

SIXTY-SECOND DAY

MORNING SESSION.

WEDNESDAY, April 24, 1912.

The Convention met pursuant to adjournment, was called to order by the vice president and opened with prayer by the Rev. John Franklin Grimes, of Columbus, Ohio.

The journal of yesterday was read and approved.

Mr. PARTINGTON: I was called away when the vote on Proposal No. 309 was taken, and I ask the privilege of voting on that proposal.

The member's name was called, and he voted in the affirmative.

Mr. BEATTY, of Wood: I want to introduce a resolution.

The resolution was read as follows:

Resolution No. 108:

Resolved, That Resolution No. 90, adopted April 9, 1912, be amended to read as follows:

Resolved, That this Convention, when it adjourns on Friday, May 3, 1912, shall adjourn to Monday, May 13, 1912, at 10 o'clock a. m. at which time the standing committee on Arrangement and Phraseology shall report upon such matters as shall have been referred to said committee.

Resolved, That the calendar of business for May 13, 1912, and thereafter, shall consist only of proposals for third reading and questions appertaining thereto, and no other business shall be considered except that which shall pertain to the concluding work of the Convention.

Resolved, That this Convention shall adjourn sine die, at 12 o'clock noon, Friday, May 17, 1912.

Resolved, That Resolution No. 90 is hereby rescinded.

Mr. BEATTY, of Wood: I want to say in connection that the other resolution in reference to adjournment was that we adjourn next Friday. We shall not be ready to adjourn next Friday. This fixes the adjournment a week later. I move that the rules be suspended and that the resolution be put on its passage at once.

The motion to suspend the rules was carried.

Mr. KING: I want to call attention to the fact that there was a session provided for on the 9th of May, and that ought to be changed if this resolution is to be adopted.

Mr. DOTY: It will be quite easy to make the arrangement after we have settled the main proposition. We ought to settle that first.

Mr. KING: I have the utmost confidence in the helmsman. I just wanted to remind him there is a rock ahead.

Mr. DOTY: I had already gotten that from the member from Ross [Mr. BAUM].

The VICE PRESIDENT: The Convention might desire to hear from Mr. Baum, of Ross.

Mr. BAUM: Any other day will be satisfactory, but we would like to have it established so that the people will know.

Mr. PETTIT: There will be an interim, and we will have the committee on Arrangement and Phraseology at work. I do not see why this Convention cannot be here as a body. We could save considerable time by going ahead during that entire period without adjournment at all.

Mr. ELSON: I do not see any need for this resolution. I do not see why we should resolve so long ahead when we will adjourn. I do not think we will get through a day or an hour sooner by resolving that we are going to do so and so. As to the ten days' recess for the committee on Phraseology, of course I cannot speak for that committee as a whole, but I do think that it is doing its work right along, and I don't think it will need anything like ten days. It seems to me that we should get rid of all these resolutions and go on and do our work the best we can, and get through with it as soon as we can.

Mr. READ: Adopting this resolution looks to me like child's play. We were elected for a purpose, and that was to revise the constitution of the state of Ohio. We are supposed to stay here until we get that done properly. This Convention ought to have sense enough to know when it is ready to adjourn, and it will not know until it gets all of its work done. This thing of setting a time ahead, and trying to work up to it is going to do an injustice to some of us here. It is unjust to the Convention and to the people. I feel that we do not fully comprehend the responsibility we have here in this place. Our duty is to stay here until we get our work done, and not to set any time, but as everything comes up to give it due consideration. I am bitterly opposed to resolutions setting that time. We know that we will not be through by that time. There are too many important questions to consider. We should stay here and attend to our duties, wait until we are through, and then decide when to adjourn.

Mr. HARBARGER: I join fully in the feeling expressed by Mr. Elson and Mr. Read. It seems to me it is a little premature. I do not like the idea. Repeated resolutions of this kind for adjournment don't settle the adjournment. There are just so many things coming up that we must take action upon and we have to attend to them. I do not see any sense in this resolution and I hope it will be voted down.

Mr. JONES: I agree with what has been said by the gentleman from Summit [Mr. READ] and the gentleman from Franklin [Mr. HARBARGER]. The primary purpose for which we are here is to do this work in the best possible manner. What can be gained by a resolution fixing the time that this work must end? Can anybody say that it is going to be completed in a proper manner in a given time? It looks to the outsider as though we were now getting very anxious to quit the job, that we have done enough work for the salary paid us, and that we ought to be getting away as rapidly as possible. Personally,

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there is nobody here who would like to be through any more than I. It interferes with my personal matters as much as it does with the personal affairs of any member of the Convention, but I do submit that no such considerations should be here involved. If it is being done, it is entirely out of place to be trifling with it. When the Convention gets through with its work it will adjourn, and we can not tell when that will be. Nobody can predict it. I hope this resolution and all others like it will be discountenanced in the future deliberations of this Convention.

Mr. BROWN, of Highland: I am not very particular about this resolution one way or the other. One such resolution has already been adopted, and now we have to change it. But I want to call the attention of the Convention to the acceptance of an invitation from Chillicothe, and this Convention owes it to Chillicothe, having accepted that invitation, to go down there. If the Convention expects to stand by its acceptance of that invitation, we should arrange for it. I have not any doubt that under proper presentation it might be shown to the people down there that it would be inconvenient, and we could rescind it.

Mr. DOTY: Did you know that the member from Ross [Mr. BAUM] had made that statement?

Mr. BROWN, of Highland: No; he didn't. He said it was all right if he knew the day.

Mr. STEVENS: I move to strike out all the resolution except the portion rescinding Resolution No. 90.

Mr. BROWN, of Lucas: This practically orders the previous question on every matter before us. I can understand when the general assembly is in session, and there are two bodies, why those two bodies should agree on a time to come to an end. I can understand why the governor, who has power to recommend things to the legislature, should have some notice that at a specified time the legislature will adjourn, but we have no such thing as that before us. We are here to work until the work is finished, when we can go home. I hope the resolution will not be adopted.

Mr. BOWDLE: Man may be roughly defined to be an animal which passes resolutions. I have personally in my life passed so many resolutions which I have broken, that I do not want to see this dignified assembly involved in that same specific sin, and I am opposed to this resolution.

Mr. PIERCE: I am opposed to this resolution. I think it is nonsensical. There are only two ways we can get away from here. One way is to put in more hours, and the other is to shorten debates. I believe every member of the Convention will agree with me that every proposal should receive respectful consideration at the hands of the Convention, and there is no use for us to try to adjourn sooner by passing a resolution in this Convention. If we want to get away we should either hold two or three sessions a day and put in more time, or we should limit debate. As a rule, I am not in favor of limiting debate. When we have important matters to dispose of it is essential that they be given proper consideration, but we can, if we will work, get through with all the matters before the Convention, and probably adjourn before a very great while. I would like to adjourn next week as far as I personally am concerned, but at the same time I feel that we owe

a duty to ourselves and to the people of the state, and that is to transact the business before us, and finish it in the right kind of a way, and not adjourn until we have done this.

Mr. WINN: We owe a great deal to the state of Ohio, and the greatest duty we owe is to pass two or three more important propositions, adjourn, go home, and leave the state at rest. If we should stay here and keep up this work from now until just one year from now, we would have just as big a calendar as we have now. There never was a session of the general assembly that didn't have more bills in its bill book and more measures framed for a hearing at the time of adjournment than at any other time during the session. It will always be so. There is just one way to get through and that is to agree to fix a time to adjourn, and adjourn at that time. I do not believe there is any occasion for the prolongation of the session another moment than that. I shall vote for the amendment, but I think it will be about as senseless as anything that could be if we would vote down these resolutions altogether, allow the work to go on and adjourn when we get ready. We will never reach that time. There is just one thing that will get us through and get us away from Columbus, and that is hot weather.

Mr. PETTIT: Do you see any necessity of an interim of ten days for the committee on Arrangement and Phraseology?

Mr. WINN: The committee on Arrangement and Phraseology say it is necessary for the committee to take that number of days. I do not like to dispute that assertion.

Mr. PETTIT: Don't you think the committee on Arrangement and Phraseology can be at work while the Convention is in session?

Mr. ELSON: I would like to know whether Mr. Stevens was recognized with his motion?

The VICE PRESIDENT: The motion before the Convention is the amendment offered by the delegate from Tuscarawas [Mr. STEVENS].

The amendment was read as follows:

Amend Resolution No. 108 by striking out all except the portion rescinding Resolution No. 90.

Mr. COLTON: Realizing the fact that men can resolve and re-resolve, I am in favor of this resolution. We may not be able to adjourn one week from next Friday, but if not we can adjust ourselves to the situation. All of us have seen that the fixing of the day for adjournment has had an effect on our work. We have done more work each day than we did at any time before. I do not think any measure was slighted either. We have not had any three-hour speeches since that resolution, and the men who have addressed us have confined themselves strictly to the matters before them. If we cannot get through with the work on the day fixed we will have to extend it, but if we pass this resolution to that end we shall accomplish far more than if we leave it indefinite.

As to the work of the committee on Arrangement and Phraseology, that committee will undoubtedly need some time after the Convention recesses. If the Convention adjourns Friday it will need some days, and we could not finish in time for the Convention to come back Mon-

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day night. Therefore there is no use in calling the Convention back that week. The period of the recess should be the whole week, and I hope the resolution will pass.

Mr. WOODS: It has been my experience, and the experience of everyone who has been in the legislature, that there must be a day set for adjournment. Every legislative body in which I have ever had experience has always fixed a day for adjournment, and has endeavored to work to that day, and it always tends to lessen the length of the session. I corroborate what has already been said, that just at adjournment there are just as many bills on the calendar as at any other time. I didn't introduce this for myself. I can stay here until next January, but there must be an end sometime to this Convention. The proposals have to be given the third reading. We want fully a week's time on third reading.

Mr. READ: I would like to ask the gentleman a question. Does he not know that after the calendar committee is appointed in the legislature, then is the time that the most vicious laws are passed in the history of legislation, in the last few days, when they are in a hurry to adjourn?

Mr. BEATTY, of Wood: I think you are mistaken. I remember that I have always moved that no work should be taken up except the bills on the calendar; that they alone can be considered.

Mr. READ: But the history of legislation is different from that.

Mr. BEATTY, of Wood: That is the gentleman's statement of the history of legislation. I have given my experience.

Mr. READ: Do you think this Convention knows when it wants to adjourn?

Mr. BEATTY, of Wood: I think it does, and it knows now.

Mr. READ: Does the Convention need some member to dictate to the Convention when it shall adjourn?

Mr. BEATTY, of Wood: No, sir; no one wants to dictate, and it doesn't want anyone to dictate how long it shall stay here.

Mr. JOHNSON, of Williams: I was opposed to the original resolution fixing May 11 for adjournment, because I never like to vote for anything that I think is buncombe. Since voting against that resolution I have done everything I could to try to carry it out, though I was opposed to the introduction of the resolution and voted against it. I voted against the suspension of the rules to introduce this resolution, but I will vote for this resolution if the gentlemen will help me to demand a yea and nay vote on the previous question hereafter. I am as anxious to get away as anybody, but I do not care to run away from duty. I do not agree with the member from Defiance [Mr. WINN] that if we stay here all summer, we will have just as much business as we have now, because some of us would be going and there wouldn't be as many to introduce business. If we fix a time to adjourn, I don't think it will help business much. A good deal has been said about the general assembly adjourning. I have had four years' experience — four different sessions — and when we reached the time to adjourn in the old time, when I was a member of the general assembly, we lived up to it and carried it out. There may be exceptions now, and it may

expedite business. I am in favor of the resolution fixing adjournment, as proposed by the gentleman from Wood [Mr. BEATTY], if he will join me and go on record and agree not to rescind it unless by a majority of all of the Convention.

Mr. JONES: I want to ask the gentleman, by reason of his experience in the legislature, if there is not a very marked difference between the deliberations of this body and of the ordinary legislative body, and a distinctive difference in the amount of work that may come before the bodies?

Mr. JOHNSON, of Williams: I will say I think this Convention has, or ought to have, more dignity, and it does seem to me we don't need to indulge in any boy's play to fix the time to adjourn. I don't think it makes such a wonderful difference to fix that time, but it may help a little, and for that reason at this stage of the game — if you are willing to allow me to use that term — I am willing to fix the time on the conditions that I have just stated. In answer to your question, I think there is a difference between this assembly and a legislative body, and there ought to be a difference. We ought to be a more deliberative body, and we ought to complete our work thoroughly, and then go home. I am just as anxious as anybody to go home. I have farming interests that demand my care, too.

Mr. ELSON: I rise to a point of order. The gentleman's time is up and he won't quit.

Mr. JOHNSON, of Williams: I am ready to quit and vote for the resolution.

Mr. PECK: I offer a substitute for the pending resolution and amendments which I think may furnish a solution to this question:

The substitute was read as follows:

Resolved, That no further proposals shall be received after Monday, April 29, but thereafter the Convention shall proceed to dispose of all pending proposals and adjourn as soon as that is done.

Mr. PECK: I think this is the way to get through with the business, to fix a limit. I don't care whether you fix the date that I have named or some other date, but to fix a limit beyond which no proposals shall be received, and then go to work and draw up everything, and then you are done. It seems to me that is a practicable and reasonable mode of getting along. This thing of fixing a date two or three weeks in the future to adjourn seems impracticable. It is derived from legislative practice. The legislature has no definite work. It can adjourn whenever it wants to. We are here for a definite job, and we have to do that. The general assembly has no definite job. It meets to make general laws on any and every subject under the sun.

It is true that proposals will continue to come in unless we limit the time when we receive them. I believe that all the proposals that are of real value, and that ought to be adopted to amend this constitution, are before the Convention. I do not anticipate that there will be any coming in later of much value, but I think if we fix a time when no more will be received and then go to work and clean up the calendar we are through.

Mr. LAMPSON: You mean by "received," reported to the Convention?

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Mr. PECK: No; I mean introduced in the Convention by the members.

Mr. NYE: Mr. President and Gentlemen of the Convention: It does seem to me that this amendment ought not to pass. There are some amendments which ought to be made to the constitution we now have to make it conform to the amendments that we have adopted and that will be proposed and submitted to the people. To illustrate, the terms of the different officers of the state have to be gone over and fixed and changed in the main body of the constitution. The names of the circuit courts, if the judiciary proposal is adopted, should be changed to the courts of appeals, and there is quite a number of formal matters that ought to be changed in the old constitution to make it conform to the new, and these proposals can not be presented until this Convention has passed upon them and we know what the amendments are to be that are to be submitted to the people. So I do not think we should pass the resolution that no other proposals should be introduced after a certain date, because it cannot be done until we know what they have to be.

Mr. ANDERSON: If you would put in a substitute "except by unanimous consent," would not that remedy what you suggest?

Mr. NYE: Hardly that. Somebody might object.

Mr. PECK: Everything of the kind will be provided for by the schedule of the constitution, and it will be provided for by provisions in the schedule.

Mr. NYE: I don't think they will. The words "circuit court" occur in a good many places in the constitution that have not been amended.

Mr. PECK: Well, can't the committee on Phraseology attend to that?

Mr. NYE: It is fixed in your proposal, but not in the other.

Mr. PECK: It is within the province of the committee on Arrangement and Phraseology to make the phraseology of the constitution consistent throughout.

Mr. DOTY: No.

Mr. NYE: As I understand, we have a right to fix the phraseology of any amendment that is passed by this Convention, but the committee on Arrangement and Phraseology has no right to fix the phraseology of other sections of the constitution, at least not before receiving instructions from this Convention.

Mr. PECK: I submit that their jurisdiction is not so limited as you think. Their jurisdiction extends to the whole constitution, to make it all consistent.

Mr. NYE: If that is understood, all right.

Mr. PECK: Then it comes back for final adoption to this body. The committee on Arrangement and Phraseology has not the final say. This body has the final say.

Mr. NYE: If the gentleman will bear with me a moment, he will see by going through the judiciary proposal that there are a number of sections where the circuit court is spoken of. It seems to me that if we are to have a constitution that is uniform that these sections ought to be changed so as to have it read "the courts of appeals," as provided for by the Judiciary committee. There are other places where the terms of the various judges of the courts are fixed, and they are fixed at different numbers of years from those fixed in the

judiciary proposal, and this ought to be changed. I do not want to have any resolution that goes into the merits of the constitution after a certain date, but we should be open to offer amendments of this character.

