount provided under this formula. However, I believe that as a result of the figures which Governor Shafer produced yesterday, that Delegate Whittum has recalculated and I think he will have some other numbers. Delegate Whittum, if you could bring these up—I assume you are only dealing with tax figures, not total revenues. Is that right?

DELEGATE WHITTUM. Yes, sir. Delegate Scales has referred to revenues of the State. I assume he is using the same context which we are, tax revenues only.

DELEGATE SCALES. Yes, that is correct. In 1967 the tax revenues of the State were \$1,572,000,000. We had originally tried to estimate the increase on this, using figures from the General State Authority who projected that the tax revenues might go up on an average of \$150 million a year. However, based on Governor Shafer's budget message yesterday, which predicts taxes for this current fiscal year increasing in excess of \$275 million, and for 1969, an increase in tax revenues of close to \$250 million, we have projected this. We know what the outstanding debt will be during those years and the formula limitation provides ample leeway. For example, in 1968 the outstanding debt will be \$1,800,000,000, and the formula would allow approximately \$2,260,000,000, or roughly 1.21.

I direct this question to either Delegate Leonard or Delegate Whittum. I am wondering if the concept which I agree with completely, by restricting the concept to 1.5 times as the ratio, whether that ratio provides enough flexibility for the future, or whether it is attempted to be brought too close to what we think will now happen. The thing I am concerned with is this: Back in 1874, obviously, they thought that a million-dollar debt limit was sufficient, and I suppose if someone had said at that time, let us make it \$50 million, there would have been cries of fiscal irresponsibility, and yet we can see within a fairly short time that even \$50 million would have been hopelessly inadequate. I am wondering whether this concept, by using only a 1.5 ratio, is broad enough at this time to take into account emergencies that might arise, whether it is broad enough to take into account developments that we have not even thought of at this time, and whether we

want to tie ourselves to a 1.5 ratio which, apparently, from what I understand from Delegate Leonard's remarks, by 1972, at least, will be very close to the actual anticipated debt at that time. I wonder if either of the gentlemen could comment on that.

DELEGATE LEONARD. Delegate Whittum will comment first and I will make a comment when he is through.

DELEGATE WHITTUM. To answer the latter part of your question first, our best projections show that in 1972 the net debt outstanding would be approximately 1.36 of your average tax revenues.

DELEGATE SCALES. 1.36, which would be then within 14 of the 1.5?

DELEGATE WHITTUM. That is correct, but I want to emphasize that we are trying to reflect this in the worst possible light. We are showing an increase in taxes, for example, after 1969 of only \$150 million a year. This is substantially below past experience.

DELEGATE SCALES. But I understand now, Delegate Whittum, if all the present authorized debt were actually used, we would be very close to our limit at this time?

DELEGATE WHITTUM. That is correct, but it is completely impossible for the authorities to incur all the authorized debt within one year. The present authorized debt of the Highway Authority, for example, I believe is around \$800 million, but it is inconceivable that they would incur this debt at this point. Their past experience has shown expenditures of around \$100 million a year. By the same token, the General State Authority has almost never spent \$200 million a year. The growth of their debt, for example, has been generally below \$100 million as has the Highway Authority, so that while we have an enormous amount of authorized debt at this point, these authorizations are going to take many years to implement.

DELEGATE SCALES. The critical point, you feel, will not occur then until the early 1970s?

DELEGATE WHITTUM. That is correct, if it is critical. We do not think it would be critical at that time.

DELEGATE LEONARD. I think what we are trying to do with this ratio and the whole concept here is to give to the General Assembly and, of course, the administration some latitude within which they can effectively plan and know that they are going to be able to have the money providing that the bond market will accept it. If we had to go to a vote every time we wanted money, they could never do any kind of planning because they would not know when the public was going to turn them down and they would have to go to the public maybe six or eight years before they would actually get the project under way. But with this ratio that we have we are trying to make it possible for the General Assembly to operate within it. If they have to go outside the limit, they can go to the public, and then they would go to the public, therefore, for any item that would not be in the capital budget under any circumstances. They would also go to the public if they were above this limit. But I do think we are trying to make the trip to the public something special and not a routine matter, so that when the public does have the opportunity to vote on something it will be something that they will thoroughly consider and it will not become a routine situation.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. I want to ask either Delegate

Leonard or Delegate Whittum a simple question to make sure I understand it.

If they do have to go to the public and the public does approve an additional amount of indebtedness and in later years the indebtedness gets below the 15 factor, does then that amount the public has approved become part of it?

DELEGATE LEONARD. The way this is written the amount that the public approves is a part of the total debt which is measured against the debt limit.

DELEGATE SCRANTON. May I ask you one other question? In Section G you have two caveats here. One is that in any event the maximum maturity for any debt of the Commonwealth shall not be in excess of 40 years; the other is that all debt except tax anticipation notes shall be payable in periodic installments commencing in a period of not more than one-tenth the term of the debt. Could I have the reasons for both of these?

DELEGATE LEONARD. Mr. Whittum, do you want to answer this first?

DELEGATE WHITTUM. In paragraph (g) you will note that the maximum length of time is confined to the useful life of the project or 40 years, whichever is less. We are shooting here really for the useful life concept more than we are for 40 years because we felt that any capital project should be amortized during the period in which it is useful and productive. However, there are certain types of capital projects where it is conceivable the useful life would be considerably longer than 40 years, for example, a reservoir or possibly a tunnel or something of that type. The reason we felt that some maximum limitation of 40 years should be put in here is that to finance a project of that type over 100 years would be an exorbitant cost in interest to the Commonwealth. Once you get beyond 40 years, the interest portion of the amortization is exorbitant, in the committee's opinion.

DELEGATE SCRANTON. Yes, under today's theory of financing, but as you know there are new and very interesting concepts forthcoming on financing of long term obligations of major importance. Already the financial community has changed its mind to a degree, not to a major degree yet, but I think that in the next 100 years we are going to see all kinds of changes of financial concept. Although I do not intend to raise a major point about it, I think it is unfortunate to add these caveats which are of today's financing when you have the major point here, which is the estimated useful life and I could not agree more with that.

DELEGATE WHITTUM. As far as the second part of your question, the commencement of installments, we felt that we would want the Commonwealth to pay these obligations periodically, not necessarily in equal installments, but at least in periodic installments over the life of the project. This is why we set a maximum commencement of amortization of four years in the case of a 40-year bond.

DELEGATE LEONARD. On that last one I will comment. We were concerned that there may be a time when there is debt limit available but they wanted to spend the revenues for some other current project rather than to pay debt service. Therefore, we did not want to permit bonds to be sold which would not have to have anything paid on the principal for a period of 30 or 40 years. That is what it attempted to say.

PRESIDENT BRODERICK. You are at the microphone, Delegate Manderino. Do you have a question?

DELEGATE MANDERINO. Yes, I have a question on that same section since we are on it, Delegate Leonard. It is the last sentence in Section (g). As you have explained the intent is to begin payment within a period of not more than one-tenth of the term of the debt, I have no quarrel with the intent there. I am wondering about the interpretation as to the one-tenth of the term of the debt. I assume that was intended to mean the longest term of the last installment payment on the debt, so that if it were a 40-year bond issue, you are talking about within a four-year period?

DELEGATE LEONARD. Yes, with a 40-year bond issue, the intent of this wording—and I will be the first to agree that it is not the clearest, but the intent of this wording—was that on a 40-year bond issue the first installment, first payment on principal, shall be made at no later time than four years from the date of issue.

DELEGATE MANDERINO. Right. My concern is, just to bring it to attention, in terms of what the interpretation might be later, that the term of the debt, when you have a 40-year issue, frequently or sometimes, certain bonds will mature earlier so that you will have certain bonds in the issue that will mature and be redeemed within 10 years or 20 years or 30 years and the final bonds within 40. I think we should be careful that no interpretation should be given that if part of the principal amount of the debt were redeemable within a 10- or 20-year period even though the final series might be in 40, that the one-tenth period could apply to each portion of the debt.

DELEGATE LEONARD. We stayed away from using the term "serial bonds" in that serial bonds happen to be a current method of financing, and it may not be, as Governor Scranton mentioned before, the kind of financing for some later date.

We do not care whether it is serial bonds, term bonds or whatever kind of bonds you call it, there has to be a payment, whether it be a serial payment or whether it be some other kind of a payment on principals within this three or four year period from the date of issue.

DELEGATE MANDERINO. Yes, but I am thinking sometimes, for good financing practice, it is necessary although not obligatory to set up an issue so that certain serial bonds are due within 10 years, even though the total issue is called a 40-year issue, as an example, so that in a 10-year period a portion of the debt, as distinguished from the interest, is due and payable and redeemable as far as the bonds are concerned. Could this be interpreted as not more than one-tenth of the term of the debt as the short-period, 10-year serial bond so that we are reducing it to a one-year period even though it is considered a 40-year issue, because your long-term bonds, that portion of the debt, is only 40 years?

DELEGATE LEONARD. If I understand your question, you are assuming that there is a 40-year bond issue?

DELEGATE MANDERINO. What is commonly called a 40-year issue.

DELEGATE LEONARD. And in that there are four serials?

DELEGATE MANDERINO. Yes.

DELEGATE LEONARD. Ten, 20, 30. What this is saying is that there would have to be at least 10 serials. There cannot be four serials. That is the intent of this. You could not have a four-serial payment bond and then ask to pay just one-tenth of the first 10 years. This is meant to be the first payment on the total issue. It must

be within one-tenth of the ultimate term. That is the intent.

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton.

DELEGATE MORTON. If I understand subparagraph (e) which relates to capital improvements in the 1.5 ratio, that only applies to capital improvements in other debt. There is no provision here whereby the State can incur debt for general operating expenses.

DELEGATE LEONARD. Debt can only be incurred if it is specified in the capital budget.

DELEGATE MORTON. And the 1.5 ratio does not apply, for example, on general operating procedures that if the State went into the hole—

DELEGATE LEONARD. The only way the State could incur an obligation to fund a deficiency which is unforeseeable, under this plan, would be to go to the public. If they had to wait that long, there would be trouble. The whole concept of this thing is that there shall not be any deficit.

DELEGATE MORTON. Now my question, to be specific, is this: Suppose you anticipate that the sales tax will produce \$100 million in the next fiscal year and let us say in April, May and June there is a large steel strike in the anticipation and we only get \$75 million and you have made appropriations for \$100 million, how can you recover the other \$25 million?

DELEGATE LEONARD. You do have what we call, "tax anticipation notes."

DELEGATE MORTON. Am I correct in understanding your proposal that the tax anticipation notes must be paid in the year in which they are issued, in the same fiscal year?

DELEGATE LEONARD. Yes.

DELEGATE MORTON. So that under that question I gave you, if you add the least of the tax anticipation notes, they would still have to be paid by the end of July?

DELEGATE LEONARD. Yes, and the money would only then be available to borrow from other funds of the Commonwealth, which is not an uncommon thing to do, that they borrow from themselves.

DELEGATE MORTON. Two other questions: On line 17, page 3, where you talk about "excluding charges made to the public for the use of assets financed when so determined by the Auditor General," is there any reason to have a determination or does this take whether it is wholly or partly paid by public charges?

DELEGATE LEONARD. The intent here again is that we are excluding debt from limitation. It does not have to go to the public and it is excluded from the computation which is matched against the formula, but at some point somebody has to say that this would be a self-supporting bond. What we have said is that the Auditor General should say that this is a self-supporting bond; somebody has to say it. We did not think that the legislative body would be the one to make that determination and we did not think that the executive or the administrative branch of government should make a determination of something that they were proposing as self-supporting. We are saying that someone who understands numbers and who is taking an independent objective look will advise whether or not this obligation would be, in effect, self-supporting.

DELEGATE MORTON. As I read your language though,

"the charges made to the public for use of the assets financed," even if the charges to the public were only five per cent of the total costs, in other words, 95 per cent is not self-supporting beyond which the Auditor General could exempt it.

DELEGATE LEONARD. I believe the intent of this is that it should be fully self-supporting.

PRESIDENT BRODERICK. The Chair recognizes Delegate Rea.

DELEGATE REA. Chairman Leonard, as I read your proposal, the legislature can incur debt for capital improvements without approval by the public, a capital improvement up to that limitation, and capital improvements, I assume, are things of concrete and steel, whereas, if the legislature wants to incur debt for nonmaterial things, such as conservation or education, they must go to the public. Would you tell me why you have made a distinction between things of steel and things which you call capital improvements and permit the legislature to borrow without voter approval and yet the things that are most meaningful, in my judgment, to the people, such as education and conservation, you force the legislature to go to the people? I do not see a valid distinction between capital improvements and noncapital improvements.

DELEGATE LEONARD. I will answer that this way: In conservation, I believe when you are talking about land that that would fall within capital improvements. That is generally considered to be capital budget, land acquisition, right-of-way, and so forth. When you get to education, if you are talking about the buildings themselves, yes, but if you are talking about the financing of education, this is an operating fund responsibility and it clearly is not intended to be supportable by debt. We talk about balanced budgets, and as the Governor's budget came out yesterday said that 54-point-some per cent of his general fund budget goes toward education. There is no intention, and it is clear that there is no intention, that the government should be able to borrow money to pay for what is generally considered to be operating expense and it should be paid for out of taxes, not by borrowed money. If the legislature wants to go into some major educational program of some kind, then we feel very strongly that this should be something sent to the public for their approval, because it is different than anything else that we have ever done.

PRESIDENT BRODERICK. The Chair recognizes Delegate Keller.

DELEGATE M. V. KELLER. Mr. President, I would like to ask Delegate Leonard a question, but first I would like to make a statement.

We, in the legislature, have created a Highway Commission whose duty it is to at all times have a six-year program of highway construction. In 1963 this commission was set up. In 1965 they came out with a six-year program and with that program they asked the legislature for permission, or the authority, to request the Highway and Bridge Authority to borrow \$980 million to finance that program. This was granted. Since 1965, I believe, something in the neighborhood of \$300 million dollars of that has already been borrowed.

My question is this: Since it is the responsibility of the Highway Commission to keep a highway program in operation, every year or every two years we come out with an additional program, and this program cannot be put

into operation unless the Highway Department knows that it is going to have the money to build these roads, bridges, and what have you. My question is: The program for 1971-72, when the money will be needed, is well on its way, however, the Highway Department does not know at this time whether or not it is going to be able to borrow or have the money available. It is going to ask the legislature, I believe, this year for permission to incur another \$300 million in debt. Will this \$300 million be calculated against the 1.5 percent this year or not until 1971-72?

DELEGATE LEONARD. I will answer your last question first. The amount that is authorized this year does not have any relationship and is not in computation with the limit. This limit, incidentally, is based on net debt outstanding, which means the money that is out and on which we are paying interest and is not unauthorized.

Getting back to your other question, as to whether or not this inhibits planning, we think not. As a matter of fact, the idea of it is that we hope that it will improve and make more meaningful the planning.

In Proposal No. 4, on which you heard the report—you have a copy of it on your desks—we talk about a financial plan. This financial plan will set forth, in effect, priorities of not only operating expenditures, but we are now talking about the capital improvements. This will set forth the capital improvements for five years and it certainly could be 10 years; we say at least five years in our Proposal No. 4. In there the administration will have to plan just when they intend each project to be under construction and they will have to plan just when they feel the money will be required. By taking this and matching it against the projection of the debt limit, they should be able to plan very well, but it will certainly require them to measure and set priorities as between road construction and any other kind of capital improvement. I think that is what we are trying to do and, I believe, when the Governor gave his budget message yesterday he alluded again to the establishment of priorities. This is built into Proposal No. 4 to permit this.

PRESIDENT BRODERICK. The Chair recognizes Delegate Keller.

DELEGATE M. V. KELLER. Do I understand correctly then that as a member of the Highway Commission, we will be assured of this money provided this legislature passes the necessary legislation?

DELEGATE LEONARD. Well, I am trying to think how this would work. If the Highway Commission has a plan of constructing roads over a period of years, it will go into the financial plan. This financial plan must be approved by the General Assembly. This does not mean it is a law, but it is certainly a commitment to all those who have submitted projects listed in there, that this is what they have in mind and what they will plan to do. They will then spend the money in the order in which they have set forth in such a financial plan. Therefore, I think that you can be as assured as possible, if it gets into the plan and if the plan is approved, and I cannot conceive of the plan would be approved unless the General Assembly has taken a look at the formula to see that they are going to have money available, because they are going to want to balance it together, the financial plan, which would be the requirements against the availability of funds through the sale of bonds or what they may do on operational funds. I would say you would be just as assured as

you could possibly be, of course, depending on what the bond market is at the time. As far as law is concerned and the operation of government, I would say you would be as assured as can be, yes.

PRESIDENT BRODERICK. The Chair recognizes Delegate Barry.

DELEGATE BARRY. Mr. President, I would like to ask Delegate Leonard a question about subparagraph (h) on page 3 of the proposal. That provides that debt shall include, in effect, lease rentals and other payments made by the Commonwealth under the agreements of lease. The question I want to ask Mr. Leonard is, was it your intention if the 1.5 figure is reached in the state debt, that this would preclude the state authorities from financing by the authority device their bond issues and repaying them by lease rentals without going to the electorate?

DELEGATE LEONARD. The intent of (h) is to say that all the indebtedness now issued by the General State Authority and the State Highway and Bridge Authority shall be included as debt of the Commonwealth. Henceforth, any indebtedness that is repaid by way of a lease rental with the Commonwealth, and this is the only way that authority debt is being repaid, as I understand it, and any debt created by the General State Authority or the State Highway and Bridge Authority at a later date, would be included in the debt computation. The effect of this is that it does not eliminate the authorities, but it makes them no longer necessary and probably no longer desirable, at least from the financing viewpoint.

DELEGATE BARRY. As I understand the proposal, there can be borrowing without going directly up to 1.5 percent of debt. Now, if that 1.5 percent is reached, then the authority device cannot be used to go beyond that without going to the electorate? Is that correct?

DELEGATE LEONARD. That is correct. Whatever the authority does is the same as is being done by the State. The authority has no meaning any more.

DELEGATE BARRY. In other words, it cannot be used for any purpose after this? It precludes them from obtaining favorable financing because they cannot underwrite the bonds by the use of the lease rentals?

DELEGATE LEONARD. Well, it does not stop the authority from doing it that way, but if they did pledge the lease rentals from the Commonwealth as the funds to be used to repay the authority debt, such debt would fall within the debt of the Commonwealth. As we go on to section (i), you will find that debt, no matter whether it is authority or other debt, must be paid for if there is any default from the revenues of the Commonwealth and, in effect, the authority debt becomes general obligation debt. Under this proposal, authority debt would, therefore, be a better security than it is today.

DELEGATE BARRY. But it could not be used once this 1.5 percent figure is reached. This, in effect, kills the authority device completely as far as state financing is concerned.

DELEGATE LEONARD. That is correct.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Delegate Leonard, directing your attention to the language of section 4, lines 15 and 16 on page 1, and sub-Sections (c) and (d) which you have now amended to take out the words "be authorized

to," is it the intention of the committee to permit debt to be incurred under (c) and (d) without any legislative authority?

DELEGATE LEONARD. Yes, sir.

DELEGATE SHAPIRO. Is that a change from the existing law?

DELEGATE LEONARD. No, I understand that it is substantially the same now; that the tax anticipation notes are, in effect, short-term borrowings to be repaid out of current year's revenue and that it can be done now without any authority from the legislature. It is done by the Governor, Treasurer and, I believe, Auditor General. So this is the same, but it is building it in to get one total-debt picture. And the same with the refunding, which is subsection (d). We feel this is something that should not be legislative because refunding is a question of timing, and you refund when the market is right and you sometimes cannot wait for it to get through the legislature. So, therefore, the controls are built in here that the Governor and two fiscal officers, when they agree that there should be refunding, then we can assume that it is for the good of the Commonwealth.

DELEGATE SHAPIRO. I have a question now under (h). You answered a previous question under (h) by indicating, I believe, that once debt has been incurred under subparagraph (f) with the referendum of the public, this would then be included in computing the outstanding debt under (h) and if that put the outstanding debt under (h) above the 1.5 ratio, no borrowing could thereafter be done without apparently the approval of the public at a referendum until the total debt, including that approved by the public, fell below the 1.5 ratio.

DELEGATE LEONARD. That is the way this reads, yes. I am not sure, I understand where (h) fits into it, but certainly for debt issues under (f) which is by way of referendum, the General Assembly cannot then issue debt for capital projects if the total debt is in excess of the formula. And total debt includes that which is approved by referendum except we have excluded that debt which is created under Section 4 (b). We want to keep coming back to remind us it has been excluded. Any debt that is incurred to suppress insurrection, to rehabilitate areas affected by disaster, to implement the unissued authority, any debt for that is absolutely outside of any computation and they are on their own.

DELEGATE SHAPIRO. Mr. President, my question is fully answered then. If I understand this proposal, (h) defines debt for the purpose of computing whether or not the debt limit has been reached or exceeded. Is that correct?

DELEGATE LEONARD. No. In determining the debt against which the formula is to be matched that debt created under (b) is excluded. This is absolutely and unequivocally the intention. If the words do not say that, Style and Drafting will make sure that it does.

DELEGATE SHAPIRO. I think it does say that. What I am confused about is—and I am sorry that I am delaying things, but I would like to get this clarified—it would appear to me that once the public has approved a debt which increases the total debt, with the exclusions that you have indicated, above the 1.5 ratio, it would appear to me then that under your proposal no further debt could be incurred, with those two exceptions, until the total debt, including that which was incurred with the approval of the public, has been reduced below the ratio. Is that the way it is intended?

DELEGATE LEONARD. No. No further debt can be issued by the General Assembly alone. In other words, once you get over the ratio and you go to the public, you can go to the public every year, and the ratio can get to be 10 times.

DELEGATE SHAPIRO. One final question—and this may be just pointing to something I think is an error, but it may be an error of significance—

In Section 3 you are enumerating existing sections which are hereby repealed, and one of those enumerated is Section 4, which is already amended by Section 1 of your proposal. My only question is: Is Section 4 inadvertently in there where it should be or was it intended to include some other number other than four? You have already, by Section 1 of this proposal, amended Section 4 to read as set forth in the proposal. There is no need, as I see it, to do that.

DELEGATE LEONARD. We will check that. We know that four is to be excluded. From looking at it quickly, I cannot see anything else, but that will be checked.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baner.

DELEGATE BANES. Mr. President, I address a question or two to sub-section (c) on the tax anticipation notes. I believe the use of money received by the selling of tax anticipation notes is to generally cover salaries and appropriations which are due and payable.

I know that on the local government level we frequently have serious problems resulting from the fact that the state revenues may not have been sufficient to make reimbursements to which local municipalities may be entitled. The appropriations which are delayed thereupon result in a burden to local government in that they have to make borrowings pending receipt of the state funds. I am wondering if there is sufficient flexibility in sub-section (e) then by limiting it to the borrowings which must be repaid in that fiscal year. On the local municipal level where borrowings are made of this nature, they are payable out of the subsequent year's revenues and are budgeted on that basis. You have already advised the body that if there is insufficient money to pay these tax anticipation notes, you assume that there are other funds available from which they would be paid.

What are some of these funds? Are they identifiable from which this type of an issue can be paid, if there is insufficient tax revenue to repay the notes?

DELEGATE LEONARD. I understand that the motor license fund is used from time to time. The general fund could borrow from there. As far as I know, the other trustee funds, if there is going to be a bond, may be available to borrow.

What is attempted here is that we want to make it crystal clear that there could be no borrowing to make up any deficit. This was the intent.

What you are raising is the question: Suppose there really was a deficit, what do you do?

DELEGATE BANES. That is correct.

DELEGATE LEONARD. I gave the answer that we feel it would be sufficient. Whether or not you have anything further to say on that or whether or not it is an adequate answer, I do not know, but that is one of the intents. Absolutely, there shall be no borrowing to cover deficiencies.

DELEGATE BANES. Did the committee consider prob-

lems created on the local government level when appropriations which are due them are not available?

DELEGATE LEONARD. The committee considered having other borrowing powers in here. It was generally felt there are sufficient funds. This is very frank. There are sufficient funds that can be postponed, payments can be postponed a month by the State, so that even if they do have a deficit they could postpone it and then get into tax anticipation notes.

DELEGATE BANES. Of course, this does not cure the problems which have already been created on the local level, and I am not certain that the committee adequately addressed itself to this problem of delayed appropriations to local governments, who, of course, have serious problems then in financing their own activities, payment of teachers and others.

DELEGATE LEONARD. What you are talking about is really a question of a week or two weeks. I think Delegate Whittum wanted to make a comment on this.

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. Yes, I would like to say that this subsection (c) really does not change in any way the present practice. As the State is presently constituted, they can borrow on tax anticipation notes which must mature within the fiscal year. They have no other method of raising funds for operating deficiencies.

The purpose of this proposal, as well as Proposal No. 4, is to force a balanced budget.

DELEGATE BANES. I am satisfied.

On the bottom of page 3, I think there is a misspelling, either a printer's error or a typing error in the word "obligations." I would just like to call it to the attention of the Chair.

PRESIDENT BRODERICK. The Chair recognizes Delegate Buck.

DELEGATE BUCK. Another question, Delegate Leonard. Directing your attention to Section 4, subsection (e), line 18, what is the significance of the use of the word "deposited"? "The average annual tax receipts," are not all tax receipts deposited?

DELEGATE LEONARD. I can visualize where they may not be, but this is a word that I do not recall how it got in there.

DELEGATE WHITTUM. May I answer the question? Delegate Buck, this was put in intentionally to make it clearer for the purpose of the Auditor General in certifying the amount of average taxes. There are tax receipts which are anticipated; there are tax receipts which are collected; but neither of them is necessarily deposited at any one time. However, it is easier to go to the bank statements to see the specific amount which was deposited and this would make it simpler for the Auditor General to certify that the average tax collections for the last five years have been "X" dollars.

Thank you very much.

DELEGATE LEONARD. This says "deposited for" and I think "deposited in" would cover that a little better.

PRESIDENT BRODERICK. The Chair recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, may I say to Delegate Leonard that, as a former Deputy State Treasurer, all taxes taken up on the books of the Common-

wealth for the fiscal year are deposited in the fiscal year, so the word "deposited" has no special significance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Roberts.

DELEGATE ROBERTS. Mr. President, page 2, subsection (b), you say: "Debt may be incurred without limit to suppress insurrection, rehabilitate areas affected by disaster, riot," and so forth, and then on page 4, section 6, "The Commonwealth shall not assume the debt," and so forth, and then you list, "to enable the State to repel invasions, suppress domestic insurrection, defend itself in time of war," and so forth.

I was wondering why there is a difference in this progression of language, if you had a reason?

DELEGATE LEONARD. Yes. We did not change the wording of the existing Sections 6 and 9. This was discussed to make them comparable and we thought that, as a committee, we would not insert in the Constitution anything that did not assert anything. If Style and Drafting want to change it, that is their prerogative.

PRESIDENT BRODERICK. The Chair recognizes Delegate Huggins.

DELEGATE HUGGINS. I have a question in relation to something which Delegate Leonard has said. He said that financing of education is generally considered to be an operating cost and not an investment. What if in the future, and perhaps the not too distant future, the general conception would change and the investment in developing people would be considered as a capital investment that can be financed out of debt? Would this change your thinking?

Before you answer the question I want to point out that the legislature of the State of Illinois in May of 1967 passed a bill permitting school districts to sell bonds to finance the growing cost of education, and that Cook County in Chicago in July of 1967 floated a \$76,000-bond issue for this purpose, with the bonds to be repaid from future tax receipts.

Why should Pennsylvania be excluded from financing human development if, in the future, it should be found that the only feasible way properly to finance quality education would be on an investment basis? We are supposed to be writing a Constitution today for future needs and not necessarily tied to past concepts.

Could you answer this?

DELEGATE LEONARD. Yes. First, I say that I do not believe that I said that money spent for education is not an investment; I would like to get that clear.

We have not defined the term "capital improvement" and what goes into a capital budget; that is wide open. If it is ever determined that investment in education is a capital improvement, then it fits within this. But under any set of circumstances, we are certainly not precluded from borrowing money for educational purposes. It just goes to the voters, not as an amendment to the Constitution, which would be required now, but it would go on the basis that the legislature would have to approve it once and it would go to the public once on a straight referendum.

DELEGATE HUGGINS. In other words, you are saying that actually the flexibility to determine what would be a capital investment would be . . .

DELEGATE LEONARD. It is there. As a matter of fact, it was considered in committee whether or not we

should be more specific with the term "capital improvement" and it was clearly decided to leave it in the general term and not to spell it out. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Sebastian.

DELEGATE SEBASTIAN. Mr. President, I should like to ask Delegate Leonard two questions with respect to subparagraph (e) on page 2.

The first is whether you can give us a layman explanation as to the effect of changing this 1.5 ratio to 2.5? Would that result in a reclassification of the bonds or a higher interest rate? The reason I ask that question is that if we could have the higher, better flexibility of 2.5 without any deleterious consequences, would it not be more helpful?

DELEGATE LEONARD. I do not think it would have any effect on the bond market, except for the fact that it may put Commonwealth bonds out too fast. If it is too high, it may encourage the General Assembly and the administration, whoever it may be, to incur capital debt very quickly. In that way, it may affect the bond market by a question of supply and demand.

Of course, the effect would be, if you go to 2.5, you would have changes, very substantial, out of the debt limit in relationship to the debt that is now existing that it just does not seem to make any kind of sense. You can only spend money so fast, and to give a complete open end is not realistic and not in relationship to the level of expenditures that the Commonwealth has been accustomed to, which is planned for the next six years and of which we are aware. To give them some figure way out, that is a little bit ridiculous, we felt.

DELEGATE SEBASTIAN. My other question is on the use of the average for the previous five years. Would you not get a better reading on the inflationary tendencies, if you made that average based on the previous three years?

DELEGATE LEONARD. I would say this is a question of judgment for the Convention to decide.

DELEGATE SEBASTIAN. What is your opinion?

DELEGATE LEONARD. My personal opinion is that—and I only speak personally and not for the committee. We did not discuss it too much, but my personal opinion is that three years would be better, yes. But I do not think that is important.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scales.

DELEGATE SCALES. Delegate Leonard, in connection with the last few questions from Delegate Sebastian, as I understand it, when the committee first decided upon a ratio of 1.5, the committee had assumed that the present five-year annual average was at a certain level which later turned out to be incorrect.

As I understand it, Delegate Whittum, through a great deal of hard work and careful research, discovered that actually the present basis, the present debt, was substantially higher. But then when the committee came to reconsider, they did not raise the 1.5 ratio even though the original figures on which that ratio was based were in error.

I wonder if there could be some comment on that in line with this idea of more flexibility.

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. Yes, the committee originally

reviewed the figures relating the outstanding debt to that year's tax receipts. On the basis of that ratio, a one to one year, that outstanding debt related to that year's taxes, we found that over the last five to seven years the ratio ranged between 60 and 70 percent.

At the time the committee discussed this, we did not have available to us sufficient years' tax receipts to calculate the five-year average. When we got these numbers we related each year's outstanding debt to the five-year average and, as I said earlier today, it had the effect of showing that for the last six or seven years the debt outstanding has ranged between 83, 86 percent, or thereabouts, of outstanding debt. The committee, as I understand it, felt that this was still an adequate formula.

DELEGATE SCALES. Mr. President, if I may address a further question to Delegate Leonard: It seems to me, Delegate Leonard, that there are at least three basic ways of providing more flexibility to the article. One way would be to increase the ratio above the 1.5 ratio which the committee now recommends.

A second means of providing flexibility would be to take out of debt certain items which are now in the debt limit, such as referendum debt.

A third way of providing more flexibility would be to change somewhat the concept of tax revenue as the basis for the borrowing power by perhaps adding other items to the tax revenue.

If I may start with the last of those possibilities, the idea of adding other items to tax revenue to provide more flexibility, I am concerned that over the next five to 10 years, certainly over the next 20 years, we may find ourselves in a position where we are receiving money from the Federal Government in a much different way and in much larger proportions than we are now receiving funds. I am wondering whether the committee sees any consideration to including grants from the Federal Government within the debt-limitation base, within the idea of revenue, by adding those grants to tax revenue.

DELEGATE WHITTUM. We felt that the base must be confined to taxes only, since this is the one source over which the State has complete control. It does not have complete control over receipts from the Federal Government. It cannot plan precisely, completely and thoroughly as to what it is going to receive from the Federal Government. There are many times that the Federal Government is obligated under appropriations to supply funds to the State, but for problems on the national level these appropriations are delayed. We felt that the only realistic relationship of debt was to confine it exclusively to tax receipts.

There are other receipts that the Commonwealth receives in the form of fees and licenses which you could say might belong in here, and we felt that to put them in would just further confuse the issue. There is nothing simpler than using the words "tax receipts." If you include other receipts of the Commonwealth, we are afraid that it will have a detrimental effect on planning because these cannot be controlled as well as taxes.

DELEGATE SCALES. The reason I asked the question, Delegate Whittum, was because we started off in Local Finance with the concept of tax revenues, but we ended up with the idea of revenues without using the word "tax" as a limitation permitting the legislature to then define revenue. Project 70 funds then could be outside the debt limit base, but other types of refunding for money lost

through tax exemptions, and so forth, could be within the debt limit base. I am wondering if your answer would be the same if the Federal grants were unrestricted grants as opposed to the restrictive grants with which we are more familiar.

DELEGATE WHITTUM. My answer would be the same. I think the formula should remain based solely on tax receipts for the reasons that I gave. One of the things that this entire proposal induces is planning on the part of the State, and when the State cannot rely utterly on federal grants and the time of their receipt, it would have a harmful effect on this formula.

DELEGATE LEONARD. I would add this, if I may, that the full faith and credit of the State is based on the fact that they have the power to tax. If the bonds are supported by the full faith and credit of the Commonwealth, the one certain source that they have is the power to tax. With a Federal unrestricted grant, we just do not know when they may be taken away from us. They may be taken away from us by the Congress, however, we know taxes are up to us, and when the State is behind it that is the one thing they control. That is the reason that was used rather than total revenues or anything else.

PRESIDENT BRODERICK. Delegates Scales, would you yield for a question by Delegate Goldman?

DELEGATE SCALES. I would be happy to.

DELEGATE GOLDMAN. Thank you. Several proposals were introduced from the floor, Delegate Leonard, none of them by myself and I just wondered how the committee felt in regard to the proposition that every legislature in submitting an appropriation, or in passing any bill which had to do with the expenditures of money would have to have a price tag on it. Was that considered by your committee in lieu of the restrictions you have placed on the expenditures that can be made?

DELEGATE LEONARD. It is clearly considered and it is taken care of in Proposal No. 4, and this ties into that in that it can only authorize debt if it is within the capital budget.

DELEGATE GOLDMAN. Have you provided for each legislative bill to be tagged with a price on it?

DELEGATE LEONARD. When we get to Proposal No. 4, I think we can discuss that then.

DELEGATE GOLDMAN. All right.

PRESIDENT BRODERICK. The Chair recognizes Delegate Barry.

DELEGATE BARRY. I would like to ask Delegate Leonard another question, Mr. President.

Is there any possibility that the 1.5 percent figure will be reached in the Commonwealth debt and thereafter the Commonwealth would be forced to go to the electorate every time it wants to increase its capital expenditures?

DELEGATE LEONARD. That possibility would exist, yes.

DELEGATE BARRY. Do you not think then it is a mistake to preclude the use of the authority device as in subparagraph (h), on page 3, to make it impossible for lease rentals to be included in debt limitation?

DELEGATE LEONARD. If we do that we may as well forget this section and go back to where we are today. The limitation is a flexible limitation and under normal circumstances that debt limit will be increasing annually because as the population grows, even assuming no increase or decrease in the value of the dollar, we should

have greater tax revenues in the Commonwealth, and as the tax revenues increase we will have a greater debt limit.

DELEGATE BARRY. I understand that, but you still say there is a real or even remote possibility that that figure will be met despite these factors you mention.

DELEGATE LEONARD. If the Commonwealth goes out and incurs debt too rapidly, certainly, it would be a reality that they could reach that limit.

DELEGATE BARRY. You did want to put a specific limitation, maybe not \$1 million as in the 1873 Constitution, but something that you consider more reasonable as of now?

DELEGATE LEONARD. We clearly wanted to establish an area within which the General Assembly and the government could plan and could incur debt without going to the people. We clearly meant to do that, and then above that they would have to go to the people. Right now as it stands, of course, with the authorities as they are, the people never have to be gone to for capital programs. The General State Authority could spend \$10 billion right away and we would have no limit whatsoever.

DELEGATE BARRY. You clearly intend to establish a limit?

DELEGATE LEONARD. That is right.

DELEGATE BARRY. I want to establish a limit. The sole question is whether 1.5 per cent is reasonable enough or not.

DELEGATE LEONARD. I think that is the judgment of the Convention.

DELEGATE BARRY. I think Mr. Scales asked you a question at one time, are there any groups who recommend this 1.5 percent figure?

DELEGATE LEONARD. No, there were no groups that recommended this 1.5 percent figure. As far as I know, there were no groups that recommended this particular formula.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Mr. President, I would like to address further inquiry to the question of the decision to exclude the licenses and revenues from the tax receipts that are used to determine the basis for the formula. The State controls the collection of licenses and fees in the same way that it does taxes, does it not.

DELEGATE LEONARD. Yes.

DELEGATE BALDUS. Then why should it be treated differently?

DELEGATE LEONARD. This was the feeling of the committee.

DELEGATE BALDUS. The motor license fund budget for 1967 indicates that the actual tax revenues of that fund for the year 1965-66 were \$253 million, and that the motor licenses and fees into that same fund were \$104 million. Is it correct that if the motor licenses and fees were included, that that would increase the amount that could be borrowed by almost 50 per cent in that fund?

DELEGATE LEONARD. Let me make this clear, that we do not talk about borrowing by that fund. The borrowing is by the Commonwealth, the repayment of it may be by that fund. So, therefore, highway borrowing, or borrowing for the purposes of highways and bridges, the borrowing is done by the Commonwealth, and the

amount that can be borrowed for highways and bridges is only limited as within the total debt limit and as to the priority that it has with respect to or in relation to the other capital improvements that the administration and the General Assembly want to have performed.

DELEGATE BALDUS. Do you think there is a proper basis for excluding licenses and fees, which are no different from taxes, from this formula when they amount to half the total amount of taxes that were received by the license fund?

DELEGATE LEONARD. I believe the committee made the decision that it wanted to stick just with the taxes and not to include licenses and fees.

DELEGATE BALDUS. May I ask another question?

The calculations which were made as to future receipts, were they based on estimates of increased taxation or merely increased revenue from present taxes?

DELEGATE LEONARD. Increased revenue from present taxes.

DELEGATE BALDUS. Were the estimates of future revenues based on an estimated continuation of the present prosperity we have had for the last five years?

DELEGATE LEONARD. Actually the estimates which were used were based on not a question of continued prosperity, but on a low, very conservative low, figure that would be normal since most of our income comes from the sales tax, the normal growth in retail business, and so forth. But it is felt to be conservative.

DELEGATE BALDUS. If there were though a substantial decline in tax revenues through economic conditions, changes in the economic situation in the United States, this would substantially reduce the tax revenue. Is that correct?

DELEGATE LEONARD. I want to allow Delegate Whittum to answer that, since he has worked on these figures for many, many hours.

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. I think the answer to the question relates to a previous question we had as to why we selected a five-year average rather than a two- or three-year average.

In post-war experience, the history of our recessions has been that they generally last around 14 months. We felt that to have a shorter-based period of three or two years would allow a substantial harmful effect on average revenues in the event of a recession. So that the principal reason that we selected a five-year base was so that a recession would not materially affect the average revenues.

We have used Governor Shafer's projections for 1968 and 1969 and thereafter we have used the projections of the General State Authority, which were a flat \$150 million-a-year increase.

DELEGATE BALDUS. Would those projections change substantially through a recession?

PRESIDENT BRODERICK. The Chair recognizes Delegate Stroup.

DELEGATE STROUP. Mr. President, I suppose Delegate Whittum would rather answer my question. My question is this, Mr. President: If the proposal which we presently have before us with all its provisions with ratio and definition of debt were applied to the next fiscal year, did you make any calculations whatsoever as to

what would be the latitude of debt limitation yet remaining to the legislative process for creation?

DELEGATE WHITTUM. For the fiscal year ended in 1968, June 30, 1968, we project the total net debt at that time to be \$1.5 billion. One and one-half times the average tax base would be in excess of two billion dollars for that year. As I mentioned earlier, this is a conservative tax figure and you could probably increase it by another \$50 million if necessary.