Mr. STEVENS: The Convention is at the present time considering Resolution No. 90, which provides for temporary adjournment on the 26th, and a sine die adjournment on some other day. The objection I have to the substitute of the member from Cincinnati [Mr. PECK] is that it does not get away from Resolution No. 90, and even if his substitute is adopted we are still under Resolution No. 90. The only sensible thing is to pass my amendment. That will then clear the slate. Then I would be in favor of some such proposition as the member from Cincinnati suggests to stop incoming business. But I think we should rescind Resolution No. 90. My amendment is simply to strike out everything of this present resolution except the rescinding clause.

Mr. KNIGHT: Provision should be made for the introduction of proposals made necessary when the work of the committee on Arrangement and Phraseology is brought in. I do not agree that that committee has a right to change a single word in a single section of the constitution outside of what has been adopted in this Convention. It is fairly apparent from an investigation by some of us already that it will be necessary when we bring in our report to suggest to the Convention the necessity of some modifications in other parts of the constitution, because it is clear that in one or two instances there are inconsistencies between what we have done and other parts of the constitution. If the gentleman from Hamilton [Mr. PECK] would modify his resolution to allow the work suggested by the report of the committee on Arrangement and Phraseology to come in, that would cover it and be satisfactory.

Mr. PECK: What is the use of a Phraseology committee if you can't change a verbal mistake?

Mr. KNIGHT: I am not talking about any verbal mistakes in what we have done, but in other parts of the constitution, made necessary by what we have done, and I do not think we have a right to change a single word or a single line in any other part of the constitution, except what has been passed by this Convention and submitted to us.

Mr. DWYER: Do you not on final ratification adopt those changes, and why can't you make the changes to cover things that are necessary because of what we have done?

Mr. KNIGHT: We simply haven't any authority.

Mr. PECK: You report back here, and the Convention will authorize it.

Mr. HARRIS, of Hamilton: I just want to call the attention of the Convention to the fact that we have wasted one hour in this discussion of this question. I take the liberty of suggesting that Judge Peck accept the Stevens' amendment.

Mr. PECK: That is just what I am going to do.

Mr. TETLOW: I move the previous question.

Mr. PECK: Before that is done I want to offer an amendment to my own resolution.

The amendment was read as follows:

Amend the amendment by Mr. Peck to Resolution No. 108 as follows:

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Add at the end of resolution "Resolved that Resolution No. 90 is hereby rescinded."

Mr. DOTY: I want to call attention to the one fact you have overlooked. The member from Hamilton [Mr. PECK] and many other members seem to think that the prolongation of this Convention will come entirely from the introduction of proposals. Perfectly preposterous! That is not where the trouble is. There are enough proposals before us now to keep us here until next Christmas. There are many members who think we have a definite time-clock job, to come here at ten o'clock, ring up our time work till lunch time and then work three hours in the afternoon and we have done a day's work. We never will get through with this feeling. There is always going to be something else. It occurs to me that since we have passed a resolution to adjourn this week on Friday we have been doing a remarkably large amount of work, and that with the matters on the calendar and a few things that are yet to be reported the work can be concluded by one week from Friday with as much decorum and as much attention to business as we gave to our work yesterday; and who can say that we did not give every proposal before us proper consideration and that without the previous question too? And we can keep that up.

Mr. HARRIS, of Ashtabula: Do I understand you to say we can clean up the calendar if we work until Christmas?

Mr. DOTY: Nothing like that. Do you want what I said?

Mr. HARRIS, of Ashtabula: No; I want to ask another question.

Mr. DOTY: All right then, if you don't want me to tell you.

Mr. HARRIS, of Ashtabula: You have referred to the word "calendar" and I want to ask a question about that. How does it happen that in the arrangement of the calendar the report from your standing committee, which was presented to the Convention and agreed to after the report from my committee, appears on the calendar before mine?

Mr. DOTY: If the member will look up the rule he will find out why.

Mr. HARRIS, of Ashtabula: Does the gentleman refer to the rules that he makes as he goes along or to the standing rules of the Convention?

Mr. DOTY: If the member means to insinuate that I have been "hokuspokusing" the rules I want to deny it.

Mr. HARRIS, of Ashtabula: You were referring to the rules. I am referring to the calendar.

The VICE PRESIDENT: The Convention will be in order.

Mr. DOTY: I don't know what that has to do with the question, but it appears that the member from Ashtabula is trying to insinuate that something has been done with proposals that have gotten ahead of his. If he will look up the rules himself he would not have to ask such foolish questions.

Mr. HARRIS, of Ashtabula: I admit your rules are foolish.

Mr. TETLOW: I want to get through with this work and I don't want to hear all of these useless questions. I desire to press the motion for the previous question.

The main question was ordered.

The VICE PRESIDENT: The debate is closed—

Mr. DOTY: I demand a roll call on the resolution.

The VICE PRESIDENT: What was done with the amendment offered by the delegate from Tuscarawas [Mr. STEVENS]?

Mr. STEVENS: If I understand correctly the member from Cincinnati [Mr. PECK] has incorporated my amendment in his and I withdraw mine.

The VICE PRESIDENT: If that is agreeable the vote will then go upon the amendment offered by the member from Cincinnati [Mr. PECK], including the amendment of the gentleman from Tuscarawas.

Mr. HARRIS, of Hamilton: There is one word that is omitted I think in that resolution of Judge Peck. It was understood that no new proposal should be introduced.

Mr. PECK: That is the understanding of what this means.

Mr. WATSON: I move that that amendment be laid on the table.

The VICE PRESIDENT: The gentleman is out of order. The vote is on the amendment.

The yeas and nays were regularly demanded; taken, and resulted— yeas 52, nays 56, as follows:

Those who voted in the affirmative are :

Baum,	Harris, Ashtabula,	Norris,
Beyer,	Harris, Hamilton,	Peck,
Bowdle,	Hoffman,	Peters,
Brattain,	Holtz,	Pierce,
Brown, Highland,	Johnson, Williams,	Read,
Brown, Lucas,	Jones,	Redington,
Campbell,	Kerr,	Riley,
Collett,	King,	Roehm,
Cunningham,	Knight,	Rorick,
DeFrees,	Lecte,	Shaw,
Dunn,	Longstreth,	Smith, Geauga,
Dwyer,	Malin,	Stalter,
Eby,	Mauck,	Stamm,
Elson,	McClelland,	Stevens,
Evans,	Miller, Crawford,	Stewart,
Fess,	Miller, Fairfield,	Stillwell,
Halenkamp,	Miller, Ottawa,	Stokes.
Halfhill,		

Those who voted in the negative are:

Anderson,	Fluke,	Moore,
Antrim,	Fox,	Nye,
Beatty, Morrow,	Hahn,	Okey,
Beatty, Wood,	Harbarger,	Partington,
Brown, Pike,	Harter, Huron,	Pettit,
Cassidy,	Harter, Stark,	Rockel,
Cody,	Henderson,	Smith, Hamilton,
Colton,	Hursh,	Solether,
Cordes,	Johnson, Madison,	Taggart,
Crosser,	Kehoe,	Tannehill,
Davio,	Keller,	Tetlow,
Donahey,	Kilpatrick,	Thomas,
Doty,	Kramer,	Ulmer,
Dunlap,	Kunkel,	Wagner,
Earnhart,	Lambert,	Watson,
Fackler,	Lampson,	Weybrecht,
Farnsworth,	Leslie,	Winn,
Farrell,	Ludey,	Wise.
FitzSimons,	Marshall,	

The roll call was verified.

The substitute amendment as amended was disagreed to.

The VICE PRESIDENT: The question now is on the adoption of the resolution of the delegate from Wood [Mr. BEATTY].

Resolution Relative to Adjournment—Civil Service.

The yeas and nays were regularly demanded; taken, and resulted—yeas 77, nays 30, as follows:

Those who voted in the affirmative are:

Antrim,	Harris, Hamilton,	Moore,
Beatty, Morrow,	Harter, Huron,	Norris,
Beatty, Wood,	Henderson,	Nye,
Beyer,	Hursh,	Okey,
Brattain,	Johnson, Madison,	Partington,
Brown, Highland,	Johnson, Williams,	Peters,
Brown, Pike,	Kehoe,	Pettit,
Campbell,	Keller,	Rockel,
Cassidy,	Kerr,	Rorick,
Collett,	Kilpatrick,	Shaw,
Colton,	King,	Smith, Geauga,
Cordes,	Knights,	Smith, Hamilton,
Crosser,	Kramer,	Solther,
Cunningham,	Kunkel,	Stalter,
Davio,	Lambert,	Stamm,
DeFrees,	Lampson,	Stewart,
Donahey,	Leete,	Tannehill,
Doty,	Leslie,	Tetlow,
Dunlap,	Longstreth,	Thomas,
Eby,	Ludey,	Ulmer,
Fackler,	Marshall,	Wagner,
Farnsworth,	Mauck,	Watson,
Farrell,	McClelland,	Weybrecht,
FitzSimons,	Miller, Crawford,	Winn,
Fox,	Miller, Fairfield,	Wise.
Hahn,	Miller, Ottawa,	

Those who voted in the negative are:

Anderson,	Fluke,	Peck,
Baum,	Halenkamp,	Pierce,
Bowdle,	Halfhill,	Read,
Brown, Lucas,	Harbarger,	Redington,
Dunn,	Harris, Ashtabula,	Riley,
Dwyer,	Harter, Stark,	Roehm,
Earnhart,	Hoffman,	Stevens,
Elson,	Holtz,	Stilwell,
Evans,	Jones,	Stokes,
Fess,	Malin,	Taggart,

The resolution was adopted.

Mr. PECK: I hope the gentlemen who have gotten on the water wagon will stay there and not change this resolution next week.

SECOND READING OF PROPOSALS.

The VICE PRESIDENT: The business in order is Proposal No. 169.

The proposal was read the second time.

Mr. HARTER, of Stark: As chairman of the committee which had this in charge I wish to announce that it is a unanimous report. Our committee has not been a busy one. We have taken care of about all the business placed before us and this is the most important matter that was before us. We are glad to offer a unanimous report and we are sorry that Judge Worthington is not here in person to advocate this proposal. We feel that it is one of the most important that has come before the Convention and trust it will be unanimously adopted, as it was by the committee.

Mr. KNIGHT: I am sure we all regret the absence of Judge Worthington, who is very much interested in this proposal. I think there is no doubt it is a matter we shall all agree without much debate, to place in the constitution. At present the merit system applied under the civil service in municipalities depends upon a mere legislative enactment which can be repealed at any time. The day in this country has passed when there is any question as to the entire necessity of this in all pub-

lic service. The object of this proposal is simply to place this state in line with other states in the Union and to extend the merit system of appointment and promotion—civil service in state, county and city—for merit and fitness alone. It is obvious that in each and every instance, on account of a variety of services, we can not apply this to all the heads of the state—in other words, not all can be made to come under the civil service. Therefore, the provision that “so far as practicable” appointments shall be made upon the basis of civil service. There are certain kinds of offices where it is impossible to require it to be used, and to require the impossible is never expected. This goes as far as any constitution can wisely go. It is a thing that can not be self-operating. It must require statutory enactments to carry it into effect. Therefore, the provision in the latter part of the clause which makes it the duty of the legislature to carry it into effect. I think the proposal should receive as substantial a vote as the other proposal of Judge Worthington, which was the first measure passed by a unanimous vote.

Mr. READ: Mr. President and Gentlemen of the Convention: When I was considering the proposals that would be the most important for the service of the state the civil service proposal was the first thing I thought of. I had prepared such a proposal in connection with another one, but because others were offered I withdrew mine. I want to say to this Convention—and I only intend to say a word, but what I do say I shall speak from personal experience in civil service—I consider this one of the most important proposals that can be presented for the good of the commonwealth of Ohio. Those who have been in the civil service and who have had experience, know that appointments are made, not upon merit, but on account of political preferment, I care not who is holding the position as governor.

Mr. MILLER, of Crawford: I rise to a point of order. We can not hear, there is so much disorder.

The VICE PRESIDENT: The sergeant at arms will please maintain order.

Mr. READ: When a young minister once asked Henry Ward Beecher what he did when his hearers went to sleep Henry Ward Beecher said: “Whenever I hear of a congregation going to sleep, I instruct the man in charge of the church to go wake up the preacher.”

I hope this matter will be carried unanimously. I would like to see the Convention give its unanimous indorsement to a proposition of this kind. I would like to see the civil service conducted upon merit so that the persons appointed to positions will be appointed because they are capable of filling the positions to which they are appointed and not because they are political henchmen. That has been the case heretofore, and I know it.

Mr. WATSON: Is it not a fact that frequently a political henchman gets the men their positions, even when the examination is conducted?

Mr. READ: It should not be so. If the examination is properly conducted it would not be so. But now there is no recourse on that point and those who can do the best political work are appointed instead of those who can do the best for the service of the state. They do not concern themselves very much about the service to the state or the good of the commonwealth. I am

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glad there is such a proposition as this before the Convention and I hope it will be carried unanimously.

Mr. FARRELL: I would like to ask a question. Can you imagine any plan or theory that the legislature could adopt for providing for putting men into office into which the question of politics would not necessarily enter?

Mr. READ: If other things are equal there would not be any objection.

Mr. FARRELL: But can you imagine a bill the legislature could pass that would eliminate this evil complained of?

Mr. READ: A bill might not, but if it were properly carried out it would. The merit of this proposal strikes me as being so great that extended discussion is not necessary. This is a blow at the spoils system which has been such a great evil in the national government and at present is an evil in our state government. It may not be effective to entirely remove that evil, but it is a step in the right direction, and I think we should vote for it unanimously. We paid Judge Worthington the compliment that we were glad to pay him on his former proposal, but we don't have to do that on this. The merit of the proposal should commend itself to every one and secure for the proposal our unanimous support.

Mr. PECK: If you want to weaken the power of the political boss over the state, this is the bill to do it. If a man is appointed to office by reason of his merits, as shown by an examination under civil service, he is not under any political obligation to anybody. He is more likely to do his duty in that office and not be running about the state fixing up political matters, as many of our prominent officers are doing today. We want a clean, honest political service, and there is no trouble about administering it. It is being administered by the United States government all through the country. It is being administered right now in Cincinnati in a large way. All the minor officers are being appointed under the civil service rule. The board examines applicants daily and these examinations are not simply school examinations on arithmetic and geography and clerical work; they include all that the man has had. That comes early in the examination and counts for more than anything else, his general fitness for that sort of work. It includes a great many things not included in the ordinary examination. It is working and is satisfactory to everybody, and is slowly but surely eliminating the power of the political boss. That is one of the reforms the people of Cincinnati voted for at the recent election and that they have accomplished. It is one that is going on all over the United States. It is in line with what we have been doing in this Convention and ought by all means to be adopted. I would regard it as a calamity if this proposal were defeated.

Mr. TANNEHILL: I will support this bill, but civil service as it is administered now is usually a big farce. In my county they had civil service examinations for census enumerators and it is a remarkable fact that every applicant from one political party failed and they were all appointed from the other political party.

Mr. HARRIS, of Hamilton: There is but one question in this proposal: Are you in favor of or are you opposed to civil service? There is no escape from that proposition, no matter how you may attempt to hide your real position. We know that the efficacy of any law

depends to a great extent upon the ability and the sincerity of those who have to execute it. We know that all men are not perfect and in any great measure of this kind there will be failures of enforcement by some people.

Bear in mind that civil service is not a plant of recent growth. It has a history of nearly forty years in the United States, but there is always a certain opposition to the setting aside of any old established rule of gentlemen, and we can readily imagine what the determined opposition would be to civil service when we remember that for seventy years preceding the adoption of the civil service the exact opposite had been accepted by all departments of this government, that to the victor belonged the spoils. For fifty years that was the cardinal principle of both political parties of the United States, but that doctrine has gone and no one in any community dare recommend it longer.

We recognize there are the particular instances of nonenforcement that has been recognized by Mr. Tannehill and others, that the individual charged with the carrying out of the law may not be in sympathy with it, and therefore he will carry out the law only so far as he feels he is compelled to do so by the statute. But it is not the exception that must be regarded. It is the general rule or proposition that all of you are familiar with. We know that politicians in the narrow sense, politicians for spoils only, dread nothing so much as civil service carried out in spirit instead of letter. It means the elimination of the political boss. It is only a question of time when you will practically completely destroy him. Given civil service and the initiative and referendum, and in one generation I venture to say the political boss will be as rare a creature in the United States as he is in England, France and Germany.

Now I want to call your attention to this fact, and it also appeals strongly to the labor delegates in this Convention: In the many requirements of employment in municipalities the far greater number of employments is in manual labor, as I would term it, and every civil service commission that is one in fact as well as name and that honestly carries out the spirit of the civil service, looks at the man's practical knowledge. We will need fifty horseshoers in the city of Cincinnati, and we examine men primarily as to their knowledge of horseshoeing, whether they are practical mechanics. The practical mechanic starts in with seventy-five per cent to his credit and the remaining examination is devoted to what he should know of ordinary knowledge. It is of great value to the ordinary labor man that a civil service law should be carried out in spirit and not in letter. Of course, there are instances of abuses. Every city has them. We have had that in Cincinnati. There is a fight always to overcome the abuse, but as soon as any place has had one year of the operation of a civil service law there is no power that can take it away, and this proposal is simply applying to the state the same principle that you demand for the municipality. If we adopt this, if it is ratified and becomes a law of the state, it will take time to get it to working properly. You can not expect it to be in full force and effect next year or the year after. It may take five or ten years, but after that you will hear no more of great political machines in the state controlling conventions and nominations.

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Mr. PETTIT: I am in hearty accord with a civil service law if it were ever carried out. I think a better name for it would be snivel service. Judge Peck says it has been carried out in the United States government for years. What do we see in regard to the rural route carriers of the state of Ohio or any other state? How many of them are democrats?

Mr. LAMPSON: Will the gentleman yield to a question?

Mr. PETTIT: Not now.

Mr. LAMPSON: Do you think the question of whether a man is a democrat or not —

Mr. PETTIT: I said I didn't yield. I say a democrat has as much sense in an examination as a republican, but he doesn't stand any more show to be appointed a rural route carrier or a census enumerator than a snowball in the lower regions. They announce down in our county that they will have an examination for rural carriers. The democrats go up there and take an examination, but they don't get the route and they don't even get appointed "sub." In Maysville Mr. Kehoe was a democratic congressman and he worked some democrats in, but they got rid of every one of them in a very short time. Not one could carry a route. It is all nonsense, talking of this law's being carried out. Grover Cleveland set an example when he appointed a board of examiners and he gave the republicans representation, but when he went out of office, did the republicans keep it up? Not for a minute. They didn't in our county. Talk about getting rid of the bosses! You won't do it by civil service, and I am opposed to the whole theory.

Mr. KERR: I have one particular friend who has the duty of going about to ascertain whether the civil service regulations are respected or not, and he says it is marvelous the number of people who are trying to violate the letter of the law, but I think that if you believe what has been said here the modern methods in politics ought to be corrected, and that they can be corrected very largely by this measure if the people will get back of it. The fault is not the law, but the looseness of the people under the law in the process of enforcing the law. But this Convention has put itself on record on so many modern reforms that it seems to me it would be fatal for us to adjourn without giving this proposal a very substantial vote. I should like to see it receive a unanimous vote, not simply because it was brought in by our much respected friend, who is absent by enforced necessity, but because it represents one of the most modern things that we are today thinking about along the lines of the betterment of government. I hope that this Convention will put itself on record in reducing the evils of the spoils system, and go as far as possible in making merit absolutely the essential in choosing servants of the government. As Mr. Watson and others have said, it has been a farce in some places, but that is because public opinion has not been sufficiently aroused. We can certainly arouse it and make it effective, and I hope we shall adopt the proposal unanimously.

Mr. STEVENS: In view of the fact that everybody up here seems to be in favor of the proposal, and nobody is against it, I move the previous question.

The main question was ordered.

The vice president resumed the chair.

The VICE PRESIDENT: The main question is ordered, and the roll will be called on the passage of the proposal.

The yeas and nays were taken, and resulted — yeas 84, nays 21, as follows:

Those who voted in the affirmative are:

Anderson,	Harbarger,	Nye,
Antrim,	Harris, Ashtabula,	Partington,
Baum,	Harris, Hamilton,	Peck,
Beatty, Morrow,	Harter, Huron,	Peters,
Beyer,	Harter, Stark,	Pierce,
Brown, Highland,	Henderson,	Read,
Brown, Lucas,	Holtz,	Redington,
Campbell,	Hoskins,	Riley,
Collett,	Johnson, Madison,	Rockel,
Colton,	Johnson, Williams,	Roehm,
Crosser,	Jones,	Rorick,
Cunningham,	Kehoe,	Shaw,
Doty,	Kerr,	Smith, Geauga,
Dunlap,	Kilpatrick,	Smith, Hamilton,
Dunn,	King,	Solether,
Dwyer,	Knight,	Stamm,
Earnhart,	Lambert,	Stevens,
Eby,	Lampson,	Stewart,
Elson,	Leete,	Stilwell,
Evans,	Leslie,	Stokes,
Fackler,	Longstreth,	Taggart,
Farnsworth,	Ludey,	Tannehill,
Fess,	Mauck,	Tetlow,
FitzSimons,	McClelland,	Thomas,
Fluke,	Miller, Crawford,	Ulmer,
Fox,	Miller, Fairfield,	Wagner,
Hahn,	Miller, Ottawa,	Winn,
Halfhill,	Moore,	Wise.

Those who voted in the negative are:

Beatty, Wood,	Farrell,	Marshall,
Brattain,	Halenkamp,	Norris,
Cody,	Hoffman,	Okey,
Cordes,	Hursh,	Pettit,
Davio,	Keller,	Stalter,
DeFrees,	Kramer,	Watson,
Donahey,	Malin,	Weybrecht.

So the proposal passed as follows:

Proposal No. 169 — Mr. Worthington. To submit an amendment to article XV, of the constitution. — Relative to the civil service.

Resolved, by the Constitutional Convention of the state of Ohio, That a proposal to amend the constitution shall be submitted to the electors to read as follows:

ARTICLE XV.

SECTION 10. Appointments and promotions in the civil service of the state, the several counties and cities, shall be made according to merit and fitness, to be ascertained as far as practicable by competitive examinations. And it shall be the duty of the general assembly to enact laws providing for the enforcement hereof.

Under the rules the proposal was referred to the committee on Arrangement and Phraseology.

Mr. WATSON: I move that we recess until 1:30.

Mr. DOTY: Wait a minute.

The motion to recess was lost.

Mr. DWYER: Mr. President —

DELEGATES: Regular order.

Mr. DOTY: This is the regular order.

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The VICE PRESIDENT: The special committee of which Judge Dwyer was chairman had authority to report at any time, and this is the regular order.

The report was read as follows:

The select committee to which was referred Proposal No. 241 — Mr. Dwyer, having had the same under consideration, reports it back and recommends the passage of the following substitute for the proposal and all amendments thereto:

Resolved, by the Constitutional Convention of the state of Ohio, That a proposal to amend the constitution shall be submitted to the electors to read as follows:

Laws shall be passed providing for the prompt removal, upon complaint and hearing, of all officers, including state officers, judges and members of the general assembly, for any misconduct involving moral turpitude or for other cause provided by law; and this method of removal shall be in addition to impeachment or other method of removal provided.

Mr. DWYER: Mr. President and Gentlemen: In presenting my views on the proposition pending I realize that I am addressing gentlemen of eminence in the legal profession, gentlemen who have acquired distinction, as judges on the bench, as ministers of the gospel, as professors of learning, as members of the medical profession, in business affairs and in agricultural life; in fact, it would be difficult to collect a more representative body of men than are the members of this Convention. This being so, I shall not engage in any hustings oratory, for that would be out of place.

Much has been said in argument, both in praise and in blame of our courts, on which, by your indulgence, I shall briefly comment. Under our system of government, both state and federal, with written constitutions, the landmarks of jurisprudence by which our courts have to be guided are distinctly defined.

Under the federal constitution the courts must look to see what powers are expressly granted, for beyond the power expressly granted they cannot pass.

Under our state constitution the courts have only to look, when considering the subject matter before them arising under it, to see whether the power is denied or limited.

The constitution being the organic or fundamental law, all laws passed by the legislature, to be valid, must harmonize with its provisions. What authority is to determine this matter? Notably the courts. Legislatures are comprised of politicians, sent to carry out party policies. There is usually a majority in each house of one political party, actuated by party motives, and seeking party advantages. Take the redistricting of the state for congress. It is usually what is known as a gerrymander for party advantage. Take the apportionment of the state for members of the house and senate, and we have the same results. Whenever it is possible to obtain party advantage the majority party in the legislature is prepared for it, and in so doing it has very little regard for constitutional inhibition. For years a notable succession of gross violations of the constitution were enacted into laws which, for a long period, unfortunately, were held to be constitutional by the supreme court. I have refer-

ence to the laws growing out of the decisions of the supreme court in the Cincinnati Southern Railroad case. In that case, the legislature, having passed a law authorizing a city of the first class — having a population of over 150,000 population — to construct a railway, one terminal to be in said city, it was of necessity held to be constitutional. At that time Cincinnati wanted a railroad to reach the coal, iron and other minerals and timber of Kentucky and Tennessee for its factories, and the trade of the South for its merchants. Therefore, the law was passed. Under it the city had proceeded to build the road, it had made its contracts and it had issued its bonds and sold them, and they were in the hands of innocent purchasers. When the case as to the constitutionality of the law reached the supreme court the matter had gone so far that the status quo could not be restored, and great loss to innocent parties would result if the law were held unconstitutional. The supreme court, in the case of Walker v. Cincinnati, 21 O. S., held the law to be a law of a general nature and constitutional. It was a decision of necessity. But this decision was the opening of the Pandora box that let loose upon the state a flood of legislative evils to which I have referred. From that time for many years almost one-third of the session laws passed by the legislature were about as follows: "That in counties by the federal census of 1890 which had a population of not less than 21,720 and not more than 21,730, the county commissioners' reports shall be printed in folding circulars (a job for some printer)." "In counties having a population of not less than 40,480 and not more than 40,500 at the last federal census, the court of common pleas shall appoint an official stenographer (a job for some stenographer)." So matters went on, in utter disregard of the constitution. Cities were by law authorized to be divided into wards. The governor or some common pleas judge or somebody in line with the scheme was to appoint a partisan commission as authority to do the work. All this afforded fine opportunity for political bosses and they took full advantage of it, as the session laws of the legislature show. It was not the voice of the people, but that of the political bosses, through their tools in the legislature, that prevailed. Talk to me of trusting the legislature with all of this experience before us!

The supreme court first criticised this evil in one or two of its decisions, but in the case of the Cincinnati Hospital, 66 O. S., 444, it stamped it out forever. The judge who rendered that decision, Judge Schauck, is still on the bench of the supreme court, and to him more than to any other of the judges of that court is the credit due of putting the stamp of judicial condemnation on that nefarious kind of legislation. That the judges of the supreme court, as well as of all the other courts, are as free from bias in their decisions and as clean in their official and private life as any other class of men I claim to be true. Take the ministry. Don't we read every little while of the intolerance and misconduct of some of them? Yet who would denounce the entire body of the Christian ministry for the faults of the few? The medical profession is comprised in the main of honorable men; yet there are some who are unworthy, and this should be no condemnation of the entire body. And what I claim as true of the American courts is equally true of the courts of Great Britain. Much of the pro-

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tection of law thrown around Englishmen in their country has been the work of English judges. The reasonable doubt and the presumption of innocence in cases of crime, are the invention of the English judges in favor of the accused. And all the recent reforms in English legal procedure have been in the main the work of the English judges. On this floor the main criticism of the judges to which I have listened is that they lean in their decisions in favor of the interests. I hope that this criticism is much exaggerated. I trust we will consider the subject in the light of absolute fair play.

Seventy years ago, before the days of railroads and of machinery in factories, there was very little capital employed in business, not more than five or ten thousand dollars in any one enterprise, and encouragement had to be offered to people to induce them to go into business. Consequently the necessity for laws to protect human life and limb and health in this day of giant enterprises did not then exist. Such laws would then prevent people with their small means from embarking in business as one accident would bankrupt many of them. The doctrine of the fellow-servant and contributory negligence and assumed risk are relics of those days, but have outgrown their usefulness. If the proposals to amend the constitution which have been reported by the Labor committee, and to which I have given my full approval, are adopted by this body and ratified by the people hereafter at the polls, there will be no trouble with the courts. I would rather trust the courts any time than a lot of politicians in the legislature, who in every move they make are only looking to political advantage. So much for the courts.

The VICE PRESIDENT: The presiding officer is under the painful necessity of reminding the gentleman that his time has expired.

Mr. DWYER: I thought a member who makes a report is entitled to more time under the rules.

Mr. HALFHILL: It makes no difference how much time he is entitled to, I move that Judge Dwyer's time be extended until he finishes his address.

The motion was carried.

Mr. DWYER: I will now briefly consider the question of impeachment of judges for misconduct. Both Senator Burton and ex-Senator Foraker, in discussing the recall, said that they objected expressly to the recall as to judges, and so do I. They suggested that the attorney general prefer the charges of impeachment, but did not seem to know how to work the matter out. One of them suggested a commission to be appointed by the governor to try the charges in such cases. The special committee's plan is prompt and efficient. I trust what is done in this matter will be in such a way as comports with the dignity of the great state of Ohio. To me the position of a judge—to sit in judgment between man and man, in their controversies, as the representative of justice—is the highest office on earth. The other branches of government, being political, may become corrupt, but the judiciary should never.

On motion of Mr. Brown, of Lucas, the Convention recessed until 1:30 o'clock.

AFTERNOON SESSION.

The Convention met pursuant to recess and was called to order by the vice president.

The VICE PRESIDENT: The business before the Convention is the report of the committee, of which Judge Dwyer was chairman. What shall be done with that report?

Mr. HALFHILL: Mr. President and Gentlemen of the Convention: It seems to me, after the discussion of the original report, that the Convention acted wisely in referring this to a special committee, which has just reported. This report which is now before us looks as much like organic law as anything that has been before us for consideration. I am very much in favor of this report, because it agrees in substance with the feeling that a number of us have expressed here, that it would be much better to vest in some tribunal in Ohio the right to inquire into shortcomings of officials, and especially judges of courts, than it would be to adopt a "recall" proposal, which we fortunately killed yesterday, for this proposal now provides a way by which you can proceed in an orderly fashion, or enables the legislature to provide a way to proceed in an orderly fashion, and bring any offending officer promptly to book. Hence I am heartily in favor of this report, and I think that the very able address made by Judge Dwyer in presenting the same ought to recommend it to the Convention. He said some things in that address that are worth remembering by all of the members of this Convention. He referred to the case of Walker vs. Cincinnati, 21 O. S., in which the supreme court by force of circumstances rendered a decision which set in motion a great train of evils in Ohio. He also showed by the later decisions how the supreme court did assist the state of Ohio to recover from that; but there is one case which he did not mention, and I would like to refer to it. Starting in with 21 O. S., Walker vs. Cincinnati, where power was conferred upon the municipality to construct a railroad, you will find on examination of the reports that we never got away from the bad doctrine in that case until the report 38 O. S., Counterman vs. Dublin Township. I am particularly interested in Dublin township, Mercer county, for I was born there. They passed a law through the state legislature providing that a railroad six miles in length might be built by a township, and it was one of a series of acts of that kind providing a tax levy for such purpose by popular vote at the polls. At that particular time \$20,000 of bonds on the township was a great burden. The roads were not built and the ditches were not yet constructed. For myself, I helped earn the money by hard labor on the railroad for our share of the expense fund that hired a distinguished lawyer from my present city, who took that case to the supreme court, and the law was declared unconstitutional under which a tax of \$20,000 had been voted and levied on the property of Dublin township.

Now the point I want to make is that both of the lower courts held that kind of legislation constitutional, and it took the supreme court in that particular case of Counterman vs. Dublin Township to wipe out the most vicious kind of legislation that the state of Ohio has ever seen.

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Mr. LAMPSON: I am a little curious to know whether it was the holding of the law unconstitutional or your labor on the railroad that broke up the railroad?

Mr. HALFHILL: I presume the gentleman from Ashtabula [Mr LAMPSON] thinks I am like himself, one who toils not and spins not, but I assure him that I did do honest, hard work on that railroad.

Mr. LAMPSON: My work is always constitutional.