DELEGATE LEONARD. There is about a \$700 million or \$800 million leeway left to the General Assembly if this formula goes into effect within the next year.

DELEGATE STROUP. Mr. President, I think I am clear and I thank the gentleman. It means your answer to me is this, that in the next fiscal year the legislature would have between \$700 million or \$800 million debt that it could create without going back to the general public.

DELEGATE LEONARD. Seven or eight hundred million, yes.

DELEGATE STROUP. Mr. President, this perhaps takes us to the very crux of the situation as far as anticipation in the future is concerned. There is not too much evidence that in the next 40 years, with the debt we have, it will be retired before that, particularly, that is, the debt which is presently included in the definition to be included in the amount of our debt which lies with the Commonwealth today. This goes down to Delegate Scales' consistent observations, I believe, whether or not the 1.5 ratio does actually give enough latitude for legislative process to create debt without presenting to the electorate the necessity to create the debt. I think this is the crux of the problem.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I have one question. In the figures we have been given this morning, either with regard to the year ending June 30, 1968 or 1970, when I think Delegate Whittum said that there would be 1.36 estimate as against the 1.5, is any part of that 1.36 debt approved by the electorate?

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. Yes sir, a relatively nominal amount. In 1972 the debt approved by the electorate under this formula would be \$57 million.

DELEGATE AMSTERDAM. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scales.

DELEGATE SCALES. Mr. President, if I may, I would like to address another question to Delegate Leonard.

Delegate Leonard, I am very concerned about your answer earlier to Delegate Barry's question and, of course, the same observations were brought out by Delegate Stroup. The idea that we may, very soon, be to the point where this 1.5 ratio will confine us in a straight jacket, where the only way we can go above it is to have a referendum debt from the people. I take it from your observation that you are opposed to removing the authority-type debt from the debt limit.

DELEGATE LEONARD. Very clearly.

DELEGATE SCALES. But at the same time, I understand from what you told us that you are not really ob-

jecting to giving more flexibility by raising the ratio or by perhaps pulling out from debt referendum debt. I am concerned, for example, by an emergency situation where we may wish to give a war bonus of some kind and rather than going through a cumbersome amendment process, could simply use a referendum to establish that debt without having it count against the debt limit. I wish you would comment on that matter.

DELEGATE LEONARD. Let me ask you a question. When you talk about flexibility, flexibility to whom?

DELEGATE SCALES. Flexibility to the legislature certainly is the most important flexibility, I think, in this area.

DELEGATE LEONARD. I agree that the two areas in this section that would provide for greater latitude to the legislature would be in the multiple and with the extent to which debt goes to the voters for approval must be within or without the computation for debt limit.

DELEGATE SCALES. Thank you very much.

Mr. President, I wish to thank both Delegate Whittum and Delegate Leonard for their courtesy and their answers to these questions this morning.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shettig.

DELEGATE SHETTIG. Mr. President, I would like to address a few questions to Delegate Leonard or to Delegate Whittum, to whomever cares to answer. I would like to know if they can supply for the delegates here the projections that have been made from the past years and for the future years, so that the delegates may have these estimates and these figures actually in front of them. Do you have them, Delegate Leonard?

DELEGATE LEONARD. We certainly have them, yes.

DELEGATE SHETTIG. Could you or Delegate Whittum read them slowly enough or could we have them reproduced so that the delegates could see them and see the actual figures rather than talking about them?

DELEGATE LEONARD. We have some revised figures.

Delegate Whittum, do you want to speak on that for a minute?

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. I am not clear what numbers you would like to have, Delegate Shettig. If you will tell me what figures you desire, we will be glad to provide them for you.

DELEGATE SHETTIG. Delegate Whittum, we worked in the committee with two different sets of figures which we had to revise from time to time.

DELEGATE WHITTUM. You are correct, sir.

DELEGATE SHETTIG. The one set of figures I have does not match the latest set that I received. I would wonder if you have available for us the last set of figures so that we could have that.

DELEGATE WHITTUM. The what?

DELEGATE SHETTIG. The last set of figures which were used.

DELEGATE WHITTUM. I can give you those figures, if you like.

DELEGATE SHETTIG. All right. Let us start with the average tax receipts for the last five years. What is that figure?

DELEGATE WHITTUM. The five-year average?

DELEGATE SHETTIG. The past five-year average.

DELEGATE WHITTUM. All right, starting in 1963, the five-year averages would be as follows: 1963, \$926,000,000; 1964, \$992,000,000; 1965, \$1,088,000,000; 1966, \$1,183,000,000; 1967, \$1,274,000,000.

DELEGATE SHETTIG. Can you give us the estimate for the next several years up into the 70s? I believe you talked about as high as 1972.

DELEGATE WHITTUM. Yes, I can give you our estimate. This would be the average for the five previous years. Let me point out that we are using a one-year lag in these figures. As I pointed out earlier, they are more conservative than they otherwise would be.

In 1968, the current year, we predict \$1,357,000,000; 1969, \$1,507,000,000; 1970, \$1,677,000,000; 1971, \$1,854,000,000; 1972, \$2,041,000,000; 1973, \$2,245,000,000.

DELEGATE SHETTIG. I am sorry, Mr. Whittum, but I missed the one for 1969. Could you give that to me again, please?

DELEGATE WHITTUM. One billion, five hundred and seven million.

DELEGATE SHETTIG. Based on those figures and based on your ratio of 1.5, could you also give us for the future years—not the past years, but the future years—what the debt limitation would be?

DELEGATE WHITTUM. The debt limit for the succeeding years based on those numbers, for 1968 would be \$2,035,000,000; 1969, \$2,260,000,000; 1970, \$2,516,000,000; 1971, \$2,781,000,000; 1972, \$3,062,000,000; 1973, \$3,368,000,000.

DELEGATE SHETTIG. Now I have said that we have tried to correlate the figures that I have been trying to develop. What is the present debt for 1968?

DELEGATE WHITTUM. The present debt is \$1,219,000,000. By the end of this coming June, it will be \$1,528,000,000. That is 1.13 per cent of your average.

DELEGATE SHETTIG. Of your average tax receipts?

DELEGATE WHITTUM. Yes.

DELEGATE SHETTIG. Actually, putting that in dollars, since we have been talking dollars here, what would be the difference, sir, so that we can answer Delegate Stroup specifically? The difference that the General Assembly could borrow or that could be borrowed by referendum would be the difference between \$2.35 billion and \$1.528. Is that correct?

DELEGATE WHITTUM. That is correct, with some modification of figures, if you wanted to use a five-year average up until the current month.

DELEGATE SHETTIG. Would you explain that? I know what you mean, but on that modification.

DELEGATE WHITTUM. In other words, the proposal as it is written, allows the face figure to be calculated for the previous five years. It does not state that it must be for the previous five fiscal years. It could be for the five years ending January 31, 1968.

DELEGATE SHETTIG. Did you use calendar or fiscal years in these figures?

DELEGATE WHITTUM. In our figures we used fiscal years, and in the averages, as I have mentioned, we used, for example, for 1968 debt ceiling we used the five years ending June 30, 1967, so that there would be an increase in the allowable limit if necessary.

DELEGATE SHETTIG. It could be less than, I believe, the \$800 million that was referred to earlier.

DELEGATE WHITTUM. I believe that is correct. This is not the answer that I gave you.

DELEGATE SHETTIG Without subtracting, it just looks like there could be less than \$800 million available, not only for the legislature for next year, but for the next possibly 40 or 50 years.

DELEGATE WHITTUM. Let me point out to you, if I may, you are talking about debt that might be incurred this year. As we have mentioned, it is impossible for the State to incur debt at the rate that you suggest. The General State Authority has never incurred debt beyond the rate of \$200 million a year. Actually, it has been substantially less. For example, in the last year it only increased \$80 million. The Highway and Bridge Authority has increased its debt by considerably less than \$100 million a year as well. So that when you look at the formula as it exists today, it might imply to you that it is somewhat restricted, but if you recognize that it takes years to expend this money, the formula has considerably more flexibility than you might suppose.

DELEGATE SHETTIG. Assuming that the General State Authority and the other debt increased, the highway debt, and so on, at the rate of \$150 million a year, that would not be a figure that could not be spent, do you think?

DELEGATE WHITTUM. No, I think that is reasonable.

DELEGATE SHETTIG. Do you think that is a reasonable figure? Assuming that, can you correlate that to the increase in your estimated revenues over a period of years?

DELEGATE WHITTUM. If you are asking, have we done it, the answer is no. We have projected what we think might be the maximum amount of debt outstanding over the next five or six years, and we have increased it by more than \$150 million. We have increased the outstanding projected debt between \$200 and \$300 million each year, which we feel is very liberal.

DELEGATE SHETTIG. What do you anticipate the increased tax receipts over the same period of time will be?

DELEGATE WHITTUM. We projected the increased tax receipts for 1968 and 1969 from Governor Shafer's budget message yesterday for the years after that. And in this year, the current fiscal year, the tax receipts will increase by \$260 million in the General Fund alone. In 1969 the tax receipts will increase by \$234 million in the General Fund alone. For the years thereafter, we project an increase of \$150 million.

DELEGATE SHETTIG. This increase of \$150 million has been based on about the last four or five years' experience and not on the previous years before that, because is it not a fact that in the last four or five years, the State tax receipts have increased substantially more each year than in any previous year.

DELEGATE WHITTUM. In dollars that might be correct, but not in percentages.

DELEGATE SHETTIG. Dollars is what we are talking about right now. Have you attempted to project any further than 1973 what the estimated revenues or debt might be?

DELEGATE WHITTUM. The figures I have here go up to 1974. We did not go beyond that, because that was the furthest figures we had for outstanding debt that exists today or is authorized today.

DELEGATE SHETTIG. The point of my question is: Do we have before us any information which might give us an indication of what the revenues may be 50 years from now or even less, and also what the possible debt may be 50 years from now?

DELEGATE WHITTUM. No, sir, I cannot answer that.

DELEGATE SHETTIG. So we are just guessing what it may be even 25 years from now or less, in our own minds, even without calculations.

DELEGATE WHITTUM. That is right. Any projection, of course, is a guess. The projections that we have made have been on the best informed information we could get, and we do not presume to go beyond 1974. I think that if this formula proves to be realistic, it will be sound. But as I said at the very beginning, this is completely new; no one has tried it before. We have tried to estimate a comfortable margin for the legislature on the best information available to us.

DELEGATE SHETTIG. And that margin right now is less, somewhere around \$6,700 million. Is that correct?

DELEGATE WHITTUM. For new debt today?

DELEGATE SHETTIG. Today.

DELEGATE WHITTUM. Right. However, in the future, of course, it allows considerably more than that. As we know from past experience, it would be impossible to float that much bonds in any one year.

DELEGATE SHETTIG. I am wondering about an emergency or any situation that might develop which could upset the normal projection for corporate expenditures.

DELEGATE WHITTUM. Let me remind you that this limitation applies only to capital projects. Our committee could not conceive of a capital project, other than the emergency provisions that we had put into the proposal, for which the legislature would not have time to plan. In fact, the whole thrust of this thing is to enforce adequate planning by the legislature.

DELEGATE SHETTIG. I believe Delegate Baldus asked a question—I do not remember whether you answered it or Delegate Leonard—whether or not these figures and the projections are all based on the current taxes and not anticipating any new taxes. Is that correct?

DELEGATE LEONARD. This is correct. We did not anticipate new taxes.

DELEGATE SHETTIG. Did you anticipate any other expenditures in the future, other than the general type that we have now?

DELEGATE LEONARD. We are only dealing with tax revenues. What do you mean, Delegate Shettig?

DELEGATE SHETTIG. As far as the revenues or projects that may be included in the term of debt.

DELEGATE LEONARD. The capital improvement projects would be whatever that means, capital improvement. We know what it means today; we may not know what it means tomorrow.

DELEGATE SHETTIG. That answers the question. I have no other questions of Delegate Leonard.

PRESIDENT BRODERICK The Chair recognizes Delegate Tate.

DELEGATE TATE. Mr. President and Mr. Chairman, there are just a couple areas that have been discussed this morning on which I would like to get a little further clarification.

Awhile ago, I believe it was in answer to a question by Delegate Barry or somebody on that side of the room to Delegate Leonard, there was some discussion of three-year averages against five-year averages. I believe Delegate Leonard expressed a personal opinion with respect to the three-year average.

Do you have at your disposal statistics, or figures, which can help us come to personal opinions also as to

whether the three-year average might be more realistic for this body to consider?

DELEGATE LEONARD. We do have figures for every year for total tax revenues from 1960 up through 1968. I can go quickly with these. From 1960 to 1961 it increased \$140 million; 1961 to 1962, \$120 million; 1962 to 1963, \$140 million; 1963 to 1964, \$150 million; 1964 to 1965, \$130 million; 1965 to 1966, \$120 million; 1966 to 1967, it increased only \$80 million; 1967 to 1968, it increased \$150 million. The increases have been reasonably consistent. Based on this, it would not have made much difference as to which one it came out with.

But I believe the question was that we are trying to get flexibility, and there is a substantial upswing or a substantial downswing which would react quickly to the times, and I said I thought a three-year average would react more quickly. It was just a question of arithmetic. I have no objection to the five-year average.

DELEGATE TATE. The three-year average if we were in a period of downswing, of course, could quickly restrict?

DELEGATE LEONARD. That is right.

DELEGATE TATE. Just as a period of upswing would throw your average more quickly and make it more flexible. Can you give us the benefit any further of your thinking on why it might be better for the State to swing to the three-year average, in your personal opinion?

DELEGATE LEONARD. Well, it is just my personal opinion that in an average like this three years, the most current three years would give us a little bit higher amount to start with, and I think that three years will give effect, will hold down any large swing in one year. But, if we have a quick inflation, which is a very real possibility in the next couple years, we would be held down substantially, I think, with a five-year average, because construction costs—which we know are what we have to follow when we are spending our money—construction costs are going up almost faster than the rest of the economy and generally the three-year average is based on the assumption that we are more than likely to go up than go down. I think it would be more realistic to the current value than the five-year average, but I just do not feel that strongly.

DELEGATE TATE. Is the assumption that we are more than likely to go up than go down, which I assume to mean that we are more than likely to experience a period of inflation than deflation, based upon any particular period of years, 10, 25 or 50, or is it just a general conclusion?

DELEGATE LEONARD. I did not understand your question.

DELEGATE TATE. You just said that your conclusion there was based upon the assumption that we are more likely to go up than down. Do you mean by that that we are more than likely to experience inflation in the years to come than deflation?

DELEGATE LEONARD. Yes.

DELEGATE TATE. For how many years, if you have an idea?

DELEGATE LEONARD. I cannot tell you for how many years.

DELEGATE TATE. But, you appear to know that you are not basing this on the conclusion that we are likely to have this upswing for the next 100 years or a par-

ticular period of time, but if the period would now end, this would be more realistic and workable for the State?

DELEGATE LEONARD. Three or five?

DELEGATE TATE. Three.

DELEGATE LEONARD. I think for the period that we are now in that three years would be more realistic. The three years is still a fairly good average. Then, again, I do not want to get too strong on this. I made a personal observation and I do not want to take a strong position against the committee.

DELEGATE TATE. On another area of this proposal, you had a discussion a while ago in response to some questions by Delegate Scales relating to federal grants. I listened to that with interest. I am concerned here, as we all are, with being as consistent as possible throughout our Constitution document. I know that in other areas of the proposal of your committee you are contemplating the State making certain tax collections which will be refunded to local communities, in the public utility area, for instance. Is it not possible that this represents a trend and that various levels of local government will be adopting this trend and that the Federal Government will possibly be collecting taxes, such as the federal income tax, part of which they may give in more or less unrestricted fashion to the States, and the States will come to rely more and more for their revenue on such a source? By not giving serious consideration to that here, we might really be tying our hands for a very important future area of state revenue.

DELEGATE LEONARD. Yes, I understand this and I recognize it. The question is that if the Federal Government does begin to give us unrestricted funds, which would be the income tax they collect in the State, in some form it would come back to us, and the question is, would that be considered taxes? It may very well be considered to be taxes in the future, rather than for the State to levy it directly to have it come from the Federal Government. But the answer I gave before was that this is not that reliable because the Commonwealth does not have the control over whether or not we are going to get it. The Federal Government can cut it off at any time. We could go out and incur substantial debt on the assumption that this money was going to be coming in and all of a sudden Congress could turn it off, and there we would be left with a debt and not have the base with which to pay it. It is out of our control. I would generally feel that if this—and I am concerned about this area, but I generally feel that this may be considered some kind of a tax if it ever gets to be a reliable situation. If it is not reliable and if it is not stable, I do not think we have any right to put it into a borrowing bill.

PRESIDENT BRODERICK. May the Chair interrupt to indicate that, unless there is an objection, we are going to recess at 12:15 p.m., which is in about six minutes, for lunch, until 2 p.m. We have, I understand, a total of 14 amendments to Proposal No. 3. It is my hope that the delegates who are proposing those amendments could get together and perhaps we will find there are duplicates; we will find that maybe some of them would be withdrawn. If we could bring our present discussion to a conclusion within the next four or five minutes, I think we can come back here at 2 p.m. and start voting, if that is agreeable.

The Chair recognizes Delegate Solomon.

DELEGATE SOLOMON. Mr. President, before recess, I would like to speak on the proposal and not propound a question at this time.

Those of us who did not have the privilege or could not find time to leave our committees to attend the meetings of the committees such as headed by Delegate Leonard have learned a great deal here this morning, that by honestly asking questions from the members of that committee and by questions propounded, perhaps by those who were in the minority of the committee, we could learn something about this. It is my hope that in the future when questions are asked that they be pointed and that they be given so that the question will get an answer and that argumentation and point of view, which possibly could be expressed by the delegates themselves, be better presented by the delegate standing on his feet and presenting his point of view. I am pleased with the action of this committee. I know this, that most of our delegates know little or nothing of money and banking and we have to rely upon the findings of a committee such as this, which not only has done its work but has sought out the best information possible and brought it to us. It is my hope that after recess those who have amendments do not duplicate the business of this Convention as we have seen it done on Monday, Tuesday, and Wednesday. I would like to get on with the business. This is my point and I hope that a motion to recess is in order now, Mr. President.

PRESIDENT BRODERICK. Pursuant to the suggestion of the Chair, we are going to recess at 12:15 p.m., unless there is an objection.

The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, could I request that all the delegates who do have amendments, and I am one of them, meet here in the front immediately at the start of the recess. We could have lunch together, go through the amendments and strike out those which may be duplicates.

PRESIDENT BRODERICK. I think that is a very excellent suggestion and it is one that the Chair certainly encourages. Any delegates who have amendments, if they will just meet up forward here in about two minutes when we recess for lunch, we can discuss them.

POINT OF PARLIAMENTARY INQUIRY

PRESIDENT BRODERICK. The Chair recognizes Delegate Jiolanio.

DELEGATE JIROLANIO. Mr. President, I rise to a point of parliamentary inquiry.

PRESIDENT BRODERICK. You may state it.

DELEGATE JIROLANIO. Is it possible to know now whether or not we will be called upon to vote on any proposal on third reading tomorrow? The reason I ask that question is this: Unfortunately I have been trying to do away with some of the matters that I have back home and it was physically impossible to make arrangements several weeks ago. I will not be here tomorrow, and I understand that quite a number of delegates will not be here tomorrow, and I think a lot of them would like to be recorded as voting.

PRESIDENT BRODERICK. Delegate Jiolanio, we have had two proposals that went over to Style and Drafting which could come back on the calendar tomorrow on third consideration, depending on the action of the Com-

mittee on Style and Drafting, and I have not had any discussion with them. In other words, I think we could discuss it with that committee to see how quickly we are going to get them back.

DELEGATE JIROLANIO. I talked to some delegates and a lot of them have said that they have made arrangements and, unfortunately, their business and prior commitments make it such that they will not be able to be here. This is the first time they will be called upon to vote on something on third reading and it is important to have as many of us as possible here, but under those conditions, I was wondering whether it would be possible to lay over the question of final vote on third reading of proposals until Monday when all of us would be here?

PRESIDENT BRODERICK. Delegate Jiolanio, I can only say that, as far as the Chair is concerned, the proposals have gone into the Committee on Style and Drafting. If they give them back to us, they will be on the calendar tomorrow. I certainly hope that we will have a quorum because we have other proposals that are going to have to be discussed, amendments that are going to have to be voted on, and whether or not these two will be on the calendar tomorrow is out of the Chair's hands. It is in the hands of the Committee on Style and Drafting.

DELEGATE JIROLANIO. Would it be possible to make a motion that the Proposals No. 1 and No. 2 be made an order of business for Monday for the final voting?

PRESIDENT BRODERICK. I do not think they are before us at this time. They are not on the Calendar.

DELEGATE JIROLANIO. I am asking you a question of parliamentary inquiry.

PRESIDENT BRODERICK. The Parliamentarian has advised me that it would be out of order because the question is not before us at this time.

DELEGATE JIROLANIO. Could not the question be brought up by a majority vote?

PRESIDENT BRODERICK. I think, Delegate Jiolanio, if you will discuss it with the chairmen of the Committee on Style and Drafting, we can find out then whether this is a problem; it may not be a problem.

DELEGATE JIROLANIO. All right. Thank you.

RECESS

PRESIDENT BRODERICK. The Chair now declares a recess until 2 p.m.

AFTER RECESS

PRESIDENT BRODERICK. The time for recess having expired, the Convention will now come to order.

CONSIDERATION OF PROPOSAL No. 3, PRINTER'S No. 11

We are now on the calendar considering Proposal No. 3, printer's No. 11, and when we recessed for lunch I had thought that our question-and-answer period had been completed, but I am advised that there are a few more questions that the delegates would like to ask of Delegate Leonard. Would you come forward and take your position by the microphone?

Delegate Aberman, the Chair now recognizes you.

DELEGATE ABERMAN. Thank you, Mr. President.

Delegate Leonard, I would refer you to page 2 of Proposal No. 3, line 18. I would like to ask some questions about the concept of "tax receipts deposited"—the meaning

of those words. I have reviewed Proposals No. 3, No. 4 and No. 5 in an attempt to find a definition of this term, and I have listened with great interest to this morning's discussion about the concept of the word "deposited." I find that although these may be definable words in the dictionary, I am not sure that I understand the use of these three words together and what you intended thereby.

First of all, did you intend to put a definition in or do you feel that this is not necessary?

DELEGATE LEONARD. We felt that these words were sufficiently used in common and defined in the dictionary that we would not have to give any further definitions.

DELEGATE ABERMAN. And the word "deposited", therefore, becomes deposited by what agency and where?

DELEGATE LEONARD. I would say that that means deposited in the bank; that would be its ultimate place for deposit.

DELEGATE ABERMAN. Therefore, any funds that were undeposited at the end of any fiscal period would not count in the limitations?

DELEGATE LEONARD. The way I would read this is, any funds that were not deposited to the credit of that particular fiscal year. It is certainly possible to make a deposit and I am not sure what it is in the Commonwealth, but it is certainly possible, generally, to be able to make a deposit for a period even though it is subsequent to that period. It says "deposited for."

DELEGATE ABERMAN. That is the question. Do you read this then as meaning actually deposited as opposed to a floating fund that might be deposited the day after the close of the fiscal year?

DELEGATE LEONARD. I read this to mean that if a deposit was not made on the evening of June 30 because the tax receipts or the mail has not been opened, that if it is for the fiscal year that ends June 30 and deposits are made on July 6 or 7, I would read this to mean that those would be deposits for the fiscal year ended June 30.

DELEGATE ABERMAN. May I ask then about funds that are deposited in advance of the period for which they are supposed to be due, such as, paid-in-advance funds? Are these counted also?

DELEGATE LEONARD. I would say that would relate to whether the moneys paid in advance are generally considered to be taxes of the year in which they are paid. We are talking about tax receipts. We do not care whether they are paid in advance or not. It is tax money that has been received and deposited. It does not make any difference whether it was received for a future year or 10 years ago.

DELEGATE ABERMAN. I will not debate it with you, I am simply interrogating you on that point. So the word "annual" becomes a calendar concept or a fiscal concept?

DELEGATE LEONARD. The "average annual tax receipts" is clearly the fiscal twelve-month period of the Commonwealth.

DELEGATE ABERMAN. As to the word "certification", on line 19, it refers only to the certification of the Auditor General as to certification rather than to a fiscal period?

DELEGATE LEONARD. The Auditor General will say what the total tax receipts deposited were for a period of five years, and his say is final because it is based on this that the debt limit is computed.

DELEGATE ABERMAN. I have no further questions, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Kelly.

DELEGATE KELLY. I would like to ask Delegate Leonard a question.

I want to thank you, Delegate Leonard and your committee, for a four-year college education in less than four hours. Now I am getting ready for the post-graduate course.

What I am thinking about is: On your ratio of 1.5, have you taken into consideration a certainty—I know you are prepared for uncertainties, but there is one certainty that you have to take care of—and that is, the veterans' bonus with which we are going to be faced. I would say, judging from the others, it is going to represent about \$750 per soldier. It looks like everybody who is over 18 shall have to put on a uniform. Is that going to affect your ratio?

DELEGATE LEONARD. As the proposal is now written, any debt that is created—and this kind of debt would be issued or created only after approved by the electorate, but under the way this is now written—such debt would be included in the definition of debt to fit within the debt limit.

DELEGATE KELLY. Thank you.

PRESIDENT BRODERICK. There being no further questions, I think we can now proceed to consider the amendments.

Unless somebody is prepared to make a motion to bring Delegate Gray's amendment to the floor, we will proceed with another amendment.

MOTION TO TAKE AMENDMENT FROM TABLE

PRESIDENT BRODERICK. The Chair recognizes Delegate Tate.

DELEGATE TATE. Mr. President, since I moved to table Delegate Gray's amendment, I move at this time to bring that amendment off the table.

PRESIDENT BRODERICK. It has been seconded by Delegate Shapiro.

On the question,

Will the Convention agree to the motion?

The motion was agreed to.

PRESIDENT BRODERICK. Does anyone know if Delegate Gray is on the premises or close by?

The Chair recognizes Delegate Reynolds.

DELEGATE REYNOLDS. Delegate Gray had a call to go to Philadelphia urgently and he left during the recess.

However, before he left he asked me if I would just say to the body that all he was trying to do was change the language so that some of the radical people in the State of Pennsylvania will not misconstrue our purpose here by using the term that he has asked to be left out. He was fearful that to put it in there in those words exactly would be misunderstood by some people who wish to use them as troublesome methods.

I would like to ask that we vote for it, because it does not change anything but the verbiage.

PRESIDENT BRODERICK. Thank you, Delegate Reynolds.

The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Mr. President and Delegate Reynolds, we discussed this matter before, several members of the delegation here, and I think it is crystal clear that there is absolutely and unequivocally no intention nor

any feeling to try to infer that any portion of the revisions that we are involved in now are slanted toward any one person or group of people.

I understand from the attorneys—and I think to a great extent in some areas we have to listen to the attorneys—that the words, “riot” and “civil disorder” are what they call “words of art” which are included in many insurance policies, if not all insurance policies, and to remove these words would clearly disturb the meaning and what we are trying to accomplish.

The attorneys advised us at noontime that it is unfortunate if anyone would dare think that they have any offensive meaning, but they are words apart. We prefer that they stay in there, that it does convey the meaning, and it is a meaning that insurance companies, the words that insurance companies, have used over the years to cover this type of unnatural disaster.

So we would, therefore, recommend that the amendment be defeated.

PRESIDENT BRODERICK The Chair recognizes Delegate Reynolds.

DELEGATE REYNOLDS Mr. President, I know Delegate Leonard very well; he comes from Philadelphia. I do not think and neither did Delegate Gray think, and we do not feel, that anybody had any idea of doing anything that was wrong or saying anything that would reflect on anyone else. If you get today's Philadelphia Inquirer and read it, in there you will see that the mayor was talking about doing things to stop riots and he used the very phrase from one of the articles, “civil disorder.” There are some people who are willing to use this to say they are trying to stop us by the methods of the Constitution, and I believe there are other words that would be just as strong. I am not a lawyer but I know one thing, I know the English language and I know you do not have to use the words “civil disorder” and “civil disobedience” and civil this and civil that, which today are an indication that trouble is about to come. I do not think we should raise that question because of the news media and all the people who glorified those unstable people who are trying to twist words to divide the American people.

All Delegate Gray wishes, and I am subscribing to it myself, all we wish to do is to be on the right side of the fence so that we can go on in the true American tradition and use some verbiage that, surely, would not be misunderstood and could not be used by any irresponsible people.

PRESIDENT BRODERICK The Chair recognizes Delegate Gerber.

DELEGATE GERBER Mr. President, as one of the lawyers on the Committee on Taxation and Finance, it was just at noon that we discussed these very words. We have on our committee probably one of the finest legal minds, Delegate Brennan of Allegheny County, and he, too, advised Delegate Leonard, as I did, that the words that we have in our proposal, first of all, were never meant to raise any issue of the nature that has been brought to the floor at the present time.

Rather, on the other hand, these are words of art that are used by the cases that come down through the Pennsylvania Reports, the Supreme Court Reports, the Superior Court Reports and the County Court Reports to explain what exactly happened. These are words of art, words of science, for lawyers to define certain events. They are meaningful words that have come down through

the ages of the law. These are the very words that are used in insurance policies to take care of these kinds of problems. If we do not use these words, it could happen that those property owners who would suffer a loss would not be able to recover in the manner that we hope that we can work out a program through the Commonwealth and, secondly, it may preclude the Governor from being able to act in instances of events of this nature. Our only request here is not one of individuals, not one of groups of people, not one of trying to create a problem in selling this Constitutional Convention reform to the people, but on the other hand, to be neat, clear, cogent, precise and accurate in our language. That was the only reason that the committee put it in, and if we change the words in any way, it is only going to completely frustrate the effort that we are trying to accomplish in case these events do occur. Thank you.

MOTION TO TABLE

PRESIDENT BRODERICK The Chair recognizes Delegate Reynolds.

DELEGATE REYNOLDS I believe every word he said so far as the intent is concerned. In order that we might know how Delegate Gray feels about it, I would like to make a motion that we table it until he comes back Monday to defend his own amendment. I so move.

PRESIDENT BRODERICK The move is made by Delegate Reynolds and seconded by Delegate Irvis that the Gray amendment be laid on the table.

On the question,

Will the Convention agree to the motion to table?

It was agreed to.

GOLDMAN AMENDMENT

PRESIDENT BRODERICK The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN Mr. President, I offer an amendment.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE GOLDMAN offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 4), page 3, line 14 by inserting after “Debt”: , to the extent that it is self liquidating.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN Mr. President, I would like to comment on this, if I may, while the copies are being distributed.

The purpose of this amendment is to set forth clearly in subsection (h) on page 3 what shall be excluded from debt for its limitation purposes. I believe that where we have a charge to a public finance asset which is in part liquidating through its own efforts and in part being liquidated through tax revenues, that that portion of it, and only that portion, which is self-liquidating should be excluded from debt consideration.

Any other portion of it that is being paid through tax revenues, through taxing incomes, should not be excluded from this debt limitation. I believe that where you may

have such an asset being wholly paid by self-liquidation then, of course, this will speak for itself. This would protect the event where you have partially self-liquidating and partially nonself-liquidating.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baner.

DELEGATE BANES. Mr. President, I rise to object to this particular amendment. If this amendment is inserted into this section, it would cause intolerable complications in the financing of the school buildings on the local level since a great part of the revenue, ordinarily one-half, is received as reimbursement from the State and only half of those rentals are raised on the basis of local taxation. This would greatly complicate the operation of schools.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, may I ask the chairman of the committee what his opinion is of this?

PRESIDENT BRODERICK. Would Delegate Leonard consent to be interrogated?

DELEGATE LEONARD. I do.

I have considered this and I feel that it was within the intent of the committee to exclude from the definition of debt any debt that is paid for from funds that do not come out of the general operation of the government; therefore, any portion, any debt that is self-supporting, we meant to exclude. Therefore, we would go along and accept the amendment of Delegate Goldman that a portion of partially self-supporting debt is excluded. That portion of debt which is partially self-supporting would be excluded from the term "debt."

PRESIDENT BRODERICK. The Chair recognizes Delegate Scales.

DELEGATE SCALES. Mr. President, if I may make one brief comment. We wrestled with the very same problem in our local finance article and came to exactly the same conclusion as expressed by Delegate Leonard and the amendment by Delegate Goldman, to include this exact same language to make our intention clear.

I, therefore, would support the amendment.

Thank you.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Goldman?

The roll was recorded as follows:

YEAS—108

Aberman	Desmond	Leach	Richter
Aurentz	Dumbauld	Lee, L.	Roberts
Bagenstose	Fawcett	Leunbach	Rovner
Baldridge	Fay	Leonard	Ruth
Baldus	Filson	Mangery	Sahli
Baldwin	Fohl	Mattioni	Scales
Barry	Forster	McGeary	Scarlett
Bashoff	Fortney	McGlynn	Scott
Benedict	Gabreski	Meyer	Scranton
Benfield	Gehriem	Michael	Shapiro
Bloom	Gerber	Miller, D.	Shettag
Braham	Goldman	Miller, R.	Shively
Brennan	Goldstein	Morton	Shoemaker
Broderick	Griffith	Murray	Shrager
Brown	Hannum	Musselman	Silverman
Buck	Hatter	Nelson	Solomon
Bunting	Humes	Orban	Sprogel
Butera	Hocker	Otto	Stout
Casey	Hook	Pasquerilla	Strickler
Clark	Huggins	Pelletier	Swope
Conley	Johnson	Percey	Tate
Cortese	Kauffman	Popil	Thomson
Cosetti	Keller, J.	Poit	Tomasick

Croop
Cunningham
Curran
Dailey

Keller, M.
Kelly
Krill
Laputka

Prendergast
Rea
Redick
Reynolds

Tully
Waldron
Wilcox
Woodring

NAYS—13

Banes
Burkholder
Camardella
Caron

Feather
Fineman
Harding

Heyburn
Irviss
Levin

Westerberg
Whittum
Wilmarth

NOT VOTING—42

Allison
Amsterdam
Barron
Cann
Caputo
Clinger
Corey
Devlin
Donaldson
Donolow
Erwin

Fagan
Fleming
Gouger
Gray
Henderson
Horne
Hosteller
Jirolania
King
Kline
Lane

Lee, K.
Manderno
Markley
Michener
Moorhead
More
O'Donnell
Orbin
Pechan
Powell

Quiles
Rappaport
Sebastian
Sharp
Stroup
Thornburgh
Van Sant
Warman
Welsh
Woodside

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Powell.

DELEGATE POWELL. Would you vote me "aye" on that, please?

PRESIDENT BRODERICK. We will have the statement put in the record. We cannot change the vote total.

COSETTI AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. Mr. President, I read in place and offer the following amendment:

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE COSETTI offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 4), page 3, lines 4 to 6 by striking out "but in any event, the maximum maturity for any" in line 4, all of line 5 and "forty years." in line 6 and inserting a period

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. Mr. President, the intent of this is not to change the intent of Section (g), which says, "All debt incurred for capital improvements shall mature within a period not to exceed the estimated useful life of the major property or improvements for which it is incurred, and such period of usefulness shall be stated in the law authorizing the projects, but in any event, the maximum maturity for any obligation of the Commonwealth shall not be in excess of forty years."

It was at the suggestion of Governor Scranton this morning that I considered the removal of this limit of 40 years. The committee discussed this at some length. We reached the conclusion to add 40 years, but I do not think there was any strong sentiment in either favor. It

was our intention, in any case, that no debt should exceed the useful life of the property.

I think in terms of presenting an amendment that may permit the Constitution to be more flexible, I offer this amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. Mr. President, I would like to speak in opposition to this amendment. The committee did consider this point at considerable length. As I mentioned this morning, we felt that for several reasons there must be some ultimate limit for bonds issued by the State.

During the course of the committee's review of this matter, we heard testimony from a number of witnesses, including representatives from the General State Authority, who all felt that it was quite important that there be some maximum limit of time. I might also point out that the same limitation is true in many of the other States, including some that are comparable with Pennsylvania, such as New York and California.

The basic fear is that if there were a capital improvement whose useful life extended considerably beyond the 40-year period, the incentive to extend the financing for that period of time—the incentive being to reduce the annual payments, the burden on the part of the State—by doing so, the cost of the financing is substantially increased. It has been demonstrated that going beyond 40 years substantially includes the cost of any financing. For example, at a four per cent interest rate, to increase the term of the bond from 40 to 50 years will increase the cost of that indebtedness by approximately 30 per cent which is quite steep. To increase the length of a bond from 40 to 60 years will increase the cost of that financing by 60 per cent.

This is the reason I think it is important that we have some type of limitation. It is conceivable that certain types of projects would be financed over a 100-year period. Bonds of this type can be sold at certain times in the money market. I doubt that they could be sold today, but there have been bonds sold with maturities of that length. I think this would be harmful to the State in the cost of the additional interest burden it would be carrying over all those years.

For these reasons, Mr. President, I oppose the amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, as a co-chairman of the subcommittee on this, I can buy this. I think that the committee—I was not on the committee—was a little shortsighted in this area. What is good today will not necessarily be good tomorrow. We are in a fast-living era. What is four per cent may be six, and what is 10 years may be 20, 40 years from now. We are writing a Constitution here, an amendment, which is supposed to take care of all things. I think, myself personally—and I would like Governor Scranton to comment on this, if he so chooses; he and I have not agreed on too much too often, but I am figuring on borrowing a little money from him and I have to butter him up a little. I think and I would like him to comment on this—that the bond market will take care of this. I am quite sure that the bankers will not give a 60-year loan on something that is only going

to last 30 years. I hope they are smarter than that because they have some of my money.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. First of all, I would like to say I always agree with Delegate Hocker.

Candidly, this is not a matter of major importance and I do not think we ought to spend all afternoon on it. The only reason that I signed the amendment is because I happen to feel that it is language that is not necessary in here. I could not agree more with what Delegate Whittum says about financing as of today. I do not want 60-year bonds and I do not want 100-year bonds under our present system, but I happen to think that the "useful life" limitation takes care of the problem and leaves it wide open for the future in the event of changing financial ideas and methods. It just happens to be a phrase in the proposal which I think would be better left out in a 100-year Constitution. I am not going to cry if it does not pass, sir.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Morton.

DELEGATE MORTON. Mr. President, Delegate Whittum, it appears to me that the answer to your problem may lie in the fact that the legislature determines the period of such usefulness. I think if the bond market dictates it is only 40 years and they would have to pay more, that the legislature here is given complete flexibility to say what is the period of usefulness, or if the bond market can accept 50-year bonds, then they can say 50-year bonds, compared with limiting it in the Constitution. Am I correct when I read this proposal with that deletion, that the legislature could insert in the law itself what is the period of usefulness?

PRESIDENT BRODERICK. Are we ready for the question?

The question is, will the Convention agree to the amendment offered by Delegate Cosetti?

The roll was recorded as follows:

YEAS—102

Aberman	Dumbauld	Laputka	Reynolds
Bagenstose	Erwin	Lee, L.	Richter
Baldus	Fawcett	Leimbach	Roberts
Baldwin	Fay	Leonard	Rovner
Bashoff	Feather	Levin	Ruth
Benedict	Filson	Mangory	Sahn
Benfield	Fineman	Mattioni	Scales
Bloom	Foht	McGeary	Searlett
Braham	Forster	McGlynn	Scott
Brennan	Fortney	Meyer	Scranton
Buck	Gabreski	Michael	Shapiro
Bunting	Gehrlein	Miller, R.	Shettig
Butera	Gerber	Morton	Shoemaker
Camardella	Goldman	Murray	Shrager
Caron	Goldstein	Musselman	Silverman
Casey	Griffith	Nelson	Solomon
Clark	Hatter	Orban	Strickler
Clinger	Hocker	Otto	Swope
Conley	Hook	Pasquerella	Tate
Corey	Huggins	Pelleher	Thomson
Cortese	Irvia	Percey	Thornburgh
Cosetti	Johnson	Popil	Tomasick
Croop	Kauffman	Prendergast	Tully
Cunningham	Keller, J.	Rea	Waldron
Dailey	Kelly	Redick	Wilcox
Devlin	Krall		

NAYS—24

Amsterdam	Brown	Heyburn	Stout
Aurentz	Burkholder	Humes	Westerberg
Baldige	Curran	Miller, D.	Whittum

Banes
Barry
Broderick

Desmond
Harding
Hannum

Pott
Powell
Shively

Wilmarth
Woodring
Woodside

NOT VOTING—37

Allison
Barron
Cain
Caputo
Donaldson
Donolow
Fagan
Fleming
Gauger
Gray

Henderson
Horne
Hostetler
Jrolanio
Keller, M.
King
Kline
Lane
Leach

Lee, K.
Manderino
Markley
Michener
Moorhead
More
O'Donnell
Orbin
Pechan

Quiles
Rappaport
Sebastian
Sharp
Sprogel
Stroup
Van Sant
Warman
Welsh

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

BALDUS AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Mr. President, I read in place and present the following amendment to Proposal No. 3.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE BALDUS offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 4), page 2, line 24, by inserting after "considered.": Debt incurred pursuant to subsection (f) of this section shall not be deemed debt outstanding, unless the General Assembly shall so provide in the law authorizing such debt.

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. Thank you, Mr. President. The purpose of this amendment, ladies and gentlemen, is to remove from the calculation of net debt outstanding under Section 4 (e) of Committee Proposal No. 3, debt authorized and incurred by reason of authority given by the voters under Section 4 (f) of this proposal. As the proposal is presently drafted, Section 4 (e) limits the power of the General Assembly to incur debt for the purposes of capital improvements by the ratio of 1.5. However, the determination of all net debt outstanding on line 17, page 2, includes debt that is outstanding by reason of a vote of the voters taken under Section 4 (f) of this section. Thus, the General Assembly in its planning for future capital improvements, will be forced to restrict the authority that it can authorize and the debt that it can incur by reason of debt authorized by the people.

I see two problems with this: First, the purpose of this proposal was to put a limit on the borrowing capacity of the General Assembly, not to put a limit on the people and not to restrict the General Assembly by reason of the decisions of the people. The purpose of this proposal was to enable the General Assembly to plan a systematic and orderly way for capital improvements and to discipline that planning. However, if an emergency arises in the future and the legislature sees fit to submit added debt to the people and that debt is approved as a result of an emergency and the public's reaction to it, this will restrict

the orderly and systematic planning for capital improvements that the General Assembly may undertake. For example, the figures that were given to us this morning are based on the plans and projections that were made by the Highway Department and by the General State Authority.

It is entirely conceivable that within the next 10 or 15 years, unprecedented demands for further public services may arise over things as a result of conditions that we cannot forecast in the area of education and for the baby boom. We do not know what the demands for education are going to be. As a result of the Viet Nam War, there may be a bonus for the veterans of the Viet Nam War. In the area of conservation, there may be further authorizations.

What this amendment attempts to do is to provide the flexibility that will enable the Commonwealth, through a vote of the people, to expand the authority to borrow money to meet emergencies while at the same time not limiting the capacity of the General Assembly to plan in a systematic and orderly way for further capital improvements.

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. Mr. President, the Taxation and Finance Committee considered this subject and decided to keep the referendum debt within the limitations for two primary reasons.

The first reason was that this entire concept is unique and new. In presenting it to the public, to the people, in April, we felt that it was important that this concept be as simple as possible so that they could understand it. We feel that we have something here that is simple to understand and it is salable.

When the public goes to the polls to vote on referendum debt, it will be clear to them precisely how much debt is outstanding by the Commonwealth. By separating it into two categories, capital debt approved by the legislature and debt approved by the public in referendums, they are going to be confused. In the future, when the public is voting on a debt question, they will not know how this relates to the formula, how it relates to the debt ceiling. We felt that for simplification purposes, it was most important to keep it within the formula context.

The second basic reason that we decided to keep it within the limitation was that we felt that by excluding it, it would give an incentive or a motive to the legislature to throw the popular issues to the public in a referendum and to, thereby, conserve their own debt limit for some of the projects that might not be as acceptable.

For these two reasons, the committee felt that it should be included, and I am speaking in opposition to the amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. Would Delegate Whittum consent to interrogation?

PRESIDENT BRODERICK. Will Delegate Whittum consent to interrogation by Delegate Gerber?

DELEGATE WHITTUM. I shall, Mr. President.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE GERBER. Mr. President, do you feel that the people of Pennsylvania are any less observant and intelligent than we 163 representatives of theirs and that

we here should understand the difference between referendum debt and General Assembly debt and that they cannot?

DELEGATE WHITTUM. I cannot understand the question. I am advised by counsel not to answer it.

DELEGATE GERBER. Well, if Delegate Wilcox would let you stop pleading the "Fifth," the question is: Do you think the people of Pennsylvania are so much dumber than you and me that they do not know the difference between referendum debt and General Assembly debt?

DELEGATE WHITTUM. I do not think you are putting the question in a very favorable light. I do not feel the public is dumb, if this is your question, and I think it was. They can be easily confused. We are talking about formula limitation and they will have part of the picture, but not all of the picture.

DELEGATE GERBER. Next question: Do you think that your position on simplification outweighs the need for flexibility and a reaching toward the problems of the future is better expressed by Delegate Hocker and myself?

DELEGATE WHITTUM. I do not think that the question of simplification needs to be related to flexibility. In my opinion, the proposal creates and gives the flexibility that we need and it is also simple. I do not think you have to confuse the two points.

DELEGATE GERBER. Do you feel that the General Assembly is irresponsible and, therefore, it would only send the debt to the people that it feels would be popular and, therefore, would vote the unpopular debt in the General Assembly?

DELEGATE WHITTUM. I am advised again to take the Fifth Amendment. In spite of that, I will say that I do not think the General Assembly is irresponsible.

DELEGATE GERBER. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Tate.

DELEGATE TATE. Mr. President, I think this amendment, which is now before us, brings into focus the line of questioning that Delegate Barry and several others, I think, this morning brought to this body, that is, that when we get close, if we should in the future sometime, to the debt limit as set forth by this formula, we will perhaps turn to the referendum method of approving debt. But if we include that referendum debt in the basic debt that makes up the formula, once we start going the referendum route, we will never be able to turn back, and it freezes the Commonwealth into referendum approval for all kinds of debt that might otherwise be under this formula.

Therefore, I think, in addition to the fact that this amendment will make Proposal No. 3 consistent with the proposals of the Local Government article on local finance, which has also gone the same route as this amendment, I would hope that this body would support this amendment.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Burkholder.

DELEGATE BURKHOLDER. Mr. President, I am in favor of this amendment. First of all I want to compliment the committee on the article as a whole. I think that it is designed to meet the needs of the Commonwealth.

There are those, however, who believe that there should be no limit on debt, saying that the situation as it now exists with unlimited authorities actually results in no limit on debt and pointing out that the legislature can hardly be called fiscally irresponsible or financially irresponsible because of this fact.

There are those who would like to increase the percentage above what it is. It seems to me that the percentage is all right, but that referendum mandated debt should not be included because this would tend to tie the hands of the legislature. Just as soon as there has been a demand for debt which the legislature refers to the people and the people approve it, it tends to tie the hands of the legislature.

I, therefore, suggest that this amendment be supported.

PRESIDENT BRODERICK. The Chair recognizes Delegate Goldman.

DELEGATE GOLDMAN. Mr. President, I rise in support of this amendment. I believe if we do not pass this amendment, we have put in a section permitting referendum vote by the people which is meaningless. We have established within this proposal a definite limitation of debt. That debt can be reached either by an act of the General Assembly under its own initiative or by referendum of the people. It just does not make sense. If the General Assembly is going to have a limitation of indebtedness, fine. Now if the people are going to vote on referendum, the only purpose that their vote can be is to permit the General Assembly to go beyond this debt limit; otherwise, it has no real significance at all.

I think we should support the amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Powell.

DELEGATE POWELL. Mr. President, I rise in opposition to this amendment for the following reasons: Delegate Whittum and Delegate Leonard in outlining the 1.5 formula provision earlier also outlined a maximum expected debt. I would like to point out that perhaps with some of these statements being made we are losing sight that we are not expected to hit the top of this debt.

I would also like to point out as far as Mr. Gerber's question in regard to the legislature that I do not think our present legislature would do anything of a nature to put the more popular debt question on the ballot, but perhaps we have to look to the future in this Constitution—future legislators may.

Finally, in answer to Mr. Tate on the local government financial structure, perhaps we ought to change the local government financial structure to conform with this one.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I rise in support of the amendment. As one who is reputed to be a banker, although he denies this quite often, it is my opinion that this will not in any way affect adversely the credit of the State. I think it gives the kind of additional flexibility which is important. Delegate Whittum replied in answer to my inquiry that the 1.50 which is being recommended with only \$50 million worth of debt approved by the electorate had only 1.6 availability in the 70s and if we have a substantial item which the electorate would

approve, that would further decrease that amount of availability. It seems to me this is the kind of flexibility that is quite important particularly since it is within the power of the people of the State of Pennsylvania to decide whether this debt should or should not be permitted.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bunting.

DELEGATE BUNTING. Thank you, Mr. President. I would like to ask Delegate Leonard if we are correct in assuming that as chairman of this committee he finds this amendment acceptable.

PRESIDENT BRODERICK. Chairman Leonard, would you stand for interrogation by Delegate Bunting in connection with this matter?

DELEGATE LEONARD. Yes, I shall.

PRESIDENT BRODERICK. Would you answer his question then, please?

DELEGATE LEONARD. The committee has not met, Delegate Bunting, on this and as you know the committee proposal that came out, I think, speaks for itself that this referendum debt was to be included within. Are you asking me whether I think the committee would accept this?

DELEGATE BUNTING. First, you, personally, Mr. Leonard.

DELEGATE LEONARD. It is a matter of record in the committee that I would prefer that the referendum debt be excluded because of the emergency type items of which Delegate Amsterdam has spoken.

Also I feel that this amendment does one other thing. It does not automatically exclude all referendum debt. This amendment provides that the General Assembly when they are authorizing this debt before it goes to the public, is to say whether or not they want it to be within the limits or not within the limits. It would seem to me that the people would have a right to expect most debt to be within the limit. If the General Assembly wants to go to the public for a referendum and they want to get approval of the people and they want to have this excluded from the debt limit, I think the reasons to have such an approval from the electorate will have to be stronger if there is a choice as to whether it is in or it is out. Have I made myself clear? In other words the General Assembly in going to the public asking for approval on a referendum, if they have a choice as to whether that should be in the limit or outside the limit. It seems to me if they are going to put it within the limit, they will have a better chance for the public to accept it. But if they say it is outside the limit and the public accepts it, then the public has every right to do it. If the General Assembly passed it two years in a row and then it went to the public, they could easily get it because that would be a constitutional amendment. We are talking about one session of the General Assembly in all of this.

My personal opinion is that I find this amendment acceptable.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Baldus?

The roll was recorded as follows:

YEAS—111

Aberman Cunningham Leach Rovner

Amsterdam	Dasley	Lee, K	Ruth
Aurentz	Devlin	Lembach	Sahl
Bagenstose	Dumbauld	Leonard	Scale
Baldige	Erwin	Levin	Scarlett
Baldus	Fawcett	Mattioni	Scott
Baldwin	Fay	Mangery	Scranton
Banes	Feather	McGeary	Shapiro
Barry	Filson	McGlynn	Sheltig
Bashoff	Fineman	Meyer	Shoemaker
Benedict	Fohl	Michael	Shrager
Benfield	Forster	Miller, D	Silverman
Bloom	Gabreski	Miller, R	Solomon
Braham	Gerber	Morton	Sprogel
Broderick	Goldman	Murray	Stout
Buck	Goldstein	Orban	Strickler
Bunting	Griffith	Orbin	Swope
Burkholder	Hannum	Otto	Tate
Butera	Hatter	Parquerilla	Thomson
Camardella	Hook	Pelletier	Thornburgh
Casey	Huggins	Percey	Tomascik
Clark	Irvs	Popil	Tully
Clinger	Johnson	Pott	Waldron
Conley	Kauffman	Prendergast	Wilcox
Corey	Keller, J.	Rea	Wilmarth
Cortese	Kelly	Reynolds	Woodring
Cosetti	Krill	Richter	Woodside
Croop	Laputka	Roberts	

NAYS—15

Brennan	Desmond	Hocker	Shively
Brown	Harding	Musselman	Westerberg
Caron	Heyburn	Nelson	Whitum
Curran	Himes	Powell	

NOT VOTING—37

Allison	Gouger	Lane	Quiles
Barron	Gray	Lee, L	Rappaport
Cain	Henderson	Manderino	Redick
Caputo	Horne	Markley	Sebastian
Donaldson	Hostetler	Meheener	Sharp
Donolew	Jiralano	Moorehead	Stroup
Fagan	Keller, M.	More	Van Sant
Fleming	King	O'Donnell	Warman
Fortney	Kline	Pechan	Weish
Gehrlein			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

CLARK AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Clark.

DELEGATE CLARK. Mr. President, it has been a matter of great satisfaction to me today to hear the general acceptance of this body to Proposal No. 3 of the Committee on Taxation and State Finance.

I can say from personal experience that Proposal No. 3 has come out of blood, sweat and tears and hours, days and weeks of work. I am sensitive to the general acceptance of this proposal if I read the tenor of this body correctly. I am also sensitive to the fact that this Constitution is being written for a period, we hope, of 100 years which will not be excessively restrictive on the future of our Commonwealth.

It is a special honor, Mr. President, to offer an amendment to Committee Proposal No. 3, amending the factor 1.5 to 1.75. Thank you.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE CLARK offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 4), page 2, line 9 by striking out "one and one-half" and inserting: one and three-quarters

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Is this, sir, line 9 or line 17?

PRESIDENT BRODERICK. I am told it should be line 17. Will everyone please correct his copy.

The Chair recognizes Delegate Strickler.

DELEGATE STRICKLER. Is this printer's No. 3 or printer's No. 11?

PRESIDENT BRODERICK. It is printer's No. 11.

DELEGATE STRICKLER. It says three on there.

PRESIDENT BRODERICK. The Chair recognizes Delegate Clark.

DELEGATE CLARK. The subject of my proposal refers to printer's No. 3.

PRESIDENT BRODERICK. On the calendar we are on Proposal No. 3, printer's No. 11. The number on your amendment should be printer's No. 11. Will everyone make that correction and we will be in order. Where it says page 2, line 9 it should be page 2, line 17.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fohl.

DELEGATE FOHL. Mr. President, I rise in opposition to this amendment.

With the passage of the Baldus Amendment, regarding the referendum debt, I believe that the flexibility or higher ceiling that this amendment calls for has been taken care of. I think that the exhaustive study and deliberation given by the Taxation and State Finance Committee should gain a great deal of respect from us.

The arguments against the 1.5 could be used against the 1.75 with, in my opinion, equal rationale. Yes, we certainly want flexibility and while I do not want to hark back to Proposal No. 1, again, the greatest flexibility, of course, is no limit. I do not think that that is the wish of this Convention to have no limit and I think that with the passage of the Baldus Amendment that 1.5 is a very reasonable ratio.

PRESIDENT BRODERICK. The Chair recognizes Delegate Caron.

DELEGATE CARON. I would like to rise in opposition also. I would like to pose a question to each of us and, I think, the question is a very simple one. It is now a matter of philosophy; it is no longer a matter of figures.

My interpretation of the information given to us as a committee, and to the delegates as a whole, indicated a rather large sum of money was to be spent in the ensuing years at the discretion of the legislature. It seems to me that we possibly could make a decision as to whether or not the people have a right to determine what is flexibility. I prefer the 1.5 ratio because I think there are ample funds to be spent on capital expenditures now provided and I feel that from the number of comments that there seems, at least to me, an underlying fear of going to the people with the referendum.

As I said before, to me it seems a matter of philosophy. Do we open the floodgates? Do we, perhaps, allow unlimited debt? Or do we leave a legacy to our children saying that at one time we took a look at the future and said we do not want to saddle you with all the obligations

of our generation. I say that the limit of 1.5 should be retained and not increased as suggested by the amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Croop.

DELEGATE CROOP. Mr. President, ladies and gentlemen of the delegation, I am in the banking business. We are considered the people who say no all the time and yet we have to deal with money day in and day out. The last five years, as anyone connected with banks or bank boards will tell you, or any financial interest, have been active years. The only commodity that we have to sell is money. The price we have had to pay for our money has continually increased. The price at which we may sell it has increased a little, but not much.

It occurs to me that when this 1.5 per cent limitation is being placed on here, we may be a little unrealistic. The future is going to travel fast. The demand is going to be great and certainly we of this great Commonwealth do not want to throw our doors open and give unlimited authority to spend our money and impose tax dollars, but I do believe that the 1.5 figure is a little bit over-conservative. I have discussed this with the members of the committee. I think they are frank in their expression. I think they tried to bring to the floor of this Convention, and did bring to it, a remarkable document. Delegate Leonard and his firm are the accountants to the hospital that operates in my community and I know his ability and his background. I discussed this matter with him.

There have been other figures of two per cent and 2.5 limitations proposed. It seems to me as I have talked with a great number of delegates that they are inclined to feel that if we were to go to 1.75 that this small advance over the 1.5 could not be that great to throw the floodgates open and it might cause a lot of saving in money and effort in the future.

I rise to support this amendment that we change the figure to 1.75 rather than 1.5.

PRESIDENT BRODERICK. The Chair recognizes Delegate Aberman.

DELEGATE ABERMAN. Mr. President, fellow delegates, I also rise in favor of this motion.

One of the preceding speakers has spoken about the lessons to be derived from a philosophy or the lessons to be derived from history. Might I suggest to this noble body that one of the great lessons to be derived from the preceding Constitutional Convention was that \$1 million was hardly sufficient limitation for the operation of this Commonwealth.

I might seriously question whether, in fact, a limitation is at all desirable. If I had my "druthers," to make a famous cliché I would ask for no limitation, but I will bow to the respected opinion that was forwarded to be placed before this committee. It said that the necessities of the economic and the financial world require that there be such a limitation, but I strongly urge upon this Convention that such a limitation, as is presently contained, may come back to haunt us. It may not come to haunt even my generation; it may come back to haunt a generation as yet unborn. So let us not say that any mistake would be derived if we were to remove a limitation.

However, I would go even further on a factual basis and point out to you that some of the figures on which the preceding discussion of this morning's session were

based merely projected a figure to 1972. If we examine the percentage increases over the last two years and place them in a graphic projection they will head in an upward direction. I would strongly suggest further that if we ran this projection in its normal course we will run flat into this debt limitation that we are creating by this document somewhere in the latter part of the 1970s.

I find nothing to support a conclusion that the demands on this Commonwealth will lessen, that the demands of the people that exist within our Commonwealth will place lesser burdens on necessity, even as today there are programs as yet unfunded and as yet uncreated, that we must think about and provide so that the lesser of the two evils be a more flexible limitation, and it must be a limitation.

I, therefore, urge you to support a higher limitation and, therefore, vote in favor of this amendment

PRESIDENT BRODERICK. The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, may I interrogate Delegate Whittum?

PRESIDENT BRODERICK. Delegate Whittum, would you stand to be interrogated by Delegate Hocker?

He is shaking his head in the affirmative.

DELEGATE HOCKER. Mr. President, I would ask Delegate Whittum, and I have great respect for this man's ability with figures, after all the amendments that have been offered here today and the changes in this proposal, can you enlighten this body to the overall advantage of borrowing 1.5 as against 1.75? Do you follow me, Delegate Whittum?

DELEGATE WHITTUM. Yes, sir, I think I do. I can say that at this moment the net debt of the Commonwealth is approximately \$1,219,000,000. The formula of 1.5 times would allow a debt as of this June in excess of \$2 billion—\$2,035,000,000. The 1.75 ratio would allow an increase in debt to \$2,874,000,000, in other words, more than a billion dollars more than we have outstanding right now. I would like to reemphasize, Delegate Hocker, however, that it is difficult to relate this formula to what we have today because what we have today is the result of the authorizations and debt that have been incurred over the past years. The problem in people's minds seems to be, what debt is authorized now? And I say again, you cannot relate a billion dollars' additional borrowing capacity to 1968. It is just inconceivable that the State could borrow this much.

DELEGATE HOCKER. Mr. President, may I further interrogate the gentleman?

PRESIDENT BRODERICK. He indicates you may.

DELEGATE HOCKER. Delegate Whittum, the point I am trying to make now is that we have widened the area by eliminating, with amendments today, some of the things that would be overall factors in this. Now, do you have any idea what we have done with amendments that would increase our borrowing ability?

DELEGATE WHITTUM. We have excluded the debt incurred by referendum, which, as I pointed out earlier, at this point is only about \$130 million. We have authorized by the voters, but unissued, the conservation debt issues approved by the electorate last May which allowed a further increase of referendum debt of \$520 million, which would not come within this formula. I think the changes that have been made so far, and I hope there are no others, have allowed this thing all the flexibility

that is needed. I am seriously concerned that by tampering with it and chipping away here and a little there that you are going to destroy the whole purpose of this thing.

DELEGATE HOCKER. Mr. President, I would ask Delegate Whittum, we had a billion-dollar leeway under the original concept of the proposal, right?

DELEGATE WHITTUM. No sir, it is not quite that much.

DELEGATE HOCKER. Well, how much?

DELEGATE WHITTUM. Approximately \$700,000,000.

DELEGATE HOCKER. All right. Now with the amendment, what do you anticipate for the overall?

DELEGATE WHITTUM. Well, if the amendment on the floor is approved, using our figures, the allowable debt today would be \$2,229,000,000 versus our outstanding debt of \$1,219,000,000, or roughly \$1 billion.

DELEGATE HOCKER. Mr. President, I thank the gentleman.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fohl.

DELEGATE FOHL. Mr. President, may I interrogate Delegate Aberman, please?

PRESIDENT BRODERICK. Delegate Aberman, would you stand for interrogation by Delegate Fohl?

He indicates yes. Proceed.

DELEGATE FOHL. You referred to a time in the late 1970s when we would reach a ceiling under the 1.5 ratio. Could you please tell me in what year we would reach the ceiling at the 1.75 ratio?

DELEGATE ABERMAN. Delegate Fohl, before I answer you precisely, I would remind you that my statement was that I would prefer to have no debt limit at all. I find myself defending a position I did not wish to take in the first place.

For statistical data on the proposal I would yield for the moment, if the Chair would permit, to Delegate Gerber who was about to address himself to the question of the debt limitation.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. Delegate Fohl, in 1973, under the 1.5, there would be a 1 percent ratio left to borrow, if you follow the figures which I received from Delegate Whittum. I have not yet had it projected out completely to the 1.75. I had hoped that the individual I asked to do this would have the material in your hands by now. I understand that this would be a matter of really maybe another 10 to 15 years. Do I answer your question? I think you said, when does 1.75 hit the ceiling, and I said, approximately 10 to 15 years after 1.5. Now if Delegate Cosetti would come to the microphone as to the precise year, I would be willing to yield to him on that point, sir.

PRESIDENT BRODERICK. The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. I feel I should use a legal term; I enter this argument as *amicus curiae*, or something like that. I intend to get a law degree before this Convention is over, sir.

I think that the figures, which I have been advised are the accurate ones, would indicate that the ratio for the year 1972 would be 1.48; for 1973, 1.49; and for 1974, 1.46. But I think that in line with what Delegate Whittum says, we are probably stretching our abilities to forecast that

well at that date. But in any case, they would be very close to the limit at that point. Does that answer your question, sir?

DELEGATE FOHL. Not really. I guess I am trying to make the point that we are designing this document to serve us for perhaps scores of years and I was trying to make the point that the 1.75 has just as many deficiencies as have been given to 1.5; it is just that they come a few years later, which is one advantage of .25 higher.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. To respond with a comparison of some figures I do have that do not go beyond 1974, I might say that in 1974, 1.5 reaches 1 per cent, as I said; in 1974, 1.75 reaches 6.22 per cent, according to what I have. So there is a difference and I think it is significant.

If I might just continue, Mr. President, and make a few more points with reference to statistics, I think, that in following the presentation, probably without a doubt the entire Convention would agree, a most extraordinarily fine presentation has been made by Delegate Leonard of the Committee on Taxation and Finance.

There is one thing it is interesting to note, that the history for revenue of tax moneys continues to rise from a history of the projection. The people who came up with the numbers chose to continue the projection of tax moneys at a continuing scale upward.

However, it is also interesting to note that for some reason, which only speculators can guess, the projection on the debt was scaled down speculatively, as the history shows. I have graphs here, Mr. President and members of the Convention, if you would like to see them, which show that the projection comes immediately downward. It seems to me that we are going to find ourselves hitting our ceiling pretty shortly. We are going to find our children hitting the ceiling, and our children's children. I think this is a matter that we are trying to reach for the future, trying to hope for the future.

It is interesting to note, when the figures were presented just recently by Delegate Whittum, that he talks about a present \$1 billion to \$2 billion, I believe he said \$1,002,000,000 debt limit now. The funny thing is that 93 years ago they were talking about a \$1-million-debt limit and we found that not enough. I do not know, and I do not think anyone here knows, and I do not think anyone here can guess what is going to be needed 93 years from now.

I think that, in keeping with this fiscal responsibility and in keeping with a tight concern for the funds of the citizens of Pennsylvania, we also have to be intelligent enough, too, to see what we are going to have to borrow for and when. I do not think we can all do that, because with the children coming along we are going to need more money for schools; we are going to need more money for hospitals; we are going to need more money for roads. I think we are far behind other States in highways today. If we limit this to 1.5, we are not going to be able to meet these needs without going to the people every time. If we are forced to do that, the people will get a little bit tired having to vote referenda for funds. I think this defeats the purpose of a flexible state government that this Constitutional Convention was called to provide.

PRESIDENT BRODERICK. The Chair recognizes Delegate Caron.

DELEGATE CARON. I have already stated my position

on the philosophy. I would merely like to tell the delegates that I have calculated what the difference in ratio is between 1.5 and 1.75. In the year 1972 it would permit the General Assembly to borrow an additional \$500 million without asking the people. In the year 1974, by reason of the ratio, it would be an additional \$600 million beyond what we had previously allowed, so it is a substantial amount of money when you add that little .25.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, I think that the one important thing we are missing in this overall picture is the fact they talk about a million that we had, but the Commonwealth of Pennsylvania has circumvented the million with authorities and other types of borrowing, which we are putting into the debt of the Commonwealth. I think the most important thing that these people are worried about is future years. I think one of the important things that has to be recognized here is that last year the Commonwealth of Pennsylvania retired \$70 million worth of bonds. The General State Authority is 18 years old. I do not know the exact length of its first bond issue—it could have been 20, 25 or 30—but the point I am trying to make is that after you reach a plateau with the retirement of General State Authority bonds and retirement of other bonds, you have a revolving wheel here that will allow you—the legislature, not you—the legislature to pick up. Anything that is retired they will be able to pick up in state debt. This thing is not just going to go to there and, boom! Anything that we retire will give them more latitude.

Now the thinking of this committee, in my humble opinion, and I could be wrong—I have been wrong so many times that I shudder—but the thing that we are trying to do here is put some responsibility into the legislative process, to say that we will not run hog-wild over here or over there because after we reach a certain point we have to return to the people. And it is good, very good, but I think it is a fear of all legislators—it was for me for 20 years—to return to the people and say, I have now spent more money than I have, now will you allow me to spend some more? I want you delegates to remember this is a restrictive thing to a degree—only in the thinking of legislators to say we will not go too far in highway and bridge, we will not go too far over here, we are going to put it in a real, honest-to-God, good, businesslike manner. And when you get that wheel turning after the retirement of bonds, which was \$70 million last year, I do not think anyone, if they are responsible people—and I think the legislative body is responsible—will not purposely bump their head.

Thank you, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, I just rose to ask a question and I do not know if it is really in order or not. It was my understanding that previous to the commencement of this session that those who were going to introduce amendments had a seance together and came up with some order here which is very good. I do not want to get back into one of those numbers games again, and the question that I have in mind is, if this particular amendment passes, the 1.75, have they agreed that we are

not going to be asked to vote on 2 or 2.5 or 2.225, or something else, so we know where we are?

PRESIDENT BRODERICK. The Chair can only answer that by saying, I do not know what amendments are forthcoming. I see Delegate Aberman here has the microphone. Maybe he has the answer.

The Chair recognizes Delegate Aberman.

DELEGATE ABERMAN. Speaking on behalf of those members of the seance, Delegate Scranton, I would say that, to the best of our knowledge, there will be no other amendment offered, other than the one that is presently offered.

DELEGATE SCRANTON. Thank you. I admit that my question was a little out of order, but it does help us in knowing what we are doing.

PRESIDENT BRODERICK. The Chair recognizes Delegate Bunting.

DELEGATE BUNTING. Thank you, Mr. President.

I again would like to ask Chairman Leonard for his personal opinion on this increase of .25 ceiling on the debt limit, if he would be kind enough.

PRESIDENT BRODERICK. Chairman Leonard, would you stand for interrogation by Delegate Bunting? I believe he has already stated his question.

DELEGATE LEONARD. I will. My friend, Delegate Hocker, just told me that my vote is only one vote.

I think that the 1.5 ratio would be adequate and I think that the General Assembly could live within that ratio. However, my personal opinion is that the projects that are now on the drawing boards and that are now before the General Assembly for consideration, I understand, in this session, have enough momentum so that we are almost certainly going to hit that 1.5 maximum sometime in the early 1970s. We are going to be bumping right up against it with this momentum that is created. My only fear is that we do not give a little bit of extra room above that so the General Assembly and the administration can now begin to plan. They know they have a realistic number. They will never want to get up to that final number, I can assure you of that. No good planner is going to get up to the ultimate number. If you say 1.75, chances are they will never get above the 1.5 because they do not know when the ceiling is going to be coming down. I think it is a matter of incentive to bring about the kind of planning where they have a little chance to maneuver to establish priorities, and so forth. It is my personal opinion that a 1.75 would be a proper ratio for this limit.

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodside.

DELEGATE WOODSIDE. Mr. President, at my home I have either the budgets or the appropriation acts since 1911. For 20 years my wife has been trying to get me to throw them out, but I said that sometime I was going to use them. As my good friend, our Secretary, would say, "now is the time." They are up in the attic in Millersburg and I do not have them available so I am going to talk from memory, with apologies that the figures may not be completely accurate.

My recollection is, however, that in 1953, when we had a biennial budget, the budget of this Commonwealth rose to \$1 billion, that was \$500 million per year. Now our annual budget is, as just presented, approximately \$2 billion. That means that in the last 15 years the budgets of this Commonwealth have increased 400 percent.

Let me just take a minute to say what that period was. During that period almost exactly half of that time government was under Democratic administration and half under Republican administration in Pennsylvania. During that period, also, approximately half of that time Government was under Republican administration, nationally and approximately half was under Democratic administration, nationally. During that time there was no great period of inflation, such as we, apparently, are entering into at the present time and, certainly, nothing like that which occurred in the 1920s immediately after the First World War. What does that mean to me? It means that the amount available for budget will continue to increase with great rapidity. If our budget and our income increases in the next 15 years—that is only half of the way to 2000—we will be able at that time to borrow four times as much as we are able to borrow today. We have, at this session, already passed some amendments which will increase the amount of borrowing capacity. As Delegate Hocker has very eloquently presented, this becomes a matter of a rotating fund where there will be more and more money available for borrowing.

Let us take another point. Somebody may say, oh, yes, but you are talking about a time of prosperity. We have had great prosperity in the last 15 years. What about the depressions? Well, let us go back to the depression and what do we find there? A decrease in the budgets of the Commonwealth? No. At that time, too, there was a tremendous increase each year in the amount of funds, in the amount of the budget of the Commonwealth of Pennsylvania.

It seems to me that every indication is that the ability of this Commonwealth to borrow substantial sums of money, the necessary funds, will in no way be hampered, and that instead of using the figures we are using now, or the figures of 1972, we might well say that the chances are that in 15 years we will be able to borrow four times as much as we are able to borrow under this provision next year, and I think that is enough.

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. I do not want to dispute, Mr. President, what the judge has just said, but I think it is only fair to say that as the budget of the Commonwealth goes up, much of it is due to the higher costs of what we are buying. If the debt limit is four times as high, it may very well be that construction costs will have gone up greater than four times, or it may be pretty close to it, so we will not be able to buy any more goods with the money, with this increase in budget, as we can today, except where there are actual increases due to population and due to the growth of government.

PRESIDENT BRODERICK. The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. I am not anxious to cut off debate, but in the interest of orderliness, I think we are ready for a vote.

PRESIDENT BRODERICK. The Chair recognizes Delegate Popil.

DELEGATE POPIL. Just one remark here, Mr. President. During our deliberations in the State Debt Subcommittee, we took all these particulars into consideration, and I know there were several members who felt that we should be more liberal. We came out of this committee

feeling quite firm. I might state that at the time of deliberations we had hoped we could get some guidance from the Highway Department and other departments. Unfortunately, we did not. One of my concerns was the fact that I did not feel that we should, in any way, impede the highway construction program. Therefore, I went along with the 1.5 multiple as presented.

However, yesterday and today, of course, we have been getting information from the Highway Department that if we do adopt a 1.5 multiple, or ratio, we will seriously impede the highway-construction work and the planning and the authorization that already has been made.

Therefore, because of this word I have received and other delegates have received, I will support the amendment of 1.75 so that we do not impede any construction that already has been planned.

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. Mr. President, I must rise to refute the last statement. To the best of my knowledge, I have received no information of any type that indicates a formula of this type would impede the Highway Department.

We have received a memo that projected the amount of outstanding debt that the Highway Department would incur, and this has been included in all the numbers which have been presented to you today.

Frankly, the Highway Department did not understand this formula. They felt that it related purely to highway revenues, and on that basis, it would have restricted them.

Since we are talking about general revenues for the entire Commonwealth, I have no evidence at all that would support this statement that they are going to be impeded.

PRESIDENT BRODERICK. Are we ready for the question?

Will the Convention agree to the amendments offered by Delegate Clark?

The roll was recorded as follows:

YEAS—87

Aberman	Cosetti	Hocker	Rea
Amsterdam	Cotese	Huggins	Redick
Aurentz	Croop	Irvins	Roberts
Baldridge	Curran	Johnson	Rovner
Baldus	Danley	Kauffman	Sahl
Baldwin	Devlin	Keller, J.	Scales
Barry	Dumbauld	Kelly	Scarlett
Bashoff	Erwin	Laputka	Scott
Benedict	Fawcett	Leach	Seranton
Benfield	Fay	Lee, K.	Shapiro
Bloom	Feather	Leonard	Shettyg
Broderick	Filson	Mandernoo	Shrager
Buck	Fineman	Mattioni	Silverman
Bunting	Forster	McGeary	Solomon
Burkholder	Gabreski	Meyer	Sprogel
Butera	Gehrlein	Michael	Swope
Camardella	Gerber	Murray	Tate
Casey	Goldman	Pasquerilla	Thornburgh
Clark	Goldstein	Pelletier	Tomascik
Clinger	Griffith	Percey	Tully
Conley	Hannum	Popil	Van Sant
Corey	Hatler	Prendergast	

NAYS—40

Bagenstose	Heyburn	Nelson	Stout
Banes	Hines	O'Donnell	Struckler
Braham	Krill	Orban	Thomson
Brennan	Lee, L.	Orbin	Waldron
Brown	Leinbach	Otto	Westerberg
Caron	Levin	Pott	Whittum
Desmond	Mangery	Powell	Wilcox
Fohl	Müller, R.	Richter	Wilmarth

Gouger
Harding

Morton
Musselman

Shavely
Shoemaker

Woodring
Woodside

NOT VOTING—36

Allison
Barron
Cain
Caputo
Cunningham
Donaldson
Donolow
Fagan
Fleming

Fortney
Gray
Henderson
Hook
Horne
Hostetter
Jrolanio
Keller, M.
King

Kline
Lane
Markley
McGlynn
Michener
Miller, D.
Moorhead
More
Pechan

Quiles
Rappaport
Reynolds
Ruth
Sebastian
Sharp
Stroup
Warman
Welsh

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

REA AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Rea.

DELEGATE REA. Mr. President, I stand in place and submit the following amendment.

On the question recurring,
Will the Convention agree to the proposal on second consideration?

DELEGATE REA offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 4), page 2, lines 15 and 16, by striking out "for capital improvements separately specified in a capital budget"

On the question,
Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Rea.

DELEGATE REA. Mr. President, the purpose of this amendment is to give the legislature the right to borrow money for matters other than "capital improvements." At the present time and under the present proposal, the only nonreferendum approval is for capital improvements, which are highways, roads, bridges and airports.

Under my amendment if it is granted, it will give the legislature the power to borrow money for conservation and it will give the legislature the power to borrow money for air pollution, water pollution, employment assistance for economically distressed areas, for education and for mental health. In my judgment, these are more important items because they deal with everyone in the Commonwealth of Pennsylvania and do not deal merely with one small subject matter. As matters now stand, a capital improvement might be 10 miles or 15 miles of road that benefits one little area of the State of Pennsylvania. But, on the other hand, if the legislature is given permission to borrow money for air pollution, that affects everyone. If they are given the power to borrow money for conservation or stream pollution, this benefits everyone in the State of Pennsylvania.

There is an argument that has been presented that you should let the legislature take care of these people-matters out of current expenditures, but I think we know by seeing the Governor's budget that was presented that there is no elasticity in the budget today. If these matters are going to be taken care of they are going to have to be taken care of immediately and not stretched out on a piecemeal basis. In my best judgment the issue of, for instance, education or mental health must be dealt with today in a lump-sum package and the problem solved.

The problem cannot be solved by allocating five percent over the next 20 years or what little money you can scrape out of the budget this year.

I think the legislature should be given the power to treat the subjects that deal with people, that deal with everyone in this State, and given the flexibility to do this rather than merely to construct a road or construct a bridge or an airport. In my judgment, these are not as important as the people. At least give the legislature the right to pick and choose what is more important than tying them down merely to capital improvements.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Mr. President and fellow delegates, up to this point we have had some amendments that I believe make the total structure that we have talked about more workable and more palatable, and it was aimed at giving the legislature and the administration room to do some planning.

This amendment, which I would be very strongly opposed to, would destroy a great deal of what we are trying to do. First of all, it would permit borrowing for items that would normally go into the operating budget, the one thing that we have been strongly against. Even the former Constitution limited such borrowing to a million dollars. But we are strongly in favor of having a balanced budget and not borrowing money for operating purposes—conservation, air pollution, et cetera—matters that belong in the operating budget that should be paid for on a current basis from taxes. If there is a reason why the State would like to make an investment in these types of items, it is a change of policy, and on that basis they should go to the public for approval. Under the article as it now stands, they can go to the public for approval. With the amendment, they could, conceivably, then not be included in the future computation of debt. I would strongly urge that you defeat this amendment.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. Mr. President, may I ask Chairman Leonard just a question here. I want to make sure I am clear about it.

PRESIDENT BRODERICK. Chairman Leonard, will you stand for interrogation by Delegate Scranton?

DELEGATE LEONARD. Yes, sir.

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE SCRANTON. There is not anything in your proposal, without Mr. Rea's amendment, which makes it impossible for the State to build buildings for mental institutions and that type of thing, is there?

DELEGATE LEONARD. Clearly, no; clearly permissible.

DELEGATE SCRANTON. When he was speaking, therefore, about mental health, I assume he meant operating expenses. Did you, Delegate Rea? Is that what you had in mind?

DELEGATE REA. What I had in mind was an overall, for instance, \$50-million-bond issue to not only build the building, but to staff the building, to research the building and to do all the other things that merely brick and mortar will not do to solve the problem.

DELEGATE SCRANTON. Yes, well, I understand.

A capital improvement, normally speaking, is, as you

know, a building or something of that sort, and I just got the impression from what you said that you thought that was—

DELEGATE REA. No, I am speaking of what is put into the building.

DELEGATE SCRANTON. All right.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I rise to endorse the words which were spoken by Delegate Leonard.

It seems to me that this is a very dangerous amendment. What we are doing is trying to substitute something for the normal legislative process in providing funds for the operation of the government of the State.

They can increase taxes to a point where they can take care of the needs of all the state institutions that ought to be taken care of. That is exactly why we have current taxes. To put on top of that a provision that you can borrow long-term for your current needs seems to me to be a very improvident thing.

I wonder who is going to use all the tunnels and roads and bridges if it is not the people of the State of Pennsylvania. Everything we are building is for the people; we are not building it for anyone else. It seems to me that for these things which you use over a long period of time, you are justified in paying for over a long period of time. It is those things you are buying today for use today that you ought to pay for today. That is the way we have always lived, and I think we ought to continue to live that way if we are not going to go through bankruptcy as a State.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hocker.

DELEGATE HOCKER. Mr. President, I would like to interrogate Mr. Rea, if I may, please.

PRESIDENT BRODERICK. Would you stand for interrogation, Delegate Rea?

DELEGATE REA. I shall, Mr. President.

PRESIDENT BRODERICK. You may proceed, Delegate Hocker.

DELEGATE HOCKER. Mr. President, I would ask the delegate, do you have in mind borrowing money, allowing the legislature to borrow, for the General Fund of the Commonwealth of Pennsylvania?