Mr. HALFHILL: These are a very interesting series of statutes, and they were brought to my renewed attention today by the citation by Judge Dwyer. I hadn't thought of that case of Counterman vs. Dublin Township for a long time, but if you will examine Walker vs. Cincinnati, and trace its subsequent effects you will find that along in the eighties, or possibly in the latter part of the seventies, the legislature of Ohio passed much of that sort of special legislation, and it was the special interests of the state of Ohio that got those laws enacted. The supreme court in that instance was helping to relieve every foot of land in the state of Ohio from unjust taxation, for every foot and every acre of land and all personal property in the state of Ohio was laid under tribute by such laws. This has only been supplemental to the able argument in support of the proposition of Judge Dwyer that the courts of Ohio have protected the interests of the people of Ohio. I think this report of the special committee ought to be adopted, and I am heartily in favor of it.

Mr. ANDERSON: I may be mistaken, but it seems to me this is awkwardly worded: "Laws shall be passed providing for the prompt removal upon complaint and hearing of all officers," etc. You will notice that they are to be removed upon complaint and hearing. It seems to me that somewhere in there ought to be put "and a finding of guilty".

Mr. LAMPSON: May I ask a question? Would it not improve it a little to say "prompt removal from office"?

Mr. WATSON: I offer an amendment.

The VICE PRESIDENT: Has the gentleman from Mahoning yielded the floor?

Mr. ANDERSON: No, sir; I am very much in favor of the proposal if it is properly worded. It has been called the recall. It is not a recall at all. A recall is never based upon a hearing of the person sought to be recalled. It is never predicated upon a finding of guilty of the person sought to be recalled. A recall simply provided that if anyone has within his mind anything that would cause him to vote against the person sought to be recalled, that is a valid reason for a removal from office, so that this proposal does not sound in recall at all.

Much has been said in defense of the supreme court. One member even took the opportunity to refer to his boyhood days when he earned an honest dollar by the sweat of his face, and he used that to bring a case which the supreme court decided properly years and years ago; and he has remembered it in all these years because it was a proper decision. It seems that every opportunity is being taken here to hark back to some things that were said in reference to the supreme court, but the gentleman, harking back purposely or otherwise, mistakes what was then said.

There is no corruption of a court that I have ever known of. I have tried as many cases before judges as any member of the Convention. I was never conscious of any corruption on the part of a court. I was never conscious that it existed, but I do want to guard against judge-made law, and I have no apology to make to any of the defenders of the supreme court, or anybody else on that subject; but I would suggest that this proposal be worded so that it carry at least a clearer meaning of the thing we intend to do.

Mr. WATSON: I offer an amendment.

Mr. DOTY: The simple way out of this is to adopt the report of the committee, and then you have the report before you and it can be easily amended. If the report is adopted you have the report before you, and different amendments can come in as usual. I only want to give you a suggestion of the easy way.

Mr. WATSON: I withdraw my amendment temporarily.

Mr. EARNHART: I am opposed to this whole proposition. It looks like an ingenious subterfuge. My friend from Allen [Mr. HALFHILL] who is a fair fighter all the time, has accentuated that declaration. I look upon this as a subterfuge and not intended to be a corrective agency. The tribunal having the jurisdiction will be a court, and it cannot be expected to and it will not do anything in disregard of the wishes of its creator. I think we should not take any action at all on this matter, rather than make what seems obvious will be an ineffectual attempt. We well know — and I want to call the attention of the gentleman from Cincinnati, who spoke so eloquently a day or two ago against the recall, to just a word or two. He will remember, as we all do, that because the people could not obtain evenhanded justice the court house at Cincinnati was burned by a mob. Later on, just recently, fresh in the minds of all of us, a man down there who practically owned the courts, compelled those courts in a manner to forego prosecutions of himself. The man's name is George B. Cox, and he belongs in the penitentiary today, and you all know it. What are you going to do in an instance of that kind? We see it all over the land. A poor fellow steals thirty-five dollars' worth of something, and he is sure to go to the penitentiary. A man can steal a million, and they pat him on the back, and he comes out scot free. This is a dangerous condition and the conditions are growing worse as time goes on. There must be something changed or there will be trouble and we will have revolution. The people are long-suffering and patient, but there comes a time when endurance ceases to be a virtue, and the people will take the matter into their own hands. Then you will have effective corrective agencies, but the self-constituted tribunals are but mockeries, and I hope that this subterfuge will not pass, and that we shall have a free and open field. It is not an improvement over the present system. Leave a free, open field. When the time comes that the people want the recall, and that will be very soon, leave them free and open to take the matter into their own hands. I have faith in the intelligence of the people of the great state of Ohio. They will meet the situation and solve the problem intelligently and effectually.

Mr. HARRIS, of Ashtabula: I am of the opinion of the member from Cuyahoga [Mr. DOTY]. I think that

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is entirely a proper course to take to decide what we will do with the report of the committee, and if I could outline what we would do, we would put the matter over a day or two and have the report printed. The member from Allen [Mr. HALFHILL] has given it as his opinion that this ought to go into the constitution. This may be proper, but every member should have this printed and be able to look at it. I think we need that to properly act on the question of accepting or refusing to accept the report of the committee.

Mr. BROWN, of Lucas: As a member of the committee which drafted this proposal, I wish to say to the Convention that the question now before us is upon agreeing to the report of the committee. That does not in any way bind any member of the Convention. We want to get the committee's report agreed to, and then there are two formal amendments, which we would like to have adopted if possible, one by the member from Franklin county [Mr. KNIGHT] clearing up the title, and another one which I have before me. Then, if it is entirely agreeable to all of us, have it printed and made a special order for any time that the Convention sees fit.

Mr. MAUCK: If we adopt this we have supplanted the Dwyer proposal, which I very much approved.

Mr. BROWN, of Lucas: That is correct. This supplants that.

Mr. MAUCK: Why not take up the special report, and let the pending question be on the substitution of that report for the other measure?

Mr. BROWN, of Lucas: Judge Dwyer was a member of the select committee which drafted this, and Judge Peck was a member of it, and they both recommend this substitute.

The VICE PRESIDENT: The presiding officer is anxious that the Convention be not confused on the effect of this vote. This is a report of the select committee, reported to us, and the question is on accepting that report. If it is accepted, this is not adopted, but simply to be presented in regular form as a proposal subject to any amendment that may be offered to it.

Mr. DOTY: Is not that the proposal, and would it not be up for second reading?

The report was agreed to.

Mr. KNIGHT: I have a formal amendment.

The amendment was read as follows:

In the title strike out the words "Section 23" and at the beginning of the line immediately following the resolving clause, insert "Section 24a."

Mr. KNIGHT: The proposal as it went to the committee distinctly provided for an amendment to article II, section 23, and that contains all of the article in the constitution on impeachment. If we accept this, we have by inference stricken out of the constitution what is now provided there on the subject of impeachment. I therefore offer the amendment making a new section, 24a, to correct that. It will be inserted in the proper place.

The amendment was agreed to.

Mr. BROWN, of Lucas: I offer an amendment.

The amendment was read as follows:

"In line 4 after the word "removal" insert "from office".

The amendment was agreed to.

Mr. HARRIS, of Ashtabula: I cannot refrain from endeavoring to find out exactly what this matter means. I move that the substitute and amendments be printed, and that the whole question be deferred.

The VICE PRESIDENT: The motion to print has not been seconded. I recognize the member from Lucas.

Mr. BROWN, of Lucas: This is formal matter. What we desire is to get the proposal clearly before the body, and then have it printed.

Mr. HARRIS, of Ashtabula: I am willing to defer until this is done.

Mr. BROWN, of Lucas: This clears up the matter, and the proposal is now ready to take its regular course.

The VICE PRESIDENT: The gentleman from Guernsey [Mr. WATSON] is recognized.

Mr. HARRIS, of Ashtabula: I now renew my motion.

The VICE PRESIDENT: The gentleman from Guernsey has the floor.

Mr. WATSON: I will defer.

The VICE PRESIDENT: Where do you want this matter put?

Mr. HARRIS, of Ashtabula: I move that it be postponed until tomorrow.

Mr. DOTY: The proper motion is to postpone until tomorrow, and place it at the head of the calendar, and that in the meantime it be printed.

The motion was carried.

Mr. JONES: Mr. President—

Mr. DOTY: Regular order.

Mr. JONES: I would like the opportunity to introduce a proposal.

Mr. DOTY: The regular order.

The VICE PRESIDENT: There is objection to making any change from the regular order.

Mr. JONES: I want to move to suspend the rules for the purpose of introducing a proposal. I ask this favor because I am informed by the chairman of the committee to whom the proposal will be referred that they will have no further meeting this week, but will have a meeting next week, and in order that the matter may get into the hands of the committee, which it would not do if not introduced until Monday night, I would like to suspend the rules for the purpose of having it introduced.

Mr. DOTY: Personally, I have not the slightest objection, Mr. Jones—

The VICE PRESIDENT: A motion to suspend the rules is not debatable.

The motion to suspend the rules was lost, the vote being 49 in the affirmative and 29 in the negative.

The VICE PRESIDENT: The motion is lost, as it requires a two-thirds vote to suspend the rules. The regular order now is Proposal No. 72, which the secretary will read.

Proposal No. 72 was read the second time.

Mr. HOSKINS: I want to discuss this proposal at the request of the author, Mr. Stokes, and not upon my own initiative, as under the ordinary rules he should open a discussion of this sort. The committee on Corporations had this matter under consideration at some considerable length, and it was also more or less discussed last week when another proposal along the same lines was under consideration. This proposal and several

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others formed a combination of proposals that were put before the committee on Corporations. This was formulated by the subcommittee, reported to the full committee, and reported to this Convention, I believe, recommended by the entire committee on Corporations.

The original idea of the proposal was to supervise the sale of stock by corporations in the state of Ohio, both domestic and foreign. I might say that the idea proper has been suggested by what has been enacted in the state of Kansas to prevent the sale of fraudulent stock, to prevent the public from being imposed upon by the sale of stocks and bonds where there is little or no value behind them. When we came to discuss the question we thought it ought to be broader than that, and that authority ought to be conferred on the legislature not only to provide against the evils that might grow out of fraudulent sale of stocks and bonds, but that it might provide for supervising the organization, control and issuing of securities by corporations. I believe that the state has a perfect right to supervise and control the issuance of securities, either stock or bonds, by all the corporations in the state. A corporation is an artificial person. It enjoys all of its privileges by reason of the fact that the state has given it life, and it protects the citizens engaged in that capacity by exempting them from liability as they would be liable in a partnership. Corporation liability is limited, but partnership liabilities are not limited, and for these reasons we believe the state should take some action to protect its citizens from the wrongs they have suffered in the past by reason of the sale of fraudulent stocks and bonds.

I think if I could judge anything of the temper of the Convention last week that they have probably discussed this question almost as much as they care to discuss it. The committee also believes that the legislature ought to provide for the classification of corporations. We have not changed section 1 of article XIII. That stands as it is in the present constitution. The first sentence of the present proposal embraces all of section 2 of the present constitution, and the new matter is that which follows the first section. Any of those who want to follow the changes will simply read into the present constitution all after the first section: "Corporations may be classified, and there may be conferred upon proper boards, commissions or officers such supervisory and regulatory powers over their organization, business, issue and sale of stock and securities, and over the business and sale of stock and securities of foreign corporations in this state as may be prescribed by law."

Mr. BROWN, of Highland: This is meant to take the same place here as those laws in Kansas called the "sky blue" laws?

Mr. HOSKINS: The "blue-sky" laws.

Mr. BROWN, of Highland: There does not seem to be any provision here to prevent any kind of company from selling fraudulent mining stocks?

Mr. HOSKINS: We think there is.

Mr. BROWN, of Highland: This seems to apply only to corporations. Would it not be well to add private companies also?

Mr. HOSKINS: I do not understand that there is any such thing as private companies selling stock.

Mr. BROWN, of Highland: Private mining companies might sell their mining privileges.

Mr. HOSKINS: I would say that you cannot undertake to supervise a business which the state does not create, and the state does not create the natural individual. If my friend from Cuyahoga comes over into my county with a spavined horse and beats me in a horse trade, I have no way of reaching him except by the criminal law; but if he comes over there with any corporation that is given life by the state, and undertakes to sell me something in that corporation, which the state has licensed to do business within the state, then the state is responsible for what it is doing, outside of the criminal law. As I understand it, if anyone outside of a corporation would undertake to sell a mining privilege, it would be something which that man must own in his individual or private capacity; and I do not believe the state should undertake to supervise that any more than the ordinary every-day private transactions of individuals. Does that answer your question?

Mr. BROWN, of Highland: Yes, sir, very well; but I do not see why the constitution of this state could not give the officers of the state power to regulate the sale of fraudulent products by any kind of an organization, whether corporate or private.

Mr. HOSKINS: The laws of Ohio do regulate the fraudulent sale of all products that are sold under false pretenses by the criminal law, but it would be an utterly impracticable proposition to require a private individual, before he undertook to dispose of his own private property, to file information before a board as to his private property.

Mr. BROWN, of Highland: We should be given power to inquire at least.

Mr. NYE: Does not this say over the sale of stocks of foreign corporations?

Mr. HOSKINS: Yes.

Mr. NYE: The very thing that the gentleman is asking for.

Mr. HOSKINS: No; the gentleman was asking about a provision requiring the application of this to private individuals. We have tried in this to assume control over the organization of corporations, the sale of stocks and bonds by any private corporation organized in the state, and foreign corporations that undertake to sell their securities in the state, or anybody else who undertakes to sell them.

Mr. HARRIS, of Ashtabula: These blue-sky laws provide that an individual may not transfer his holdings of stock in any corporation in Kansas until the corporation has complied with the laws of Kansas by registering with the proper board and have a permit for the dealing in that kind of stock. Is that correct?

Mr. HOSKINS: I am not acquainted with the details of the operation of those blue-sky laws.

Mr. HARRIS, of Ashtabula: If I own stock in a mining company, or in any other wild-cat business incorporated in Kansas or any other state, would I as an individual be permitted to dispose of that to the citizens of Ohio and not be subject to the provisions of the proposal?

Mr. HOSKINS: This provision does not undertake, and I do not think the constitution should, to provide the details under which that stock should be transferred, but if this proposal is adopted the legislature may pro-

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vide a rule and a law under which you could make those transfers.

Mr. HARRIS, of Ashtabula: The legislature must do it?

Mr. HOSKINS: The legislature must do it. Now, if there are no further questions —

Mr. TAGGART: Would it not add strength to this proposal if, in line 10 after the words "foreign corporations" you would use "joint-stock companies or partnerships"?

Mr. HOSKINS: We discussed that question, and the judgment of the committee was that if we undertook to supervise the sale of stocks and bonds of both domestic and foreign corporations we at least ought not to supervise the sale of property that belonged to partnerships. If ten men together form a partnership what they own is their private property, and they have a right to dispose of that according to the laws of trade so long as they do not violate the criminal laws. Of course we are not seeking here to lay down any criminal rules, because our statutes take care of the violation of criminal laws and we think we ought not to undertake the supervision of that which belongs to a private individual in his private capacity as we should if this applied to partnerships.

Mr. TAGGART: I especially refer to foreign corporations and foreign joint-stock companies, or foreign partnerships. Has the committee discussed the question of the state having the right to supervise and regulate the sale of securities of foreign corporations and foreign joint-stock companies? The Adams Express Company, you know, is not a corporation.

Mr. HOSKINS: That is probably correct.

Mr. TAGGART: Would it not strengthen that proposal to add, "foreign joint-stock companies and foreign partnerships"?

Mr. HOSKINS: I will say to the Convention I do not know that that would be objectionable as applied to joint-stock companies, but I do believe it would be objectionable when it relates to partnerships. It might be so far-reaching that it would seriously hamper the transactions of private business, and I would say further that we never have, so far as I know, suffered in the state of Ohio from the sale of worthless securities issued by any private partnership or joint-stock company. In fact, I have never been able in my own mind to define what a joint-stock company is. Do you understand what it is?

Mr. TAGGART: It is a joint-stock company and not a corporation.

Mr. STOKES: I am going to assist in expediting the work of this Convention by making my remarks exceedingly brief. The gentleman from Auglaize has very fully explained the matter.

That part of the proposal relating to classification of corporations comes from some other proposals and also from amendments offered by the committee. My original proposal referred more to what is known as the blue-sky laws.

Every member of this Convention is conversant with conditions that have made necessary some provision for regulating the sale of stocks of industrial companies and providing penalties for violation therefor.

I have received a letter from the bank commissioner of Kansas, where they have a law in force covering the sale of stocks, in which he says that out of six hundred applications for license to sell certain securities he was able to approve only fifty-two, showing that over ninety per cent of the industrial companies are unworthy of the confidence of the investing public. The great benefit to be derived from this proposal comes from the fact that a place may be established where the necessary information can be obtained by prospective investors, and is open to that class of investors that is not conversant with the financial ways of the stock shark. The victims are numerous everywhere in this state. It is estimated that more than \$5,000,000 of worthless stock is sold in Ohio every year. Without further remarks, I wish to indulge the hope that the proposal will be unanimously adopted.

Mr. WINN: What is the purpose of providing for a classification of corporations?

Mr. STOKES: That came through the committee's adoption of some of the other proposals, and it was referred to a subcommittee. Mr. Jones will explain that to you more fully than I can.

Mr. BROWN, of Highland: I want to offer an amendment.

The amendment was read as follows:

In line 10 after the word "corporations" insert "and joint-stock companies".

Mr. BROWN, of Highland: I have nothing to say except that I have had some observation of fraudulent stock being sold by citizens who did not belong to corporations, as I understand them, and I believe that this state ought to have the right to inquire into conditions as to the purchase and sale of stocks through its individuals or people interested in foreign businesses, whether they be incorporated or private or joint-stock companies. I do not know the law well enough to know whether or not the state has the right to inquire into businesses of a private character, but it seems to me if there is any place where the state would have a right it would be in the fundamental law of the state. I think the extension of this privilege to inquire into joint-stock companies at least would be admissible in the fundamental law of the state.

Mr. WINN: Will you explain what you mean by a joint-stock company?

Mr. BROWN, of Highland: The gentleman from Auglaize [Mr. Hoskins] said he didn't know what a joint-stock company is. My notion is that a joint-stock company is the same thing as a corporation, but it is not as extensive. It does not seem to be controlled in the same way. I am not certain about that definition. I know that joint-stock companies and corporations are recognized as different things. They might be differentiated in law when the question came to a test, and I want to cover the whole matter.

Mr. LAMPSON: Is there any such thing as a stock company that is not incorporated in the state of Ohio?

Mr. BROWN, of Highland: I do not know at all, and if this amendment is out of order it can be defeated, but I have understood that there is a difference between corporations and joint-stock companies, and I want to cover them both. I would like to see the same thing applied to partnerships but they say it cannot be done.

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Mr. JONES: The trouble with our present constitutional provision, which is sixty years old, in reference to corporations is that it simply provides for the organization of corporations by general laws. The same law that provides for one kind of a corporation must necessarily provide the organization of all corporations. The generality of that provision precludes the legislature from making special provisions with regard to corporations of particular classes. It is desirable, and one instance will suffice out of many which may be cited, to have provision with reference to the classification of corporations. Take the charitable and quasi charitable institutions—for instance, the colleges which wish to receive donations and to hold them upon particular terms—there may be no obligations or stocks or securities in that kind of a corporation. As the matter now stands they are all controlled, however, by one general law. There should be a provision by which separate statutes relating to the organization and business of different kinds of corporations could be enacted, so as to enable them to meet the purposes for which they were organized.

Mr. HALFHILL: What do you say as to there being sufficient authority under the present constitution to pass the laws contemplated in this proposal?

Mr. JONES: I do not think the authority exists.

Mr. HALFHILL: Is it not a fact that the state of Kansas conferred that authority on the superintendent of banking and that he issues licenses?

Mr. JONES: That is simply with reference to the sale of foreign securities in the state of Kansas. I have said that the power exists with reference to the sale of foreign securities in the state of Ohio to regulate their sale, but under this general provision of our present constitution I do not think the power exists now either to classify corporations or to exert that power over their organization and the issue and sale of their securities which it is desirable to have. The thing which in the last sixty years has caused all of this complaint of which we hear so much about trusts and monopolies and the control of prices, is due to the lack of control over corporations. That sort of a thing never could have grown up but for the power that existed to put capital together under the form of corporations. We have been going on in Ohio as in every other state with absolutely no attempt practically to control or supervise corporations. We have not undertaken to limit them in any way as to their size or the amount of securities they may issue, or to control them in their operations in any respect.

The remedy for the trouble that has given rise to all this complaint is to invest legislatures with absolute power, in every respect that is deemed desirable by the people, to control corporations. As has been suggested, they are the creatures of law. They are, therefore, subject, and ought to be subject, to such control as the wisdom of the people dictates, and there ought not to be any restrictions over the exercise of all the power deemed desirable in reference to them.

I do not believe there is any need of including joint-stock companies, although I do not see that it could do any harm. A joint-stock company is simply a partnership. It is nothing but a partnership, and the only thing that distinguishes it from the ordinary partnership is that the interests of the partners is evidenced by cer-

tificates, called ordinarily certificates of stock. So that all the rules that apply to ordinary partnerships apply to joint-stock companies, and in dealing with their property and in holding and enjoying property they exercise the same rights, and no others, that the individual exercises. They have no special privileges, exemptions or special rights, but are subject to the same liabilities and rules which control the conduct of individuals and ordinary partnerships.

Mr. EBY: As a member of the committee, I did not sign the report on this proposal by Mr. Stokes, and I shall have to take issue in a few words with the gentleman from Fayette [Mr. JONES] in saying that the present constitution does not confer upon the general assembly the power to deal with corporations. I think the present constitution gives almost the widest latitude to the general assembly to deal with corporations. I am entirely in favor of that portion of the proposal which relates to the sale of securities and stocks of foreign corporations, and I indicated to the committee my intention of offering at the proper time, and at the first opportunity, an amendment cutting out the first part and including the latter part, and I wish to offer that amendment as a substitute at the present time.

The amendment was read as follows:

Strike out all after the resolving clause in Proposal No. 72 and insert the following: "The general assembly shall by law provide for the regulation and supervision of the sale of stocks or bonds or securities of all domestic and foreign corporations."

Mr. EBY: I think the other part of the constitution relating to corporations is full, and that past general assemblies have made laws regulating them, but we have been lax when it comes to the sale of securities by corporations, especially foreign corporations. I think my amendment covers all that and does not provide for anything further.

Mr. HALFHILL: Why do you use the word "shall" in your amendment? Could not you confer the same power by saying "may"?

Mr. EBY: That is only a question of grammar. I thought "shall" was mandatory.

Mr. HALFHILL: No doubt it is, but inasmuch as it applies to every corporation, good, bad and indifferent, large and small, and there are many small private concerns, why do you force the passage of a law on them?

Mr. EBY: The legislature will make a general law, and it will apply to this. I do not think it is aimed at good home corporations. It is only to protect against these corporations that are foisting worthless stocks on the people, and it should be made as mandatory as possible.

Mr. KING: It seems to me, Mr. President and Gentlemen, that the report of the committee ought to be adopted substantially as it made it. I certainly could not favor this amendment which strikes at a very important part of the report. How far the general assembly can go in undertaking to deal particularly in its legislation with peculiar corporations has never yet been determined. At the time of the adoption of the present constitution there was not in operation in Ohio, and

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probably had never been heard of by any of the makers of the constitution, the institution known as the telephone, and a telephone company today is organized under the same law as was organized the corner bakery, if it is a corporation. They cannot go to work for that particular kind of transportation which the telephone company deals in and provide any different character of organization for it. It may be they do not want to, but if the power were there I take it that the legislative ingenuity would undoubtedly determine some different system. Very probably our successors will meet in constitutional convention and may have to deal with corporations formed for the purpose of handling an aerial transportation. And so along the line, as inventions develop and new ideas come forward, new propositions, involving new principles of law, will be presented, and even old ones are constantly being presented.

Now, so far as the rights of individual injury to persons and property are concerned, the courts have been able to get along with those questions, new as they are, but the legislature has never been able to deal with their organization and management practically along the lines intended for that particular service. There was not any sense in 1851, and there is vastly less sense today, that we should tie up the legislative hands by saying that all corporations shall be exactly so long and so short, that they shall fit in the same kind of a box and be exactly alike. The legislators have undertaken ingeniously, and probably constitutionally, although in hundreds of cases that question has never been tested, to go as far as they could upon some branch path, but also preserving their action, so that they might dodge back and answer any constitutional objection that might be made to their legislation. I think they ought to have the power to classify different kinds of corporations, and to legislate for each according to its peculiar qualities. I hope this amendment will not prevail, and I move that it be laid on the table.

The motion to table was carried.

Mr. KNIGHT: In order to somewhat relieve the committee on Phraseology, I beg to offer an amendment. The amendment was read as follows:

In the first line of the title, strike out the figure "8" and insert the figure "2".

Mr. KNIGHT: It reads section 8 in the title and section 2 in the body. Obviously it should be section 2 both places.

The amendment was agreed to.

The VICE PRESIDENT: The vote is upon the amendment offered by the delegate from Highland to insert the words "and joint-stock companies" after the word "corporations", in line 10.

The amendment was agreed to.

The VICE PRESIDENT: The question is now on the passage of the proposal.

The yeas and nays were taken, and resulted — yeas 104, nays none, as follows:

Those who voted in the affirmative are:

Anderson,	Brattain,	Cody.
Antrim,	Brown, Highland,	Collett,
Baum,	Brown, Lucas,	Colton,
Beatty, Morrow,	Brown, Pike,	Cordes,
Beatty, Wood,	Campbell,	Crosser,
Beyer,	Cassidy,	Cunningham,

Davio,	Johnson, Madison,	Peters,
DeFrees,	Johnson, Williams,	Pettit,
Donahey,	Jones,	Pierce,
Dunlap,	Kehoe,	Read,
Dunn,	Keller,	Redington,
Earnhart,	Kerr,	Riley,
Eby,	Kilpatrick,	Rockel,
Elson,	King,	Roehm,
Evans,	Knight,	Rorick,
Fackler,	Kramer,	Shaw,
Farnsworth,	Kunkel,	Smith, Geauga,
Farrell,	Lambert,	Smith, Hamilton,
Fess,	Lampson,	Solether,
FitzSimons,	Leete,	Stalter,
Fluke,	Leslie,	Stamm,
Fox,	Longstreth,	Stevens,
Hahn,	Malin,	Stewart,
Halenkamp,	Marshall,	Stilwell,
Halfhill,	Mauck,	Stokes,
Harbarger,	McClelland,	Taggart,
Harris, Ashtabula,	Miller, Crawford,	Tannehill,
Harris, Hamilton,	Miller, Fairfield,	Tetlow,
Harter, Huron,	Miller, Ottawa,	Thomas,
Harter, Stark,	Moore,	Ulmer,
Henderson,	Norris,	Wagner,
Hoffman,	Nye,	Watson,
Holtz,	Okey,	Weybrecht,
Hoskins,	Partington,	Wise.
Hursh,	Peck,	

So the proposal passed as follows:

Proposal No. 72 — Mr. Stokes. To submit an amendment to article XIII, section 2, of the constitution. — Relative to investment companies.

Resolved, by the Constitutional Convention of the state of Ohio, That a proposal to amend the constitution shall be submitted to the electors to read as follows:

ARTICLE XIII.

SECTION 2. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed.

Corporations may be classified and there may be conferred upon proper boards, commissions or officers, such supervisory and regulatory powers over their organization, business and issue and sale of stock and securities, and over the business and sale of the stock and securities of foreign corporations and joint stock companies in this state, as may be prescribed by law.

Under the rules the proposal was referred to the committee on Arrangement and Phraseology.

Mr. HOSKINS: I would like to call attention to the fact that Proposal No. 72, on which we have just voted, and Proposal No. 174, that we adopted last week, to a certain extent cover the same proposition, and I move that the committee on Phraseology be authorized and instructed, if possible, to combine Proposal No. 72 and Proposal No. 174 in one proposal, so that we shall not have two sections bearing on the same subject.

Mr. ELSON: It seems to me that that motion is not in the best form. I do not think the gentleman means the two proposals shall be combined in one. It seems to me best that the motion should be that Proposal No. 72 should be combined with Proposal No. 174, except the portion that belongs to the bill of rights, and that that should be placed in the bill of rights. Is that the idea?

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Mr. HOSKINS: Yes.

Mr. ELSON: I am not sure whether your motion will cover it.

Mr. HOSKINS: We can try to do it. I want to make the motion.

The VICE PRESIDENT: The presiding officer would ask that the motion be reduced in writing, because I am of opinion that instructions to committees should be given when we are on a proposal. I have been overruled on that twice, but I still think I am right.

Mr. WATSON: As I understand when Proposal No. 174 passed the other day, it was thought that that could not be separated from the bill of rights and secure the end sought. That is a question to be considered.

The VICE PRESIDENT: The chair will put the question, and let the member reduce the amendment to writing later. The motion is to instruct the committee on Phraseology to combine these two proposals if possible.

Mr. KING: I move as a substitute that they be instructed to report these proposals back at the same time, and let the Convention do the adjusting.

Mr. NYE: I wish the gentleman would change the motion, if he will. The first part of Proposal No. 174 is under section 1 of the bill of rights. There has been a part added to it, and I wish he would fix it so that it is only the amendment to Proposal No. 174 that he asks to combine.

Mr. HOSKINS: The motion that Judge King made is that they report back at once.

Mr. NYE: I am on that committee, and I don't want to take responsibility that does not belong to us.

Mr. HOSKINS: I accept that amendment of Judge King.

The VICE PRESIDENT: Then the motion is that the committee on Arrangement and Phraseology be instructed to report both of these back at the same time.

Mr. PECK: There is no conflict between these sections at all. One of them authorizes the general assembly to regulate the sales of personal property of all kinds, including stocks and bonds, and the other authorizes them to make special regulations as to stocks and bonds. One covers the whole subject, and one part of the same subject, and there is no necessity of worrying about either one.

Mr. KNIGHT: It was not because of any alleged conflict, but it was in the hope that the two could be so combined as to require the submission of only one amendment if the amendments are submitted separately.

Mr. STEVENS: We always get into trouble when we do anything foolish.

Mr. PECK: We do.

Mr. STEVENS: I hope the amendment will prevail. This calico patch has been a thorn in my side ever since it was passed.

Mr. PECK: Because you never understood it.

Mr. STEVENS: I am in favor of Judge King's amendment.

The motion of the delegate from Auglaize [Mr. HOSKINS] as amended by the acceptance of the amendment of the delegate from Erie [Mr. KING] was carried.

The PRESIDENT: The next business is Proposal No. 313.

Mr. LEETE: As the matter contained in Proposal No. 313 has been combined in Proposal No. 64, which has been passed, I now move you that this proposal be indefinitely postponed.

The motion was carried.

The PRESIDENT: The next business is Proposal No. 34—Mr. Thomas, which the secretary will read. The proposal was read the second time.

Mr. THOMAS: Gentlemen: You will note that the title to the proposal will have to be changed and I understand Brother Knight has the change already prepared. Labor for more than twenty years, as well as the manufacturers who have had to compete with prison-made goods, have made efforts in Ohio to abolish contract prison labor. About twenty years ago a law was passed abolishing it, so far as the Ohio penitentiary and reformatory were concerned, but the legislature refused to make any appropriations that year or the succeeding year to carry out the method of reform provided in the bill. That made it necessary to repeal the law so some form of employment could be had for prisoners in those institutions.

In 1906 we got passed what is known as the Wertz bill, providing for the abolition of contract prison labor so far as the Ohio penitentiary and reformatory were concerned, but it still permits the contracting of prison labor in many of the workhouses and other penal institutions of the state, as the Wertz law applies to those two institutions only. If manufacturers who have had to compete with this class of labor could come in here and tell you their story, I think you would find many of them have nearly been put out of business by the competition of prison-made goods. Those engaged in the woodenware industry were practically driven out of the business in Ohio for many years on account of that competition. The Wertz bill provides that the prisoners may be used in the manufacture of goods for the use of the state, in preparing material for good roads and providing for the raising of the necessary products for their own use, or for other institutions of the state. Since the adoption of the Wertz bill four hundred acres of the Morgan farm have been taken over by the penitentiary, and last year several hundred bushels of potatoes and other products were raised for the use of the penitentiary. This year the whole of the farm was practically taken over for cultivation by the prisoners of products for the use of that and other institutions. Down in Mt. Vernon, where we have the tuberculosis sanitarium, the prisoners have been used to build the roads from the institution to the public roads and back of the insane asylum you will find the prisoners used in quarrying material to help build good roads for the state. Under the Wertz bill the counties in the vicinity of the quarry are allowed to purchase this material at cost. As we are all in this Convention very much in favor of good roads, and as that is one of the subjects that we have disposed of, it means that this form of labor can be used successfully in aiding the state to get good roads. You will note that in this proposal, besides abolishing the contracting or selling of prison labor, it also provides for the prevention and sale of prison-made goods unless such goods are conspicuously marked "prison made." There is no use of Ohio abolishing, contracting or selling prison labor if we are going to permit every other state in the Union

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that is selling its prison labor to contractors to come in here freely with its prison-made goods and dispose of them without the knowledge of the citizens as to what they are buying. We have a test case on in Toledo now on the question, and it is dragging on and it is hard to tell when it will be disposed of. Now we ask the Convention to insert a provision in the constitution that no prison-made goods can be sold in Ohio, but that is prevented by the interstate law. It is my opinion that at least ninety per cent of the citizens of Ohio would not buy prison-made goods knowingly, and it is a fact that those prison-made goods come in free competition in our stores and other places of sale with the goods manufactured in Ohio. That makes it necessary that we should have some means whereby our citizens should be able to determine what they are buying.