DELEGATE REA. I have in mind to permit the legislature to borrow money much as they did for Project 70, much as they have for conservation, without having to go to the people every year to do these things. It is my belief that these large-scale problems that your boroughs and townships and your counties cannot solve—they cannot solve these large-scale problems—that the legislature must do it. The only way you can do it is not piecemeal, with a few million dollars or a few thousand dollars a year, but you must do it overall and solve the problems that deal with people.

DELEGATE HOCKER. Mr. President, I understand I have to go through the Chair.

I would ask the gentleman whether he thinks his amendment does what he wants done, since he has heard some people speak on it.

DELEGATE REA. I think it does exactly that. For all you are doing—you still keep the same debt limitation that we have when you say the legislature can borrow for capital improvements; you are taking those words out and saying the legislature can borrow not only for capi-

tal improvements, which are physical, tangible things, but for improvements for everyone in the State, which are intangible things. That is all you are doing by this amendment.

DELEGATE HOCKER. Mr. President, I would ask the gentleman, would they be allowed to borrow money under his amendment for the general operation of government as such?

DELEGATE REA. Yes.

DELEGATE HOCKER. I thank the gentleman.

There is so much danger in this amendment, and I will tell you why in factual language. If this amendment were possible, four months ago Governor Shafer could have told the legislature to go fly a kite, get out of here. He told them that, but not exactly that way. You can never, never allow the Commonwealth of Pennsylvania to operate without a balanced budget. If you do, you are going to wind up like the Federal Government, where nobody knows how much they owe. This, in my humble opinion, is the breakdown of sensible, respectable government. This is going to the well when you do not have to. Mr. President, I mean this with all my heart: If you delegates never do anything else in this Convention, please, please, do not allow this to happen. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Rea.

DELEGATE REA. Mr. President, in answer to that statement by Delegate Hocker, I think it is only fair to bring to the delegates' attention that my amendment does not increase the amount of debt that the legislature can incur; all mine does is broaden the base on which it can borrow money. The limitation and the ceiling are still there. All that this Convention is doing, by turning down my amendment and keeping it the way it is, is saying that the only reason the Commonwealth can borrow money is to build the shells of buildings or to build a highway; that the other things are not important enough; that the people themselves and the things that affect them are not sufficiently important; that brick and mortar and steel are the only things that we think about; and I cannot believe that this is the way this Convention wants to go.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Rea?

The roll was recorded as follows:

YEAS—11

Conley	Gouger	Mattioni	Silverman
Feather	Huggins	Michael	Tate
Fineman	Irvis	Rea	

NAYS—107

Aberman	Cosetti	Laputka	Roberts
Amsterdam	Croop	Leach	Rovner
Aurentz	Cunningham	Lee, K.	Sahl
Bagenstose	Curran	Lee, L.	Scales
Baldrige	Dailey	Leimbach	Scarlett
Baldus	Desmond	Leonard	Scott
Baldwin	Devlin	Levin	Scranton
Banes	Dumbauld	Manderino	Shapiro
Barry	Erwin	Mangery	Shettig
Bashoff	Fawcett	McGeary	Shively
Benedict	Fay	McGlynn	Shoemaker
Benfield	Filson	Meyer	Solomon
Bloom	Fohl	Miller, D.	Sprogeil
Braham	Forster	Miller, R.	Stout
Brennan	Gabreski	Morton	Strickler
Broderick	Goldman	Murray	Swope
Brown	Goldstein	Nelson	Thornburgh
Buck	Griffith	O'Donnell	Tomascik

Bunting	Hannum	Orban	Tully
Butera	Harding	Orbin	Van Sant
Camardella	Hatter	Otto	Westerberg
Caron	Heyburn	Pasquerilla	Whittum
Casey	Himes	Popil	Wilcox
Clark	Hocker	Pott	Wilmarth
Clinger	Kauffman	Powell	Woodring
Corey	Keller, J.	Frendergast	Woodside
Cortese	Krill	Richter	

NOT VOTING—45

Allison	Gray	Lane	Redick
Barron	Henderson	Markley	Reynolds
Burkholder	Hook	Michener	Ruth
Cain	Horne	Moorhead	Sebastian
Caputo	Hostettler	More	Sharp
Donaldson	Jroslano	Musselman	Shrager
Donolow	Johnson	Pechan	Stroup
Fagan	Keller, M.	Pelletier	Thomson
Fleming	Kelly	Percey	Waldron
Fortney	King	Quiles	Warman
Gehrlein	Kline	Rappaport	Welsh
Gerber			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

ABERMAN AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Aberman.

DELEGATE ABERMAN. Mr. President, I read in place and submit the following amendment.

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE ABERMAN offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec. 4), page 3, line 18, by striking out "school district" and inserting: local taxing authority

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Aberman.

DELEGATE ABERMAN. Mr. President, while the pages are distributing the proposed amendment, I would take advantage of that lull to explain to my fellow delegates that the proposed amendment, in my view, is what I consider to be a housekeeping amendment which I think will benefit many regions of this State, particularly the small, rural communities that must face the present bond market. I would ask, respectfully, that my fellow delegates give consideration to this amendment.

Its purpose is to include within the exclusions of section (h) a proposed arrangement, or a type of arrangement, that would solve a very serious problem for a number of smaller school districts and communities in this Commonwealth. The problem is presently created by the financial communities in that the acceptance of an issue from a small town or a small school district must pay an abnormal amount of fees, premiums, or interest rate in order to place their indebtedness on the market and, in fact, as we can see in the present money market, we are faced with great difficulty in floating even large bond proposals.

By deleting the word "school district" and inserting "local taxing authority", I would suggest that this would open the way whereby a number of smaller districts and

taxable authorities might band together and enter into an arrangement with the Commonwealth of Pennsylvania, where the Commonwealth of Pennsylvania would borrow the money and, for a slight overage fee, transmit the money to the various participants in this document. This would enable the participants to borrow money at a much lower rate and effectuate a saving which I feel would be most desirable. This type of flexibility is another means of not evading that limitation, or of not escaping from any type of limitation that we are creating here, but simply to take recognition of the complexities of the present financial community and give another string to the bow of these small districts and units and, therefore, I think by inserting the words "local taxing authority" we will derive a benefit which will serve the entire Commonwealth.

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Mr. President, I would term this really as a correctional type of amendment. I think it was the intent all along of the committee that debt which is not to be repaid from Commonwealth funds would be excluded from Commonwealth debt. We put in there the exclusion of the Public School Authority. We think that this wording, changing the words, deleting those words, and putting in "local taxing authority" does serve a really better sense for the meaning of the committee.

We, therefore, consider this a correctional amendment and suggest that you accept it.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, may I ask Delegate Aberman and Delegate Leonard whether they intended that the Philadelphia School District would be included among the beneficiaries of this provision?

DELEGATE LEONARD. Well, they would be included in the State Public School Authority, as I understand it. They can go to this and they can do their borrowing through this source.

DELEGATE SHAPIRO. I would like to suggest that the language--

DELEGATE LEONARD. Without any amendment whatsoever, under the old word, Delegate Shapiro, they could be included.

DELEGATE SHAPIRO. That is my point, they could be included under the present language, but under Delegate Aberman's amendment, I doubt it very much.

DELEGATE LEONARD. Is not the school district of Philadelphia a local taxing authority?

DELEGATE SHAPIRO. I do not know; I question that.

DELEGATE ABERMAN. To the best of my knowledge, as a product of the school district of Philadelphia, I always thought they were a local taxing authority.

DELEGATE LEONARD. I express the intent of the committee in this and, if it is not, I do not think anyone will object to having the words put in there. We do not want any local taxing authority excluded from this, because we are talking about state debt; we are not talking about local debt.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Gerber.

DELEGATE GERBER. In order to protect ourselves, I do not know why we just cannot say, in keeping with the

spirit of what Delegate Leonard, Delegate Aberman and Delegate Shapiro said, "school district or local taxing authority," therefore, I think clearing the problem.

What Delegate Shapiro is addressing himself to is that in the school district of Philadelphia, the school board members are not elected and they do not levy the tax and it is a different type of framework. In order to protect that framework from any unintended erosion, I think we could accomplish our objective by adding rather than deleting.

PRESIDENT BRODERICK. Do you wish to withdraw this amendment and have it redrawn?

DELEGATE ABERMAN. Mr. President, in the interests of moving along, may I simply state that I would accept the amendment and instead of the amendment reading "striking 'school district'". I would say simply, "insert after the words 'school district' the following: 'or other local taxing authority.'"

PRESIDENT BRODERICK. There is no problem here. In the interests of accuracy, we shall withdraw the amendment and have one in a few seconds and we shall vote on this without further delay when it is ready.

The Chair recognizes Delegate Wilmarth.

DELEGATE WILMARTH. I think there is some confusion and certainly I would like clarification on school authorities. It was my understanding, as you probably know, that many of our schools are being built by our State Public School Building Authority in Harrisburg, and not by local authorities. It was my understanding that school districts which participated at the state level were exempt.

I hope that when they revise this amendment they will ask counsel and be able to give us a clarification as to schools which are building under the State School Building Authority of the State, because this is extremely important.

PRESIDENT BRODERICK. Counsel will look into it.

SHETTIG AMENDMENT

PRESIDENT BRODERICK. The Chair now recognizes Delegate Shettig.

DELEGATE SHETTIG. Mr. President, I read in place and present the following amendment to Committee Proposal No 3

On the question recurring,

Will the Convention agree to the proposal on second consideration?

DELEGATE SHETTIG offered the following amendment which was read by the clerk:

Amend Sec. 1 (Sec 4), page 2, line 18, by inserting after "receipts": and fees

On the question,

Will the Convention agree to the amendment?

PRESIDENT BRODERICK. The Chair recognizes Delegate Shettig.

DELEGATE SHETTIG. Mr. President, this is a noncontroversial amendment, I believe, which really only adds to line 18, after the word "receipts", the two words "and fees." This is designed to include two types of fees into the definition there of what might be considered on line 18, primarily the motor vehicle fund fees and also the

other fees, such as the dog license and the insurance and professional fees. It is a total of about \$142 million which would be included in this definition then by inserting those two words, "and fees".

PRESIDENT BRODERICK. The Chair now recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. I wonder if Delegate Leonard could tell us what the effect of this would be on the article as proposed by his committee.

DELEGATE LEONARD. Delegate O'Donnell, the effect would be, since the group has adopted the 1.75 multiple, to add onto the base the fees that were collected. I think that the term "fees and licenses" is a little bit too loose; I am not sure it is that clearly defined that we do not get into problems. I would not like us to get into questions of amounts coming from hospitals. It may mean to add another \$100 million or \$150 million to the debt limit. You have asked me what it means and that is the effect of what would happen.

DELEGATE O'DONNELL. Does your committee consider this merely correctional?

DELEGATE LEONARD. I will ask Delegate Whittum, who is standing, to speak to this.

PRESIDENT BRODERICK. The Chair recognizes Delegate Whittum.

DELEGATE WHITTUM. This is absolutely not a correctional amendment. It is a substance amendment, one that we have considered thoroughly. It is another attempt by the group to increase this limit. Those who are in favor of unlimited debt, as I mentioned earlier, are chipping away at this formula in an attempt to destroy it, and that is what this will do. For example, let me read to you from the budget that was received yesterday some of the possible fees that could be included in this formula: We have the fish licenses and fees, the game licenses and fees, the Banking Department licenses and fees, State Farm Show, Milk Control, State Harness Racing.

The purpose of the formula in trying to relate debt to taxes was the concept that this is the easiest thing and the only thing that the State can completely control. When you have an unlimited amount of fees, with some respects I agree that it could be controlled, such as the automobile license, but to open it up to any and all fees, I think not only are you destroying the effectiveness of this, you are defeating the purpose.

PRESIDENT BRODERICK. The Chair recognizes Delegate Popil.

DELEGATE POPIL. Mr. President, as co-chairman of the Committee on State Debt, we did discuss this matter quite thoroughly and it was agreed, I believe unanimously, that we would not include the word "fees" and we would stay with the word "taxes." Therefore I concur fully with Delegate Whittum. I believe that we have increased the ceiling right now by adopting the 1.75 multiple.

Therefore, I urge that we vote against this amendment.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Shettig?

The roll was recorded as follows:

YEAS—23

Aberman	Conley	Keller, J.	Silverman
Aurentz	Cosetti	Michael	Tate

Baldus
Bunting
Butera
Camardella

Dumbauld
Feather
Iris
Kauffman

Prendergast
Rea
Scales
Shettig

Thornburgh
Tomascak
Tully

NAYS—92

Amsterdam
Bagenstose
Baldrige
Baldwin
Banes
Barry
Bashoff
Benedict
Benfield
Bloom
Braham
Brennan
Broderick
Brown
Buck
Burkholder
Caron
Casey
Clark
Corey
Cortese
Croop
Cunningham

Curran
Dailey
Desmond
Devlin
Erwin
Fawcett
Fay
Filson
Fohl
Forster
Gabreski
Gehrlein
Gerber
Goldman
Goldstein
Gouger
Griffith
Hannum
Harding
Hatter
Hayburn
Himes
Hocker

Kelly
Krill
Laputka
Leach
Lee, K
Leinbach
Leonard
Levin
Manderino
Mattioni
McGeary
McGlynn
Meyer
Miller, D
Miller, R
Morton
Murray
Nelson
O'Donnell
Orban
Otto
Pasquerilla
Popil

Pott
Powell
Redick
Richter
Roberts
Rovner
Sahl
Scarlett
Scranton
Shapiro
Shively
Shoemaker
Shrager
Sprogel
Stout
Strickler
Swope
Westerberg
Whittum
Wilcox
Wilmath
Woodring
Woodside

NOT VOTING—48

Allison
Barron
Cain
Caputo
Clinger
Donaldson
Donolow
Fagan
Fineman
Fleming
Fortney
Gray

Henderson
Hook
Horne
Hosteller
Huggins
Jrolano
Johnson
Keller, M
King
Kline
Lane
Lee, L.

Mangery
Markley
Michener
Moorhead
More
Musselman
Orban
Pechan
Pelletier
Percey
Quiles
Rappaport

Reynolds
Ruth
Scott
Sebastian
Sharp
Solomon
Stroup
Thomson
Van Sant
Waldron
Warman
Welsh

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

PRESIDENT BRODERICK. The Aberman corrected amendment is now ready and the Chair will ask the clerk to read it.

The clerk read as follows:

Amend Sec. 1 (Sec. 4), page 3, line 18, by inserting after "school districts": or local taxing authority

On the question recurring,

Will the Convention agree to the corrected amendment offered by Delegate Aberman?

The roll was recorded as follows:

YEAS—103

Aberman
Amsterdam
Aurentz
Bagenstose
Baldrige
Baldus
Baldwin
Banes
Barry
Bashoff
Benedict
Benfield
Bloom
Broderick
Brown
Buck
Bunting
Burkholder
Butera
Caron
Casey
Clark
Clinger

Cosetti
Croop
Cunningham
Dailey
Desmond
Devlin
Dumbauld
Erwin
Fawcett
Fay
Feather
Filson
Fineman
Fohl
Forster
Gabreski
Gehrlein
Gerber
Goldman
Goldstein
Griffith
Hannum
Hatter

Kelly
Krill
Laputka
Leach
Lee, K
Lee, L
Leinbach
Leonard
Levin
Manderino
Mattioni
McGeary
McGlynn
Meyer
Michael
Miller, D
Miller, R
Murray
Nelson
Orban
Orban
Otto

Powell
Prendergast
Rea
Redick
Roberts
Rovner
Sahl
Scales
Scarlett
Scranton
Shapiro
Shettig
Shoemaker
Shrager
Silverman
Sprogel
Strickler
Swope
Tate
Thornburgh
Tomascak
Tully
Van Sant

Conley	Irvs	Pasquerilla	Waldron
Cory	Kauffman	Popil	Wilcox
Cortese	Keller, J.	Pott	

NAYS—14

Brennan	Heyburn	Stout	Wilmarth
Camardella	Humes	Westerberg	Woodring
Curran	Hocker	Whittum	Woodside
Harding	Shively		

NOT VOTING—46

Allison	Henderson	Markley	Reynolds
Barron	Hook	Michener	Richter
Braham	Horne	More	Ruth
Cain	Hostettler	Moorhead	Scott
Caputo	Huggins	Morton	Sebastian
Donaldson	Jrolanio	Musselman	Sharp
Danolow	Johnson	Pechan	Solomon
Fagan	Keller, M.	Pelletier	Stroup
Fleming	King	Percey	Thomson
Fortney	Kline	Quiles	Warman
Gouger	Lane	Rappaport	Welsh
Gray	Mangery		

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

MOTION TO TAKE GRAY AMENDMENT FROM TABLE

PRESIDENT BRODERICK. The Chair recognizes Delegate Irvs.

DELEGATE IRVIS. Mr. President, I move that the amendment filed by Delegate Gray be taken from the table and acted upon at this time.

PRESIDENT BRODERICK. It has been moved and seconded that the Gray amendment be taken from the table and acted upon at this time.

On the question,
Will the Convention agree to the motion?
It was agreed to.

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Mr. President, the counsel for the Convention has advised me that the words for "or other catastrophe," as proposed by Delegate Gray, would be satisfactory and would take care of those words which they intended to replace and would eliminate the problem that Delegate Gray referred to.

I, therefore, suggest and hope that we all vote "yes" for this amendment.

PRESIDENT BRODERICK. Is there anyone else who wishes to be heard? Are we ready for the question? We will unlock the voting machine.

On the question recurring,

Will the Convention agree to the amendment offered by Delegate Gray?

The roll was recorded as follows:

YEAS—110

Aberman	Curran	Laputka	Redick
Aurentz	Dalley	Leach	Richter
Bagenstose	Desmond	Lee, K.	Roberts
Baldus	Devlin	Lee, L.	Rovner
Baldwin	Dumbauld	Leinbach	Sahl
Banes	Erwin	Leonard	Scales
Barry	Fawcett	Levin	Scarlett
Bashoff	Filson	Manderino	Scranton
Benedict	Fineman	Mattioni	Shapiro
Benfield	Fohl	McGeary	Shetig
Bloom	Forster	McGlynn	Shively

Braham	Gabreski	Meyer	Shrager
Broderick	Gehrlenn	Miller, D.	Silverman
Brown	Goldman	Miller, R.	Sprogeil
Buck	Goldstein	Morton	Stout
Bunting	Gouger	Murray	Strickler
Burkholder	Gray	Nelson	Swope
Butera	Griffith	O'Donnell	Tate
Camardella	Hannum	Orban	Thornburgh
Caron	Harding	Orbin	Tomascek
Casey	Hatter	Otto	Tully
Clark	Humes	Pasquerilla	Van Sant
Clinger	Hocker	Popil	Waldron
Conley	Irvs	Pott	Wilcox
Cory	Kauffman	Powell	Wilmarth
Cortese	Keller, J.	Prendergast	Woodring
Croop	Kelly	Rea	Woodside
Cunningham	Krill		

NAYS—10

Amsterdam	Feather	Shoemaker	Westerberg
Brennan	Gerber	Solomon	Whittum
Pay	Heyburn		

NOT VOTING—43

Allison	Henderson	Mangery	Rappaport
Baldrige	Hook	Markley	Reynolds
Barron	Horne	Michael	Ruth
Cain	Hostettler	Michener	Scott
Caputo	Huggins	Moorhead	Sebastian
Cosetti	Jrolanio	More	Sharp
Donaldson	Johnson	Musselman	Stroup
Danlow	Keller, M.	Pechan	Thomson
Fagan	King	Pelletier	Warman
Fleming	Kline	Percey	Welsh
Fortney	Lane	Quiles	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

PROPOSAL No. 3, PRINTER'S No. 11

PRESIDENT BRODERICK. Under the rules, Proposal No. 3, printer's No. 11, will be on the second consideration calendar tomorrow as amended.

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to the second consideration of **Committee Proposal No. 4, printer's No. 12**, entitled:

Amending the Constitution of Pennsylvania specifying audit control of public moneys and establishing and regulating a balanced State budget for the next fiscal year and financial plans for the succeeding five years.

On the question,

Will the Convention agree to the proposal on second consideration?

PRESIDENT BRODERICK. We now take up Proposal No. 4, printer's No. 12.

The Chair recognizes Delegate Banes.

DELEGATE BANES. Mr. President, earlier in the session, we adopted what is identified as the Goldman amendment pertaining to an insertion of a phrase after the word "debt" to the extent that it is self-liquidating.

In discussing the effect of this particular insertion with counsel, it was indicated that this may constitute a very serious problem. I would, therefore, request counsel to give us a written opinion before we take this up on the next consideration.

PRESIDENT BRODERICK. I have consulted with coun-

sel for the committee, as well as counsel for the Convention, and they indicate that they see no problem here at all in connection with the amendment that was adopted.

DELEGATE BANES. I would still request an opinion on this question, Mr. President.

PRESIDENT BRODERICK. Would you talk to counsel about your point, and I am sure that he will be happy to give you an opinion.

DELEGATE BANES. I shall.

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Proposal No. 4 deals with financial management, specifically with the two subjects of auditing and budgeting. You all received the report that we submitted last Thursday, February 1, which set forth the thinking of the committee in making this proposal to this group.

I think that at this time I will again ask and invite interrogation so that those who would like to interrogate the committee on Proposal No. 4 are most cordially invited to do so now.

PRESIDENT BRODERICK. Chairman Leonard, before we have any interrogation or questions directed toward the chairman of the committee, the Chair would request that if anyone has amendments to Proposal No. 4, would they kindly see that we get them up front here so that they can be reproduced and be ready in order to save time later. Are there any amendments to be handed up in connection with Proposal No. 4?

The Chair recognizes Delegate Cosetti.

DELEGATE COSETTI. Mr. President, may I suggest that, if possible, we follow the procedure we followed this morning and allow some discussion to occur before we move a specific amendment so that the delegates may—

PRESIDENT BRODERICK. I am endeavoring to follow the same procedure. What we did this morning, and what we have done in every session is to ask anyone who has amendments to please hand them up here. That does not mean that you have to offer them. It gives us an opportunity to reproduce them, see how many amendments we have and it also gives us, if we have duplicate amendments, an opportunity to see that there are duplicates and discuss them with the delegates.

I understand we just have one amendment.

The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I may have some amendments. That will depend on what happens as a result of the interrogation that takes place in the next little while.

PRESIDENT BRODERICK. Are they prepared now?

DELEGATE AMSTERDAM. I have some that are prepared, but whether I put them in will depend on further clarification. I hope to get it as a result of the interrogation.

PRESIDENT BRODERICK. The only request of the Chair is that, if you have prepared amendments, it is much easier if counsel has an opportunity to look at them and get them in order.

The Chair recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, I would like to ask Delegate Leonard, on page 1, line 11, of Committee Pro-

posal No. 4, printer's No. 12, what the committee means by the word "affairs"?

DELEGATE LEONARD. Delegate Swope, the term "affairs" is intended to mean not only the matters relating to the receipt and expenditure of moneys, but it also may relate to the manner in which the departments are carrying out their responsibilities and the efficiency with which they are spending their money, the money that the General Assembly has appropriated to them.

DELEGATE SWOPE. I thought that was probably what was meant and I hoped it was not. I have had some affairs in my time and I did not want them audited.

What I fear the committee is asking us to approve here today is to place the Auditor General and the Treasurer in the position of being a second office of administration. The Governor now has a very effective arm in which to audit the procedures and the operations of the departments for which he is solely responsible, and I would hesitate to diffuse the authority by which his actions can be audited or abetted.

I, therefore, believe that what you are doing here is going to create tremendous confusion in the operation of the government of the Commonwealth of Pennsylvania.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Goldman.

DELEGATE GOLDMAN. Delegate Leonard, earlier this morning I asked you whether or not there was some provision, some proviso, for the General Assembly attaching a price tag to its appropriation bills, and you said that was contained within Proposal No. 4. I have read through Proposal No. 4 and I cannot seem to find it. Maybe I am misreading or misinterpreting what you had earlier commented on.

DELEGATE LEONARD. It is intended that the cost of programs, the future cost of programs, be specified in the financial plan and I believe if you look at Section 26, page 3, line 16,—

DELEGATE GOLDMAN. That is the Governor's budget.

DELEGATE LEONARD. It says that annually the financial plan is to be approved by the General Assembly. But also, in the financial plan will be the proposed expenditures by the administration and as may be adjusted by the General Assembly for each program for the ensuing five-year period. Therefore, it is expected that the cost of every program will be set forth in reasonable detail in this five-year financial plan, so that when it comes before the General Assembly and when it is made and disclosed to the public that, in effect, the price tag of that program will be known.

DELEGATE GOLDMAN. Am I correct in assuming that this price tag right now is within the Governor's budget as he presents it to the General Assembly?

DELEGATE LEONARD. Excuse me, what was that again?

DELEGATE GOLDMAN. Am I correct in assuming that this price tag is in the Governor's budget program to the General Assembly? In other words, what I am suggesting is that the Governor may suggest to the General Assembly a particular program that has a price tag on it, but there is no reason why the General Assembly necessarily has to accept it and they can pass an actual act which is far different from what the Governor has actually suggested.

DELEGATE LEONARD. There is nothing in here that

requires the General Assembly to only pass those proposed programs that the Governor has made.

DELEGATE GOLDMAN. Was it the intention of your committee to have the General Assembly establish a price tag to each piece of appropriation legislation so that they could fit it within the framework of the anticipated revenues?

DELEGATE LEONARD. Well, it would seem to me the committee did not accept "price tag legislation" as such. They did not want to get into that. But I think the effect of this is that if the General Assembly has to approve a five-year financial plan when they take a proposal of the Governor's out and they put their own plan in, it would seem to me that it would be the intent of this to have the cost of that program for a period of five years inserted into that financial plan.

DELEGATE GOLDMAN. Would the committee's opinion be contrary to an amendment providing that, where the General Assembly introduces appropriation legislation, it attach with it an estimated cost for expenditure of such legislation?

DELEGATE LEONARD. I am going to call on Delegate Wilcox, who is the co-chairman of the subcommittee that developed this particular proposal. Delegate Wilcox, if you will answer that question, please.

DELEGATE WILCOX. I think it would be the consensus of the committee that we would not oppose that, Delegate Goldman. We did, however, consider a proposal to that effect; we thought perhaps it should be legislative rather than constitutional. But we all did favor the idea of having a price tag on legislation.

DELEGATE GOLDMAN. I do agree with you basically that it is perhaps legislative, but inasmuch as we have set up and followed these standards and you do have plans—one-year plans and five-year plans with estimates of expenditures and revenues—it would seem to follow that if the legislature deviates or in any manner passes legislation within the framework of these plans, that it should also have a price tag connected to it.

DELEGATE WILCOX. There was no disagreement with that in the committee, if you wish to amend it; if that was the desire of the Convention, we would not disagree.

DELEGATE GOLDMAN. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. Mr. President, I spoke to Delegate Leonard yesterday concerning the words "pre-audit" and "postaudit." Frankly, I do not know what they mean. Secondly, when I went to my new Webster's New International Dictionary, Third Edition, those words were not contained in it, and I know that they are not in my Black and Bouvier Law Dictionary when I go back home to my law books.

I believe I understood Delegate Leonard yesterday to say that he would be agreeable to spelling out in words of common understanding what is meant by "preaudit" and "postaudit" and I would like to know if that is still agreeable to the committee?

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. The fact that you want it to be spelled out, from my viewpoint, is all right. I cannot imagine that the committee would object to spelling something out and not using words that may be considered

to be technical words. I do know, as a matter of fact, that the terms are used in other constitutions, but I also know that that does not necessarily mean that they should be endorsed.

The answer to your question is, yes.

PRESIDENT BRODERICK. The Chair recognizes Delegate Scranton.

DELEGATE SCRANTON. I have a question. I do not see it in here specifically, but I just want to find out what you have in mind. I sort of read into the language in Section 26, subsection 1, that there might be a mixing of funds here in order to achieve what you have in mind, which is that receipts would meet expenditures. This bothers me if that is what you have in mind. Do you?

DELEGATE LEONARD. There is no intent to commingle funds, clearly, no.

DELEGATE SCRANTON. You know, we have had this problem in this State?

DELEGATE LEONARD. Yes.

DELEGATE SCRANTON. Those that come from unemployment compensation, and so forth and so on. You are not intimating that at all, I hope?

DELEGATE LEONARD. No. The reason that this is singular—and I know that there has been some conversation on singular and plural with respect to a balanced operating budget—is that it is really a budget of a number of funds. Each of those funds must be balanced on its own, and any surplus on one cannot be used to make up a deficit on another.

DELEGATE SCRANTON. Thank you, very much.

PRESIDENT BRODERICK. The Chair recognizes Delegate Morton.

DELEGATE MORTON. Mr. President, I address my question to Delegate Leonard.

Maybe you could explain it to me because I do not understand the purposes of the five-year program. One who rebels against a five-year program reads constantly that certain countries elaborate on a five-year program and do not live up to it. And, in particular these questions: When we get to the last lines, lines 29 and 30, on page 3, it says that the legislature shall "annually approve a financial plan for no less than each of the succeeding five fiscal years." Does that mean that if they approve a program in 1968 for 1970 and when it comes to 1970 they want to change that, they are already bound by what they have approved? The other question specifically on it is this: Does this mean that, for example, as ridiculous as it may seem, when we talk about the legislature, would it be possible for an outgoing Governor to present a five-year program calling for reduction in taxes and say, we are going to reduce the sales tax, reduce this and reduce everything, and the incoming Governor would be saddled with a program which he knows is not realistic and places a bad reflection on him for the next five years?

DELEGATE LEONARD. The answer is that it is clearly not intended that the five-year program, once it is approved, will never be changed. It is assumed that it is going to be changed every year and that it would be moving forward. Therefore, there is no legal commitment. One year's legislature cannot legally commit the next. The only thing that it does do is, in effect, encourage the planning and makes a disclosure to the legislature and to the public as to what the plans are for the next five years, both from the standpoint of operating and capital.

Clearly, there would be nothing enacted here. This is not intended for this to be a law. They will approve it and it becomes then, more or less, a moral commitment that they will intend to follow this and the people know that, but, by all means, we know that in any kind of a long-range plan you certainly have to change it as you go along, but you change it within the framework.

Did I answer your question?

DELEGATE MORTON. Yes, you answered number one, but I am not sure about number two, that it could be used by anyone in setting up a plan which would really not be realistic or unrealistic. I am not sure what the great advantage is of inserting into the Constitution a mandatory five-year plan.

DELEGATE LEONARD. I will ask Delegate Wilcox if he will answer that and I will make a comment after that.

DELEGATE WILCOX. Your question was the reason for putting in the five-year financial plan?

DELEGATE MORTON. Yes, in the Constitution.

DELEGATE WILCOX. As Delegate Leonard said, our thinking was that it would compel the Governor's office to look ahead at the burdens, somewhat in line with what Delegate Goldman was saying, that the expenses that are following up are immediately in sight. We do now have a five-year capital budget and we have had that for the last few years, which all the legislators have, and that shows the outlook for immediate capital expenses. As Delegate Leonard said, it is, of course, amendable annually. We have the phrase annually, with the assistance of Attorney General Friedman, because that makes it clear that it may be amended every year.

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. I have a number of observations and I might say they are not my own. I have gathered them from a communication from William A. Schnader, who is recognized as one of the authorities in our State on this subject. We seem to be a little shy on our questions so I thought I might give to the committee the questions which he raised.

First, he speaks that "the Constitution now provides in Article IV, Section 1, for six constitutional officers," and gives the legislature, as stated in the Legislative Code in full, the duties of these officers. There are eight sections regarding the duties of the Treasury Department which are in Purdon's, and he gives those. On that point he says, "If it is desirable to modify the duties of the Treasury Department, that can be done by statute and there is no point in cluttering up the Constitution with material which is really statutory material." He speaks in the same fashion about the Auditor General. I would like to know what the view of the committee is on that point?

DELEGATE WILCOX. As I understand the present Constitution, there is very little said about the Auditor General other than the creation of his office which makes him a constitutional officer. It was the desire of both the subcommittee and the entire Taxation and State Finance Committee—I think this was 21 to 2 on this particular section, the vote to strengthen the office of the Auditor General. The Committee considered those duties which the Auditor General might well have. We had witnesses from the Auditor General's Department, and various other experts in this field, and we were convinced that the post-

audit type of transaction was the most important for the Auditor General. Without stating it in the Constitution, it would be possible for the legislature to make his powers more or less meaningless and to make him a functionary without much function. We, therefore, thought it advisable to introduce into the Constitution the right of the Auditor General to make postaudits.

We also had considerable debate about the question of pretransaction audit, and posttransaction audit, and it was the general consensus that the same party should not do both functions. Since the Auditor General now does many postaudit functions, and since some of the representatives from that department indicated that much of the work is in the nature of prevention—prevention of future misuse—it was the final conviction that the postaudit function should lie with the Auditor General to strengthen his department. The State Treasurer was given the preaudit function thereby separating the two different actions.

DELEGATE BRAHAM. The question of our critic is, could this not be done as well or better in the legislature of the Commonwealth?

DELEGATE WILCOX. The only answer I could make would be, that would leave the Auditor General at the mercy of the legislature rather than as an independent watchdog but, of course, it could be done.

DELEGATE BRAHAM. He has some statements to make about the budget. He speaks about the budget provided for by Article VI of the Administrative Code, "as variously amended," having provisions which to him in some particulars seem "superior to what is said about the budget in Proposal No. 4." And then he says this, "Among other things, no Governor has any excuse for letting any agency of the State run at a deficit under the provisions of the Administrative Code. He can call for estimates of future expenditures and cut them down to a point where there will be no deficit."

DELEGATE LEONARD. Let me answer that this way: I think when General Schnader wrote that he was not aware that we were going to eliminate the present Article IV of the Constitution which, in effect, requires a balanced budget. It looks as though we are going to be eliminating that, and therefore we must have this kind of section in the Constitution.

DELEGATE BRAHAM. He uses this specific language which ought to be considered: "If the budget is covered sketchily by Proposal No. 4, the possibility exists that it will be construed as superseding the provisions of the Administrative Code and as being all the law there is on the subject."

DELEGATE LEONARD. Well, I have no doubt that if this proposal becomes a part of the Constitution that there will have to be some amendments to the Administrative Code, but I will ask Mr. Wilcox, who is an attorney, to answer that question. He would be able to give a more direct answer.

DELEGATE WILCOX. My answer on that would be that the reason for inserting this in the Constitution, the balanced budget concept, is that it is quite true that the Administrative Code now does require a balanced budget, but the Constitution and the debt limit also works in concert with that. If we eliminate that debt-limit situation it would be possible for the legislature again to repeal or to emasculate present laws requiring a balanced budget in the Administrative Code. This constitutional

provision would amend the principle of balancing the budget in the Constitution

DELEGATE BRAHAM. Am I to understand from that that you mean this is to repeal the provisions of the Administrative Code on this subject?

DELEGATE WILCOX. I agree with Delegate Leonard that it will have to be enlarged as many of the Constitutional provisions will, by statutory law, if the Constitution adopts this.

DELEGATE BRAHAM. I have not had an occasion to examine those since these papers came to my hand, but I can see there is a very fundamental question there we ought to be quite clear about if we mean to abolish the present provisions on this subject and make them all inclusive, or have some provisions for carrying them over.

I will read; he has a couple more paragraphs:

"The only new things in the constitutional proposal are a capital budget for the State and a five-year plan. If these features are desirable, the legislature has ample scope and power to add them to the provisions now contained in the Administrative Code.

"One reason for not imbedding these provisions in the Constitution is that constitutional provisions are inflexible. They can be changed only by constitutional amendment and that requires action by two successive legislatures and a vote of the people.

"On the other hand, if provisions of this kind are placed in the Administrative Code, they can be amended in any year by action of the legislature and the Governor alone."

To show that Mr. Schnader is still Mr. Schnader, his last sentence is this: "If these undesirable provisions stay, the word 'proposed' on line 13 of page 2 should be deleted." So he is still the purist.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pelletier.

DELEGATE PELLETIER. May I ask Delegate Leonard two questions?

PRESIDENT BRODERICK. The gentleman may proceed.

DELEGATE PELLETIER. Mr. President, I thought I clearly understood what the preaudit function was and that it belongs in management control. It seems to me that in putting it in the treasurer, a state-elected officer, you are removing from the Governor one of his important instruments of fiscal control. As a matter of fact, I think he is going to maintain it any way. Are you not really providing for two preaudits?

DELEGATE LEONARD. I would agree that the preaudit is an important management tool and one that must be used by the executive branch, which is the administration, so that they have effective control over that which they have responsibility for. If they have responsibility to safeguard the funds of the Commonwealth and to spend it wisely, they have every right to check themselves with their own internal controls. A preaudit is part of it, to see that this is done.

Yes, I think that by putting it in the treasurer's department that it may be a duplication. As a matter of fact, the treasurer, in effect, is doing it today because he must sign checks. In the signing of checks he goes through the process of checking these, and it would seem to me that under this proposal, he may have a little more to do than he does now. I am not sure whether he checks to see whether sufficient appropriations are available and

whether he checks to see that the purchase order and receiving reports, and so forth, are all there. This may be somewhat of a duplication.

DELEGATE PELLETIER. I think the thrust of my question is more of a duplication. Would you really want to be Governor of a State in which the preaudit function is a part of your administration?

DELEGATE LEONARD. Would you ask that question again?

DELEGATE PELLETIER. Would you want to be Governor of a State in which the preaudit function is in the hands of an individual who was not a member of your administration and who actually may be of the opposite party?

DELEGATE LEONARD. I see a former Governor standing at the microphone and I would be delighted to have him answer such a question.

DELEGATE SCRANTON. I was not really ready to answer it. I think Delegate Pelletier is wrong. The one major thing about this that concerns me deeply is, I do not believe in an all-powerful Governor, but I do believe very thoroughly that if he is the head of the executive arm of the government, which indeed he is, that he must have control over three basic things. One is the legal function, or the Attorney General's office, which is why I believe in an appointive Attorney General rather than an elected one.

Second is personnel, and the third is finance. This does not mean that you cannot have a postaudit. In fact, I think it means you ought to, in order to have some control over what the executive does.

The problem lies in exactly what Delegate Pelletier has raised, and that is, unfortunately, in Pennsylvania both the State Treasurer and the Auditor General are elected separately. I fully believe in a separate Auditor General. This is extremely important for a check on the executive arm of the government. I had never thought the State Treasurer, who collects and receives the money, should be an elective office or should necessarily be a checker on the executive arm. I am concerned, and I do not deny it, that if you set up a preaudit in the State Treasurer's office, you are not limiting the arm of the executive. I would not feel so badly about it if he were appointed and not elected.

I would love to hear a little more from you on why you want to do this.

The postaudit makes all the sense in the world to me. Also I would like to know how the preaudit of the Governor's office, if you want to put it that way, is going to work with the preaudit of the State Treasurer's office.

DELEGATE LEONARD. The general thrust of this phase of the proposal was one to strengthen the audit function of the Commonwealth, the audit function primarily referring to the postaudit function.

DELEGATE SCRANTON. And with this I heartily agree.

DELEGATE LEONARD. And it was felt that in order to strengthen the postaudit function, this should be the primary job of one independent department, which was recommended as the Auditor General. If he is going to be effective as a postauditor—and a postauditor can mean he can be reviewing the transactions before they are even completed, but he takes no responsibility for that transaction. But if he is going to do an effective job as a postauditor—and if he is going to be listened to by the public

and the legislature to whom he is to report and should report regularly, he should not be tarnished with having had some responsibility for having approved that transaction. He then cannot come back under any kind of rationale, in my judgment and in the judgment of the committee, to then point out that this transaction should never have been made in the first place or that it was not within the purposes as set forth by the General Assembly.

Therefore, if we are going to be strengthening the Auditor General's office, it was an important part of this step to take away from them or, it is best to say, relieve them of this responsibility that they had to approve transactions. So they would then have the clear independence that we would hope they would have and they would be able to devote their full time and effort, energy and public relations to the postaudit and to the total picture rather than to a specific transaction.

Therefore, it was the purpose of the committee to relieve the Auditor General of this preaudit function. The question was, what to do with the preaudit, and the committee decided that the place to put it was in the Treasurer's office.

DELEGATE SCRANTON. Now how does that work in the actual working of the budgetary process? How are you going to work this in with the work that is done in the Governor's office which is the thing that primarily bothers me? I do not want any misunderstanding, I thoroughly believe in a check on the executive arm and that you get it with the Auditor General, and that is where I think it properly belongs.

DELEGATE LEONARD. The postaudit?

DELEGATE SCRANTON. Yes, sir.