Mr. WINN: Is the prime object of this proposal to prevent competition between prison-made goods and goods not prison-made?

Mr. THOMAS: Yes.

Mr. WINN: Do you regard it as justifiable to put these prisoners out on a farm raising corn and potatoes in competition with the free farmers?

Mr. THOMAS: So long as they are raising it for their own use. The farmer has the same right to stand his share of competition as have any other class of citizens.

Mr. WINN: Suppose in the raising of the crops the prisoners should raise some amount in excess of the amount necessary for the state. What would become of that excess?

Mr. THOMAS: They need only raise the amount necessary for their own use. If they raise an excess it can be turned over to other charitable institutions of the state.

Mr. WINN: I understand that all the penal institutions can be engaged in the same business at once?

Mr. THOMAS: Farming?

Mr. WINN: Some sort of labor. The proposition as I understand it is that those prisoners can be taken out to a quarry and put to getting out stone and breaking it up and preparing for building roads in competition with other laboring men engaged in that same business.

Mr. THOMAS: Yes.

Mr. WINN: The whole purpose is to prevent the employment of prison labor in manufacturing institutions in competition with similar manufacturing institutions where free labor is employed?

Mr. THOMAS: Yes, for profit. Whatever profit comes from the prison labor should go direct to the people themselves. There are sufficient charitable institutions in the state at the present time that have to be supported by taxation that could get the benefit of this prison labor in the raising of the necessary products for their use as they are getting in Cleveland at the present time through the use of our prison farm. They do not come into competition in the sense that they are in the open market with other people for the sale of their goods. Their work goes directly for the benefit of the state. I want to cite an article in LaFollette's magazine along this line. This article from LaFollette has a copy of the prospectus put out by the American Fibre Reed Company of which Leslie M. Shaw is the head.

LaFollette's magazine of March 2 has an interesting article relating to the American Fibre Reed Co., one of the largest of these prison contractors.

In part it says:

We have received a copy of a recent prospectus of the American Fibre Reed Company, enumerating the advantages under which it operates, announcing its plans for increased output, and offering \$200,000 of its preferred stock at par to the public.

Mr. Shaw's prospectus is impressive. It says:

"The American Fibre Reed Company manufactures fibre and reed furniture with prison labor. Its factories are located inside prison walls and it has, at the present time, 8,000 prisoners under contract in Maine, Illinois and Kentucky. (Prison contracts are usually made for eight years and generally continue indefinitely). This company pays for its labor 52 cents per man per day; its competitors who employ free labor pay an average wage of about \$2 per day.

"There are no strikes or labor troubles in prison. This company is supplied free of rent with factory buildings, storage warehouses and ground inside the prison walls and with free heat, light and power. To acquire such facilities as this company has obtained free with its contracts would necessitate an additional investment of approximately \$1,000,000. Having to make no investment for factory buildings, storage warehouses, heat, light or power, the company's funds are kept actively engaged in liquid assets such as raw materials, finished goods and accounts receivable. These are ideal conditions for profitable manufacturing.

"Dividends of 7 per cent on the preferred and 10 per cent on the common stock are strongly assured; in fact, the company expects its net earnings to be double these dividend requirements.

"The company's experience and organization enables it to obtain these contracts and advantages in preference to other manufacturers of fiber and reed furniture who have not had prison experience.

"The demand for fiber and reed furniture having grown so rapidly, the company has decided to double its output. This should give it control of about 65 per cent of the fiber and 50 per cent of the reed business in the United States."

This is the editor's comment on the matter:

Meanwhile the movement against contract prison labor is gaining headway. The states are beginning to awaken to the evils and injustice of exploiting prisoners for private profit. Legislation of the last year shows definite tendencies toward the state's assumption of its responsibilities for its own use of the prisoners in agriculture, mining, and manufacturing for the state, on state lands, in state mines and as operatives in state factories. Twenty-one states have passed laws designed to protect imprisoned men and women from being used as cheap labor to pile up dividends for favored manufacturers. Not one state legis-

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lated to give new powers of leasing or contracting for the labor of prisoners and one only, Idaho, extended the field of its present leases.

A new special committee on manufacture in prisons and reformatories was created at the recent annual meeting of the National Consumers' League. The chairman is Julian Leavitt, author of a series of studies of prison labor now appearing in the American Magazine.

The National Consumers' League is made up of ladies and gentlemen, who are not among the physical workers, but are engaged in social reform work. They appointed a chairman and this is his comment on the subject:

There has been for a number of years' much complaint by manufacturers who use the label of the Consumer's League (particularly makers of silk petticoats) that they suffer under the cut-throat competition of contractors who use the labor of men, women and girls and boys detained in prison and reformatories, whose labor is sold to the contractors at a price with which free labor cannot compete. Manufacturers co-operating with the Consumers' League point out that men and boys who are trained for the needle trades in these institutions find no employment when they are set at large, except in the case of a trivial number of cutters, and that the reformatory aim in their imprisonment is thus wholly defeated. It is the object of the new special committee to obtain and make public information upon the relation of the prisons and reformatories, primarily to the trades in which the label of the Consumers' League is used.

Now, without taking up the time of the Convention further to discuss the matter, I want to call your attention to the latter part of the proposal which provides, "Where the prisoner has a dependent family his earnings may be paid for their support." Under the old contract system in use in the penitentiary, if prisoners worked overtime, or if there were some premium put upon extra effort upon their part to get out a larger output, then they were paid small earnings which could be saved up for their own use, or sent to their families. A prisoner's family, unless it is self-supporting, becomes an object of charity, and I feel and the labor movement feels that where we are taking the earnings of a prisoner for the benefit of the state at large there is no reason why the prisoner's family should be allowed to starve or become objects of charity.

Mr. WINN: Under the provisions of this proposal could the state buy coal lands and put the convicts to work mining coal for the benefit of the state, or rather for the use of the state?

Mr. THOMAS: Yes.

Mr. STOKES: Could the state under this proposal use the prisoners to work on the public roads?

Mr. THOMAS: Yes, I think so. You will notice it reads:

All persons confined in any penal institution in the state, so far as may be consistent with discipline and the public interest, shall be employed in some beneficial industry for the use of the state or its political subdivisions.

That would permit the legislature, I think—

Mr. PETTIT: Can not you get all you are asking for from the legislature at the present time without anything in the constitution?

Mr. THOMAS: It is possible we may do it, but I think it is necessary to make it a constitutional provision so that the legislature may follow it out as it should have done years ago. Six years ago the Wertz bill was passed and every year since then the contractors and interests back of them have prevented the necessary appropriation to carry the provision of the Wertz bill into effect, and they have come to the legislature persistently trying to get that law repealed. Last year I think there was a commission appointed by the legislature to make an investigation of the subject and to make recommendations along the lines suggested here.

Mr. PECK: I understood you to say a while ago that this provision of yours would be valueless unless we excluded this prison-made stuff from other states.

Mr. THOMAS: I said there was no use from a competitive standpoint of abolishing the making of prison-made goods in Ohio if every other state is allowed to bring its goods in here and sell them.

Mr. PECK: Have you investigated the question of whether it is in the power of the state of Ohio to exclude such goods from the state under the constitution of the United States?

Mr. THOMAS: It cannot as I understand it.

Mr. PECK: I doubt it very much.

Mr. THOMAS: I do not believe I quite heard you. Just repeat that question.

Mr. PECK: I asked you whether you had investigated the question of whether the state of Ohio can exclude prison-made goods from being sold in Ohio? I very much doubt that it can. The constitution of the United States guarantees for the citizens of each state all the rights of every other state, and they can come and bring their property with them under these decisions.

Mr. THOMAS: I have stated the matter in just the same manner as you have—that this state can not prevent the sale of prison-made goods here, but we can determine in this proposal that any such goods that come in here shall be conspicuously marked "prison made" and then our citizens can decide whether they want to buy them or not.

Mr. PECK: That would be difficult of enforcement and you may run against the interstate commerce law on that.

Mr. MOORE: Do you not think that we could require them to brand their goods "prison made" to designate their quality, the same as the quality of any other article of commerce?

Mr. THOMAS: I do not see why a provision of this kind would not be perfectly in accordance with the interstate laws. At least I have asked some of the attorneys in the Convention and they inform me that they believe that provision could be put into effect without any fear of interference of any interstate commerce laws.

Mr. HURSH: I will confess that possibly I have not been paying as close attention to all the proposals as I should because this amended proposal never reached my attention until it came up for discussion a few minutes ago. You will pardon my relating a little conversation I had the other evening. I assure you it will be interesting to the Convention. This proposal so fits into

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the conversation, it appeals to me as one of the things to go forward. I will, however, go back a little. Last Friday evening I was talking with an eminent physician, a very humane man, who has a ranch in Colorado about twelve or fourteen miles from Denver. He said when the present administration of the state of Colorado came in—probably some of you have read this in some of the magazine articles, and I am not prepared on it, and perhaps will give it to you in a desultory way—a college professor went to Governor Shafroth and said, "I want to be put in charge of the prisons of Colorado." He had no pull, but he insisted and finally he got the place. What did he do? He went to the prisons of Colorado and said to the inmates, "I am going to take the guards away from you. I am going to put you on your honor. Simply because you men have been condemned to prison you are not going to be condemned for all these years to be criminals, and I am going to make men of you. I am going to give you a chance." What did he do? They are building state roads there and one of these state roads was built right through the doctor's ranch, just back of his house, and a gang of these men came along there and worked. This superintendent of a Colorado prison takes those men without a single guard and without anybody to watch them, just takes them and puts them on their own honor, under bosses from their own prison, and assigns them to work. They are making the public highways of Colorado. That is not all. They had in that bunch of men who worked there through the doctor's ranch three life prisoners, men who were in prison for murder. One of them was a Kentuckian who had graduated from Harvard University, but who in a moment of passion had killed a man hardly knowing why he did it. He said, "I am aware I should suffer this retribution." But this was not all. This superintendent every two days comes out with a bunch of letters which he distributes among the prisoners and which different men over the state write to the prisoners saying, "I am willing to take you just as soon as you get free." This humane professor is working a way by which these men, even life prisoners, want to be reformed and have some hope.

You know it is supposed in our state that when a man is confined in a prison for a few years he is never fit for society, that he is beyond redemption, but it has been demonstrated there by actual test that it is possible to restrain these men by putting them upon their own honor. I could relate further conversation, but I want to give just one incident to show how far these men are trusted. The doctor had a daughter six years old. There was only an orchard between his house and the place where the men were working and he said to one of the men who had charge of the gang, "Will it be safe to allow my daughter out upon the premises or upon the highway?" And he answered, "Perfectly safe, absolutely so," and every day that gang of men, supposed to be vicious, is working down on that road and the little girl goes down on that road and at dinner time one of the men carries her home as he would his own child, showing how far behind the times we are in regard to the treatment of prisoners.

Here is a provision by which we can utilize the prisoners of the state and redeem some of them; here is a chance to put hope in the heart of a criminal. The day

the judge passes sentence upon him he must not be considered an Ishmaelite, with every man's hand against him. In a few years he can be taken out and worked by the state, not in competition, but on work for the state, and be given a chance to reform and be redeemed among men.

Mr. RORICK: I want some information. When these prisoners go out working in the country are they not working in competition with some one else who would do that work if the prisoners didn't do it? I can't understand the difference between working in competition one place and another. If they were not in the penitentiary they would be laboring in competition with somebody, and if they are laboring at all in the penitentiary they are laboring in competition with somebody.

Mr. HURSH: I am not arguing so much upon the point of competition with prison labor. I am simply arguing upon the humane side of the question.

Mr. RORICK: I agree with that.

Mr. WATSON: Is it not a fact that while they were working upon the public highway no private corporation is speculating upon their labor, but the state is getting all of it, whereas when they work under the prison system at present invoked someone is speculating on their labor?

Mr. HURSH: My idea is that the poor benighted men can be taken from prison walls, taken out in the air and given God's sunshine and have better ideas of manhood instilled into them.

Mr. PETTIT: Ought not this same man to have a right to choose some profession if he sees fit?

Mr. HURSH: I think so. I have just taken this opportunity to show you where the state of Ohio can do an immense good and improve conditions over those we had.

Mr. HARRIS, of Ashtabula: I think it is very evident to the members of the Convention from the answers that have been made by Mr. Hursh that he is approaching this question from one side and the member from Cuyahoga [Mr. THOMAS] is approaching it from another.

Mr. THOMAS: I am trying to approach it from all sides.

Mr. HARRIS, of Ashtabula: I am going to approach it from both sides. Singularly it happens that the argument of the member from Cuyahoga [Mr. THOMAS] sounds very familiar. I think I noticed an awakening on the part of the member from Defiance [Mr. WINN]. I think it was somewhat familiar to him. I think Mr. Doty also recognized the language as being similar to something we heard here eighteen or twenty years ago.

Mr. DOTY: Oh, no.

Mr. HARRIS, of Ashtabula: Have you forgotten it? Brother Hursh is talking along the line of recovering and restraining the criminals. A beautiful story of how the warden of the Colorado Penitentiary at Canon City has succeeded in trusting to the honor of his prisoners in reforming some of them! I have been there and it is true that under the warden's administration the convicts in the Colorado penitentiary at Canon City have done a large amount of work making highways. They have constructed roads from Canon City up to the Royal Gorge, from which point you can look down on the valley of the Arkansas River and the railroad following the

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sinuous windings of the river. They have built other roads so that men can take an automobile and go from Canon City in various directions on the most beautiful highways. All of that sounds very nice, but there is one point that I want to call your attention to just there. If those convicts had not built those roads there were plenty of people not confined in the penitentiary that at certain seasons would have been very glad to get that work to do.

Now the warden of the principal penitentiary in Oregon has proceeded along lines similar to those pursued at Mansfield, Ohio, in the reformatory, where we endeavor to reclaim the men and are not endeavoring to remove competition with free labor. That is the least consideration. The member from Cuyahoga [Mr. THOMAS] has referred to a law enacted six years ago by the legislature, and I want to call your attention to the fact that we have had such a law on the statute books for twenty years. There was such a law when I came to the general assembly in 1894. It provided that after a certain date no more contract labor could ever be permitted in the penitentiary of Ohio, and it remained there for years and years. What was the reason it didn't stay there? The legislature never followed it. The provision was that the prisoner should be working on state account. How would that work? It was my fortune when I came here eighteen years ago, without solicitation on my part, to be made chairman of the prison and prison reform committee of the house. Now I want to remind gentlemen of the financial condition of this country at that time. If there ever was a time when the laboring men were struggling for any employment it was then. They were willing to dig ditches or build roads or anything else because they were being fed in Cincinnati and Cleveland and Columbus in soup houses. They were being fed in Hocking Valley and we had had a statute enacted a year before which provided identically for the condition the member from Cuyahoga proposes to put in this—that is to say, that all goods made in the penitentiary or any workhouse in Ohio should be conspicuously branded "prison made," and in case it could not be branded it should be labeled in such a way that the consumer would know when it reached him it was prison made. Simply a boycott.

Mr. THOMAS: May I ask you a question?

Mr. HARRIS, of Ashtabula: Not at this time. I did not disturb you. We had that statute in force. We had no appropriation and no money to make an appropriation. It was a condition, not a theory. There were five hundred idle men at the penitentiary, sitting from morning to noon and from noon until night, with nothing to do. Now this is not hearsay with me. I was there and saw it. They admitted me to the penitentiary when I went down there without a question. I saw that many times and simply because there was no market for the goods the state was producing. The same thing is true in part today. They are using antiquated machinery so the production will be small and keep the prisoners busy. A proposition was brought on in the senate and it was passed. The managers of the penitentiary were frantic over the condition. The bill came to this house. It was referred to my committee, and not one man but a dozen men came to me from various counties asking me what we were going to do with that bill. I said we are

going to report it out and recommend it for passage. "Yes, but I have a labor union down in my county and I don't like to have it passed." Well, the Harshbarger law was held unconstitutional on a technicality by the circuit court when Judge Shauck was circuit court judge, before he was advanced to the supreme court. So we did not have to repeal it.

Now this proposal designs to put prisoners to work on the state-account plan. They have the state-account plan in Illinois and I took a member of my committee and went over there—of course on a pass. We went to Chicago. I had a letter of introduction to the warden of the Illinois penitentiary at Joliet. We found our way out and presented the letter and we were allowed to examine the Joliet penitentiary which was operated on the state-account plan. We were shown everything that could be seen. They were making substantially the goods they do in the Ohio penitentiary. They showed us every thing, the raw material, the goods advanced a little, then a little more and then finished and ready to be shipped out. Then we came around to the office of the warden for a sort of summing up. I said to him, "How do you manage this business as far as the purchase of stock is concerned?" He said, "We go out in the open market as any manufacturer would." "Do you buy your machinery?" "Yes." "You have convict labor to make your goods?" "Yes." "Where do you sell your goods?" "Anywhere." "Will you inform me how you avoid competition with free labor?" He smiled at both corners of his mouth, and there was a little German secretary there and he answered and said, "I will tell you how we do it, we whip the devil around the stump. We do just as any one else would do, and we sell goods in the same market." The manager, after he had time to collect himself, said, "If there is any profit in this business the state gets it instead of the contractor." That is all the difference. And no labor organization can get anything else out of it except that. I said, "You have some money invested here?" He said, "We have \$500,000 of state money invested in stock and goods in various stages of manufacture." Two years later I was there pursuant to the same quest and they then had \$1,000,000 of the money of the state of Illinois invested in material and goods in various stages of manufacture and for sale in the department stores in Chicago and at every other place they could sell them.

Now, coming to the proposition advanced by Judge Peck, this committee at my request conducted correspondence with almost every state in the Union where they had a different kind of institution of labor for the convicts in the penitentiaries. We wrote to the South, where they were employed in the mines. We wrote to Texas, where they were employed on the farm. We wrote to North Carolina, where they were employed in the mines and for road construction. Pennsylvania has not been charged with being very much against union labor. The great prison at Philadelphia—

Mr. WATSON: May I inquire whether this is under the five-minute rule or under a two-hour rule.

Mr. THOMAS: I move that the member's time be extended.

The VICE PRESIDENT: The time is not up yet. I am watching that.

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Mr. HARRIS, of Ashtabula: The great Moyamensing prison in Philadelphia is an imemse institution and they have always conducted the business on the solitary plan and with the view of keeping the prisoners engaged with something that resembles employment; in some instances they will have a man working as a shoemaker and he makes the shoe complete. Another makes something else complete. At the Western Penitentiary in Allegheny, they have a policy similar to that pursued in Illinois, except the goods cannot be sold in Pennsylvania. The question was, "Where is your market?" The law provides that the goods shall not be sold in Pennsylvania. They can be sold anywhere else. Judge Peck has suggested you can not interfere with interstate transportation. They can send the goods in here and you can not prohibit them. The culmination of the whole thing is that in no possible way can you employ the inmates of the penitentiary at anything useful or productive without putting them in competition with free labor. I don't care what they produce, whether it is potatoes or brooms. There is not a single department of industry in which you can put men to work where you don't compete with somebody.

Mr. KNIGHT: I have had the pleasure of voting for two or three propositions in the interest of labor. I am sorry I can not add another vote on this, but in the first place it does not contain a single line, letter or syllable that is not purely statutory. Everything that is in it that is not unconstitutional, the general assembly of the state of Ohio can enact. It does undertake in one clause to require something which will certainly be declared unconstitutional by the supreme court of the United States if it is attempted to be enforced, that goods must be labeled; this is an attempt to discriminate by forcing the goods to have a certain label put on before they come into Ohio. Further than that, it is a little difficult to brand potatoes or apples "prison made." And yet they are produced by that kind of labor.

Again, in three places of the proposal the phrase is used which is not known either to the constitution or the laws of Ohio, "prison made." We have no prisons in Ohio. We have a penitentiary, workhouses and reformatories. But the term "prison" is not known to our laws in this state. We have workhouses at Columbus, Cleveland and Cincinnati, and reformatories, which are not in the pure sense of the word penal institutions, so that in that feature the proposal is distinctly wrong.

Mr. MOORE: Is there any general term covering all those places?

Mr. KNIGHT: So far as I know the statutes no state has found it.

Mr. HURSH: In view of the fact that the labor organizations of this state are in favor of this plan of disposing of convict labor, should there be any objection to disposing of the matter in this way?

Mr. KNIGHT: I think so, without raising the question of organized or unorganized labor. I think as a citizen of Ohio I have a right to my opinion about what should be done with convict labor. I think every one of us has a perfect right to his opinion on that point. A little further on, in line 10 of the proposal, there is something that is not altogether clear, at least it is not to my mind. What is meant by a "dependent family?" How far are you going? Every convict in the penitentiary

who has a relative of any kind who is in any way dependent upon efforts other than his or her own — is that going to turn the proceeds of the convict's labor to their support? What is the definition of a "dependent family?"

We have reference made to two states, especially to Colorado, where I am glad to believe—the incident was not unknown to me—an attempt is being made to look after the reformation of the prisoners even though it may happen to compete with some of the labor or all of the labor of the rest of us. It is rather an interesting fact that there is not a word or syllable in the constitution of Colorado on this subject, and the state of Colorado and the state of Oregon are doing something that they are both free to do without any provision in their constitution. Those are the states which have been cited for us to follow. There is not a thing in our constitution that prevents our doing everything that is mentioned in this proposal, except the one thing already mentioned as barred by the federal constitution. Therefore I do not favor the adoption of the proposal.

1. Because it is purely legislative.

2. There is a difference in opinion as to the wisdom of it. I do not believe in putting it into the constitution and locking it up there at the present time.

Mr. BROWN, of Lucas: This proposal, while not identical in words, is identical in principle with what has been several times attempted. There are two principles attempted in Ohio. There are two principles involved in it. The first is the principle of competition with free labor. The second is inhibition against peonage. I wish to suggest to the member from Franklin county that the true test of the merits of any proposal to amend the constitution is not whether or not the thing sought to be done can be done if the amendment is not passed. There is nothing I know of that we now do that we could not do by an act of the legislature if the constitution was silent on the subject. The constitution, however, does attempt to define policy. Just one example: If the constitution did not have the language "The right of trial by jury shall be inviolate," the general assembly could pass a law providing for a trial by jury and we would have it, but we could come along at any time and amend that law and do away with it. But the people have committed the state to that form of trial by a jury and that is part of the fundamental law. So the question is "Shall we make it a part of our state policy that free labor shall not be put in competition with convict labor, and that peonage shall be abolished?"

Mr. KNIGHT: Does the gentleman contend that this removes competition between the so-called convict labor and free labor?

Mr. BROWN, of Lucas: I say it attempts to do so.

Mr. KNIGHT: I do not understand the word "attempt."

Mr. BROWN, of Lucas: It attempts to do so and in a large measure it can be made successful by proper enactment. A few evenings ago a majority of us, some with some misgiving, voted to authorize a minimum wage. Having made that a part of the state policy, do you propose to have them come along and compete with men who get no wage? What is to become of the manufacturer under such circumstances? I do not believe you

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can raise wages indefinitely and promiscuously and generally and not raise the cost of living ultimately.

Mr. HARRIS, of Ashtabula: Do you want the convicts to work at all?

Mr. BROWN, of Lucas: I certainly do.

Mr. HARRIS, of Ashtabula: Does this proposal suggest a way of avoiding competition?

Mr. BROWN, of Lucas: I think so. I will get to that by and by.

Mr. HARRIS, of Ashtabula: I wish you would develop that.

Mr. BROWN, of Lucas: If you will be patient a minute I think I can reach it. I am not at all clear that we can go on raising the wages of the people and not ultimately raise the cost of living and perhaps defeat what we are trying to do. Now I voted for that proposition the other night, not because the average wage is not all right, but because some wages are altogether too low. Take the roller in a rolling mill who gets \$15 per day and compare that wage with the wage of a young woman who works for fifty cents a day in a store. That requires some explanation.

Mr. HARRIS, of Ashtabula: You have spoken of a girl working in a department store here at fifty cents a day. Does she work there because she wants to? She doesn't work there because she is compelled to.

Mr. BROWN, of Lucas: Yes, she does. She is compelled to work there and work for fifty cents a day.

Mr. HARRIS, of Ashtabula: Does she not work there because she would rather work there than be out at domestic work?

Mr. BROWN, of Lucas: No, sir; you have asked me that question and there is my answer. I think it is well enough for the state of Ohio to have an opportunity to say whether it shall commit itself definitely to the policy of not putting the free labor in competition with convict labor.

Now the other proposition is one upon which I lay more stress, and that is the question of whether we shall once and for all declare against peonage in Ohio, the renting of men out to other men. Under our present system we have done it. I have seen the work down at the penitentiary. There is no use of sending a man to the penitentiary if there is no hope of reformation. How can you hope for anything when you turn a man over to another man? A man must be working to be healthy and happy, but he should be under the exclusive control of the state of Ohio every minute. When we passed a proposal the other day doing away with capital punishment did you mean to destroy hate with hate? You can only destroy hate with love.

So I say for all time let us prevent peonage in Ohio.

Mr. HARBARGER: Gentlemen of the Convention: It seems to me there are some phases of the question that we have not touched upon yet. It is not all a question of competition between free labor and prison labor: There is another question that enters into it. It is the inhuman driving of prisoners by contractors for the purpose of getting a profit. The profit is the question with the contractors. That is the great question with them. It seems to me that should enter into the consideration of this matter. Again, this question does not wholly revolve about the penitentiary. It goes to the workhouses of our counties, where contracts for the labor of the inmates are

let out. Men tell me who have managed our institutions and workhouses here that it is a disgrace to the community where a man is sentenced for a trivial offense that he is put to such hard work and so much is required of him and the profit does not go to his family or to the city or to the state, but goes to the contractors. I think that is one of the features of the question that should be considered in voting on this matter. I am heartily in favor of this proposition.

Mr. FLUKE: It seems to me that all of the talk on this proposition has been from the viewpoint of the trade union. Now I am a trade unionist myself. I know it makes considerable difference whose ox is gored. I am willing to see all the trade unionists get a fair wage, but I expect, if we let them have their way, about a year from now when I come to town I will see a basket of potatoes in front of some grocery store labeled with great big letters "prison made." Now, I don't want to see that. That comes in direct competition with the business I am in. It would interest me to know what effect prison-made potatoes would have on a union man. I am inclined to think they would give him indigestion. This may be a blessing in disguise after all. I wonder if these prison-made potatoes would cut off the wire worm and that other little pest known as the Colorado beetle. If I am assured that prison-made potatoes will kill him off I will be inclined to support this proposal; otherwise, I will not. The fact that the product of a prison farm is not sent out in open competition doesn't prevent it from being in competition. I have heard it said again and again, and I have come to believe it myself, that it is utterly impossible to work prison labor without coming in competition with free labor somewhere.

Now there is another thing I want to say, and that is on the question by the gentleman from Hardin [Mr. HURSH].

I presume it is necessary to keep these men employed. I think they should be employed out of consideration to them as a humane measure, and if they must be employed some provision should be made and some place found to put them. I will say this: That if everybody else kicks the prisoners off the face of the earth, they can go and raise corn and potatoes; farmers are not afraid of it. The history of most such institutions when they have gone into the agricultural business is that a bushel of their corn or potatoes costs more than the average farmer gets, and we can stand competition, although I hope this proposal will not pass.

Mr. FARRELL: Will the member yield to a question? Do you understand that the adoption of this proposal would permit the product of the prisoner to come in conflict with free labor?

Mr. FLUKE: Certainly.

Mr. FARRELL: I didn't understand that.

Mr. FLUKE: Any product consumed in the state comes into competition with some other product.

Mr. FARRELL: You would not find any prison-made potatoes at a grocery.

Mr. FLUKE: I have had the privilege of getting acquainted with the manager of our twelve hundred-acre farm and they are engaging in agriculture on a large scale.

Mr. FARRELL: That is what this is intended to do, but the product must not be sold out in the market.

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Mr. FLUKE: There are several hundred acres of agricultural land owned by the state at this time and the purpose is to increase and work that to the fullest capacity. It is only a question of a few years when there will be no more market in the state institutions for anything outside; they will have a surplus and that will go on the open market.

Mr. FARRELL: But this prohibits that.

Mr. FLUKE: What will become of it?

Mr. HARRIS, of Ashtabula: I would like to ask a question right there. If the convict in the workhouses and penitentiaries were fed potatoes and the state did not produce them, would they be bought from the outside?

Mr. FLUKE: Yes.

Mr. HARRIS, of Ashtabula: If they produce enough to fully supply the prisoners, they don't buy any from the outside?

Mr. FLUKE: No.

Mr. WINN: I offer an amendment.

The amendment was read as follows:

Strike out all after the resolving clause and insert the following: "The contracting or sale of prison labor is hereby prohibited."

Mr. WINN: I have always been opposed to the plan of contracting our criminals as they have been contracted in the past, especially in our penitentiary, and I offer this so the policy of the state may become fixed. It is unlawful now according to statutory provision to make contracts by which prisoners in the Ohio penitentiary are hired out to contractors. That far this proposal is properly written. To that extent we may properly write this proposal in the constitution, and to no further extent. We can very properly declare it to be the policy of this state that hereafter no law shall be enacted permitting those having charge of any penal institution of the state—jail, workhouse, penitentiary, or reformatory—to let out the labor of the inmates by contract so that the profits for their labor shall inure to some contractor. This question of the employment of the prisoners is the hardest question the state has to deal with right now. There are more than fifteen hundred prisoners in the penitentiary and there is employment for very few of them. The remainder of them are in the idle house. I was down there visiting a short time ago and the idle house was full of them; and it is the most serious question with which the state is confronted. For eight months in the year men can not be taken out on the public highways to build roads, nor can they work upon the farm. They must do something or their idleness will mean insanity and disorder, just the opposite of what we have been talking about, which is the reformation of the criminals. My opinion is that this question had better be left to the condition of affairs arising from time to time. It is true that whatever they do will be in competition with free labor. If they go out and build roads it will be in competition with other men who are engaged in building roads or who would be if the employment were offered. If they make brooms they are in competition with other broommakers of the state.

I recall that perhaps eighteen or twenty years ago there was a factory in our penitentiary where men were engaged in making brushes, and there was an institution

of the same kind in Toledo and the proprietors of that institution came to the general assembly and persuaded the general assembly, and I believe correctly, to enact a law providing that not exceeding ten per cent. of the output of any particular industry in Ohio should be made by prison labor, and I voted for it. I was opposed to prison labor then, and I am now; but at that time they were making brushes down there and a great many were engaged in that one line of business and they were making enough to overstock the market. There is sure to be some competition. It will always be so. It is bound to be so. There is no such thing as the elimination of competition. There will be competition no matter in what line of work prisoners are employed. It seems to me therefore that if we simply put ourselves on record as saying that hereafter prisoners shall not be let out by contract, we have done all that anybody has asked us to do. It is fair and it is fundamental. That can be properly written in the organic law. Beyond that it is all statutory and I believe it would be injurious to the state to go farther than that, and I hope that this amendment will be adopted.

Mr. McCLELLAND: I am not surprised at the introduction of this proposal, nor am I surprised at its urgent advocacy by the representatives of labor unions. It is to be expected that such would be the case. It is perfectly natural that every group of individuals should think they are the people and their interests are the great interests of the commonwealth. We can not help that. It is natural that the representatives of organized labor should feel that way and that they should seek to have our support as they have received it on three separate proposals. We have voted almost unanimously for two of them. But there are limits to this. The lawyers feel that they are the people and the farmers of this Convention feel that they are the people, and whatever the occupation men are engaged in they feel that they are the people, that they must have consideration at the hands of the Convention. And so in our legislative bodies, these people who can readily group together and organize usually get what they want. For either they can furnish the talk themselves or they can get talkers to talk for them, and so they can get what they want. And this has come out as a part of the general movement in the state and nation; and this movement is so strong that it is easy to make a mistake, as our labor friends have done here.