DELEGATE LEONARD. There are a lot of people who feel that the preaudit should be done by an independent agency. I have my personal opinion, but I would assume that the way this would work is that the office of administration would continue to have its comptrollers in the various departments and that each department, therefore, would have the responsibility to be sure that any invoice that they would forward for payment would have been sufficiently checked and that it represents a proper bill for the right amount for goods and services.

Therefore, the administration executive branch would be doing that for its own protection. Under this proposal it would go to the Treasurer, and the Treasurer would look it over and he would then prepare the warrant.

DELEGATE SCRANTON. Let me ask a more specific question. Do you contemplate by this anything more on the part of the State Treasurer in the preaudit, as you call it, than is presently done by the Auditor General?

DELEGATE LEONARD. I would say no.

DELEGATE SCRANTON. All right, let me go talk to some experts.

PRESIDENT BRODERICK. Did you have further questions, Delegate Pelletier?

DELEGATE PELLETIER. Yes. In line with the questioning being carried on by Delegate Scranton, I wondered were you or any member of the committee aware of this same problem which was raised in the Federal Government in the 1930s, in the history of this discussion of preaudit and postaudit and its relationship to management control?

DELEGATE LEONARD. I am rather familiar, Delegate Pelletier, with the background of the concept of dividing these responsibilities. I have talked about it for a long

time and I know that there have been reports issued, one of which committee was chaired by Senator Heyburn. I think it was back in 1947 or 1949 that the Joint State Government Commission recommended the division of these powers. There was the Chesterman Committee Report of 1953 which recommended the division of these powers.

DELEGATE PELLETIER. Delegate Leonard, I do not think either Governor Scranton or I are questioning the division. This, I think, we take for granted. The question is the position of the preaudit. This is the question and the whole question, not the postaudit, not the division, but let us go on. May I ask another question?

You, in Section c, provide for the General Assembly to do a number of things in relation to audit functions. What audit functions are left after you have provided for the preaudit and the postaudit and it was said the preaudit is going to be by the Treasurer and the postaudit is going to be by the Auditor General? What other audit functions did you have in mind?

DELEGATE LEONARD. The other audit functions would be called "internal audit functions," and then, of course, there are the "performance audit functions," which we have not even discussed here, but then this State does not now have performance audits; the Federal Government has it, through the GAO, and some of the States have gone into it. As a matter of fact, one or two of the state constitutions even put in there performance audits.

An audit that could be done by a department itself, you know, to check on its own affairs which may not be the individual transactions but may be the affairs as they relate to people other than or outside of government would be called the internal audit. These could be designated for other departments, such as, the Public Welfare Department has an audit group; the Department of Public Instruction has an audit group; the Liquor Control Board has an audit group. Some of these auditing groups are duplicated; we have them done two or three different places. It is this which we are trying to eliminate. In some areas we have too much audit, and in other areas we do not have enough. That is in what we are trying to strengthen here, the postaudit.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, owing to the great affection which I have for our recent Governor, our own Delegate Scranton, I thoroughly agree with him that the Auditor General must forever remain an independent office in the complex of our state government, but I could be easily persuaded that the function of the treasury should properly belong to the administration.

As to the division of postaudit and preaudit, I should like to remind Delegate Leonard that the Auditor General, under present law, has to draw the warrants against the treasury for the payment of any public moneys in charge of the treasurer and that the preaudit functions is a combined function today. Both the State Treasurer and the Auditor General combine to make a preaudit of the invoices as they come over from the various departments and agencies of the government. How could you have the Auditor General draw a warrant for the payment of any invoices without giving him an opportunity to look into those invoices, because he is an independent officer

elected by the people of this Commonwealth, and unless he has such authority he might as well leave his office?

DELEGATE LEONARD. Delegate Swope, I shall answer your question by saying it is the intent of this proposal to relieve the Auditor General of the responsibility to approve or draw warrants. This is the responsibility for a transaction that we say should be taken away from the Auditor General, because he then becomes a part of the transaction once he draws the warrant. He has at the present time the right to draw it or not to draw it. But if he draws the warrant, that, in effect, is saying right then and there that he approves of this transaction. It is hard to understand how he then could come the next day and say that this transaction which I approved yesterday I think was wrong.

DELEGATE SWOPE. Who is going to draw the warrants?

DELEGATE LEONARD. The thought was that under this proposal, the warrants would be drawn by the treasurer.

DELEGATE SWOPE. In all my experience in public government, I have never known the man who writes the check also to draw the warrants upon himself to write those checks.

DELEGATE LEONARD. Delegate Swope, let me—

DELEGATE SWOPE. As an independent officer, if he was a part of the administration, I would be quite willing to accept this, because then our responsibility runs up to the front office. But as long as he is an independent officer, the front office has no control over him; he writes his own warrants and he writes his own checks.

Let me remind you, Delegate Leonard, that in the last 40 years, that I know of, we have never had a scandal in the Auditor General's office nor in the treasury with respect to the payment of Commonwealth moneys, and I feel that they have done quite well and I agree with Delegate Braham's presentation here, the letter from former Attorney General Schnader, whom everybody loves and reveres, that what we are dealing with here is statutory law and it has no place in the Constitution. Let us not make the mistake that our forefathers made in 1873.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. I have learned a lot from these last several discussions, but there are still some things that are not quite clear to me. For many years, Delegate Leonard, I have been advised by excellent auditing firms like your own that we have got to be very careful in business, and I think that big business is no different than big government, and small business no different than small government. We have to be careful that we do not let anybody mark his own examination paper because then we really are in trouble.

DELEGATE LEONARD. I agree.

DELEGATE AMSTERDAM. The postaudit, I think, takes care of a large part of the problem. However, it does not take care of the problem of closing the door before the horse is stolen, and for that purpose we usually have a comptroller. The comptroller handles the problem to some degree, I think, of what you have set up as a preaudit function. First let me ask, is that a reasonably correct statement?

DELEGATE LEONARD. You are correct.

DELEGATE AMSTERDAM. All right. I wonder if this

is as important a function as it is in business, whether it is equally important in government and whether we ought to have the comptroller general do that kind of a job? Is not that really the way to do it if you are going to do it properly and get the safeguard that you need?

DELEGATE LEONARD. To have a comptroller general?

DELEGATE AMSTERDAM. That is right, you have an Auditor General do the first audit; otherwise you have the Treasurer, as has been indicated here before, drawing his own checks and then checking them to see if they are properly drawn. That just does not seem to me to be something that we can accept as being either proper government or proper business.

DELEGATE LEONARD. May I ask you a question, Delegate Amsterdam?

DELEGATE AMSTERDAM. If I can answer it I will say yes.

DELEGATE LEONARD. Essentially, I thoroughly agree with you.

DELEGATE AMSTERDAM. Right.

DELEGATE LEONARD. In your term "Comptroller General" are you suggesting that this be a person appointed or are you saying how that office would be created?

DELEGATE AMSTERDAM. Yes. It ought to be an office created on a nonpartisan basis, as much as possible, so that the officer is answerable the same way the post-audit officer is to the people of the Commonwealth, because that is where the duty is. Since it is impossible to get the people to do that each time you have this, I would suggest, and I am going to suggest, unless you can give me some good reason why we should not have a comptroller general, that this be by selection of two-thirds of the legislature. In other words, the legislature represents the people in this type of concept and I would provide that a Comptroller General, having the preaudit function, be appointed by two-thirds vote of the legislature.

DELEGATE LEONARD. For what term?

DELEGATE AMSTERDAM. I do not know that it matters. I would say that I have a term here, but it could be set for any reasonable term, just as all the other officers are. Why would that seem to concern you?

DELEGATE LEONARD. I do not think it should exceed a two-year term.

DELEGATE AMSTERDAM. Yes, I agree with that and I would not want him thereafter to be checking on some of the normal work that he first did. There are certain safeguards that we must have and I would want all those safeguards put in. I agree with that.

You have no reason, then, for feeling that a comptroller general would be a poor concept to put into the safeguards which we are trying to set up?

DELEGATE LEONARD. I have no strong feelings against that.

DELEGATE AMSTERDAM. Right.

PRESIDENT BRODERICK. The Chair recognizes Delegate Wilcox.

DELEGATE WILCOX. Mr. President, as a matter for Delegate Amsterdam, the committee did consider this and quite favorably. We considered along the lines of, I think it is the Michigan Constitution where the General Assembly by a two-thirds vote of the members elected to each House appoint a Comptroller General to serve for a term of eight years. They make him ineligible for appointment or election to any other public office in the

Commonwealth, from which compensation is due, while serving as a Comptroller General and for two years following termination of his service. He could be removed for cause at any time by two-thirds vote of the members of each House.

The Comptroller General there conducts preaudits of the financial transactions and accounts to the Commonwealth and all branches, departments, offices, boards, commissions, agencies and so on established by the Constitution.

They also provide the Auditor General shall conduct the postaudit, other than of his own department. We did think that this was a good type transaction. It is similar to the Federal provision of the Comptroller General who can not succeed himself and reports only to Congress.

DELEGATE LEONARD. I think that the difference between that proposal and the one that Delegate Amsterdam is talking about is that he is referring to the preaudit function and the Michigan Constitution deals with the postaudit function.

DELEGATE WILCOX. No. Well, you could assign the Comptroller General to the preaudit function and assign the Auditor General to the postaudit function.

DELEGATE LEONARD. No question about it.

DELEGATE WILCOX. The only reason that we did not adopt it was that we have a State Treasurer and we thought this introduced a new constitutional office. We were not sure that that was a wise matter.

DELEGATE LEONARD. And actually on page 2, line 9, Section (c), this would allow the General Assembly to do that if we did not designate the Treasurer as the one.

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. I would say, Mr. President, that Delegate Wilcox is a mind reader because he cited all the provisions that by happenstance I will have in the proposal that I expect to make to this assembly. Of course, it is copied from exactly the source that he has indicated, and we felt that that was a very excellent safeguard.

In reply to the last comment that was made, it seems to me that the mere fact that we put it in the Constitution is not bad if it is something to protect the people. That is exactly what this is intended to do. If there is anything that belongs in the Constitution, I would think that this sort of thing would belong there. That is for the delegates to decide.

DELEGATE WILCOX. Mr. President, that would not be against the sense of our committee.

DELEGATE AMSTERDAM. No, I understand that your committee felt that this was a desirable thing, although you did not include it.

PRESIDENT BRODERICK. The Chair recognizes Delegate McGeary.

DELEGATE AMSTERDAM. May I have the time later again, Mr. President, because I have additional questions? But I yield.

DELEGATE McGEARY. Excuse me for just one moment. I wanted to make a comment on what you have been saying.

You said this would be good for the people, and I agree, but are you not running the risk of tying the hands of the Governor? I think of preaudit as being something within the executive branch properly, and the controller general or whatever you want to call him, to my way of thinking, would be appointed by the Governor.

DELEGATE AMSTERDAM. With all due deference to Governor Scranton, who spoke just a few minutes ago, he is just like me. He does not like to have his hands tied, and I do not like to have my hands tied, but, unfortunately, both of us have to do that if we are going to respond to our responsibilities. I cannot do things in business without having it reviewed periodically by safeguards that are set up. And for the most part, they are set up by outside auditors, and they advise us as to the type even on our internal audit system. They are the ones who advised us on how to set up the internal audit system, so they are a watchdog on me just as they would be on the Governor.

DELEGATE McGEARY. But do you not have a comptroller in most businesses who is reporting to the president of the corporation?

DELEGATE AMSTERDAM. Yes, you do. In many businesses where comptroller's activities are set forth in the bylaws as set forth by the directors, he reports, as he does in many of our businesses, directly to the directors. He is not responsible for reporting to the president for the very reason that I have indicated.

There are many ways of skinning this cat, but I would think that the one which gives us the greatest amount of protection as far as the people are concerned is the one we ought to try to put in at this time. If there are some bad features and some reasons why we ought not do it, then I would change my mind. So far, all the things that have been said here today indicate that it is good. The committee that reviewed this in detail seems to think that this is a good idea and a good type of protection set up.

May I proceed, Mr. President?

PRESIDENT BRODERICK. You may.

DELEGATE AMSTERDAM. I would like to inquire—I am a little bit disturbed by what I seem to see in here to the effect that the Governor himself makes up a budget estimate which is binding on everyone. It is my understanding—and this comes from the recent problems which we have had in this State and I have had some exposure to them over the past year—that the budget secretary was the one who set up the data with regard to the estimate of receipts and so on; it was not the Governor who did that. That comes from a process which is automatic, depending on whatever the legislature has done with regard to getting money in, and the actual amount of dollars which have come in in the past, and whether business is good or bad, all that goes into the determination by the budget secretary and he comes up with an estimate.

Do I understand that your proposal intends to change that and have the Governor himself make that estimate?

DELEGATE LEONARD. No, the Governor represents the Governor's department. The Governor means other than the General Assembly. In other words, it is the Governor's budget.

DELEGATE AMSTERDAM. All I am trying to find out is, are you changing the procedure whereby a relatively independent estimate is made of the amount of revenues likely to be coming in, because I think that is important? We ought to be able again to pull ourselves up by our own bootstraps in this type of operation.

DELEGATE LEONARD. Who does it now, Delegate Amsterdam?

DELEGATE AMSTERDAM. I understand the budget director does that.

DELEGATE LEONARD. Well, he would still do it under this, because he is in the Governor's department really.

DELEGATE AMSTERDAM. Yes, but he has a special responsibility for doing it. Why do you make the change is really what I am asking.

DELEGATE LEONARD. This is not trying to change that which now exists as far as making the estimates.

DELEGATE WILCOX. I will speak to that, too, Delegate Leonard. We felt there will always be a Governor, but if we use the phrase, "budget secretary," we build into the Constitution the permanent requirement of a budget secretary. This makes it a constitutional-type office, whereas, in the period of 50 years or 100 years, we may have different officers, different functionaries. But it is as certified by the Governor and it is his agent, and we are striving for just what you want, an independent, unbiased estimate.

DELEGATE AMSTERDAM. In other words, the problem, as I understand it, in the last go-around with regard to new taxes and so on was that the estimates from the budget director showed a particular amount of money that was going to come in that perhaps neither the Governor nor the General Assembly agreed with. I do not know, but at least it was from that source that the estimate of income was made. Now that is not to be changed?

DELEGATE WILCOX. It is not our intention that this has to be changed. We are trying to keep the magic figures from moving around and keep them as brought up by the budget secretary.

DELEGATE AMSTERDAM. Right. May I ask next, why the requirement to have balanced budget was eliminated?

DELEGATE LEONARD. It was not, sir.

DELEGATE AMSTERDAM. Oh, I see. I thought it was. You are still requiring that the Governor's budget be a balanced one?

DELEGATE LEONARD. Not only are we requiring that the budget be balanced, but we are also requiring that if there should be a request for an appropriation made which was not within the budget or if the legislature should create a reason to spend money that is not in the budget, that must be balanced with estimated and actual receipts.

DELEGATE AMSTERDAM. Thank you very much. The last question that I have is: As I understand it, surpluses heretofore went back into the General Fund. As I understand it now, if I read this correctly, surpluses now are not subject to further appropriation by the General Assembly but they are simply a part of the fund available to the executive branch. I hope I am wrong. Am I?

DELEGATE LEONARD. This is intended to mean that a surplus created in a current year may only be appropriated in the ensuing year.

DELEGATE AMSTERDAM. By whom?

DELEGATE LEONARD. Through the normal process it becomes revenue of the Commonwealth available for appropriation in the following year.

DELEGATE AMSTERDAM. I am just trying to find out, Delegate Leonard, is this appropriation by the General Assembly?

DELEGATE LEONARD. Yes. Ask the question again to be sure I understand it.

DELEGATE AMSTERDAM. In the event that there is a surplus—you say in your material here, "assigns for appropriation during the ensuing year". I am reading on page 4, line 4. All I am trying to find out is, does that mean assigns for appropriation by the General Assembly?

DELEGATE LEONARD. Yes.

DELEGATE AMSTERDAM. It does. Therefore, if there is any question on that you would see no objection to those words going in?

DELEGATE LEONARD. Not at all. I do not think anyone else can make an appropriation. I am sure we would have no objection. We had some problems with wording here at the last minute. The clear intent is that any surplus in this year cannot be appropriated this year and it cannot be treated as a separate item. It has to go to building up next year's budget. It just goes as one other revenue item and, therefore, can be appropriated in the ensuing year.

DELEGATE AMSTERDAM. Thank you very much.

POINT OF ORDER

PRESIDENT BRODERICK. The Chair recognizes Delegate Fineman.

DELEGATE FINEMAN. Mr. President, I rise to a point of order, if I may, sir.

In a previous statement, Chairman Leonard said that the language that appears on page 1, line 11, to wit: "The affairs of the Commonwealth" contemplates not only the fiscal affairs of the Commonwealth, but all affairs of the Commonwealth other than fiscal as well.

I would inquire of the Chair whether or not such a proposal is within the scope of the authorization vested in this Convention?

PRESIDENT BRODERICK. It will require a consultation with counsel if you want an opinion from the Chair. I see that Chairman Leonard indicates that he may have an answer.

DELEGATE LEONARD. No.

DELEGATE WILCOX. Mr. President, Counsel Opinion No. 25 was directed to Mr. Comisky on this language and his opinion covers, I think, the question of whether this is within the scope of the Convention.

PRESIDENT BRODERICK. I am advised by counsel here on my left that that opinion covers fiscal affairs only. That is the reason I think we have to find out from Chairman Leonard what is meant by the term again.

DELEGATE FINEMAN. I think Chairman Leonard has already stated for the benefit of the delegates that the language employed does not restrict itself to money matters only, but can include time studies, time and motion studies, efficiency of operations, and things of this nature.

DELEGATE LEONARD. The idea was that this would permit performance audits. These performance audits which are now made regularly by the GAO, which is the General Accounting Office in Washington, and which are being made by more and more States, are audits to determine whether the programs as approved by the General Assembly have been carried out efficiently and effectively. This is what was intended when these words were put in there, that the General Assembly could designate that such performance audits, as we now know them, and there is writing on it, Delegate Fineman, as to what a performance audit is. I should be glad to bring something in and to read it at the appropriate time. This was meant to permit the General Assembly to request that performance audits be made of the various departments and agencies of government.

DELEGATE FINEMAN. I take it, therefore, that the language that is employed here can concern itself with matters other than the proper receipt or the proper disbursement of moneys according to law?

DELEGATE LEONARD. I believe there is no question about it. It intends that to be.

DELEGATE FINEMAN. Does the Chair have enough information now upon which to predicate a ruling?

PRESIDENT BRODERICK. We do have enough information upon which to prepare an opinion and one will be requested immediately.

DELEGATE LEONARD. If I can get back to my desk, I think I may have something that I can read. It is in my brief case and it may help define the term.

PRESIDENT BRODERICK. Certainly. We will be at ease.

(The Convention was at ease and then resumed debate.)

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. I have before me a magazine called "Municipal Finance," which is the official magazine of the Municipal Finance Officers of the United States and Canada, November, 1967, which reports on the 61st Annual Conference proceedings in 1967. I would like to quote from here, if I may.

PRESIDENT BRODERICK. Proceed.

DELEGATE LEONARD. "The performance audit, as we in the Auditor General's department think of it, is part of an overall examination of books, records, reports, and functions from the viewpoint of finance or accounting and operation. We see the governmental audit as a financial audit plus an operational or management or performance audit. The performance audit phase of the governmental audit is an examination, review, and analysis of an operation or operations that enable the Auditor General to express an opinion on the effectiveness of operation and efficiency in terms of the objectives and plans that have been expressed by the managers."

It also goes on to say that "our viewpoint is that an examination of operations is a natural extension of any financial audit." And then it has a section: "Why a performance audit?"

I think that may be helpful to counsel.

PRESIDENT BRODERICK. Therefore, as I understand Delegate Fineman's question, he questions the Chair as to whether your interpretation of a performance audit is included within the authority of this Convention.

DELEGATE FINEMAN. My observation does not direct itself at the moment to the merits of the proposal of an audit of the affairs of the Commonwealth. My concern is whether or not, since we are dealing with the Article on Taxation and Finance, we can require by any constitutional proposal an audit of the affairs of the Commonwealth that have nothing to do with taxation and finance.

PRESIDENT BRODERICK. In other words, do I state your question correctly when I say that you think the word "audit" as used there should be limited to fiscal audits?

DELEGATE FINEMAN. That is correct, sir.

PRESIDENT BRODERICK. We have requested an opinion and counsel will render one.

DELEGATE FINEMAN. While I am on my feet, may I pose this question to Chairman Leonard?

If this language were left as it is, affecting the affairs of the Commonwealth, can you describe for me specifically what constitutes the affairs of the Commonwealth? For instance, a district attorney has been ruled, of recent date by the Supreme Court of this State, to be a state officer.

Can the affairs of a district attorney be audited by the Commonwealth of Pennsylvania?

DELEGATE LEONARD. I do not believe that to be the intent of these words.

DELEGATE FINEMAN. Would you agree that the words are susceptible of varied interpretations then?

DELEGATE LEONARD. They are, Delegate Fineman. They happen to be in the statutes now. In the Fiscal Code and in the Administrative Code, it talks about the affairs without the modifier, "financial affairs." That is where this wording came from, so it has been in the statutes for many, many years.

DELEGATE FINEMAN. You stated previously, the fact that language does exist, either in other constitutions or in other statutory enactments, does not serve as a basis for our adopting that language?

DELEGATE LEONARD. I did.

DELEGATE FINEMAN. On page 1, the last sentence that appears at the beginning of line 15: "Such audits shall be made in accordance with generally accepted auditing standards." Is there any reason why language such as that should encumber a constitution document, rather than be the subject of legislative enactment?

DELEGATE LEONARD. I think that should be in the Constitution, yes.

DELEGATE FINEMAN. Can you tell us why?

DELEGATE LEONARD. Yes. Generally accepted auditing standards are recognized throughout this country and throughout the world. But let us talk about this country, the United States, as meeting something which is definite. These are defined standards and guidelines to be followed in the performance of an examination. It is printed; it is in the body of knowledge; there is a great deal of literature on it; it is in many of the statutes which we now have. I believe that it is saying in a very few words an awful lot, and I think this is clearly the kind of language that should go into a constitution.

DELEGATE FINEMAN. Are you acquainted with any constitution in the United States that contains such language?

DELEGATE LEONARD. No, but it does not impress me that I am not. I do not think that there is any constitution in this country that has tried to bring this in—the standards of audit.

DELEGATE FINEMAN. The language "generally accepted," is that not language that is subject to variation depending on the times?

DELEGATE LEONARD. Yes, it is. I think that is what makes it good.

DELEGATE FINEMAN. On the contrary, is that not an argument, that since this is an eternal, everlasting document, it should not be incorporated in such a document, but rather should be the subject of legislation?

DELEGATE LEONARD. No. I think what is generally accepted today may not be generally accepted 20 years from now. I think that the body of knowledge will continue to define what is generally accepted with the times. Therefore, I believe that these are ideal words to put into a Constitution, so that as time moves on, these standards are automatically adjusted to the tune of the times.

DELEGATE FINEMAN. I would pose the same question to you in connection with Sections c and d that appear on page 2, specifically Section d which provides that the making of profits out of public moneys, or the other unauthorized application of public moneys, shall be a crime. Should not that be the subject for incorporation

in the Penal Code rather than the constitutional document?

DELEGATE LEONARD. Delegate Fineman, these are words that have been in the Pennsylvania Constitution for well over 100 years and we have only taken them and brought them up to date. It is now in Section 14, Article VIII.

DELEGATE FINEMAN. I was under the impression that we are here to try to update the language that appeared in the present Constitution.

DELEGATE LEONARD. I agree with the concept that we are trying to update. We have no strong feelings on this. There has never been a proposal to amend it and we did think there should be some amendment. I do not know how strongly we feel to have it eliminated.

DELEGATE WILCOX. Chairman Leonard, if I might interpose. On that point, we did consider this question. We eliminated some archaic language in the present Constitution. We changed the present provision to eliminate "misdemeanor" or "felony," feeling that this is a matter of temporary criminal things, but we did not wish to take out the prohibition of making profit from public moneys. We thought this should be constitutional and therefore not subject to repeal by the legislature. In other words, if it is a crime, the legislature will define what crime it would be, but the legislature cannot make it not a crime.

DELEGATE LEONARD. Also we took out, Delegate Wilcox, the last sentence that is in that section which says that any person so punished shall not serve in office for the next five years, and we felt that that did not mean anything at all, so we did try to bring it up to date and modernize it.

DELEGATE FINEMAN. I think the argument that the reason that it was left in, to wit, that you did not ever want the legislature to repeal it, is a rather tenuous argument. Certainly the crime of murder is a much more heinous crime than the misapplication of public funds, and there is nothing in the Constitution that would contain a proscription against the legislature ever deleting such a crime from the statute books. Again I say that there has to be a certain measure of trust in the good sense, in the common sense, of the legislature to enact those proposals which have to be enacted for the benefit and the welfare of the people. We are here to design a document of guidelines; not a document of particulars. I think the incorporation of sections c and d, and the last sentence of Section 14, dealing with audit, are extremely unnecessary in a constitutional document.

May I pose this one further question, Chairman Leonard: Is there anything in this proposal that requires the Chief Executive of this State to approve a balanced budget? I see language that says he must submit a balanced budget, the legislature must approve a balanced budget, but I see nothing about the Chief Executive having to approve a balanced budget, which means that the legislature could approve a balanced budget, the Governor could line-veto an item in the general appropriation bill, throwing the budget out of whack; he could veto a tax proposal, which again would throw the budget out of whack. Do you not believe that there should be some language which would require the Governor, once he has been given a balanced budget by the legislature, to approve a balanced budget?

DELEGATE LEONARD. Delegate Fineman, it clearly is not the intention of this committee to have an unbalanced budget. If the Governor should item veto an

amount in the budget and there happens to be a little surplus, I do not think there is any intention to say that he cannot item veto. I do feel, and I think the committee feels, and we discussed this problem, that the Governor clearly should not be able to approve any budget which starts out with a planned deficit.

DELEGATE FINEMAN. Would you oppose or see any objection to language which would make it mandatory upon the Governor to approve a balanced budget once he has been given a balanced budget by the legislature?

DELEGATE WILCOX. I think counsel might tell us that this, too, would go beyond the scope of our authority as a Convention because other parts of the Constitution give the Governor the right of item veto.

DELEGATE FINEMAN. I am not going to venture to make an opinion on the propriety of that proposal, but assuming for purposes of this discussion that it is within the scope of the authorization that this Convention has, would Chairman Leonard view this as objectionable?

DELEGATE LEONARD. I would not view it as objectionable personally. It has not been brought up before the total committee, but some of us have talked about it. We were aware of this problem. Personally I would object to any words which would forbid having a budget approved that had a disclosed surplus. I have for a long time, been fighting this balanced budget to permit disclosed surpluses. If it can be worded in such a way that there could be a balance, except there cannot be a minus balance but there can be a plus balance, personally, I would be certainly happy to see such an amendment.

DELEGATE FINEMAN. Can you tell me why you found it necessary to insert the language that the certification of anticipated receipts must be by the Governor? I ask this question for this reason: If a chief executive desires to justify to the public the need for additional taxes—and I say this respectfully to all of the Governors who have occupied the chief executive's chair, because both Democratic and Republican Governors have been guilty of this practice—and in the interests of justifying a proposed tax increase says that anticipated receipts are lower than they actually will be, if the legislature is bound by that declaration there is little that the legislature can do by way of fighting the proposed tax impost except to hold out its votes and possibly be labeled as obstructionists preventing the orderly operation of the state government.

On the other hand, if you have a Governor who desires to project the image of being frugal with the money of the people of this Commonwealth, and, therefore, proposes that this is a justification for the higher office which he may seek, he will say that receipts might be greater than those which are actually to be received so that he can project a surplus. Do you not believe that this function, therefore, should be other than in the hands of a Governor?

DELEGATE LEONARD. Delegate Wilcox, would you like to answer this for us?

DELEGATE WILCOX. Sorry, I did not get the full import of it.

DELEGATE LEONARD. The question is: Why did the committee put in its proposal that the Governor shall be the one to make the estimate?

DELEGATE WILCOX. Well, we were advised by many people both on the administration and the legislative side

of the state government and by our expert witnesses that the estimates game is a popular matter here.

DELEGATE FINEMAN. I am sorry, estimates game what, sir?

DELEGATE WILCOX. Well, I think the Governor called it, or one of the people in the House or the Senate yesterday called it, the estimates game, like our numbers game here in the Convention where they move the figures up and down as to what a particular tax will bring. Our intent was that the Governor accept the responsibility for certifying that, for example, a cigarette tax would bring in "X" dollars. Our information was that the estimating people on the Governor's side of this have been very accurate. I think Governor Shafer said yesterday that his estimates were within six-tenths of one per cent of what he had projected earlier—the actual revenues came in to that amount. I also heard statements later today from the House which contradicted that. We thought that we had to stop somewhere so an amount could be fixed, and that the Governor had a very substantial staff whose business it was to project, to study, to gather materials at great length as to amounts of revenue to be brought in. We really thought it could be put into a nonpartisan type of atmosphere. The Governor would be responsible for the accuracy of the figures. He would certify them. Of course, he has no control over what the legislature actually enacts.

DELEGATE FINEMAN. Well, I certainly would subscribe to any proposal that would put this operation into the hands of a nonpartisan body such as an economic advisory group, but I think to allow it to remain in the hands of the Governor is to allow the playing of politics, which we would all like to get away from in connection with the matter of the budget. These fights drain the legislators and they drain the public, and the total effects of these fights are indeed not healthy. I think, to incorporate language in the Constitution that clearly spells out that this shall be the function of the Governor is totally wrong.

I have no further questions, Mr. President.

PRESIDENT BRODERICK. Thank you, Delegate Fineman.

The Chair recognizes Delegate O'Donnell.

DELEGATE O'DONNELL. I have to follow in line with the Honorable Mr. Fineman's question.

I would like Chairman Leonard, if he would, please, to follow this thing through with me.

If I read it correctly, you have the Governor making both a five-year estimate and a one-year estimate and this is done every year. Is this correct, Chairman Leonard?

DELEGATE LEONARD. I thought the discussion between Delegate Fineman and Delegate Wilcox would have carried on longer. I am sorry.

DELEGATE O'DONNELL. I say my problem is similar to that of Mr. Fineman. Following through this thing, if I understand it correctly, you have the Governor making both a five-year and a one-year estimate each year. Is this correct?

DELEGATE LEONARD. That is correct.

DELEGATE O'DONNELL. Then you say that the General Assembly shall not make a budget but shall approve one. I assume you mean adopt?

DELEGATE LEONARD. These were meant to be words of art. This is the term I get from my lawyer friends.

DELEGATE O'DONNELL. Do not misunderstand me.

DELEGATE LEONARD. No, it is not meant that they enact a law which is a budget.

DELEGATE O'DONNELL. I think you misunderstand me. As I follow your proposal along, the only budget around would be the Governor's budget. Then when you say the General Assembly shall approve a budget, it certainly suggests very strongly that they must approve the Governor's budget, because there would be no other budget. On the other hand, if you say, as is said for all other legislative bodies in this State, and I refer to municipalities, they shall adopt a budget, then you make it clear that the General Assembly is adopting its own budget.

DELEGATE LEONARD. The Governor makes a recommendation and then the General Assembly has the prerogative to do what they want to do with it. When they get through with it, that is what they adopt. It depends on, I guess, whether it is the Governor's budget or the General Assembly's budget as to who has the most origination.

DELEGATE O'DONNELL. I appreciate that, but in the General Assembly's budget you force the General Assembly to adopt the Governor's figures on proposed receipts.

DELEGATE LEONARD. Yes, on receipts only.

DELEGATE O'DONNELL. I think it is a terrible transfer of power from the legislative to the executive.

DELEGATE LEONARD. You are not asking me a question. You just made a statement.

DELEGATE O'DONNELL. Do you think it is a transfer of power from the legislative to the executive?

DELEGATE LEONARD. No I think that the executive now has that authority. Somebody has to anchor this budget down and the Governor is the one who is ultimately responsible. He is the one who has the staff to do this. If he overestimates, it only goes into the next year's budget. If he underestimates his revenue and there happens to be a surplus, it goes into the next year's budget, so it shows up. It is not going to do them any good to underestimate. If he overestimates, he cannot spend more than he has and he is going to have to have a deficit at the end of this year and go to the General Assembly, which will somehow cover this deficit.

I think there is sufficient control built in that the Governor with his staff shall make the very best estimate that is possible, but this should not be subject to any trading or negotiation; it should be the best estimate possible, and the controls I think, are built in that he cannot be wrong more than once on purpose.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fineman.

DELEGATE FINEMAN. Mr. President, may I address myself, briefly, to the comments just made by Delegate Leonard.

I notice that you have stressed on several occasions that the Governor has the staff. Now this strikes a sharp chord with me simply because I have maintained rather vehemently for a long period of time that in order for this legislative body to be an equal coordinate branch of government so that it does not have to be in a position of accepting those figures that are given to it by the chief executive, by the executive branch of government, so that it can make a complete, true, valid and accurate as-

assessment of figures itself, it should have staff. We are moving in this direction, and I am hopeful that in the not too distant future the public will accept the proposal that legislators be given more staff so that they can adequately cope with the responsibility that is truly theirs—mainly, to whack out a balanced budget.

You say it serves no purpose for the Governor to underestimate I do not quite agree with you, because I have seen time after time where there has been underestimation of anticipated tax revenues which under ordinary circumstances would fall into the next year's pot, but which never do because the Governor encumbers the money prior to the end of the then current fiscal year.

DELEGATE LEONARD. Excuse me, Delegate Fineman, I believe that one of the purposes of this Section 23 is to forbid the Governor from doing anything like that.

DELEGATE FINEMAN. Well, you are saying all surplus of funds, but that does not prevent the encumbrance of moneys which will, in turn, determine the amount of surplus.

DELEGATE LEONARD. Excuse me, I may have a misunderstanding. I only thought there could be an encumbrance if there had been an appropriation against which you make the encumbrance. Am I wrong on that?

DELEGATE FINEMAN. That is true, but these moneys should have been lapsed under ordinary circumstances if the encumbrance is not used. But instead of the moneys lapsing, they are earmarked at the end of a fiscal period, or encumbered, thus preventing the release of moneys in terms of a surplus for the beginning of a new fiscal period.

DELEGATE LEONARD. I think you may be getting into something that I do not understand because, again, I cannot see how there can be an encumbrance made unless the General Assembly has made an appropriation. If the General Assembly has made an appropriation, then the department to whom the appropriation was made has the right to make the encumbrance. But, it would also seem to me that an encumbrance should not be permitted, and the auditor general who makes proposed audits should not permit an encumbrance, or he should certainly raise the devil if an encumbrance is made without there being some kind of a contractual commitment.

DELEGATE FINEMAN. Under your proposal, you are striking out the responsibility of the Auditor General's office to make this examination of encumbrances, because he will be charged only with making a postaudit and not a preaudit, and a preaudit encompasses examining encumbrances?

DELEGATE LEONARD. That is correct. One of the important parts of the postaudit would be to examine the encumbrances at the end of each year. It would seem to me that if I were Auditor General and I were making a postaudit and found there had been some encumbrances made which were not supported by valid, contractual commitments, I would surely have a tremendous basis to cry fraud or cry something to the public, and I do not think that the department which did it would do it very frequently again.

Getting back to the preaudit, it may slip through and the Auditor General may approve, but he never has a chance to come back at it again.

DELEGATE FINEMAN. The Auditor General only makes an examination of encumbrances to determine if they are correctly and legally encumbered. Is there an

existing contract? Is there an existing commitment? But he does not examine it from the standpoint of determining whether or not the encumbrance should have been made, in any event.

For instance, we may need 50 gross of paper clips. Nothing is going to prevent that department, in order to preclude any money lapsing and not becoming surplus, from ordering 250 gross of paper clips.

This does not fall within the function of the audit by the Auditor General.

DELEGATE LEONARD. It sure would fall within the function of the postaudit, and you gave a perfect example of how can the Auditor General come along and criticize the purchasing of three carloads of paper clips when he had signed the document which allowed the purchase in the first place.

DELEGATE FINEMAN. But by removing the preaudit function from the Auditor General and examination of encumbrances, to my way of thinking—and I may be wrong about this, but I believe the examination of encumbrances is a preaudit function not a postaudit function—the Auditor General will no longer have this responsibility.

DELEGATE LEONARD. Under this proposal, the Auditor General will not have the responsibility to approve an encumbrance before it is made. He will have the responsibility to examine that encumbrance after it has been made—it can be 30 seconds afterwards—and then to make his comments known to the public.

DELEGATE FINEMAN. Is not a postaudit the examination of moneys which have been disbursed?

DELEGATE LEONARD. In a real quick definition of a postaudit, it is an audit which takes place after the transaction is completed. Generally, the transaction is not completed until the money has been disbursed. That is correct.

DELEGATE FINEMAN. Therefore, this encumbrance is not money disbursed? An encumbrance is not money disbursed?

DELEGATE LEONARD. It is really not money disbursed, no. It is only a setting aside of an appropriation, a reservation. We are reserving the appropriation for a future expenditure.

DELEGATE FINEMAN. Therefore, it is not a post-audit function.

If you have said that a postaudit is an audit of moneys which have been disbursed and that an encumbrance does not represent the disbursement of money, but only the setting aside of funds, then the Auditor General, under this proposal, will not have that function.

DELEGATE LEONARD. No, I am sorry. I tried to give a real quick definition of a postaudit. A postaudit is an audit that follows a transaction after the transaction is completed. It takes no responsibility for the transaction.

An encumbrance is a transaction, and when that transaction is completed, a postaudit should properly review that transaction so the Auditor General will clearly have a responsibility to review an encumbrance.

DELEGATE FINEMAN. Might CPA's differ on that viewpoint, Delegate Leonard?

DELEGATE LEONARD. I would certainly hope not, but they might.

PRESIDENT BRODERICK. The Chair recognizes Delegate Murray.

DELEGATE MURRAY. I would like to ask Delegate Leonard a few questions here.

First of all, is it not correct—a few items of clarity I think would help—that the real difference between the terms “postaudit” and “preaudit”: Preaudit is before the payment, and postaudit is after the payment. Is that the general account?

DELEGATE LEONARD. With the word “payment,” preaudit is before a transaction is completed and postaudit is after a transaction is completed. The disbursing of a check happens to be a transaction; an encumbrance happens to be a transaction. There are many different kinds of transactions. A transaction, generally, is a responsibility of management.

DELEGATE MURRAY. Thank you.

There are two basic fiscal offices of the Commonwealth, and correct me if I am wrong, one is the State Treasurer, whose chief and basic function is that of banking and disbursement. Is that correct, chief and basic functions?

DELEGATE LEONARD. Banking and the approval of checks.

DELEGATE MURRAY. Disbursement in general.

DELEGATE LEONARD. Yes.

DELEGATE MURRAY. Would you not also say that the basic and chief function of the Auditor General is that of auditing?

DELEGATE LEONARD. I would say that would be inherent in the term “Auditor General,” yes.

DELEGATE MURRAY. I am glad we agree.

Now, as I see it, there is basically only one audit program, but two functions. We may differ on this, and if so, please correct me. If there is basically, in today's setup, only one basic audit with two audit functions, the regular audit, sometimes called the postaudit, and a special “watchdog” provision which permits the Auditor General to step in and stop a payment prior to its expenditure. Is that correct? This function is referred to as a preaudit-type function.

DELEGATE LEONARD. Yes, you call that a “watchdog” function. I will disagree with that being a “watchdog” function.

DELEGATE MURRAY. Would it surprise you to know that back in the 1950s there was a scandal under the Turnpike Authority which was audited by a private accounting firm and there was no special “watchdog” provision to cover this type of agency, and \$15 million was lost forever? With the present “watchdog” facility of the Auditor General's office I doubt if a thing like this could ever happen in the Commonwealth. Do you agree?

DELEGATE LEONARD. No, I do not agree.

DELEGATE MURRAY. I see we disagree again.

Bob, do you think that the basic functions of the Auditor General under your proposal would shift . . .

DELEGATE LEONARD. Committee proposal, sir.

DELEGATE MURRAY. I am sorry. It is now a committee proposal. . . would shift to the function of the Auditor General having one principal duty, that of auditing the Treasurer?

DELEGATE LEONARD. Would you ask that question again?

DELEGATE MURRAY. Surely. Under your proposal which, I believe, was supposed to make a stronger Auditor General, would not the effect of this be that the Auditor General would have one basic function, that of auditing the State Treasurer?

DELEGATE LEONARD. No, sir.

DELEGATE MURRAY. The Auditor General would not have the right to do anything until after the State Treasurer approved it and then put a stamp of “yes” or “no” on the State Treasurer. Is that correct?

DELEGATE LEONARD. No, sir.

DELEGATE MURRAY. How would the Auditor General have a right to step in ahead of time and stop the payment on a program that he did not agree to, without the right to go in ahead of time and preaudit?

DELEGATE LEONARD. The Auditor General would not be able to stop a payment if he did not have the preaudit function. That is the whole philosophy of dividing the function.

DELEGATE MURRAY. Then how can this make a stronger office of the Auditor General, the watchdog of our State?

DELEGATE LEONARD. You have to make a determination in your own mind, Delegate Murray, as to which is the most important function as far as the audit of the Commonwealth, that of being able to stop an expenditure or that of making an examination as we in the audit field call “in accordance with general accepted auditing standards,” which will review all the transactions on a test basis, and so forth and so on, and be able to evaluate whether or not the expenditures have been made in accordance with the legislative intent; whether or not the accounting policies of the department and the administration have been followed; whether or not the moneys have been spent effectively and efficiently. These are, it seems to me, a little broader and the citizens have wanted, it would seem to me, somebody to perform this function. There are a number of people in the administration and in the present setup now built into what we call an internal-control system of checks and balances to hopefully stop any bad expenditures. Under any setup, every once in a while you are going to get a duplicate payment and every once in a while you are going to have an expenditure get through, or it may not, but with a good internal control this should not happen.

DELEGATE MURRAY. Therefore, in line with what you just said, would it not be better to have both the Treasurer and the Auditor General sign the voucher, the responsibility for signing the check? Under your program I would only see one signature on that voucher, the same signature that appears, ironically, on that check.

DELEGATE LEONARD. The check would be signed by the Treasurer, and the Auditor would not have any responsibility prior to the completion of that particular transaction, if it is a cash transaction that you are talking about.

DELEGATE MURRAY. Sir, you did not answer my question.

DELEGATE LEONARD. I am sorry

DELEGATE MURRAY. Is it not true that the same person who signs the voucher under your program, the Treasurer, is the same person who signs the checks? They check on themselves indirectly. Yes or no?

DELEGATE LEONARD. I think the answer to your question is no, because I do not think we have even a warrant. Is that what you are talking about?

DELEGATE MURRAY. Would you have a warrant in your program?

DELEGATE LEONARD. I believe it is the warrant that

is signed, if I have my terms right. I may be incorrect in that.

DELEGATE MURRAY. A warrant is the official document that accrues the payment upon which a check is drawn. Correct?

DELEGATE LEONARD. Delegate Murray, I have no objection to taking the preaudit away from the Treasurer's office, if this is what you are getting to.

DELEGATE MURRAY. Yes, I have an amendment to your proposal which will do that. I will submit it later. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, do you plan to adjourn for dinner or to continue this session until we finish the calendar? Just what have you planned?

PRESIDENT BRODERICK. The general feeling seemed to be that we would go until around 7 o'clock and then not come back tonight.

DELEGATE SHAPIRO. Delegate Leonard, this division of postaudit and preaudit, I take it, is presently generally accepted auditing practice?

DELEGATE LEONARD. It has been. As I stated before, Delegate Shapiro, this division of power had been recommended in 1947 by the Joint Government Commission in this State; it was recommended in 1953 by the Chesterman Committee; it has been recommended, and I can quote from various sources, that most States have gone to the point of dividing these two powers. It is generally considered to be a weakening of the total audit function. To have them together is a weakening; to separate them is the strengthening of the audit function.

There is certainly a great deal of literature on this, but not on that which was approved by the Accounting Principles Board, if that is what you may be referring to.

DELEGATE SHAPIRO. Yes.

DELEGATE LEONARD. No, they have not gotten to detrimental accounting and this would not be an accounting principle, this would be an internal-control principle and this would not be defined.

DELEGATE SHAPIRO. Would there be an inconsistency then between separation of the preaudit and postaudit provision that you have here and your provision that audits should be made in accordance with generally accepted auditing standards?

DELEGATE LEONARD. Clearly, there is no contradiction here. As a matter of fact, the generally accepted auditing standards cover one thing and the division of his powers are something else entirely. It has nothing to do with standards of audit.

DELEGATE SHAPIRO. My real point is this: There have been some recommendations of separation and apparently these recommendations are accumulating, but is not the recommendation so far somewhat transitory for the inclusion of such a system in a Constitution? Is it not entirely possible that this has only been recommended as recently as 1947, and that in 1987, 20 years from now, the same people, or the same groups of people, may be recommending some other forms of procedure or some other separations of auditing procedure?

DELEGATE LEONARD. No. I think that what this is is a basic concept that has to be understood. The concept

is that the auditor, as we have it, is a basic fundamental of independence. Independence is the byword of any good auditor. Independence means that you dare not take any part in a transaction. If you take part in a transaction you have lost your independence and, therefore, a third party would have reason to think that you have not been able to apply judgment. How could anybody believe a comment of an auditor if he, after the fact, was a part of making the transaction? They would say that he was only defending his own position in that transaction. He loses his independence and is a clear body of knowledge and not a body of knowledge on the term "independence."

DELEGATE SHAPIRO. We do not differ on that, Delegate Leonard, but I am suggesting to you that in 1873, when this State last adopted a Constitution, there was no such theory of separation of preaudit or postaudit, at least as generally accepted as it appears to be now, but there were other principles of accounting and of auditing that were generally accepted at that time.

DELEGATE LEONARD. No, sir.

DELEGATE SHAPIRO. You mean that auditing did not exist in 1873?

DELEGATE LEONARD. Auditing did not exist at that time; auditing did not really begin to exist as we know it today until 1933.

DELEGATE SHAPIRO. There were accountants then, were there not, Delegate Leonard?

DELEGATE LEONARD. In 1874 there was no such thing in this country as an accountant who had any credibility. That did not come until the 1890s. They were in England, but not in this country. The Constitution did the best it could in 1874 by putting in a provision that if you had your hand in the till you would get punished, and that is what Section 14 now says.

DELEGATE SHAPIRO. I think then that there evidently have been considerable changes in accounting and auditing procedures and standards since 1873.

My point is, had we put in the few developments that existed then, in 1873, into the Constitution, it is fairly obvious they would have been out of date by now. I wonder about the wisdom of putting the present-day standards and the present-day thinking on auditing procedure into a Constitution that may be out of date 20 or 50 years from now.

DELEGATE LEONARD. I think what we are doing, Delegate Shapiro, on all the proposals that we have before us, is using the present body of knowledge that we have available to us today. We are using that, hopefully with our best judgment, to say what of that will help us set some guidelines for tomorrow. The body of knowledge today says that there shall be a division of responsibility, that the preaudit is a management responsibility and an independent audit is an independent responsibility. That body of knowledge has been developed for many, many years and is only getting stronger. We have to go on the body of knowledge that we have.

DELEGATE SHAPIRO. I have one other question, Delegate Leonard. It has to do with the provision you have made as to what to do with surpluses. You have made no provision in either this or the preceding proposal nor, do I think, in your Proposal No. 5.

DELEGATE LEONARD. The question was, we provide in Proposal No. 4 what should happen to surpluses but we do not make any comment as to what would happen to a deficit.

DELEGATE SHAPIRO. Yes.

DELEGATE WILCOX. As has been mentioned, I think yesterday, we felt that the temporary borrowing could be made, that the legislature also could enact additional tax. The surplus under the present Constitution went into the sinking fund, which has been eliminated under the state debt proposal—that was required to go into a sinking fund. This just now turns it over until the next year.

DELEGATE SHAPIRO. It was my understanding that, in answer to questions on Proposal No. 3, it was stated that there could be no borrowing of funds to be repaid in the following year.

DELEGATE LEONARD. Excuse me, from outsiders; they can borrow from within their own funds.

DELEGATE SHAPIRO. Did not you answer to Governor Scranton, in connection with his question on this proposal, that there could not be any transfers between funds?

DELEGATE LEONARD. No, we did not talk about transfers. My answer to the Governor was that in coming up with a budget that this budget would include a number of separate funds, each one of which would be self balanced.

DELEGATE SHAPIRO. That is at the budgeting stage, is that correct?

DELEGATE LEONARD. The budgeting stage, that is correct.

DELEGATE SHAPIRO. Do you not think it would be well to provide in your proposal if it is intended deficits be covered by transferring moneys between funds, by borrowing money between funds, that this is permissible?

DELEGATE LEONARD. I would say that there is some proposal on deficits. We would certainly listen to it. The only kind of deficit we can talk about, because we are mandated by Constitution that there shall be a balanced budget, is an unforeseen deficit.

DELEGATE SHAPIRO. That is what I am talking about.

PRESIDENT BRODERICK. I see Governor Scranton standing up to add some light on this subject.

DELEGATE SCRANTON. I just wanted to ask you this. In answering my question, I also, got the impression that there was not to be what I call commingling of funds in order to produce a balanced budget at the end of the year. Is that correct?

DELEGATE LEONARD. Yes.

PRESIDENT BRODERICK. May the Chair suggest that perhaps we have had a sufficient question and answer period. Could we now proceed with the amendments?

The Chair recognizes Delegate Otto.

DELEGATE OTTO. Mr. President, I have one short question. I would like to direct this to Delegate Leonard. I notice on page 2, line 23, Section 26, with respect to the Governor's budget and financial plan, "within the time fixed by law the Governor shall submit to the General Assembly," as I understand it at the present time, there is no time limit in the law and I think that this is probably a new step on which the committee has concluded. I certainly think it is a forward step, if it is a new step, and I thought maybe Delegate Leonard would like to make a statement as to what is the background on this part of the proposal.

DELEGATE LEONARD. I believe that there are laws today saying when the General Assembly shall receive a budget. I am not sure exactly what the code says.

DELEGATE WILCOX. We considered this question at some length, Delegate Otto. We concluded that this gave the greatest flexibility to leave it to the legislature to decide from time to time and we were afraid that 90 days, 60 days, 120 days might be all right today but might be very bad indeed at a later time. So we thought the greater flexibility was in using this language "fixed by law."

DELEGATE OTTO. This was my understanding, Mr. President. I wonder if this wording satisfied Delegate Fineman, because I know now that they had quite a hassle earlier in the year trying to get a budget from a Governor—which they just got—and I presume now that the General Assembly is in a position that, if it cares to, they can enact a law, set whatever date it wants. I certainly congratulate this committee for that forward step because I think it will expedite the function of the General Assembly as to what to do with deficits. I take it that a budget is made on the basis of the best estimate of revenues, but I think it has happened in history of some governments and, perhaps of Pennsylvania, that there have been years when estimates of income were overstated, with the result that at the end of the year there were not sufficient funds to pay all the appropriations. It seems to me that perhaps your proposal ought to contain something with respect to what is to be done and not leave it simply to improvisation and the ingenuity of people as to how to overcome the problem that will arise if there is such a deficiency.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pott.

DELEGATE POTT. I believe that this has been a very, very long day. I have looked over the floor. I believe we just have about 82 people here, maybe slightly less; they are moving in and moving out. I am trying to count the number of the members of the Standing Committee on Taxation and State Finance and I notice that we do not even have a quorum. Therefore, Mr. President, I would move that we adjourn until tomorrow.

PRESIDENT BRODERICK. It has been moved by Delegate Pott, seconded by Delegate Van Sant, that we adjourn until noon tomorrow—

DELEGATE POTT. Mr. President, I wonder if I am out of order by just making one request now?

PRESIDENT BRODERICK. Yes, indeed.

DELEGATE POTT. Today, at noontime, the Chair had suggested that those who have amendments to Proposal No. 3 gather up front and we would discuss them and see if we could eliminate duplications.

I would hope that this sort of suggestion could be followed with respect to Proposal No. 4, not to debate the amendments or to say what is good or what is bad, just to see if we cannot clean up the duplications so that we can have a more expeditious session tomorrow.

PRESIDENT BRODERICK. The Chair requests that anyone who has amendments to Proposal No. 4 should please come forward after we adjourn and discuss them with the chairman.

The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President, Delegate Leonard's co-chairman may be out of order too, but I wonder if we could return to the calendar and call up Proposal No. 5 so that I might submit some correctional amendments.

PRESIDENT BRODERICK. We have a motion to ad-

journal on the floor, but I think Delegate Pott will be glad to withhold his adjournment motion until we get this correctional amendment.

DELEGATE POTT. I will withdraw my motion.

PROPOSAL No. 4 PASSED OVER

PRESIDENT BRODERICK. Therefore, if there is no objection we will pass over Proposal No. 4 for the time being and take up Proposal No. 5.

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,
The Convention proceeded to the second consideration of Committee Proposal No. 5, Printer's No. 5, entitled:

Amending the Constitution of Pennsylvania further regulating exemptions from taxation and providing for the taxation of real property of public utilities.

On the question,

Will the Convention agree to the proposal on second consideration?

WOODRING AMENDMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President, I read in place and present to the Chair the following correctional amendments agreed upon by the Committee of Taxation and State Finance.

On the question,

Will the Convention agree to the proposal on second consideration?

DELEGATE WOODRING offered the following amendment which was read by the clerk:

Section 1A (a) (5), page 2, line 18. Add after the word but, the words: in the case of any real property tax exemptions

Section 1A (c), page 2, line 23. Delete the word franchises.

Section 1A (c), page 3, line 2. Add after the word hereunder, the words: by the General Assembly

Section 1A (c), page 3, line 3. Add after the word authorities, the words: by or through the Commonwealth

Section 1A (d), page 3, line 5, delete after the word may, for a limited period of time,

Section 1A (d), page 3, line 5, change the word enact to read: make

Section 1A (d), page 3, line 7. Delete after the word primary, the words and only

Section 1A (d), page 3, line 8. Add at the end of the line a new sentence reading: Such special tax provisions shall be applicable for a limited period of time.

Section 1A (e), page 3, line 10. Delete after the word may, for a period not to exceed two years,

Section 1A (e), page 3, line 10, change the word provide to read: make

Section 1A (e), page 3, line 12. Add a new sentence reading: Such special tax provisions shall not exceed a period of two years.

Section 1C, page 3, line 16. Add after the word receipts, the words: or any other special

Section 1C, page 3, lines 24 and 25. Delete the last sentence and substitute therefor: All real property of public utilities subject to local taxation at the time of the adoption of this provision shall remain subject to local taxation.

On the question,

Will the Convention agree to the amendment offered by Delegate Woodring?

The roll was recorded as follows:

YEAS—104

Aberman	Dailey	Lee, K.	Rovner
Aurentz	Desmond	Lee, L.	Sahl
Bagenstose	Devlin	Leinbach	Scales
Baldrige	Fawcett	Leonard	Scarlett
Baldus	Fay	Manderino	Scott
Baldwin	Feather	Mangery	Scranton
Banes	Filson	Matthoni	Shively
Barry	Forster	McGeary	Shoemaker
Benedict	Goldman	McGlynn	Shrager
Bloom	Gabreski	Meyer	Silverman
Braham	Gehrlein	Michael	Solomon
Brennan	Gerber	Michener	Sprogel
Broderick	Hannum	Miller, D.	Stout
Brown	Harding	Miller, R.	Swope
Buck	Hatter	Morton	Tate
Burkholder	Heyburn	Murray	Thornburgh
Caron	Himes	Nelson	Tomascik
Casey	Hoeker	O'Donnell	Tully
Clark	Huggins	Otto	Van Sant
Clinger	Irviss	Popil	Waldron
Conley	Kauffman	Pott	Westerberg
Corey	Keller, M.	Powell	Whittum
Cortese	Kelly	Prendergast	Wilcox
Cosetti	Krill	Rappaport	Wilmarth
Croop	Laputka	Rea	Woodring
Curran	Leach	Richter	Woodside

NAYS—3

Bunting	Camardella	Orbin
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NOT VOTING—56

Allison	Fineman	Keller, J.	Quiles
Amsterdam	Fleming	King	Redick
Barron	Fohl	Kline	Reynolds
Bashoff	Fortney	Lane	Roberts
Benfield	Goldstein	Levin	Ruth
Butera	Gouger	Markley	Sebastian
Cain	Gray	Moorhead	Shapiro
Caputo	Griffith	More	Sharp
Cunningham	Henderson	Musselman	Shettig
Donaldson	Hook	Orban	Strickler
Donolow	Horne	Pasquerilla	Stroup
Dumbauld	Hostetler	Pechan	Thomson
Erwin	Jrolanio	Pelletier	Warman
Fagan	Johnson	Percey	Welsh

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

COMMITTEE COMMENDED

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldrige.

DELEGATE BALDRIGE. Mr. President, as one who stood here yesterday and answered a few questions, I think this Convention owes a special vote of gratitude to the chairman of this committee and his two helpers. I think they did a wonderful job and I think chairman Leonard really is made of iron.

PRESIDENT BRODERICK. I certainly agree with you. They have done a fine job.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Pott for the adjournment motion, pursuant to the resolution which was adopted.

DELEGATE POTT. Mr. President, I move that this

Convention do now adjourn until Thursday, February 9, 1968, at 9 a.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Pott and seconded by Delegate Van Sant that this Convention do now adjourn until Thursday, February 9, 1968, at 9 a.m., e.s.t.

The motion was agreed to and (at 6:16 p.m., e.s.t.) the Convention was adjourned.

JOURNAL

Volume 1

Friday, February 9, 1968

Number 40

The Convention was called to order at 9 a.m., e.s.t.

THE PRESIDENT (Raymond J. Broderick) IN THE CHAIR

PRAYER

THE REVEREND HAGEN STAACK, head of the Theology Department of Muhlenberg College in Allentown, Pennsylvania, offered the following prayer:

Our God, King of the Universe, we are grateful for all of the good things we enjoy, this earth, our livelihood, our life itself, grateful for this country of freedom, and all the privileges that are ours.

We come to Thee asking for forgiveness for the wrong we have done and we know we only live by forgiveness. At the same time we ask for Thy spirit to enlighten us so that we see what we do wrong and learn how to improve our lives and to mend our ways.

As we are assembled here for this special work, give us the guidance that man needs to accomplish what should be accomplished; the fullness of Thy will.

Teach us patience, teach us wisdom, and teach us the strange quality of love for man.

Be with us, because without Thee we cannot do anything.

We ask it in Thy Name and before Thee. Amen.

LEAVES OF ABSENCE

PRESIDENT BRODERICK. The Chair recognizes the secretary, Delegate Michener.

SECRETARY MICHENER. Mr. President, the following members have made requests for leaves of absence:

The delegate from the 49th District, DELEGATE GEHRLEIN, for February 9, because of business;

The delegate from the 42nd District, DELEGATE FAGAN, for February 9, because of business;

The delegate from the 3rd District, DELEGATE REYNOLDS, for February 9, because of business;

The delegate from the 48th District, DELEGATE HORNE, for February 9, because of business;

The Ex Officio Delegate, DELEGATE DONALDSON, for February 8, 9, and 12, because of business;

The delegate from the 47th District, DELEGATE HENDERSON, for February 9 and 12, because of business;

The delegate from the 42nd District, DELEGATE WALDRON, for February 9, Friday morning only, because he is taking his wife to the hospital;

The delegate from the 41st District, DELEGATE BALDRIGE, for February 12.

PRESIDENT BRODERICK. Thank you, Secretary Michener.

Is there any objection to the leaves of absence?

The Chair hears none, and the leaves are granted.

QUORUM CALL

PRESIDENT BRODERICK. We will now take the roll call to determine if a quorum is present. The delegates will please vote "aye" to indicate their presence.

The roll was recorded as follows:

Amsterdam	Cunningham	Krill	Powell
Aurentz	Curran	Laputka	Rappaport
Bagenstose	Dailey	Leach	Rea
Baldrige	Desmond	Lee, K.	Redick
Baldus	Devlin	Lee, L.	Rovner
Baldwin	Dumbauld	Leinbach	Sahli
Banes	Fawcett	Leonard	Scales
Barron	Fay	Levin	Scarlett
Barry	Feather	Manderino	Scott
Benedict	Fohl	Mangery	Scranton
Benfield	Forster	Mattioni	Shetug
Bloom	Gerber	McGeary	Shively
Braham	Goldstein	Meyer	Shrager
Brennan	Gouger	Michael	Silverman
Broderick	Griffith	Michener	Sprogel
Brown	Hannum	Miller, D.	Stout
Buck	Harding	Morton	Strickler
Bunting	Hatter	Musselman	Swope
Burkholder	Heyburn	Nelson	Tate
Caron	Himes	Orban	Thornburgh
Casey	Hocker	Orban	Tully
Clark	Hook	Otto	Van Sant
Clinger	Huggins	Pasquerilla	Westerberg
Conley	Irviss	Pelletier	Whittum
Corey	Johnson	Percey	Wilcox
Cortese	Kauffman	Popil	Wilmarth
Cosetti	Kelly	Pott	Woodring
Croop			

PRESIDENT BRODERICK. One hundred and nine delegates having recorded their presence, a quorum is present.

The Chair also notes the presence of the following delegates:

Aberman	Hostetler	Richter	Shoemaker
Allison	Keller, J.	Ruth	Solomon
Butera	McGlynn	Shapiro	Tomasick
Camardella	Murray	Sharp	Woodside
Fineman	O'Donnell		

CALENDAR

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to the second consideration of Committee Proposal No. 3, Printer's No. 13, entitled:

Amending the Constitution of Pennsylvania further providing for Commonwealth indebtedness.

On the question,

Will the Convention agree to the proposal on second consideration?

It was agreed to.

On the question,

Will the Convention agree to advance the proposal to third consideration?

The roll was recorded as follows:

YEAS—101

Amsterdam	Cunningham	Laputka	Pott
Aurentz	Curran	Leach	Powell
Bagenstose	Dailey	Lee, K.	Rea
Baldrige	Desmond	Lee, L.	Redick
Baldwin	Dumbauld	Leimbach	Rovner
Banes	Fawcett	Leonard	Sahl
Barry	Fay	Levin	Scales
Benedict	Feather	Manderino	Scarlett
Benfield	Fohl	Mangery	Scott
Bloom	Forster	Mattioni	Scranton
Braham	Gerber	McGeary	Shettig
Brennan	Goldstein	Meyer	Shively
Broderick	Gouger	Michael	Solomon
Brown	Griffith	Michener	Sprogel
Buck	Hannum	Miller, D.	Stout
Bunting	Harding	Morton	Strickler
Burkholder	Hatter	Musselman	Swope
Caron	Hocker	Nelson	Tate
Casey	Hook	Orban	Thornburgh
Clark	Huggins	Orban	Tully
Clinger	Irvis	Otto	Westerberg
Conley	Johnson	Pasquerilla	Whittum
Corey	Kauffman	Pelletier	Wilcox
Cortese	Kelly	Percey	Wilmarth
Cosetti	Krill	Popul	Woodring
Croop			

NAYS—0

NOT VOTING—62

Aberman	Fleming	Lane	Ruth
Alison	Fortney	Markley	Sebastian
Baldus	Gabreski	McGlynn	Shapiro
Barron	Gehrlen	Miller, R.	Sharp
Bashoff	Goldman	Moorhead	Shoemaker
Butera	Gray	More	Shrager
Cain	Henderson	Murray	Silverman
Camardella	Heyburn	O'Donnell	Stroup
Caputo	Himes	Pechan	Thomson
Devlin	Horne	Prendergast	Tomascik
Donaldson	Hosteller	Quiles	Van Sant
Donolow	Jroslanio	Rappaport	Waldron
Erwin	Keller, J.	Reynolds	Warman
Fagan	Keller, M.	Richter	Welsh
Filson	King	Roberts	Woodside
Fineman	Kline		

The majority of the delegates having voted in the affirmative, the question was determined in the affirmative, and the proposal was advanced to third consideration.

PROPOSAL NO. 4 PASSED OVER

PRESIDENT BRODERICK. The Chair recognizes Delegate Leonard.

DELEGATE LEONARD. Mr. President, I request that Proposal No. 4, printer's No. 4, go over in order.

PRESIDENT BRODERICK. Proposal No. 4, printer's No. 12?

DELEGATE LEONARD. I am sorry, Proposal No. 4, printer's No. 12, that is correct.

PRESIDENT BRODERICK. Is there any objection? This will mean that we will not consider it today and it will remain on the calendar in its same position on second consideration.

The Chair hears no objection and therefore it goes over in order.

QUESTION OF PERSONAL PRIVILEGE

PRESIDENT BRODERICK. The Chair recognizes Delegate Shoemaker.

DELEGATE SHOEMAKER. I would merely like to record my tardy presence.

PRESIDENT BRODERICK. Yes, we shall note your presence, and also Delegate Keller's and Delegate Solomon's.

COMMITTEE PROPOSAL NO. 5

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President, on behalf of the Committee on Taxation and State Finance I call up Proposal No. 5 for consideration.

COMMITTEE PROPOSAL ON SECOND CONSIDERATION

Agreeable to order,

The Convention proceeded to the second consideration of Committee Proposal No. 5, Printer's No. 14, entitled:

Amending the Constitution of Pennsylvania further regulating exemptions from taxation and providing for the taxation of real property of public utilities.

On the question,

Will the Convention agree to the proposal on second consideration?

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President and fellow delegates, Proposal No. 5 is the exemption clause of the taxation article. In large part, I believe, it is self-explanatory. When the proposal was introduced on the floor of the Convention, a very full and complete statement on behalf of the committee was made. I think that it is unnecessary at this time to make further explanation of the proposal. But I would invite questions at this time and suggest that if questions are forthcoming, we take them in order of the items in the proposal; namely, there are five specific exemption clauses which were carried over from the 1873 Constitution with some slight amendments. There are several other special tax-treatment provisions and then there is a public utility provision.

I think that in order that the questioning may be coherent and more meaningful, we ought to take up and we ought to confine the questions to the order in which they appear on the proposal.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fohl.

DELEGATE FOHL. Mr. President, I would like to interrogate Delegate Woodring.

DELEGATE WOODRING. I will be interrogated.

PRESIDENT BRODERICK. Yes, he has indicated that he will answer any questions.

DELEGATE FOHL. Delegate Woodring, in the report for the Taxation Subcommittee that was distributed to every delegate, you mention that there have been language changes in the area of the enumerated exemptions. I would like to ask you—you say that you have tightened up these exemptions to prohibit abuse and I would like to ask you, sir, if I might, if you would explain this tightening up and perhaps give an example of the tightening up for each one of the exemptions enumerated on 1A, (1) through (5)?

DELEGATE WOODRING. Mr. President, in 1A, (1) the proposal reads, "Actual places of regularly stated religious worship." I note that in the 1873 Constitution it says, "Actual places of religious worship." In other words, the committee has added, and I believe it is the only change in this provision, the word "regularly" used for religious worship. This comes about according to

testimony that was received by the committee. Not a few properties throughout the Commonwealth and in various municipalities of the Commonwealth are held by religious institutions but used infrequently. They are used for celebration on the anniversary of the founding of that particular church; they are used for celebration on the Fourth of July or on some other stated occasion; but they are not regularly used for religious worship. The committee felt that this type of evasion actually ought to be eliminated, the abuse ought to be corrected and the municipalities in a case of that nature ought to be entitled to exact taxation from such institutions. If the place is actually and regularly used for religious worship, then the exemption continues as heretofore.

That same answer would prevail throughout all of (1) through (5). The words which have been supplied, pretty generally, come from a very careful study by the subcommittee, together with legal and technical advisers; the words of ours which have been inserted are "actually and regularly."

Mr. President, I trust that answers the question.

DELEGATE FOHL. Yes, thank you, Mr. President.

I have a few others here. I hope that they are not going to be in conflict with your original request.

You have also deleted specific reference to exemptions for the disabled veterans and also for the occupational tax exemption. Assuming that these two present exemptions would be covered under your new subsection (c), could you tell me, please, why the specific exemption has been deleted, the specific reference to exemption has been deleted?

DELEGATE WOODRING. There have been some specific exemptions enumerated in the 1873 Constitution, which have been specifically deleted because subsection (c) is a much broader provision than heretofore contained in the 1873 Constitution and would include all of the specific cases which are contemplated in the 1873 Constitution. Subsection (c) of Proposal No. 5 would include what is contained in the 1873 provision, plus a broader scope.

DELEGATE FOHL. You are assuming then that the General Assembly, under the authority granted in subsection (c), would, by general law, reinstitute those specific exemptions?

DELEGATE WOODRING. Mr. President, the answer is yes.

The General Assembly has done it in the past, and the committee would contemplate that it would continue these meritorious exemptions.

DELEGATE FOHL. Mr. President, would a question involving paragraphs (c), (d) and (e) be in order?

DELEGATE WOODRING. Mr. President, the answer is yes.

DELEGATE FOHL. Under subsection (c), where you have authorized the General Assembly to grant specific exemptions, you refer in there to the fact that if these exemptions were granted, the local taxing authority would be reimbursed by the Commonwealth.

Under sections (d) and (e), you do not so provide. Could you tell us why, sir?

DELEGATE WOODRING. Mr. President, I must refer to Proposal No. 5, printer's No. 14, which has just come into my hands, to get the exact language.

In (c), as amended, the General Assembly may establish these classes. The municipality may avail itself of

these classes and standards and grant exemptions, but if it grants exemptions—and I will read the last paragraph of (c) as recently amended: "The Commonwealth, or any other taxing authority, may adopt or employ such class or classes and said standards and qualifications and, except for taxes upon the sale or use of personal property, may impose taxes, grant exemptions or make special tax provisions in accordance therewith, provided that no exemption from any tax upon real estate shall be granted hereunder by the General Assembly except by laws providing for the reimbursement of local taxing authorities by or through the Commonwealth for revenue losses occasioned by such exemption."

The committee is cognizant of the fact that the local tax base has been constantly shrinking. The committee is aware that the municipalities are in need to recapture contributions to support the governmental services.

If the municipalities see fit to adopt the class and classifications and standards set up by the General Assembly and if the municipalities grant the exemption, then in order to recapture some contribution toward the governmental services, the committee has asked that the Commonwealth reimburse that municipality to the extent that it has thereby lost a taxable income.

DELEGATE FOHL. But under subsection (d), that similar provision for reimbursement is not mentioned.

DELEGATE WOODRING. I see Delegate Pott here and I would like him to answer. The obvious answer is that, in (d) the only time the exemption would be granted would be if the General Assembly grants it. In (c) the exemption is optional with the municipality.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pott.

DELEGATE POTT. Mr. President, I would like to yield to Delegate Gerber for the answer.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. Would you repeat your question, Delegate Fohl?

DELEGATE FOHL. Yes, sir. I wondered why the reimbursement provided for under the provisions of subsection (c) was not equally provided for under subsections (d) and (e) in the instance where for a period of time there is tax exemption for various types of property?

DELEGATE GERBER. The thrust of subsection (d) is that the General Assembly may enact laws, may enact legislation, to permit the local municipality to determine on its own volition whether or not it wants to grant special tax provisions for the purposes specified in this section, Delegate Fohl.

DELEGATE FOHL. Thank you and thank you, Delegates Woodring, Pott and Gerber.

PRESIDENT BRODERICK. The Chair recognizes Delegate Strickler.

DELEGATE STRICKLER. Mr. President, may I ask Delegate Woodring whether a Boy Scout campsite, which is regularly used, and also their staff headquarters, in the nature of real estate, would be exempt under the provision of public charities?

DELEGATE WOODRING. The Boy Scout institution is considered in law as a purely public charity. If its property is actually and regularly used for the purposes of

the charity, it would be exempt. I think the answer recurs which answer was made on behalf of the question by Delegate Fohl, if the use is sporadic and infrequent, if it is limited to a one- or two-week camp period throughout the year, I think that it probably would be taxable. If it is used for the summer and if it is used infrequently through the winter months for meetings and campouts and what not, I have no doubt that it would fall under this clause and be fully exempt.

DELEGATE STRICKLER. That would be the same as to real estate or property used by a staff in a particular community if it is used regularly?

DELEGATE WOODRING. The answer is yes, actually and regularly.

DELEGATE STRICKLER. Thank you, Delegate Woodring.

DELEGATE WOODRING. Those words, incidentally, were supplied by, among others—I believe that Delegate Gerber can correct me on this if I am wrong—those words were supplied in part by the office of the Attorney General.

DELEGATE GERBER. That is correct.

PRESIDENT BRODERICK. The Chair recognizes Delegate Rea.

DELEGATE REA. I would like to ask Delegate Woodring, on page 3 of Proposal No. 5 we received this morning, beginning at line 13, I assume that paragraph is a paragraph under subsection (c) relating to an exemption because of age or infirmity?

DELEGATE WOODRING. Mr. President, I was momentarily distracted and did not catch the beginning of the question. Would you repeat it, please?

DELEGATE REA. In the paragraph on page 3, line 13, does that relate to the exemption for infirmity, age and disability?

DELEGATE WOODRING. The answer is yes. The earlier paragraphs refer to standards and so on.

DELEGATE REA. Right. In line 13 you say, "the Commonwealth, or any other taxing authority, may adopt these exemptions or setup qualifications." Are you meaning that, for instance, the boroughs and townships can adopt regulations relating to real estate taxes for aged and infirm persons?

DELEGATE WOODRING. The answer is yes.

DELEGATE REA. Do you think that it creates a difficulty if you have a multiple-municipality county, for instance, where there are 125 boroughs and townships in Allegheny County, that they might all adopt different standards? Do you not think that would create a great deal of confusion if one gave an exemption, another gave a partial exemption, and so forth? Would this not create a multitude of problems?

DELEGATE WOODRING. Mr. President, the committee is of the opinion, and the intention of the proposal is, that the General Assembly shall set up uniform standards which are permissively used or not used by the respective municipalities.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. Mr. President, Delegate Woodring, I believe that what the judge stated, Mr. Rea, is correct. If you will look at lines 6 and 7, "The General Assembly may, by general laws, establish as a class or

classes," and then if you refer down to line 13, I believe it is clear where it says there, "The Commonwealth, or any other taxing authority, may adopt." The point is that the establishment of the classes or the establishment of the differentials will be made by the General Assembly for uniform enactments, whereas the decision of adoption rests with either the Commonwealth or the municipality. I think if you read lines 6, 7 and 8 and then look down at lines 13 and 14, that will answer your question and solves your problems.

DELEGATE REA. It solves my problem, Delegate Gerber, with the exception that you are still then making it permissive on a municipality or subdivision whether to adopt these standards or not. Are you not going to get a hodge-podge out of that, some adopting it and some not adopting it?

DELEGATE GERBER. We think not.

DELEGATE REA. You think not.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. This is unusual for me to interrogate a judge. Since my father is a retired judge it has been very hard. I respect this as an honor because now Judge Woodring and I are on the same level, and as an attorney, this is an unusual position.

DELEGATE WOODRING. Mr. President, the delegate's father would be very proud of the delegate.

DELEGATE HOOK. Thank you, Judge.

In answer to the question that Mr. Fohl asked you earlier I have some questions on exemptions, and that is, you said that this committee has tightened up the exemptions. In the reports that we have received, it shows that approximately 26 to 27 per cent of the real property in this State is tax free. Under your list of exemptions, do you think this has been reduced, and by how much?

DELEGATE WOODRING. I would say that that is anybody's guess. I cannot support it with statistics, but, Mr. President, I think the full answer is that the easy thing to do is to eliminate all exemptions. We have churches, we have church-related schools, we have colleges and universities, we have homes for the aged, we have homes for the blind, homes for the crippled, we have many other institutions of purely public charity throughout the Commonwealth, to which every man and woman in this Convention contributes, to which we contribute not only our dollars, but our services and our energy in the effective management of the several united funds throughout our Commonwealth, and in other manners.

We all know how difficult and with what great difficulty these institutions operate, from the universities on down or up. We know that they are all pressed financially. It was the—I will not say unanimous—opinion, the consensus of the committee, that it would be unconscionable, without some other reasonable remedy, to remove the exemptions which these purely public charities have enjoyed since 1873 under our present Constitution. That is one side of the pole.

The other side is that if you do not want to remove all the exemptions, we could have allowed the exemptions to stand where they are under the 1873 clause. We felt that that was improper because from 1873 until now, almost 100 years, there have been abuses. There has been amassed by many of these institutions great real estate holdings and other developments, actual business ventures.

We felt that this ought to be restricted and, where the property acquired is not actually and regularly used for the purpose of the charitable institution, it ought to be subjected to tax. We feel that in large part this is a matter of administration rather than constitutional provision.

I trust, Mr. President, that answers in part the question.

DELEGATE HOOK. It does. In line 16 you have used, "The General Assembly may, by general law, exempt from taxation." This is not a mandatory consideration. Is that right?

DELEGATE WOODRING. That is correct, Mr. President. That parrots the 1873 Constitution precisely, "The General Assembly may by general law."

DELEGATE HOOK. Now, sir, on page 4, line 8, I have a question pertaining to the words "public utilities." Do you intend to have a schedule attached to your proposal that would define the words "public utilities"?

DELEGATE WOODRING. It has not been considered, but I would say, Mr. President, that such a schedule could be attached.

DELEGATE HOOK. The reason I raise this question, sir, is the fact that what you have done with this proposal is that you have limited the tax on public utilities to only those who pay gross-receipts tax in the State of Pennsylvania.

DELEGATE WOODRING. Mr. President, that is not quite correct, gross receipts tax or any other special tax.

DELEGATE HOOK. What tax does a locally-owned authority pay in the Commonwealth of Pennsylvania?

DELEGATE WOODRING. Mr. Gerber, co-chairman of the committee, will answer that question.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. They do not pay a tax, Delegate Hook.

Mr. President, they do not pay a tax.

DELEGATE HOOK. Therefore, property owned by this locally owned authority would be exempt?

DELEGATE GERBER. Mr. President, I think that Delegate Woodring answered that question pursuant to his statement, any special tax.

DELEGATE HOOK. That is all I have at this time.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hannum.

DELEGATE HANNUM. Mr. President, may I interrogate Delegate Woodring?

PRESIDENT BRODERICK. The delegate has indicated his willingness. You may proceed.

DELEGATE HANNUM. I am directing your attention, sir, to page 3, line 4, and reference thereto, "private forest preserve." Does the word "forest" contemplate water or open space?

DELEGATE WOODRING. The answer would be, no.

Incidentally, Mr. President, subsection (b) is a reprint, I believe. There may have been some slight language change, but the spirit of it and the intention of the committee is that we preserve, or continue, the exemption granted to forest preserve under a present referendum-established amendment to the 1873 Constitution. This is, of course, to encourage the planting of trees for conservation purposes and otherwise, knowing with a full realiza-

tion that the crop of timber takes many years to grow and if there is to be a recurrent annual tax, the same as on other real estate, it would discourage the planting of trees and the growing of timber crops, and, therefore, the Department of Forests and Waters has recommended very strongly that we retain this exemption.

Mr. President, I trust this answers the delegate's question.

DELEGATE HANNUM. Thank you, Delegate Woodring.

DELEGATE WOODRING. I might add more specifically in answer, Mr. President, to the delegate's question, when we contemplate a forest, much of the land is timbered, also some of the land is open country and it can contain ponds and water, and my guess would be, and it is only one man's guess, that it would be included. Yes, sir.

PRESIDENT BRODERICK. The Chair recognizes Delegate Barry.

DELEGATE BARRY. Delegate Woodring, I notice, as Delegate Fohl has also pointed out, that you have removed the exemption for occupational privilege taxpayers under \$1,000. Do you mean to pick that up under the term "poverty" in your section (c) on page 3?

DELEGATE WOODRING. I heard most of the question, but I did not get the punch line, so to speak.

DELEGATE BARRY. Do you mean to pick up the exemption again under the term "poverty" on page 3?

DELEGATE WOODRING. Mr. President, the answer is, yes. The committee's thought was that subsection (c), which is a brand new section and a very broad section, would include the paraplegic, the veteran blind, and the people under \$1,000 income, and so forth.

DELEGATE BARRY. My question is this: Must there be a poverty standard to obtain this exemption? I know, for example, that a lot of college students, and so forth, earn less than \$1,000. They are not poor, but they are otherwise entitled to this exemption, normally, now. Would there have to be some kind of standard set up to claim this exemption?

DELEGATE WOODRING. Mr. President, we feel that is an administrative matter, a legislative matter, not a constitutional one, and it is provided for in lines 6 and 7. "The General Assembly may, by general laws, establish as a class or classes of subjects of taxation the property," and so on. We feel that it would be subject to such laws as the General Assembly would provide.

DELEGATE BARRY. But was it your intention to exempt, for example, college students and other people who earn less than \$1,000 a year but who might not qualify on a maintenance test?

DELEGATE WOODRING. If they would qualify under the standards set up by the General Assembly, they would be exempt, yes, sir.

DELEGATE BARRY. Do you plan to include something like that in the schedule to preserve the existing constitutional provision?

DELEGATE WOODRING. Could Delegate Gerber give an answer to that specific question? Do we plan to include it in the schedule?

DELEGATE GERBER. Mr. President, yes, we do, and in addition I might add, too, that if Delegate Barry would address his attention to line 18, the last word where it says, "age," that was also there to consider the question which he is raising now, consistent with age and means.

DELEGATE WOODRING. Mr. President, for further

answer I might say the schedule provides that none of this article would become effective, I think, until sometime in 1970, so that the legislature will have ample time to act on these various provisions.

DELEGATE BARRY. If there is such an exemption granted, is it also your intention that the Commonwealth would reimburse all the local municipalities and under their ordinances, in many instances, would exempt this class of people?

DELEGATE WOODRING. The reimbursement clause is contained in the last paragraph of subsection (c).

DELEGATE BARRY. Was it your intention that the local communities would be reimbursed under their local ordinances for any loss they might suffer by this exemption?

DELEGATE WOODRING. Mr. President, I think the answer is provided beginning on line 17, "provided that no exemption from any tax upon real estate shall be granted." The reimbursement apparently is limited to and restricted to tax on real estate.

If I read this correctly and hurriedly, there would be no reimbursement for the personal tax, just for the real estate tax.

DELEGATE BARRY. In answer to Delegate Gerber's answer, the term "age," therefore, could include young people, as well as elderly people. Is it your intention to exempt students and other people because of their youth?

DELEGATE GERBER. Mr. President, it was the intention that the word "age" as well as the word "poverty" apply there. As Delegate Woodring stated, it was our thought that the General Assembly, in its wisdom, would enact legislation within the broad framework of the article to be applied to the classes to which Delegate Barry refers.

DELEGATE BARRY. In other words, you intend to exempt young people as well as old people.

DELEGATE GERBER. The answer is yes, Mr. President, and it was the intention that the word "age" was put in as the word "age," without any modification of years, so that the General Assembly, in its wisdom, could use that word when it felt it most appropriate, whether young, middle or old.

PRESIDENT BRODERICK. The Chair recognizes Delegate Manderino.

DELEGATE MANDERINO. From the discussion concerning the gross receipts section, the phrase, "gross receipts or other special taxes," did I understand that was intended to include, if the General Assembly so defined it or so enacted special taxes, as a provision allowing taxation on utilities under the classification of local authorities or public authorities, such as the water company that Delegate Hook mentioned, which is the local authority? I understood the answer to that to be "yes," and if it was, I am wondering whether it supersedes Section (3) in Section 1A, which states: "That portion of public property which is actually and regularly used for public purposes."

Is there a relationship between those two?

DELEGATE WOODRING. Mr. President, if I may volunteer, if a municipally owned public utility qualifies under public property used for public purposes, it would be exempt, of course, other than private water companies for profit. These are presently not taxed under the gross receipts tax and would become taxable in accordance

with this provision, at the local level, unless and until the General Assembly would impose upon them a gross receipts tax or other special tax.

DELEGATE MANDERINO. Thank you.

DELEGATE WOODRING. An additional answer, Mr. President, concerning this "or other special tax." It was the consensus of the committee that, whereas now there is a gross receipts tax, in 1999 or some future time, perhaps the General Assembly would delete the term "gross receipts tax" and enact some other special tax and, therefore, as a catch-all phrase, or saving clause, the "or other special tax" was included.

PRESIDENT BRODERICK. The Chair recognizes Delegate Buck.

DELEGATE BUCK. I have a question of Delegate Woodring.

Directing your attention to the Section 1A, subparagraph (d), on page 3, I happen to live in a county that has used very successfully a number of community-organized nonprofit industrial development corporations to attract small industries into our county. We have run into this kind of a problem: Sites, unimproved sites, are rather scarce in our part of the State and our community nonprofit industrial development corporations will go out and purchase a substantial acreage of farm land that is quite well suited for industrial development. At the time we purchase it we do not have any industry in mind but we just want to build up a reservoir of good sites so that when some plant does come into our area and is interested in locating there we can take them out to this land and show it to them.

We ran into this problem recently: We purchased about 200 acres of farm land that was assessed on the basis of what farm land in this particular area is assessed. They place a market value on it, perhaps, of \$100 per acre, or \$200 an acre, but in order to acquire it we were compelled to pay approximately \$1,500 an acre. After we recorded our deed we received a notification that the assessment, instead of it being 35 percent of \$200 an acre, became 35 percent of \$1,500 an acre. Of course that presented quite a problem because these corporations are community nonprofit corporations. I was just wondering if this section which I have referred to, (d), would cover a situation such as that or whether it might be necessary to add a clause that would provide "or for industrial development through the medium of a nonprofit industrial corporation"?

DELEGATE WOODRING. Mr. President, the answer is that (d) will take care of this problem, providing the organization which is carrying on the proposed redevelopment, land acquisition for redevelopment, curries favor with the local municipality. The final granting of the exemption or the tax abatement or the special tax provision rests entirely within the discretion of the local municipality. The taxation committee deliberately wrote the clause in that manner, feeling that they could not make it mandatory upon the municipality, but that municipalities ought to be encouraged to cooperate for the investment of private capital and the redevelopment of areas through the private sector of finance rather than relying entirely upon Federal or State-aided organizations.

DELEGATE BUCK. In your opinion, therefore, this provision does furnish a constitutional basis if it is implemented by appropriate legislation and the consent of

the political subdivision to permit county commissioners to allow us to continue to hold this land at a price or at an assessment that is less than the market value?

DELEGATE WOODRING. Mr. President, the answer is clearly, yes. It would legalize the practice that has been carried on in many sections of the Commonwealth for a number of years. Many of the county commissioners and tax assessors and tax collectors have been cooperating in this manner, really without authority at all, and this would tend to legalize the practice that has already grown up.

DELEGATE BUCK. Thank you very much, Delegate Woodring, and I would like to add parenthetically, Mr. President, that if there is anybody here who is looking for a good place to locate a plant, have them come to Fayette County.

DELEGATE J. W. KELLER. Delegate Woodring, in the committee deliberations on subsection (5) of Section 1A, did the committee come up with any definitions, at least for committee use, of the words "for the purposes of the institution"? Can you clarify those words for me?

DELEGATE WOODRING. Mr. President, the answer is no, I cannot. They have been clarified in a large part in the body of the decision law in the courts. The courts have construed various subjects such as YMCA, YWCA, Boy Scouts, churches, colleges, universities, and so on. I think we must continue to look to the judicial decisions to determine which are the institutions of purely public charity and the purpose of the charity.

DELEGATE J. W. KELLER. Was it not the intention of the committee then to restrict the decisional laws we now have?

DELEGATE WOODRING. It was, Mr. President, as has been already said, restricted to that property of the institution which is actually and regularly used for the purpose of the institution for the primary charitable purpose.

DELEGATE J. W. KELLER. For example, Delegate Woodring, did you consider whether a nursing home was considered as part of the purpose of a hospital?

DELEGATE WOODRING. I think the specific example did not occur, but I will call on Delegate Gerber.

DELEGATE GERBER. Mr. President, it was the thought of the committee that the words as expressed by Delegate Woodring are sufficiently clear, that if questions came up such as Delegate Keller asked, if the nursing home was part of the hospital and if it was part of the primary purpose of the hospital's function to have the nursing home, part of its overall purpose, and care in the community, then it would fit, if it did not, then it would not fit. As was also pointed out, when questions like this arise these questions are going to have to be in great degree determined by the board of assessments in the county in which the site is located. If the board of assessments finds a way that is adverse to either the charitable institution or any people questioning, then it will have to be determined by the court. But it is our feeling that it is rather clear that if it is part of the primary purpose of the institution, it be exempt; if it is not part of the primary purpose of the institution, it would not be exempt.

DELEGATE J. W. KELLER. Delegate Gerber, then that same answer, I assume, would apply under subsection (3), Section 1A, where you are referring to public purposes, where your classic problem has been, for example,

drug stores or commercial shops in an otherwise public property. Is that correct?

DELEGATE GERBER. Mr. President, Delegate Keller, presently, places like YMCAs, where they have a barber shop or a bowling alley of a commercial nature that are not consistent with the purpose, these portions of that property are taxed pro rata and it is presently the intent of the committee that efforts of this kind should be taxed pro rata when they are commercial enterprises not consistent with the primary purpose of the institution.

DELEGATE J. W. KELLER. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. I will direct this question to Delegate Gerber.

I am going back to my public utilities again. In our county we just had a railroad built. This is an unusual thing today—34 miles of railroad have been built. It has taken off the tax records approximately 3,000 acres of land. Is there anything in your proposal here to now make this land taxable for the railroads?

DELEGATE GERBER. Mr. President, with your permission, may I yield to my co-chairman, Delegate Pott.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pott.

DELEGATE POTT. Mr. President and fellow delegates, I don't think I am going to answer your question. I would like very much, as far as I am concerned and the other members of the committee, we would prefer, Mr. President, if the delegates would concur, that we go down this list of exemptions the same way the committee has worked them out, take up the exemptions one at a time. For example, if we can get clearance in Section 1A on (1), (2), (3), (4) and (5), and then take up Section (c), then Section (d), and then finally Section 2 and Section 1C, then I believe we will have a much more orderly and knowledgeable presentation than this helter-skelter jumping all over the place. There is no question in the minds of the members of the standing Committee on Taxation and State Finance that the public utility issue is the hot issue and we would much rather have all your questions directed at one time to this subject and, if we can, clear up these other matters. I will, therefore, yield the floor to Delegate Rappaport, Mr. President.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Burkholder.

DELEGATE BURKHOLDER. Mr. President, I would like to revert to two things, subparagraph (5), line 29 of page 2. I would like to ask Delegate Woodring whether there would be any objection to including, specifically, campsites regularly used during the summer months by recognized charitable organizations?

I am supplementing Delegate Strickler's remarks and I am somewhat worried that a campsite which is used only two or two and one-half or three months during the summer could hardly be held to be used regularly by the courts. Would there be any objection to specifically including such a provision in subparagraph (5)?

DELEGATE WOODRING. Mr. President, I cannot answer for the committee. I think my personal answer would be, yes, there is objection.

I come from the Pocono area, where camping is the rule and not the exception, and not a few institutions

nominally of purely public charity are acquiring large areas of very valuable land under the guise of campgrounds and obtaining exemptions to which they are not morally or legally entitled. I think it is one of the abuses that the committee sees fit to restrict.

On the other hand, there are legitimate charities in my area, the Boy Scouts, the YMCA, some churches which have campsites and use them in the summertime, but they also use them for weekend retreats throughout the winter season. In my opinion, there would be no question about the legitimacy of their exemption.

DELEGATE BURKHOLDER. May I ask how often such campsites should be used for winter retreats, for example, by the YMCA?

DELEGATE WOODRING. Mr. President, my answer would be that the courts do not give advisory opinions.

DELEGATE BURKHOLDER. I am well aware of that.

What I have in mind, of course, is the YMCA and the Boy Scouts, which are two of the few organizations that provide adequate camping facilities at very low rates for poor children. I am sure that the work that they do is completely meritorious and is as charitable as anything that is contemplated in Section (5).

DELEGATE WOODRING. Mr. President, before we leave that subject, my personal opinion is that there would be no question about the legitimacy of that type of exemption.

DELEGATE BURKHOLDER. Thank you very much.

I would like to revert, if I may, to line 27 on page 3. I, too, am interested in an industrial development corporation in Lancaster County. We have been buying farm land, which certainly is not deteriorating in any sense of the word.

DELEGATE WOODRING. Mr. President, I can cut right through there and say that the delegate is perfectly correct and the purpose of this is in large measure restricted to those areas of deteriorating property, either suburban or urban, which need to be uplifted.

The primary purpose is and it so states: "The primary purpose of upgrading deteriorating property or areas through the medium of the private sector of the economy." I think I must retract the former answer concerning the acquisition of the land for new development.

As stated here, and this states the consensus of the committee, this was written in to help rehabilitate deteriorating areas of the cities.

DELEGATE BURKHOLDER. I would also like to know the purpose and the meaning of the words "through the medium of the private sector of the economy."

DELEGATE WOODRING. It means that we do not want to look to Washington for everything. It wants to encourage the investment, the risk capital, of private individual contractors and construction companies and lumber companies. It wants to encourage their investment in what is obviously a very risky venture. In order to encourage it, some special tax treatment is provided.

DELEGATE BURKHOLDER. Even if an industrial development company were to acquire deteriorating property and develop it, it being a public or semi-public organization would not be entitled to the benefits of this section, although at some future time, when, if and as they could find an industrial purchaser which would be private, it would then be sold to an industrial purchaser. Is that correct?

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. Mr. President, I would like to address your attention to Section 1A, lines 23 and 24, subsection (3), which reads, "That portion of public property which is actually and regularly used for the public purposes." We have a public authority for the purpose of redevelopment or any other public purposes that would fit into that section for the exemption. The purpose of Section (d), page 3, is to encourage, as Delegate Woodring stated, private investment interest in deteriorated and deteriorating areas of our Commonwealth. Therefore, the point which we are trying to make is that if it is publicly-owned property for public purposes, it is going to fit in under Section 1A (3). If it is privately owned property for the purpose of rehabilitation, redevelopment and upgrading of deteriorating property, then it would fit into Section (d).

DELEGATE BURKHOLDER. Thank you. I only hope that the courts would agree with that interpretation.

PRESIDENT BRODERICK. The Chair recognizes Delegate Rappaport.

DELEGATE RAPPAPORT. I have three somewhat related questions and I do not know whether it is within the province of Chairman Woodring or of the gentleman to my right.

First of all with regard to the provision on page 2, starting on line 23, "That portion of public property which is actually and regularly used for public purposes"—I ask this question because of the 25 per cent of the land in Philadelphia County which is exempt. Twenty-five per cent of our land is exempt and two-thirds of those exemptions are enjoyed either by the city, the State, the Federal Government or various authorities. I wonder if the committee considers to be within that definition, public housing projects, whether that is a public purpose.

DELEGATE GERBER. Public housing projects—first of all you have to ask yourself this: Who owns the land?

DELEGATE RAPPAPORT. The public housing authority.

DELEGATE GERBER. If the public housing authority owns the property and is not in any way divesting itself of it, then it is public property which is actually and regularly used for public purpose. However, when it divests itself of the property, then it no longer is public property which is actually and regularly used for public purposes. I might add, Delegate Rappaport, our statistics show that the large percentage of exempt property that fits into this classification in Philadelphia is property owned by the United States Government, which, incidentally, we cannot in any way touch.

DELEGATE RAPPAPORT. I am aware of that. I have another related question, a problem which we are also running into, and that is, housing put up by so-called nonprofit organizations sponsored by fraternal groups, so-called senior citizens' residents, under the special provisions of the Federal act. These are also tax exempt and are taking up some of the prime land in center city Philadelphia. I wonder whether those are fit to be considered tax exempt?

DELEGATE GERBER. Mr. President, I have before me the figures and the percentages of total tax-exempt valuations in the city of Philadelphia. The element to which you just referred—I do not know where that would fit

within the definition that the city itself expresses, unless the city's own board of assessment elected to grant an exemption of its own. The way the city breaks it down, Federal property is 14.5 per cent of the exemption, state property is only 4.5 per cent, city property is 26 per cent, the Philadelphia School District is 12.1 per cent, the housing authority is 5.3 per cent, the redevelopment authority is 2.7 per cent and I must confess they have "miscellaneous authorities" here for 1.2 per cent but at no place does it refer to the specific identification that you are interested in, Delegate Rappaport.

DELEGATE RAPPAPORT. I think you will find it under miscellaneous exempt property, which is 2.9 per cent of the total exemptions.

DELEGATE GERBER. Delegate Rappaport, I do not see any miscellaneous exempt property at 2.9 per cent under nongovernment property.

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President, it would occur to me that the answer to Delegate Rappaport's question is that if the housing, for whatever purpose, is privately owned, then it would be taxable excepting by some agreement with the taxing authority, some private agreement.

DELEGATE GERBER. That is correct.

DELEGATE RAPPAPORT. This is a change in the existing law, is it not?

DELEGATE WOODRING. No, I think this is the present law. I think privately owned land for no matter what purpose is taxable.

DELEGATE RAPPAPORT. I am referring to land owned by a nonprofit organization which is used for senior citizens' housing.

DELEGATE WOODRING. Well, this comes pretty close to a commercial venture. I would say in the first instance that it is a matter of administration or legislation. It is up to the assessors to make a determination and then take it into Judge Burkholder's court.

DELEGATE RAPPAPORT. I have one last question and I speak as a veteran. I notice that veterans' posts are exempt to the extent that they are actually used for fraternal and patriotic affairs. My question is not facetious, by the way, but I am wondering if that part of the premises used for the dispensing of alcoholic beverages is considered to be within the tax-exempt purposes?

DELEGATE WOODRING. Mr. President, it depends on the manner in which that is used. If it is used by the organization for the organization, it would fall under the exemption. If it is used commercially—and some of them are; some of them are under a type of concession—if it is the ballroom which is rented out, if it is the dining facilities which are rented out to a concession, or otherwise, that portion of the premises would become taxable.

DELEGATE RAPPAPORT. I am referring to that part of the premises as used for a club liquor license.

DELEGATE WOODRING. If it is used by and for the organization, it is exempt. This is by an exemption granted by a special referendum of the people in about 1928.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Barry.

DELEGATE BARRY. Mr. President, I am concerned about your taking out of the proposal the provision that

exempts from occupational privilege taxes, a person deriving less than \$1,000 a year from occupation.

I believe the origin of that exemption was a recent origin and its purpose was to allow the General Assembly to pass such an exemption, because it was against the provisions of the uniformity clause in the Constitution. In other words, without such a provision there could be no exemption of persons earning less than \$1,000. I fear if you take this out of the article, even though you provide that the General Assembly may enact in that same field, the General Assembly will not be empowered to do it because it cannot enact something which is against the uniformity clause. I feel that that definitely should be reinstated in your proposal.

DELEGATE WOODRING. Mr. President, I think we have gone over this before. It is the intention of the committee that those exemptions contained in those special provisions, including the \$1,000 exemption, are included in subsection (c). If the delegate feels otherwise, I, speaking for myself, would have no objection to an amendment to that extent.

PRESIDENT BRODERICK. The Chair recognizes Delegate Kauffman.

DELEGATE KAUFFMAN. Mr. President, would you please explain what your committee meant by the language contained on page 2, line 18, "regularly stated religious worship"?

DELEGATE WOODRING. Yes, sir. Mr. President, there are not a few institutions of worship throughout the Commonwealth where the organization has outgrown its original premises. It has built, perhaps, an abutting or adjoining premise but has retained the old site in which they might hold a service once a year, on the anniversary for instance, of the founding of the institution.

The committee feels this is taking advantage of the exemption clause and that portion of the property which is not regularly used ought to be brought within the tax rolls. There are other similar examples which could be given.

DELEGATE KAUFFMAN. Perhaps it is a matter of language, but why was the word "stated" used by the committee instead of "used" or "utilized," or something of that nature?

It is the word "stated" which really caused confusion in my mind—"scheduled," "utilized," "used," something of that nature, rather than "stated."

DELEGATE WOODRING. An Act of Assembly which the General Assembly enacted in compliance with, or to implement, the 1873 Constitution reads in part: "The following properties shall be exempt from all county, city, borough, town, township, road and school tax, to wit: All churches, meeting houses or other regular places of stated worship."

The committee retained the words of the General Assembly which implemented the 1873 Constitution.

DELEGATE KAUFFMAN. Is there not a difference between "regular places of stated worship" and "regularly stated worship"?

DELEGATE WOODRING. Mr. President, I would refer the gentleman either to the records of the General Assembly when that act was enacted or to the Committee on Style and Drafting.

I do not say this facetiously, Mr. President. I think it is a matter of word choice. The intention was that the exemption be restricted to those places of worship which are regularly employed for the purpose of their charity.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Tate.

DELEGATE TATE. Mr. President, I would like to pursue the last line of questioning that Delegate Rappaport was engaging in a short while ago, if I could—just one or two questions further.

In section 1A, subsection (4), the section relating to servicemen, let me say that I, as Delegate Rappaport, speak as an honorably discharged serviceman also. Would you explain what, if any, change in the existing constitutional provision this proposed provision makes?

DELEGATE WOODRING. It is the intention of the committee that the exemption which might be adopted by reason of subsection (4) be restricted and avoid the abuses that have crept into exemptions generally and as they apply to (1), (2), (3) and (5) as well, namely, that the exemption be restricted to the camp, post or other veterans' organizations which are actually and regularly used for the purpose of that camp or post.

DELEGATE TATE. Could you go into some detail as to the abuses that you intend to eliminate by witnesses?

DELEGATE WOODRING. The committee heard witnesses who said some of the portions of the property of some of the camps or posts, such as the dining facilities, were rented out for profit making. The ballroom was regularly rented out. It was rented out for weddings, for family reunions, for various purposes for which the organization was receiving financial benefit and without the scope of the purpose of the organization. It was the intention of the committee that that portion of such property should become taxable.

DELEGATE TATE. That portion of such property had not previously been taxable?

DELEGATE WOODRING. It should have been. In many instances it has not been.

DELEGATE TATE. Thank you.

DELEGATE WOODRING. I might pass over further answer to call upon Delegate Swope and see if he has any further answer, because Delegate Swope and your speaker conferred with the leaders of virtually every post and camp throughout the Commonwealth.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, I think that Chairman Woodring has pretty well answered the question and what I say is merely an elaboration of it. There is no doubt that under the current Constitution and statutes those portions of veterans' properties, veteran associations' properties, that were used for commercial purposes could have been and may have been—I do not know—assessed for local taxation, but I would like further to say that this provision proposed by the committee agrees quite well with the practices of the Federal Government with respect to income taxation. I think that all accountants know, and surely many lawyers, there have been many problems between veterans' organizations and the IRS with respect to taxation, income taxation. The ruling generally is that a veterans' organization property, if it is used in any shape or form for commercial purposes and the collecting of commercial income, becomes taxable under the IRS, so that I think the chairman has quite well differentiated between the use of the property for the purposes of the camp or the order or the association—whatever you call it—which has always been considered nontaxable and that portion of it which is

used for other purposes which could have been taxes. It is the purpose, I believe, of the committee to make it clear that it again may be taxed and probably should be taxed.

DELEGATE GERBER. Mr. President, would Delegate Woodring yield one moment? Delegate Popil, who served on our committee, too, and has served as a member of the board of assessment in his county, I think expresses the distinguishing feature most clearly when he uses as an illustration a building that is owned by one of these military orders. If the first floor is used for the purpose of the military order and, on the other hand, the second, third, fourth or fifth floors are leased out to other enterprises for commercial purposes, only the first floor which is used for the purpose of the military order would be exempt and the other space within the building which is used for commercial purposes would clearly not be exempt.

DELEGATE TATE. Might I ask a question on another subsection, Mr. President?

PRESIDENT BRODERICK. Yes, indeed, proceed.

DELEGATE TATE. Subsection (2) relating to actual places of burial, Chairman Woodring, would you explain in some more detail how that changes existing law and how it is the committee's intention that it effect the operation as presently understood of actual places of burial?

DELEGATE WOODRING. Mr. President, I think the only controlling word here of difference is the word "actual." The former provision reads, "places of burial not used or held for private or corporate profit." We have employed all of those latter words, but we have added the word "actual." According to some of the witnesses who appeared before the committee, ostensibly nonprofit organizations acquired and have acquired and are holding rather large tracts of land—by way of example we will call it 100 acres. In the middle of the 100-acre tract an interment is made. They thereby and therefore go to the assessor and say that this is a place of burial and we are a nonprofit corporation and therefore the whole tax should be exempt. It is the purpose of the committee that this is evasion, and therefore we have endeavored to tighten it by saying "actual places of burial." Of course, the actual place of burial would naturally include the gates for entrance; it would include necessary driveways, and so forth, but would exclude large holdings of land which are presently not used.

DELEGATE TATE. I think that is very commendable. I wonder if I might ask you to explain the final clause of subsection (2), which I think is also an addition. It says this: ". . . and not regularly engaged in the business of selling personal property in connection therewith."

DELEGATE WOODRING. Mr. President, I believe that the spirit and intention of the committee would best be voiced in this matter by Chairman Gerber.

DELEGATE GERBER. I would like at this point, Mr. President, with your permission, to yield to Delegate Baldus to respond on this specific issue. For Delegate Baldus' benefit, would Delegate Tate please restate the question?

DELEGATE TATE. I am looking at the last clause of subsection of Section 1A of the proposal, which says, ". . . and not regularly engaged in the business of selling personal property in connection therewith."

I wonder if you could explain the intent and meaning of that clause?

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldus.

DELEGATE BALDUS. The committee heard testimony from representatives of industries engaged in the sale of personal property in connection with burials—specifically, burial-vault makers and sellers, flower sellers and grave-marker sellers—and it was their theory that nonprofit cemetery companies who were receiving a subsidy through tax exemption should not be permitted to compete with tax-paying businesses selling this type of personal property. That was the theory upon which the committee adopted this provision.

DELEGATE TATE. Is it the committee's intention that other than the possible inconvenience that may be occasioned to customers of such cemeteries by having to go to more than one source for the services and properties that they may want in connection with burials, that there would be no other effect on the management of cemetery places of burial?

DELEGATE BALDUS. Could you repeat that question? I do not think I follow.

DELEGATE TATE. As I understand your statement just a moment ago, those places of burial, cemeteries, which are now engaged in the selling of flowers, vaults, monuments and grave markers, and so forth, will no longer be entitled to tax exemption if they continue to engage in this type of sale?

DELEGATE BALDUS. That is correct, if they regularly engage in that type of business, yes.

DELEGATE TATE. So that, presumably, most of these cemeteries would now give up that type of business and, therefore, this would be taken over by other businesses. Therefore, customers of the cemeteries, instead of having to deal with just the cemetery for all the things they may want in connection with the burial, would have to deal with two or more persons to supply everything that they may need. Other than that inconvenience to the customers, do you intend any effect on the process of burial and the management of cemeteries?

DELEGATE BALDUS. No.

DELEGATE TATE. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Clark.

DELEGATE CLARK. Mr. President, I would like to address this question to Chairman Woodring. I refer to Section 1A, subsection (5), which refers to exemptions of certain buildings, and so forth, actually and regularly used for the purposes of the institutions. I apologize to Chairman Woodring for asking this question because I have done so in committee and I have received his answer, but I would like to do so here for the record.

In your opinion, Chairman Woodring, would dormitories and dining halls regularly and actually used by educational institutions be exempt from taxation?

DELEGATE WOODRING. Well, it is an advisory opinion, Mr. President, but it would occur to the speaker that the answer is obviously, yes, it would be included. A college or university is made up of classrooms, dormitories and dining facilities, and it would occur to me that all of these items would be included in the overall definition of "institution of purely public charity." It doubtless, Mr. President, would not include the homes off campus, or perhaps even on campus, for professors or presidents of the institution, and so on. It would not include perhaps an entire row of fraternity houses, the titles of which the university took as a means of tax evasion. That would be a judicial question and not one to ask your humble delegate.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Keller.

DELEGATE J. W. KELLER. Delegate Woodring, thank you very much for that last answer; it clarifies one of my prior problems. For clarification, in subsection (d) of Section 1A and also in subsection (e), you refer to the local taxing authorities making uniform special tax provisions. Was it the thought of the committee that a borough, for example, or a township could exempt, for example, Judge Burkholder's industrial development property but that the school district and/or the county might say we do not feel this should be exempt and they would collect their taxes?

DELEGATE WOODRING. Delegate Gerber is an authority on municipalities, and I would ask him to answer that.

DELEGATE GERBER. Mr. President, Delegate Woodring is very kind. Delegate Keller, the answer to that is, yes, the point being this: The exemption to be granted is to be granted by the taxing authority on its own volition. The purpose of provision (d) is to provide an opportunity for the local taxing authorities to be able to improve their own positions within their own taxing authority by rehabilitating, developing or encouraging renewal and encouraging litigation of deterioration of property in order to keep the community at a high standard.

Secondly, it gives them the opportunity to encourage people in their own community to keep their buildings up, to improve their buildings and not permit, as we have seen in many of our small towns in Pennsylvania, some of our poor, small towns, a total real estate deterioration. If the school district does not want to cooperate with the borough or the township, the borough or the township only has the power of persuasion to encourage the school districts to see the wisdom in their effort.

DELEGATE J. W. KELLER. Very good. Now, one last question, Delegate Gerber. Do you visualize this by way of an extension for the future year or several years, or do you visualize it by way of exoneration?

DELEGATE GERBER. I do not visualize it in the way of exoneration. I think the language is rather clear in that such special tax provisions shall be applicable for a limited period of time. Now, when we talk about a limited period of time, Delegate Keller, we are talking about the limited period of time for the exemption on that specific property; not the limited period of time on the enactment of legislation by the General Assembly, nor the limited period of time on the enactment of ordinances or resolutions by the municipality, or local taxing authority, excuse me, but the limited period of time on that specific property.

It was brought out rather clearly in our debate in the standing committee Delegate Mangery, who also wears a hat as mayor of Delmont in Westmoreland County, illustrated to us the problems that he has in his own town of encouraging people not to permit their properties to continue to deteriorate and become a blighted area. This would be to encourage those property owners not to permit sections of a town to become blighted or, on the other hand, to encourage them to upgrade their property.

It is also our thought that after this limited period of time expires, it will be rather clear that the assessment will be higher than it would be if the property continues to go downhill.

DELEGATE J. W. KELLER. Very good. Thank you.

PRESIDENT BRODERICK. The Chair now recognizes Delegate Casey.

DELEGATE CASEY. Mr. President, I have a question and it can be directed either to Delegate Gerber or Delegate Woodring. Referring to Section 1C on page 4, the section dealing with public utilities, the concluding three lines, 25, 26 and 27, deal with the subject of real property of public utilities subject to local taxation under present law, as I understand it. Is that correct?

DELEGATE WOODRING. Mr. President, that is correct.

DELEGATE CASEY. Under present law, Judge Woodring—

DELEGATE GERBER. Delegate Casey, would you yield for a moment? Mr. President, Delegate Casey, if you would not mind trying to follow Delegate Pott's earlier request, if we could reserve discussion on the utilities section until we have concluded questioning and discussion on the other sections, it might be easier to respond to you more clearly and more orderly.

DELEGATE CASEY. I would be very happy to do that, but seeing no one else on the floor except Delegate Swope. I was under the impression the questioning period was finished. I would be happy to yield to him if he has a question on some preceding section.

PRESIDENT BRODERICK. It was the impression of the Chair, also, that we were about ready to take up the question on public utilities unless someone else has a more specific question.

The Chair recognizes Delegate Swope.

DELEGATE SWOPE. Mr. President, I do want to revert back to the question on which I think several interrogations were made by Delegate Kauffman, and that is on line 18 on page 2—to Judge Woodring—"Actual places of regularly stated religious worship". As I understand, your answer to that question was that if a church building was vacated and the congregation went to a new structure, that this old church building no longer being used actually for stated religious worship could then automatically come under the taxable classification.

DELEGATE WOODRING. Mr. President, the answer is, yes. Of course, it includes other examples as well. That is one example.

DELEGATE SWOPE. This one example is of considerable moment to me here in Harrisburg. We have on Trindle Road near Mechanicsburg an old Lutheran Church that dates back its structure to colonial times and it was vacated some years ago when the congregation moved to a new structure. I would like to call the chairman's attention to the fact that the Federal Government is fostering and sponsoring the idea of preserving these historic structures and has actually designated many of them as historic monuments. Since the maintenance and the continuance of this structure as a historic monument really becomes a drain upon the congregation, I do wonder whether the committee has taken full account of the effect of this provision as indicated by Judge Woodring?

DELEGATE WOODRING. Mr. President, a situation like that has my sincere sympathy and understanding, and I believe I speak for the entire committee. Perhaps the thing to do there is to make it a historic shrine and have it taken over by a public institution for purely public purpose and thereby preserve and continue the exemption.

PRESIDENT BRODERICK. The Chair recognizes Delegate Levin.

DELEGATE LEVIN. Mr. President, I want to direct a simple question to Delegate Woodring.

The thrust of all the exemptions have been on real estate and its related activities for buildings. Is there any reason why the exemptions did not take in necessities of life?

DELEGATE WOODRING. Chairman Gerber would like to reply to that, Mr. Levin.

DELEGATE LEVIN. Thank you, Delegate Gerber.

DELEGATE GERBER. Mr. President, I do not know if I am an expert on necessities of life as my good friend, Judge Woodring, says, but I know a little bit about municipal government.

Delegate Levin, the historic concept in our Constitution dealing with exemptions directs its attention primarily and principally to the exemption of real estate. With reference to the necessities of life, I think we find ourselves within a constitutional document dealing with words that have no precise understandable legal meaning by the courts or by the General Assembly historically in its enactments. I am afraid that we would open up ourselves and the Commonwealth to an unlimited and unwarranted series of questions, problems and disputes. However, recognizing the fact that there are certain people offering certain problems that do need the help and understanding of the Commonwealth, we did try to help solve some of these problems by subsection (c) and by subsection (d), and it was our hope that these sections would give the constitutional understanding, compassion and relief that we could draft and still not create problems too great for the courts to be able to muddle through over the years. I think it would be unfair to the courts to expect them to interpret language that would be loose and that has not yet developed words of art, words of science and words of meaning in the law.

DELEGATE LEVIN. May I make one statement? My definition of necessities of life would be food, clothing and shelter. We are taxing shelter to the breaking point. Shelter is real estate and, therefore, it is the most gigantic tax base of most States. The necessities of life would be food, clothing, medicines and those necessary items which sustain life from day to day. I believe it throws a tremendous burden on the middle and lower income group to continuously pay tax which is spiraling upward to a position or level that is unprecedented in most areas.

I was going to ask the question, Mr. President, if all exemptions were eliminated with regard to the sales tax, would the sales tax in effect be reduced as to a percentage? Was there any discussion or investigation in that particular direction?

DELEGATE GERBER. Mr. President, it was not the intent of the committee to delve into the sales tax and the various exemptions or exclusions that the General Assembly in its wisdom addressed itself to. I would also like to state that we do have a uniformity clause in our Constitution. We were directed by the call from the people not to erode in any way the uniformity clause. It was our thought that if we began to deliberate and debate questions, though meritorious in many ways—and I want Delegate Levin to understand that the committee, in no way, is unsympathetic to the people; ultimately it will come to the people who are poor—we did not feel that in a Constitution we could adequately express language that would not in some way either, number one, violate the uniformity clause or, two, find ourselves going into areas where we do not belong, because this is a Constitution; this is not a legislative document.

DELEGATE LEVIN. Thank you, Delegate Gerber.

PRESIDENT BRODERICK. The Chair recognizes Delegate Croop.

DELEGATE CROOP. Mr. President, members of the delegate body, I am hesitant to rise to take up your precious time and the precious time of everybody's consideration, but after hearing all the industrial development conversation that has gone on here, I have to rise to just give you a few historic facts and a little assurance.

I come from a community where I have been a member and an officer of three industrial development organizations for 15 years. The little town of Berwick suddenly had the carpet pulled out from under it—it was national news—by the American Car and Foundry Company closing a plant which was the sole industry in a small community, an industry which during the war years hired 10,000 people and, under normal conditions, between 3,000 and 3,500. We were forced into the position of our community having to raise public funds through the Federal and State government, and then by public subscription individually to purchase that plant in order to even see daylight. We did that some years ago and purchased this \$50 million complex at a very nominal figure, \$2.5 million.

This taxing problem was a problem we had. Here was a corporation paying into the taxing body annually almost \$150,000. We had quite a problem. We finally went to the taxing body and because of the critical condition in which the community found itself, they did go along with us in reducing that tax to one-third of what they had been receiving until such time as we could sell the various buildings and complex conditions here which consist of 40-some odd buildings with 155 acres of land. This was not new; this was merely redistributing these buildings.

Our history has been that the way we accomplished this, we went to the respective taxing bodies and we agreed to pay one-third of the tax from our organization until such time as we could get new tenants and get them in operation. The average length of those tax-delayed payments was five years. After the corporation had been in operation five years and able to get themselves moved and settled and to get on perhaps a profit basis, then they picked up the normal tax burden. We have found that this has worked completely satisfactorily to the satisfaction of all of the taxing bodies, including county, school board and borough, and to the tenants or the new purchaser who was going to buy.

Of course, as you understand, under all these agreements our local industrial committee must of necessity maintain ownership for probably a period of 20 years with mortgages to everybody under the sun clear down to the local industrial standing in the fourth place on our mortgage list, but we have it and it will work. We have reviewed this concession with our local taxing bodies without their having any real authority if somebody wanted to put the finger on them for making this concession. But may I say to you that you do need this encouragement. Believe you me, taxing industry in your community is no small job. You end up with a broker who represents a corporation to whom you have to pay a sizable fee. You have the shouts continually plaguing you with free taxes and free this and free that and they really make it real tough.

Fortunately, we are proud to say that we, in my little town of Berwick, have survived this onslaught. We have more employment today than we ever had, other than in the war years. We have all of our buildings occupied. We

do not have a single structure that is not now under lease or agreement of purchase for somebody to occupy. We have also had to go out and purchase new land and build new buildings to accommodate additions adjacent. But you do need this leeway through your taxing bodies because ours did it. Perhaps it was a little illegal and perhaps they overlooked things, but it does work and it is an encouragement. I have only taken your time to tell you it does work. We had the experience; we lived through it and we made our comeback when it seemed seven years ago as though we were in the Susquehanna River and we could never do it.

PRESIDENT BRODERICK. The Chair would like to ask, are we ready to take up the public utility section?

DELEGATE GERBER. Mr. President, I thought I would like to thank, on behalf of the subcommittee and the standing committee, Delegate Croop for his statement at the present time. I think that it summed up splendidly the spirit and the interest of the committee to help solve these problems. One point which Delegate Croop made which I think is most important: Many wise and interested members of boards of assessment throughout the Commonwealth have been, as Delegate Croop said, turning the other cheek, one might say, to permit this form of development. As Delegate Croop said, it is really unfair to them to place them in a position where they can have the finger pointed at them. This was one of the purposes, in addition to the overall purpose, as expressed by Chairman Woodring, as expressed by Delegate Croop, as expressed by myself.

Thank you very much, President Broderick.

PRESIDENT BRODERICK. The Chair recognizes Delegate Meyer.

DELEGATE MEYER. Delegate Gerber, I am referring to Section 1A, subsection (1), "Actual places of regularly stated religious worship".

DELEGATE GERBER. Yes sir.

DELEGATE MEYER. Through personal experience I have seen organizations, so-called religious organizations, created by one individual who holds actual religious services on a regularly scheduled basis, but whose "church," and I put the word church in quotation marks, is not an incorporated body, and to all intents and purposes there is no apparent organization of this church, and many of the places of religious worship actually become the residence and, in some instances, the place of business of this single individual. In Philadelphia I have seen in the past two years about \$100,000 worth of real estate removed from the tax rolls for what I deem to be a profit-making organization and I wondered, you no doubt have discussed this in your committee, whether or not on line (1), "Actual places of regularly stated religious worship," if we could possibly add "by generally recognized religious organizations"?

DELEGATE GERBER. Mr. President, Delegate Meyer, I think you raised three questions here, not just one.

Under the present law the cases in Pennsylvania have interpreted the present provision "actual places of religious worship" very strictly. In fact, the Supreme Court of Pennsylvania, through a consistent line of cases, has not permitted any one of these places to operate a business therefrom. It does not even permit the accessory use of a parking lot next door to be taxed. So I think the fears that you expressed with reference to a business are unfounded unless the local assessing authorities want to violate the

Constitution, and nobody has brought this to anyone else's attention through a taxpayer's suit or otherwise.

Secondly, with reference to residence. If a clergyman lives in the building which is the actual place of religious worship, I would suspect that the local boards of assessment have continued to grant the exemption on the basis that it is an actual place of religious worship because there are regularly scheduled services there either on Sundays or Saturday mornings or Friday evenings, or whenever it might be.

Now getting to the third point which is, your one house of worship for a specific or unique religious sect, I do not think that we can address ourselves to that question when we live in a nation that has freedom of religion. I think that we as a Constitutional Convention would be drafting language that would be unconstitutional pursuant to the United States Constitution if we tried to define a faith as one which everybody understands and knows, because with freedom of religion you or I or anyone can approach his God in his way, and I think that we would be violating the Federal Constitution if we would attempt to do anything to erode that.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Camardella.

DELEGATE CAMARDELLA. Mr. President, I would like to know why the committee saw fit on page 3, line 26, after the word "primary" to strike out the words "and only." What was the purpose of that?

DELEGATE GERBER. Mr. President, Delegate Camardella, the word "primary" and the word "only" are usually exclusive words. You cannot have an only purpose and a primary purpose. "Only," in the dictionary or in any legal fashion, means sole, exclusive, one; "primary" means first and foremost; and, therefore, to have words such as "primary" and "only" following each other would be poor draftsmanship, poor craftsmanship, and you would have to select one or the other. Now if you recall, Delegate Camardella, in our committee we voted on this, and if I recall accurately, the vote was—I forget the precise number.

DELEGATE CAMARDELLA. Twenty-nine to one. I wanted to remind you of it.

DELEGATE GERBER. Thank you, and I believe you were the one.

DELEGATE CAMARDELLA. That is right.

DELEGATE GERBER. And the reason for that at that time, I think, was explained by Delegate Woodring, Delegate Pott and myself as to what the language must express. The language must be consistent, and it was the spirit of the committee, 29 to 1, if you recall the vote, that "primary" was the word we wanted to express.

PRESIDENT BRODERICK. The Chair again recognizes Delegate Camardella.

DELEGATE CAMARDELLA. I did not buy it then and I do not buy it now. I think "and only" thoroughly pins it down. We are saying what we mean. I am no lawyer. I would like some of the language in here defined, if we put it in, for all intent and purposes. Put an interpretation at the end of your sentences so that the common layman will understand it. I did think then and I think now, that if we want to pin this thing down we will have to use the words "and only."

DELEGATE WOODRING. Mr. President, the chairmen

of the committee are entirely in sympathy with Delegate Camardella's position and this matter has already been taken up with the Committee on Style and Drafting. It is a matter of particular words. We understand your intention and we are going to try to incorporate it.

DELEGATE CAMARDELLA. Good. I am not looking for sympathy; I am looking for what I think is right. I think that is the language we should use. Keep your sympathies.

DELEGATE BRODERICK. Now the Chair again asks, are we ready to take up the public utilities section?

The Chair recognizes Delegate Barry.

DELEGATE BARRY. Mr. President, may I ask Delegate Gerber a question in regard to the first two lines on page 3 of the proposal which grants an exemption for property which is actually and regularly used for the purposes of the institution. It seems to me that this is language which is much too broad and probably not really the intention of the committee, and I propose and ask if you would accept an amendment which incorporates language to read, "which is actually and regularly used for the principal purposes of the institution."

Inasmuch as there has been a lot of litigation, some of which I have been involved in personally where, for example, barbershops in a YMCA are held to be within the scope of the purpose of that institution, or we will say barbershops in an airport are held to be within the general purposes of an institution. It seems to me that you should say "within the principal purposes of the institution," to restrict it and refer it back to the general charitable purposes which you are talking about, rather than the broad, general purposes of the organization.

DELEGATE GERBER. Mr. President, Delegate Barry, Delegate Woodring and I have talked a little bit and I want to say first of all that the committee did address itself to much debate on the words, on the modifying words, that should be placed there. And if I understand the message I got just now, there was a deletion inadvertently, sir, when this was printed and the word "principal" was an acceptable word to most of the committee, and it was the intention of the committee not to permit abuses.

DELEGATE BARRY. Could you accept such an amendment?

DELEGATE GERBER. I cannot speak for the entire committee, sir. I am only chairman of the sub-committee. I am not offended by the word. However, I would like to refer it to Delegate Woodring.

DELEGATE WOODRING. Delegate Gerber, would you yield to Delegate Baldus?

DELEGATE GERBER. Delegate Baldus is right here with me, sir.

DELEGATE WOODRING. I believe Delegate Baldus has the answer to this and I think the answer is clearly, yes. We would not object and would join in.

DELEGATE BARRY. Very well, I will propose such an amendment.

DELEGATE WOODRING. Do you concur, Delegate Baldus?

DELEGATE BALDUS. Yes sir.

PRESIDENT BRODERICK. The Chair recognizes Delegate Fay.

DELEGATE FAY. I would like to ask Delegate Gerber about gross receipts. On line 10, page 4, where it

says "gross receipts," I do not see anywhere that it says these moneys should come out of the gross receipts.

DELEGATE GERBER. Mr. President, I thought we were not yet at Section 1C. I thought we were confining ourselves to all questions on the floor prior to the beginning of that section. I still see that other delegates are standing; Delegate Hannum is standing. It is not that we are dodging them. We want to get to this in an orderly fashion and we would like to stay on Section 1 before we go into Section 2 so that we can approach this in an orderly fashion.

DELEGATE FAY. I thought the Chair said that we were on utilities?

PRESIDENT BRODERICK. What the Chair said was, "Are we ready to take up the public utilities section?" If you have a question concerning that section, I would like you to hold it.

DELEGATE FAY. Thank you.

DELEGATE HANNUM. Mr. President, I would ask Delegate Woodring and Delegate Leonard if they would approve and agree to the striking of the word "forest" which appears on page 3, line 4, and inserting the word "conservation"?

I have spoken with both of them informally and, in my view and that of the gentlemen of the Bureau of Forests and Waters this would contemplate open space conservation, water, game sanctuaries, and forests, all of those things that relate to conservation preserves.

DELEGATE WOODRING. I think the specific answer is that it enlarges on the concept of the prior exemption. I indicated to Delegate Hannum that I personally would have no objection to this. It enlarges on the concept of the exemption granted by the prior Constitution. I think this question really calls for a conference among perhaps Delegate Hannum, Doctor Goddard of the Department of Forests and Waters, and myself. I would certainly try to cooperate in this regard.

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. I believe that steps should be taken with great caution because the essence of the forest-preserve principle is that taxes, although delayed, will ultimately be paid when the crop of timber is harvested; that is, at the end of the whole process, the State gets its cut for taxes and the local municipalities get their share from the sale of timber. That cannot be true of open spaces and other very desirable projects with reference to conservation.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hannum.

DELEGATE HANNUM. Mr. President, answering Delegate Braham, the principle that we are endeavoring to enunciate is to stimulate and promote conservation principles, and conservation principles do not merely limit themselves to the preservation of forests. The preservation of forests, of course, is highly desirable; so too, is the preservation of water, the preservation of certain types of open space, and the preservation of certain types of game sanctuaries. That is simply the thrust of our request.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. Mr. President, I think Delegate Hannum's request is a little out of order, but I think that Delegate Braham's is correct in that Delegate Hannum's suggestion changes the meaning and changes the original purpose for the present exemption. If it is the spirit of the Convention to have exemption for conservation purposes, so be it, but I think that the Convention should understand that the purpose of the exemption for private forest preserves was not solely for conservation; it was an understanding of nature and economy. By that I mean that it takes a long time for trees to grow. What actually happens is that there is a stumpage tax in that after you cut the trees then the tax is imposed. So really, as Delegate Braham enunciated, there is a tax; it is merely delayed. It is delayed because of the nature of the industry itself. That is the purpose of this exemption. Delegate Hannum's exemption I find no fault with other than the fact that it changes the purpose, but we have to look at purpose here, not just words. If Delegate Hannum's suggestion is adopted, then I think we must understand that we face two problems, not only the one of broadening it and having more tax-exempt property, but I think we have to address ourselves to the specific issue of forest preserves. I do not think it is proper to change the word from "forest" to "conservation"; rather, on the other hand, you have to keep forest preserves, and if you want to, you can add conservation and debate the issue whether or not you want to add it. I think that Delegate Braham would agree with me on that.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hannum.

DELEGATE HANNUM. Possibly the simplest way to resolve this would be to follow Delegate Woodring's suggestion, that he and I and other interested persons confer with Dr. Goddard, the Secretary of Forests and Waters. Procedurally, sir, how would we do that?

PRESIDENT BRODERICK. I am sure that it is within your province to arrange that with Delegate Woodring.

The Chair again asks, are we ready to go over the public utility section? We have several delegates who want to ask questions.

I will call on Delegate Casey who has the first question in connection with that section. He now yields to Delegate Fay.

DELEGATE FAY. On page 4, Delegate Gerber, on line 10, where it says "gross receipts," I do not see anywhere where it says these moneys shall come out of gross receipts. Could you clear that up for me?

DELEGATE GERBER. Pursuant to Section 1C, with the permission of the Chair, I would like to yield to my co-chairman, George Pott.

PRESIDENT BRODERICK. The Chair recognizes Delegate Pott for the purpose of answering these questions.

DELEGATE POTT. Will you state the question again, please?

DELEGATE FAY. On line 10, gross receipts, I do not see anywhere where it says these moneys shall come out of gross receipts.

DELEGATE POTT. It is the intent that these moneys will come out of gross receipts.

DELEGATE FAY. Another question. Is this the tax on the Commonwealth?

DELEGATE POTT. This will not be a tax on the Com-

monwealth, provided we recognize what the problem is, but we do not intend under this provision that the Commonwealth will be penalized. We rather surmise that the gross receipts tax will possibly be raised to take care of the money which is taken out.

DELEGATE FAY. Then at the present time there will be no additional tax on the utilities? Is that correct?

DELEGATE POTT. At the present time, if this went into effect, there would be no additional tax on public utilities; however, it is not within the committee's power to state what the General Assembly will do.

DELEGATE FAY. Thank you.

DELEGATE POTT. If I may, I would like very much to sum up for the delegates what has been the thinking of many, and I might say a big proportion of those on the standing committee. I believe the vote on this proposal was 22-5. But I would like to inform the delegates that we had extensive hearings on this matter. We certainly had the chairman of the Public Utilities Commission appear before us, we had Dr. Kurtzman appear before us; we had many presentations from the public utilities themselves appear before our subcommittee and also our standing committee.

DELEGATE FAY. Well, Delegate Pott, do you not think it should have been stated that these moneys would come out of the gross receipts? Why was it omitted?

DELEGATE POTT. I am not too sure that it was omitted. It certainly was not our intent. I think we certainly intend these moneys to come out of the gross receipts. If it does not say that, why then I cannot understand what happened that it does not say this specifically or if we do not interpret it that way. It is certainly our intent that these moneys do come out of gross receipts.

DELEGATE FAY. Thank you.

DELEGATE POTT. This public utility section is based on three facts which are peculiar to public utility taxation. First is the matter of due process. Public utilities are entitled to recover their tax dollars in the bills they render for service. For instance, last month three utilities raised their rates to make up for the tax increases imposed upon them by last year's legislature. The point is that all taxes paid by the public utilities are really taxes upon consumers.

Second, on the one hand, the operating realty of utilities is exempt from local taxation and, on the other hand, utilities are subject to a state gross receipts tax which is paid by no one else. According to the data before our subcommittee, this gross receipts tax makes the utility tax burden heavier than any other type of business.

I think it has been the general opinion of many of this delegation, certainly many of the people throughout the Commonwealth, that the public utilities are not paying their so-called fair share of taxes.

Third, most public utility realty is located in relatively few political subdivisions. If this realty were taxed locally, the lion's share of the tax money would go to these few subdivisions, whereas the consumers everywhere in the State would pay the bill. For instance, where a large generating station is located in a small township, the township would get a very large tax, and the tax would be paid by consumers in the cities and elsewhere served by the generating station.

We are aware that all the taxing districts need money, and we believe that utility taxes should help to provide

that money. There is no question in our minds that the public utilities should help to support local government. The only question is how this should be done. We did not favor a local tax on the public utilities' operating realty, for this would have greatly enriched a few taxing districts at the expense of consumers everywhere.

Consideration was given to a state realty tax with distribution of the proceeds to the local districts. We did not favor this particularly, partly because it would have involved much red tape, many additional state employees to administer it, probably the establishment of a separate new department within the Commonwealth. Also, it would have increased the administrative cost of the utilities and, hence, raise cost to their consumers, and partly because we feel there is a much better way already at hand.

I have already referred to the state gross receipts tax imposed only on public utilities. This is true and it is, indeed, a very simple kind of tax to collect. The machinery to collect it is already in existence. It is the ideal vehicle to get utility tax money into the hands of the local districts. It is that vehicle, therefore, that we propose to use in Proposal No. 5 dealing with that section on public utilities. What we propose is that a part of the gross receipts tax revenues equal in amount to a total of all the utility real estate tax exemptions be distributed amongst all the taxing districts of the Commonwealth and not just amongst those few districts where the large utility plants are located. This way, the consumers who ultimately pay the utility tax burden will also reap the benefit in their role as citizens. There is nothing in this proposal which in any way limits the amount, the maximum amount, of gross receipts tax that the State may impose but it does prescribe the minimum. If the State were ever to abolish the gross receipts tax, and this is a question that has been raised many times, or if they would reduce it to the point where it would not offset the local realty exemption, then the local districts would be empowered to tax the utilities' operating realty.

PRESIDENT BRODERICK. The Chair recognizes Delegate Casey.

DELEGATE CASEY. Delegate Pott, has the committee considered the question of the effective date of the provision dealing with the public utility taxation?

DELEGATE POTT. No, sir, we have not discussed when this would go into effect. We will attach it to a schedule.

DELEGATE CASEY. This will be part of the schedule?

DELEGATE POTT. Yes, sir.

DELEGATE CASEY. I am thinking of the possibility of the inequitable imposition of the tax, if I can phrase it in those terms, in those counties where you have a triennial assessment as compared with the county where you have an annual assessment. Could you not have a delay, so to speak, in the imposition of this tax under those circumstances or would this be something for the General Assembly to work out in your view?

DELEGATE POTT. It would be our intent, I believe, Delegate Casey, that this would be a matter for the General Assembly to determine.

DELEGATE CASEY. Directing your attention to page 4, lines 25, 26 and 27 of Section 1C of Proposal No. 5, you have inserted the words "all real property of public utilities subject to local taxation at the time of the adoption of this provision shall remain subject to local taxation." This was put there in lieu of what now appears

on lines 22, 23 and 24 which make reference to real property which is not used or useful in furnishing their public utility services. Can you tell us why this substitution was made and the effect of that change in language?

DELEGATE POTT. As I understand, the reason the change was made, I was told that the language was not inclusive enough and also there are public utility properties which are taxed now by local communities, particularly in the city of Philadelphia and the city of Pittsburgh. This was to make sure that these would not be excluded.

DELEGATE CASEY. Does their taxability now depend, under existing law, on whether or not they are "used or useful in furnishing the utility service"?

DELEGATE POTT. I cannot answer that question. I would have to refer to Delegate Woodring. I believe this is a court case to which you are referring.

DELEGATE WOODRING. I am not certain that I am clued in, Delegate Casey, but I think within my knowledge and within my awareness of the committee's consideration, the change was made because of special circumstances in Philadelphia and Allegheny Counties.

DELEGATE CASEY. Well, just to paraphrase briefly my concern, I am troubled by the phrase "used or useful in furnishing the public utility services" because from the standpoint of legislative history and the intention of this Convention with regard to this particular provision, those words were originally part of lines 22 and 23 of the proposal. They were then deleted in the amendment that now appears on lines 25, 26 and 27. Then when you go up to lines 8, 9 and 10 of Section 1C of page 4, the proposal says, "The real property of public utilities shall be subject to real estate taxes imposed by local taxing authorities." The modifying words "used or useful" in connection with the furnishing of the service do not appear in that sentence. They then reappear on line 13 where you make reference to the gross receipts tax and, frankly, I am confused whether a different intention is evidenced as a matter of law by the inclusion of that language in one spot and its elimination in another.

DELEGATE WOODRING. Mr. President, we still revert to the answer given by Delegate Pott, not a small quantity of real estate. In other words, rather extensive properties of public utilities in both Philadelphia and Allegheny counties are used and useful and, therefore, would have been exempt under the old law and would continue under the new Constitution, unless we eliminate that term in this carry-over clause.

Nevertheless, those utilities by agreement, by volunteering or otherwise, have been on the assessment roles and have been paying local taxes. Therefore, in order not to abolish those taxes and those taxable properties, we have eliminated these words in this carry-over, so that those properties will continue to be taxed as heretofore.

DELEGATE CASEY. Delegate Woodring, are you saying, if I understand you correctly, that the first sentence of Section 1C, lines 8, 9 and 10, which reads: "The real property of public utilities shall be subject to real estate taxes imposed by local taxing authorities" is intended to be declaratory of existing law in order to expand the area of utility property which is now subject to tax?

DELEGATE WOODRING. Mr. President, this is a new provision. In the first instance, this clause makes real

property of public utilities taxable at the local level. The balance of the paragraph, however, says that, but in lieu of the local tax, if the General Assembly distributes a portion of the gross receipts tax up to the amount that the local tax would have yielded had the properties not been exempt, those properties used and useful, then such distribution shall be in lieu of the local tax.

DELEGATE CASEY. This I understand, Delegate Woodring. Perhaps I can rephrase my question by saying: Why do the words, "used or useful in furnishing their public utility services" appear in the second sentence of Section 1C, which begins on line 10 and concludes on line 13, and do not appear in the first sentence which encompasses lines 8, 9 and 10 of page 4?

DELEGATE WOODRING. Theoretically, all real estate of public utilities under the first clause are made subject to local taxation. If the property used and useful, for which gross receipts tax is paid, if that is distributed by the General Assembly, then that shall be in lieu of what otherwise would have been imposed on the used and useful property of the local municipalities.

DELEGATE GERBER. If Delegate Woodring would yield a moment, I think I could answer Delegate Casey's question, Mr. President.

PRESIDENT BRODERICK. The Chair recognizes Delegate Gerber.

DELEGATE GERBER. First of all, at the present time, as I understand it, real property owned by public utilities which is not used or useful in the actual rendering of the service, such as office buildings, do presently pay a real estate tax in the municipality in which they are located. That property which enjoys the exemption provided by the Pennsylvania Supreme Court decision after the 1874 Constitution is the property used or useful in furnishing or rendering a service. Thus, the first sentence, lines 8, 9 and 10, was for the purpose of all inclusive language to state that all properties would be subject to a real estate tax. That is why there was a language differential.

When you come down to lines 11, 12 and 13 that is merely stating that certainly the local municipalities will continue to collect the real estate tax on property on which they have always collected. However, the gross receipts tax would be applied to that property which had not been taxed heretofore.

Certainly, Delegate Casey, with reference to lines 25, 26 and 27 included, rather than lines 21, 22, 23 and 24, the purpose of that was brought to our attention that in the cities of Pittsburgh and Philadelphia, certain property owned by certain public utilities does pay a real estate tax now on property used or useful in furnishing and rendering public utilities' service. So this was to maintain the same tax position there that had been heretofore. The only real question here, the only real point here, where there is a change is that the gross receipts tax would be in lieu of a local real estate tax on property not presently taxed. I do think this was the intent of the majority of the committee at that time. I hope I have answered your question.

DELEGATE CASEY. I must confess I am still confused. Perhaps I am obviously not as well versed in the background of this as you are, but it would seem to me as a lawyer, when you include a phrase in one sentence and eliminate it in another, there is clearly a different inten-

tion evidenced and a different legal result would follow.

DELEGATE GERBER. If I may respond to that, Mr. President, let me take you line by line on the intent.

The intent of lines 8, 9 and 10 was to include all real property owned by public utilities. This is not the present law today.

DELEGATE CASEY. May I just interrupt?

You are saying the intention of the first sentence is to expand the taxability of the utility property beyond what is taxable under the present existing law. Is that correct?

DELEGATE GERBER. Yes, to the extent that if the General Assembly does not implement a statewide gross receipts or any other special tax.

At the present time, certain real estate is taxed. The intent of Section 1C is to maintain the tax where it presently is and to add to it a gross receipts tax on the property which is not taxed in lieu of local real estate taxes.

DELEGATE CASEY. I have another question, Delegate Gerber.

Lines 14, 15, 16, 17 and 18 of Section 1C read: "The General Assembly shall provide for the annual distribution among all local taxing authorities of an amount equal to the gross amount of real estate taxes which the local taxing authorities of the Commonwealth otherwise could have imposed upon said real estate in the preceding year."

Now my question is, as I read this language, that amount can be arrived at by the inclusion of other tax funds and gross receipts taxes or other special taxes on utilities. Is that correct?

DELEGATE GERBER. I must apologize, Delegate Casey. I do not understand your question this time.

DELEGATE CASEY. My question is: When the General Assembly assembles this fund, this amount, on line 15, from what tax sources will they assemble that money under this proposal?

DELEGATE GERBER. From either the gross receipts or any other special taxes imposed by the Commonwealth on such public utilities.

DELEGATE CASEY. I would submit to you, Delegate Gerber, that the language does not say that. It merely says, an amount equal to the gross amount of real estate taxes, which could otherwise have been imposed.

DELEGATE GERBER. I yield to Delegate Woodring, chairman of the Committee on Taxation and State Finance.

PRESIDENT BRODERICK. The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President, in an endeavor to answer Delegate Casey, I think the purpose is that if the gross receipts tax or other special taxes are exacted, then the General Assembly may distribute, within its discretion, back to the local municipalities a sum of money. It need not be the exact dollars which were collected from the gross receipts. It would come out of the general fund.

DELEGATE CASEY. This is my point.

DELEGATE WOODRING. I think this is so. Therefore, the committee felt that it was unnecessary to say, from the gross receipts fund. The fund would not be kept separately; it would be in the general fund.

DELEGATE CASEY. Has the committee arrived at any conclusion as to whether or not the amount that would be realized by local taxing authorities, if the utility prop-

erty were taxed at the local level, would exceed the present yield from the gross receipts tax, which would make it necessary to dip into other tax sources to come up with enough money?

DELEGATE WOODRING. Mr. President, the testimony and the statistics compiled indicate that the gross receipts tax yields about—and I do not know the dollar or penny amount—\$37 million.

The amount distributable is about \$17 million, and the paragraph is framed on that information.

DELEGATE CASEY. The next question would seem to me to be: Have you computed the amount of tax revenue, or can it be computed, that local municipalities would realize if utility property, which is not taxable, were taxable? Do you follow my question?

DELEGATE WOODRING. I lost you; I did not hear a portion of it.

DELEGATE CASEY. Perhaps I can rephrase it. You now say that under present law the gross receipts tax funds which would be distributable amount to \$17 million. Is that right?

DELEGATE WOODRING. Right.

DELEGATE CASEY. My question to you is: Would that be sufficient money to satisfy the formula in this proposal, which says that you will give back to the local communities what they would realize if real estate utilities were taxable?

DELEGATE WOODRING. Mr. President, by reason of the several conferences which are being carried on in addition to the interrogation, I did not quite follow the question, but I think this is the answer.

PRESIDENT BRODERICK. You are absolutely right. We should give more courtesy to our fellow delegates. I would appreciate if we would just remain in order while the exchange is going on. It is difficult to hear.

You may now proceed.

DELEGATE WOODRING. I think the answer is this, Delegate Casey, and if I do not answer the question, I wish you would repeat it.

The intention of the committee is that of the gross receipts tax, the General Assembly may distribute back to the municipalities a sum equivalent to the real estate tax, which would otherwise have been collected. If the sum which is distributable is insufficient to meet what would have been imposed by local real estate taxes, then the first provision, the first sentence, is applicable and the properties become taxable at the local level.

DELEGATE CASEY. To make up the deficiency?

DELEGATE WOODRING. Or the General Assembly could increase the gross receipts tax, either one. If the General Assembly does not increase the ratio or the amount of the gross receipts tax, then the local municipality would tax and would not receive the distribution.

DELEGATE CASEY. May I ask an additional question, Delegate Woodring? Would there be another alternative under the present language to make up that deficiency, that alternative being the General Assembly appropriating or earmarking funds from taxes, such as consumer taxes, but taxes other than the gross receipts tax, to make up the deficiency?

DELEGATE WOODRING. Mr. President, that is not the intention of the committee's proposal. The intention was that the General Assembly must provide a sufficient sum to cover the local taxes, or the properties become taxable at the local level.

DELEGATE CASEY. But must that sum come from the gross receipts tax?

DELEGATE WOODRING. Yes, or any other special tax, meaning that in the future the name of it might be changed to something else.

DELEGATE CASEY. Yes, but any other special tax imposed by the Commonwealth on utilities. Would that be correct?

DELEGATE WOODRING. That is right.

DELEGATE CASEY. But it could not be another tax source which would come from the general fund, as you said earlier? This is what concerns me.

DELEGATE WOODRING. This is correct. It would not come out of the general fund. It would come from an amount equivalent to that which had been collected on the gross receipts or other special tax.

DELEGATE CASEY. Just one final question: How do you envision the Commonwealth making up the deficiency in revenue which is going to be sent back to the local communities from the gross receipts tax?

DELEGATE WOODRING. Mr. President, the interrogator demurs.

DELEGATE CASEY. But would you not agree, sir, that some additional tax would have to be imposed to make up this deficiency?

DELEGATE WOODRING. If we take \$17 million out of the budget; \$17 million will have to be found.

DELEGATE CASEY. Could not the burden of this tax fall upon the consumers of Pennsylvania, theoretically?

DELEGATE WOODRING. And if it is imposed on the gross receipts, it will fall upon the consumers. Taxes do fall upon the people, yes, sir.

DELEGATE CASEY. I want to thank the gentleman for his answers.

PRESIDENT BRODERICK. The Chair recognizes Delegate Popil.

DELEGATE POPIL. Mr. President, I would like to address a question to Delegate Woodring or Delegate Pott.

PRESIDENT BRODERICK. I am sure either would be happy to answer.

DELEGATE POPIL. Presently we agree that a tax is imposed on real property of public utilities which is not used or useful in furnishing their public utilities' services. However, this section has been amended. I would like to ask Delegate Woodring: Let us presume that this proposal is fully adopted. Can the local taxing authorities now, if the proposal is adopted, impose a tax on real property of public utilities which is not used or useful in the furnishing of the public utilities' services?

DELEGATE WOODRING. Delegate Pott, can you answer that question?

DELEGATE POTT. I do not believe that I can answer that question.

DELEGATE WOODRING. Mr. President. I will take it back. The answer would be, yes.

DELEGATE POPIL. The answer would be, yes, despite the fact that we have amended that portion of this proposal?

DELEGATE WOODRING. I think the answer is, yes.

DELEGATE POPIL. Thank you very much.

PRESIDENT BRODERICK. The Chair recognizes Delegate Braham.

DELEGATE BRAHAM. Mr. President, the disturbing

feature to me is the amount of taxes which may be levied by the local bodies. The language is: "... among all local taxing authorities of an amount equal to the gross amount of real estate taxes which the local taxing authorities of the Commonwealth otherwise could have imposed upon said real estate in the preceding year. Such distribution shall be by an equitable method having due regard for the proportion which the tax receipts of each such taxing authority bears to the tax receipts of all such taxing authorities." It seems to me that this puts within the power of the local bodies the opportunity, really, to cripple the whole situation. We say such real estate taxes which the local authorities of the Commonwealth could have otherwise imposed. They may be assessed locally and they would have been collected locally.

I am thinking, to give a clear example, of my own county where in one of the smallest of our townships right south of the city of New Castle there is a very large power plant of the Pennsylvania Power Company which serves many counties and serves counties in Ohio. Its lines and poles run through many counties. Is there to be an assessment in every county where there is a pole or where there is a wire? Each one of those counties is to participate, apparently, in the distribution of the funds. Is it not at once obvious that there is competition there among these various municipalities for a large and larger share of this plum? Is there any tax equalization board which can pass upon all of those? If the Lawrence County board passes upon it, they will pass upon it to the interests of Lawrence County. What about Clarion County or other counties which have some lines? How is there to be an equalization here? If we leave the door wide open to imposing the amount of tax which any municipality that has any of this property wants to levy, it seems to me there is an entirely unconscionable burden without any indication in the Constitution as to how it is to be solved.

DELEGATE WOODRING. Mr. President, the method of distribution is not in proportion to the ratio of real estate which is located in any municipality. The method of distribution shall be by an equitable method having due regard for the proportion which the tax receipts of each such taxing authority bears to the tax receipts of all such taxing authorities and has nothing to do with the amount of real estate or the amount of taxable property against a utility in a particular township.

DELEGATE BRAHAM. May I say, sir, then that the tax of Taylor Township, where this big power plant is located, would be very small.

DELEGATE WOODRING. That is correct.

DELEGATE BRAHAM. And you want to compare it with the tax of some of these other communities where there is only a token representation of this property. I cannot see how that would be equitably done.

DELEGATE WOODRING. Mr. President, this refers back to the learned remarks of Delegate Pott, which disclosed that it is not feasible to tax at the local level because the large proportion of public utility property is located out in small, remote, outlying areas. If the local taxation would be imposed, that tiny municipality would receive a large windfall to the exclusion of the need to tax any other taxables within that township, but the burden would be borne by the rate-paying of a great many people in many, many large municipalities surrounding.

DELEGATE BRAHAM. Well, you certainly mean only

those municipalities in the county which are served by the utility in question. That would include, right alongside Taylor Township, the city of New Castle. If you compare the tax receipts for last year of the city of New Castle with those of Taylor Township, Taylor Township, which actually has the great plant there, would get only the small amount due in comparison with the large tax that is received in the city of New Castle. It seems to me you must have somewhere some consideration of the burden cast upon each municipality by the location of the utility and its facilities within its boundaries. For example, what use might Taylor Township have made in the way of it having taxable properties if it did not have the power plant there? Certainly that should be taken into consideration rather than the actual tax receipts of Taylor Township as compared with some township away up in Venango County or something of that sort.

DELEGATE WOODRING. Mr. President, the answer, a complete answer to Delegate Braham, goes back to the fundamental theory of this entire tax clause of the finance article. There has been a great hue and cry, and properly so, for relief to the municipalities. The municipalities over the years have been suffering loss of the tax base. On the other hand, the cost of governmental services of the smaller municipalities has been constantly rising by reason of many factors, including the wage and hour law, the cost of services, the cost of replacements. The cost of everything has been rising and yet the tax base, by reason of exemptions, has been decreasing. Therefore, in order to try to ameliorate, in order to try to reconcile, these conflicting interests, the committee has come up with and has concluded upon, this method of returning something to the municipalities, not in proportion to the amount of real estate that is used in a particular municipality, but in proportion to the amount that their total tax receipts bear to the total portion of the gross receipts taxes which would be distributable throughout the Commonwealth.

DELEGATE BRAHAM. Might I ask, sir, whether by the use of the language "in the preceding year" means to fix the quota forever according to the taxes of this preceding year, or is that to be each succeeding year?

DELEGATE WOODRING. The point is well taken and I think Delegate Braham is correct and perhaps it should read "each succeeding year."

DELEGATE BRAHAM. That is where my objection comes in that we have here a competition, by which one can levy the largest tax on this municipality so that it may get a larger share next year and what provision is there to equalize that? I understand all of this will have to be done through legislation, but we want to consider what legislation will be necessary before we adopt these constitutional provisions.

DELEGATE WOODRING. Mr. President, the primary answer to that is, the Constitution itself declares that all taxes shall be uniform and, under the present tax laws, all taxes, theoretically, are uniform and should continue to be so, and the General Assembly can implement this with further legislation if it becomes necessary.

DELEGATE BRAHAM. Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Curran.

DELEGATE CURRAN. Thank you, Mr. President.

Delegate Woodring, if I may, it is my understanding that not all public utilities pay a gross receipts tax.

DELEGATE WOODRING. That is correct. Some of the railroads do not and none of the water companies do.

DELEGATE CURRAN. Under this paragraph, Section 1C, would it then be permissible to place a local real estate tax upon those public utilities?

DELEGATE WOODRING. Mr. President, an answer has already been given in a former question and answer. Under the provisions of this, if this would be adopted, there is an alternative remedy, so to speak. Either the General Assembly would impose a tax upon the water company if it is a water company for profit—an independent water company and not a public property for public purpose. If it fails to do so, then the assets of the water company would become taxable at the local level under these provisions.

DELEGATE CURRAN. Thank you, Delegate Woodring.

PRESIDENT BRODERICK. The Chair recognizes Delegate Baldwin.

DELEGATE BALDWIN. Delegate Pott, at the present time, our utilities are supplying a lot of facilities to the surrounding States. It is my understanding under House bill No. 1157 which increased to 20 mills the present gross receipts tax, that most of this that is supplied is wholly within the State. Am I correct?

DELEGATE POTT. That is correct.

DELEGATE BALDWIN. Could you answer what the other States that surround Pennsylvania tax the utilities, as compared to Pennsylvania?

DELEGATE POTT. Yes, we have that information. I would have to get it and present it to you. I do not have it at my fingertips.

DELEGATE BALDWIN. I would appreciate it if you would.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. Delegate Pott, there has been a question raised by some of the delegates pertaining to pipeline transmission companies in the State of Pennsylvania. This would be both gas and oil. Do you have any statistics on this type of facility as to what taxes they are now paying in the State of Pennsylvania?

DELEGATE POTT. We have not been furnished detailed information in regards to that subject.

DELEGATE HOOK. Do you know if the buildings which they use for distribution are taxable or not?

DELEGATE POTT. It is my understanding that they are.

DELEGATE HOOK. Do you have figures and so forth to show this? I ask this for a point of information only.

DELEGATE POTT. I do not have specific information.

DELEGATE HOOK. Is your intention—

DELEGATE POTT. I am informed that the pipelines are considered machinery and are therefore subject to an exemption.

DELEGATE HOOK. And there is no taxation put on them for gross receipts on the distribution of gas they make to other companies?

DELEGATE POTT. They are taxed on gross receipts, yes, I am advised.

DELEGATE HOOK. Then if Texas Eastern would distribute gas in the State of Pennsylvania, they would be taxed on these receipts?

DELEGATE POTT. Yes.

DELEGATE HOOK. Do you have any statistics to show what was received on this particular item in 1966 or 1967?

DELEGATE POTT. No, we do not have that information, but we will try to get it for you.

DELEGATE HOOK. Mr. President, I raised a question earlier and I deferred it until now. What is your theory on railroad rights-of-way? I explained to you that in our county we had 3,000 acres of land taken off the tax books because of railroad rights-of-way. Is there anything in your proposal here that includes this in as taxable?

DELEGATE POTT. They are not presently taxable; however, there is a gross receipts tax paid and that, if this was not enacted, the local communities could certainly tax that real estate property.

DELEGATE HOOK. That is, the right-of-way itself, you feel that they could tax?

DELEGATE POTT. If the exemption was not granted, that is correct.

DELEGATE SHRAGER. Mr. President, did your committee have any dollar-statistics report showing the difference between the tax yield on public utilities' real property and the yield of the gross receipt taxes?

Can you give them to us, please?

DELEGATE POTT. I cannot at the moment. I do not have them right here, but I will be happy to get the information for you and pass it on to you.

DELEGATE SHRAGER. Do you have any idea in round figures what the difference might have been?

DELEGATE POTT. It is my understanding that the gross receipts tax annually pays the State of Pennsylvania in the neighborhood of \$40 million, and according to the information that we also gathered, the taxable realty throughout the Commonwealth would be in the neighborhood of \$20 million.

DELEGATE SHRAGER. Of course, you are not including the real estate that is being used by the utility for utility purposes?

DELEGATE POTT. Yes, we are. You are talking about the total evaluation?

DELEGATE SHRAGER. The total evaluation of all utilities who have real estate.

DELEGATE POTT. The figures which were furnished us was that it was in the neighborhood of \$350 million in assessed valuation. On that basis, the local real estate taxes would be in the neighborhood of, as I said, \$20 million.

DELEGATE SHRAGER. I would appreciate it if you could get those figures for us, based upon the total evaluation of all of the real estate of the public utilities in the Commonwealth.

Thank you.

PRESIDENT BRODERICK. The Chair recognizes Delegate Hook.

DELEGATE HOOK. Mr. President, I have the Governor's budget of 1968-69 and I notice utility gross receipts tax and it has the word "transportation." Can you tell me what this figure includes, this transportation item? Does this include the question I asked you earlier pertaining to tax receipts or any other transmission company?

DELEGATE POTT. I cannot answer that, Mr. President.

DELEGATE HOOK. Is there any way we can find this out as to what this particular item refers? It is approximately \$2 million in 1966-67, actual receipts, and it shows a total utility gross receipts tax of \$30 million with \$7 million made up in telephone and telegraph, \$13 million from electric, \$2 million from transportation, \$505,000 from

motor transportation, and \$6 million from gas company receipts.

Could we possibly receive any information?

DELEGATE POTT. We might get some information for you.

DELEGATE HOOK. Thank you.

PRESIDENT BRODERICK. Are there any further questions?

The Chair recognizes Delegate Woodring.

DELEGATE WOODRING. Mr. President, if there are no further questions, would it be in order to invite the submission of proposed amendments, so that there might be a conference, as heretofore, on the other articles?

PRESIDENT BRODERICK. Yes, the Chair will be very happy to announce that we have a total of approximately 20 amendments that had been prepared to this particular proposal.

May we suggest that anyone who has an amendment which they want to offer meet with the chairman of the committee immediately upon recessing at noontime.

HONORARY PAGES COMMENDED

PRESIDENT BRODERICK. Yes. May I ask the delegates to remain seated for just a second. One of the more pleasant duties that the Chair has had to perform each week is to point out our honorary pages and ask them to take a bow. I am sure, out of respect for the good work they have done, you will bear with me while I call out their names.

Terrance Moore and William Riddle from Hanover High School in Hanover;

Barbara Grubb and James Ensminger from Annville-Cleona High School in Lebanon;

Beth Heisey and David Hostler of Manheim Central High School in Manheim;

Virginia Tallman and Douglas Tuttle of Williams Valley High School in Tower City;

Mary Dietz and Mark Kovacs of Dallastown High School in Dallastown;

Jenny Goodhart and Henry Brandt of Big Spring High School in Newville;

Deborah Holmes and John Hansen of Spring Grove High School in Spring Grove;

Geraldine Meerbott and Michael Moul of Red Land High School in Etters.

Let us give them a big hand.

We want you to know we have appreciated your wonderful service this week.

JUDICIARY COMMITTEE ANNOUNCEMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Amsterdam.

DELEGATE AMSTERDAM. Mr. President, I did not realize that we were adjourning until Monday. We will have a schedule for the judiciary article, which is Proposal No. 7, available at 12:30 today for the members of the Judiciary Committee.

It is quite important that they have the schedule over the weekend because we will be meeting at 11:30 Monday morning for the purpose of determining whether there are any changes to that schedule. Therefore, I would request that members of the Judiciary Committee come to the office of the Chairman on the sixth floor of the North

Office Building between 12:30 and 12:45 to receive this schedule.

Thank you.

DELEGATES' PRESENCE NOTED

PRESIDENT BRODERICK. The Chair recognizes Delegate Tomascik.

DELEGATE TOMASCIK. Mr. President, I came in this morning to the hall of the Convention after the electronic roll call. I want the record to show that I have been present today.

PRESIDENT BRODERICK. The Chair recognizes Delegate Shapiro.

DELEGATE SHAPIRO. Mr. President, will you be good enough to record the presence of myself and Delegate Sharp who were not here for the roll call?

PRESIDENT BRODERICK. The delegates will be so recorded.

HOLIDAY ANNOUNCEMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Van Sant.

DELEGATE VAN SANT. Mr. President, I would point out to the delegates who are planning meetings Monday morning that it is a holiday at the Capitol and they had better pack lunches because the cafeteria will not be open. This is a State holiday and I believe that all State offices will be closed with the exception of skeleton crews in some offices.

MEETING OF COMMITTEE ON ADMINISTRATION AND FINANCE

PRESIDENT BRODERICK. The Chair recognizes Delegate Bloom.

DELEGATE BLOOM. Mr. President, I would like to announce a meeting of the Administration and Finance Committee in Room 500, North Office Building, at 12:30 Monday afternoon.

ANNIVERSARY GREETINGS TO DELEGATE GERBER

PRESIDENT BRODERICK. The Chair recognizes Delegate Aberman.

DELEGATE ABERMAN. Mr. President, I think that those of us who have been away from home deserve some form of award for bravery as we return to our wives. I wanted to note for everyone's benefit the presence of Delegate Gerber's wife. He gets a special award for bravery for inviting his wife to come to Harrisburg to celebrate their anniversary.

PRESIDENT BRODERICK. I think we should give him a round of applause and wish him a happy anniversary.

ADJOURNMENT

PRESIDENT BRODERICK. The Chair recognizes Delegate Van Sant.

DELEGATE VAN SANT. Mr. President, as you have just stated, there are, at this moment, 25 amendments to be considered. The hour is 12 o'clock. We have approximately 85 of the 163 delegates present, and I think, in all fairness, it comes with poor grace to vote on these amendments with such a light house.

Mr. President, I move that this Convention do now adjourn until Monday, February 12, 1968, at 1:30 p.m., e.s.t.

PRESIDENT BRODERICK. It has been moved by Delegate Van Sant and seconded by Delegate Woodring that this Convention do now adjourn until Monday, February 12, 1968, at 1:30 p.m., e.s.t.

The motion was agreed to, and at 12 noon the Convention was adjourned.