Mr. TETLOW: Will the gentleman yield for a question?

Mr. McCLELLAND: I will not. I am not accustomed to asking questions and I do not want to be interrupted by being asked.

People all over the country are making that mistake. It was made last year by the head of the nation himself in the Canadian reciprocity matter, when he assumed that the labor unions and the manufacturers' unions were all there were in the country and the farmers' unions were not to be reckoned with. So that greater men than we are and greater bodies than this have made these mistakes, and the position of the presidential candidate himself is largely the result of the mistakes made by him in the reciprocity matter, for farmers had to be reckoned with. If the inmates of our penal institutions are to be given labor—and they must be given labor

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unless we are more cruel than to impose capital punishment—they must be given honest toil to relieve idleness. If they are to live and remain sane we must furnish them occupation. We farmers are willing to accept our share of competition, but if they raise potatoes and wheat for their own use it comes into competition just as much with farm labor as it would with other labor when they make brushes and shovels or forks or anything else, and sell them in the open markets of the world. Any kind of labor comes in competition with labor somewhere and somehow. Something was said a little while ago about preventing the sale of their surplus products in the open market. It is not so stated in the proposal. The goods sold in the open market must bear the stamp "prison made;" that is all. But is it fair at all for us in the present state of the sociological problems and the penal problems to put in the fundamental law of the land such a prohibition which can not be changed for twenty years?

Mr. STILWELL: The discussion of this proposal has disclosed some faulty phraseology, and perhaps some of the substance of the proposal ought to be modified. I, therefore, move that it be referred back to the committee with the right to report at any time.

Mr. HARRIS, of Ashtabula: I do not know that I have any objection to recommitting it to the committee, but I object to the part of the motion which allows the committee to report at any time.

Mr. STILWELL: I assure the gentleman that I shall not take any unfair advantage. The matter is before the Convention, but it ought not go to a vote. It may be made a special order for 1:30 a week from now—no, I will make it Tuesday, April 30, at 1:30 o'clock p. m.

Mr. DOTY: Can we undertake to say to a committee that it shall or shall not be ready to report?

Mr. STILWELL: We will be ready to report.

Mr. DOTY: I was only objecting to establishing such a precedent. Yesterday another special committee was given the right to report at any time.

Mr. TETLOW: I would ask Mr. Stilwell a question before I vote on this. What are the points at issue in this proposal that are not clear?

Mr. STILWELL: We want it in different shape in order to bring about proper consideration.

Mr. PETTIT: I rise to a point of order. There is a motion before the house.

The VICE PRESIDENT: There is, but it is debatable.

Mr. TETLOW: Personally I do not care whether this proposal goes back to the committee to be redrafted or not, but it seems to me if there is any trouble about the thing it could be done on the floor of the Convention. I favor this proposal and I can not see any fault in it. I think the matter will be cleared up by an amendment on the floor. Let us get through with the proposal and be done with it.

Mr. DOTY: It is only fair and right if this proposal, after the long discussion we have had, is referred back to the committee that they shall have the right to report at any time, because the proposal has been climbing up the calendar and has finally got to discussion today. We have been discussing it and now it is desired to have the committee do some work on it and let it come back at the head of the calendar. I am willing to

move to amend to allow this committee to report at any time.

Mr. HARRIS, of Ashtabula: That is where it was at the beginning. The members know what they are working at. That is to give the chairman the right to come back at any time when he sees the coast is clear. He has seductively told that they are going to make some amendments. We want to be here when they come in. We want to scan those amendments. I don't say that in any offensive sense, but we all understand the spirit in which we are approaching this. We put the proposals on the calendar so that they come in order. When we allow any committee to take a bill or proposal off the calendar with leave to report at any time we are giving them an advantage which is not due them and which is prejudicial to the Convention.

Mr. THOMAS: That same thing was done day before yesterday with Judge Dwyer's proposal and I do not see why my proposal has not as much right as Judge Dwyer's. It is only a case of prejudice against the proposal that the member from Ashtabula is raising.

Mr. WINN: I am sorry that the gentleman from Ashtabula [Mr. HARRIS] made any objection. I think we should treat this proposal as we treated Judge Dwyer's proposal yesterday. I too want to be present when they report it back, and I am going to be here. If the member from Ashtabula [Mr. HARRIS] wants to be present when it is reported back there is a very easy way for him to be present. We are going to clear the calendar. We are going to do all the work, it makes no difference which comes up first. There is merit in this proposal and I hope those having it in charge will work out something that will be satisfactory to every member on the floor. I hope the motion of the member from Cuyahoga [Mr. STILWELL] will prevail.

Mr. STILWELL: I will make that read "at any time" instead of "Tuesday, April 30, at 1:30 o'clock p. m.

The motion was carried.

The VICE PRESIDENT: Proposal No. 304—Mr. Halfhill, is the next business in order and the secretary will read it.

The proposal was read the second time.

Mr. HALFHILL: Gentlemen of the Convention: Ever since the organization of the state of Ohio we have had a common pleas court, and under the old constitution we had a common pleas court and supreme court. Under the present constitution we have justices of the peace, common pleas court, circuit court and a supreme court. By the action of the Convention here already had, the justice of the peace is no longer a constitutional officer, assuming, of course, that our action is ratified. The circuit court has been changed into the court of appeals, and the jurisdiction both of that court and the supreme court somewhat modified. Now that leaves the common pleas court. There is nothing in this proposal that in any way interferes with or changes the existing jurisdiction of the court of common pleas, because the constitution provides that the court of common pleas shall have such jurisdiction as is conferred by law, and, as we know, that jurisdiction is broad and covers a wide field. We do not know, provided the justices of the

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peace no longer continue to exist as petty courts, just how much the legislature will leave of that jurisdiction, of whether the legislature will confer all of it upon the court of common pleas. But it is very likely that many petty cases brought before justices of the peace under the \$300 limit, confining their jurisdiction, shall eventually be tried out by the court of common pleas, and it is very likely—inasmuch as the court of appeals no longer hear appeal cases de novo, that is to say, tries them anew on the evidence by witnesses produced in that court—and it is fair to assume that the common pleas court will have to try those cases with more care than has been heretofore exercised, and will have to take additional time in so doing, so that a record of the trial in that court where the cases are carefully tried, may be taken by way of review to the circuit court or court of appeals as we have named it. Therefore I say the action already taken by the Convention in adopting the proposal which eliminates the office of the justice of peace and modifies the jurisdiction of the circuit court so that trials will have to be had with more care in the court of common pleas, has, by force of that action, added to the duties of the court of common pleas irrespective of what the legislature may do in the future. The fundamental law as we have changed it, if what we have done is adopted, has already enlarged the duties of the common pleas court.

What is the condition in which we find that court as created under the existing constitution? The constitution of 1851, which probably represents the best that the convention at that time could do, established for the county of Hamilton a single district, not thereafter to be subdivided, and then provided that the residue of the state should be divided up into eight other districts as equitably as might be done. But it seems that before the convention adjourned its work it proceeded to divide up the state and mark out by actual county lines and designate by actual counties what those districts should be. So we have had now and ever since the constitution was adopted nine common pleas judicial districts in the state of Ohio. Now the constitution further provides that any one of those districts may be subdivided, but the subdivision can not pass beyond the numeral three, so there can be no division of any common pleas judicial district into smaller units than an aggregate of three subdivisions. That is awkward. Under the common pleas jurisdiction, therefore, each common pleas judge can only be a judge within the limits of the particular district in which he presides, and he must be elected to office by the votes of those residing within the limits of the subdivision in that district in which he resides.

Now, when it comes to making those subdivisions of common pleas districts, it must be done by the general assembly and it takes a two-thirds vote of that body to establish or change the lines of a subdivision. The consequence is that in framing the subdivisions of each of these common pleas districts there have been all kinds of political logrolling, until you find possibly four or five counties in the district that have been able to band together and get a subdivision made which is not equitable compared with the territory left in the rest of the district, but which nevertheless has been enacted by the general assembly in order to put those four or five

counties into a subdivision where they will either always elect a republican lot of judges or a democratic lot of judges, and unfortunately we can not get away from these subdivisions that have been created under that system, and we are not able even to be relieved to any extent by that act of the legislature which requires the election of judges on a nonpartisan ballot. I just mention that in passing, not that it is anything against the judges or against the men elected to office, although they have been elected on a partisan ballot in the past, and under such arrangement one subdivision belongs to one political party and another subdivision to another political party. Nor is that all of the objection. In order to create the condition where that might exist, the general assembly has frequently made inequitable subdivisions of a political judicial district. Now, it was unfortunate that those districts were defined and crystallized in the constitution, because long before this day the inequalities that existed would have been remedied by the general assembly and we would not now have the condition that confronts us, and this proposal that is offered in here would not be necessary. When we start to get away from the existing conditions we have several things to consider.

1. We can not possibly get along without the court of common pleas holding at least two or three terms a year in each county of the state in order to take care of the legal business that arises in that county. Being a court of such general jurisdiction, it is indispensable. So that we were confronted in the first instance by the thought that possibly the probate court, being one of much more limited jurisdiction, might be abolished, and the power of the probate court conferred on the court of common pleas, and then we would have a court of common pleas to take care of all the trial business before a jury and in equity and exercising functions of a probate court as they are exercised under the present constitution. Accordingly I prepared a proposal of this kind and had it referred to the Judiciary committee. I may be pardoned for saying that that proposal was what we might call a skirmisher, to find out what the Judiciary committee thought about it, and I found out in decided terms that some of the members of the committee would never listen to abolishing the probate court and the conferring of its jurisdiction on the common pleas court, because in some parts of the state that court had become dear to the people and in some parts of the state they considered it an indispensable court, just as indispensable as the court of common pleas. Therefore, by instruction of the Judiciary committee, I prepared two other proposals. One of those proposals is the one now before us and the proposal now before us has within it a provision, as you will see upon examination, that if the people of any county desire to abolish their probate court and confer the powers and jurisdiction of that court upon the court of common pleas they may do so, and, after they try it and find it is not to their best interest that such a thing has been done, they can again by popular vote re-establish the probate court. So that we have a probate court in existence all over the state of Ohio just as it is now, if the people in any community want it, and we have a proposal whereby the probate court can be done away with and merged into the common pleas court in any county of Ohio if the people desire to do so.

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Mr. ELSON: I suppose the sole object of combining the two is to save time and expense and it is intended to apply to the small counties.

Mr. HALFHILL: That is quite right. It has a utilitarian side to it that I will discuss later.

Mr. BEATTY, of Wood: For information I want to ask the author of this proposal a question. This provision says, "There shall be established in each county, a probate court, which shall be a court of record, open at all times." That means "always" does it not?

Mr. HALFHILL: That means open at all times when it is legal to transact business. That is the term used in the present constitution, if I remember correctly.

Mr. KERR: Does not that mean that the court shall not be closed, that it shall have continuous terms?

Mr. HALFHILL: I think the terms are continuous. It means that it shall be open at all business times.

Mr. MAUCK: In those counties which now have no court of common pleas, would one be elected this fall if this proposal is ratified?

Mr. HALFHILL: It expressly says that judges of the common pleas court in office and elected thereto prior to January 1, 1913, shall continue to hold their offices.

Mr. MAUCK: An amendment goes into effect as soon as voted upon?

Mr. HALFHILL: Yes.

Mr. MAUCK: Now if this is adopted this fall, will the counties that have none, elect a judge this fall?

Mr. HALFHILL: That will be taken care of in the schedule, and it will be effectively stated so there will be no friction.

We started out with the assumption that we could not get along without a common pleas court in each and every county. I think that is evident. That is to say, we must hold a court in each county to settle personal disputes and differences and define and protect property rights, because that is a part of our civilization. We must maintain a court in each and every county, but in holding that court we are at the same time at a disadvantage, because we do not have a judge in each and every county; so we thought we could make the central proposal with two objects in view or possibly more.

2. We would wipe out these awkward judicial districts, which ought never to have been in the constitution, by saying the county shall be the unit, the judge shall be elected within the county, the judge shall reside within the county and each county shall have a judge. So we have accomplished that much. We have unshackled the judges so that their authority, if they are assigned thereto, extends to any part of the state of Ohio. I believe after considering what is done in other states, that that is of itself a very beneficial thing.

Mr. WINN: If this amendment is agreed to it makes the judges of the common pleas court county officers.

Mr. HALFHILL: I think not.

Mr. WINN: Do you see any objection to changing section 1 of your proposal so that it would provide that each county of the state shall constitute a common pleas district and one resident judge, and such additional resident judges, etc., shall be elected? The old constitu-

tion provides the state shall be divided into a certain number of common pleas districts.

Mr. HALFHILL: Yes.

Mr. WINN: Would it not be advisable to provide here that each county in the state shall constitute a common pleas district instead of saying that we should elect one judge in each county?

Mr. HALFHILL: No, sir; I think not, because the county is a political subdivision that antedates the constitution, and it is entirely possible that the legislature may want to change the common pleas judicial district. It is entirely possible when the general assembly comes to consider the re-establishing of the districts for the common pleas court that it will make ten districts, and possibly, as population and property increase, twelve districts; and the general assembly may find it a very good arrangement to make a common pleas district co-ordinate with the limits of the circuit court or court of appeals districts and to have a chief justice of the common pleas court elected in that district, etc. So we did not think it was wise to use the word "district" in the constitution because we provide in substance that they shall be elected in a certain limit, to-wit, a county, and that makes it a district.

Mr. WINN: Did you consider carefully as to whether or not this will make the judges county officers?

Mr. HALFHILL: I think it would be impossible that they might be made county officers when it defines them as state officers elected in a county.

Mr. WINN: So is the county treasurer.

Mr. HALFHILL: Yes, but this goes further. This extends the jurisdiction of these officers throughout the state of Ohio. It puts them under the supervision, until the legislature otherwise declares, of the chief justice of the supreme court. It ties up the entire judicial system, one part with the other, so that it seems to me impossible that it should be construed into anything else than a state office and all common pleas judges will be constitutional officers.

Mr. RILEY: Have you figured how many judges you will have under this arrangement?

Mr. HALFHILL: I am coming to that. To look a little further into the economic part of it, the legislature of Ohio has established the salaries of the common pleas judges as follows, in section 2251 General Code of Ohio:

Judges of the common pleas and superior courts, each \$3,000.

Then follows section 2252:

In addition to the salary allowed by the preceding section, each judge of the court of common pleas and of the superior court shall receive an annual salary equal to sixteen dollars for each one thousand population of the county in which he resided when elected or appointed, as ascertained by the federal census next preceding his assuming the duties of such office, if in a separate judicial subdivision. Such additional salary shall be paid quarterly from the treasury of the county upon the warrant of the county auditor. If he resides in a judicial subdivision comprising more than one county, such additional salary shall be paid from the treasuries of the several counties of the subdivision in proportion to such popula-

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tion thereof upon the warrants of the auditors of such counties. In no case shall such additional salary be less than one thousand dollars or more than three thousand dollars.

The time of the delegate here expired and on motion it was extended to allow him to finish his remarks.

Mr. HALFHILL: So that by the limit of this statute the common pleas judges can not be paid less than \$4,000 and his salary can not exceed \$6,000. When you come to look at that feature of it, and when you reckon that with this proposal you can, if you so desire, in the small counties combine two courts, you will see that we have perhaps something here proposed to the people of the state that will not only help greatly in the administration of justice, but will save a considerable amount of money to each county, if it desires to save it, because there are only twenty-two counties in the state that do not have a resident common pleas judge; but those twenty-two counties are frequently part and parcel of an awkward subdivision where by virtue of the situation the people of an entire subdivision are delayed in their matters before the court and it has worked excessive hardships, so that when you take justice right to the home, to every man's door, by saying the court of common pleas shall be within his county and open practically all the year, you have conferred a considerable boon. That on a basis of a salary of \$4,000 a year would only amount to \$88,000. The state of Ohio would be paying for those twenty-two judges to take care of and properly administer justice right at the door of every man; and, as has been said, justice delayed is justice denied.

The condition that exists in some of our counties is not to the credit of the state of Ohio, and it is impossible to escape that condition because of the frequent changes the judges have to make from one county to another. You may realize in a small way the disadvantages when you know that sometimes a judge is presiding over a court and before half of the business is ended he must pick up and go to some other county. Then he comes back the next time and begins all over again, and that in a small way describes what the judge has to contend with in leaving a docket unfinished and never getting through, going from one place to another, leaving unfinished work behind. All of those delays will be done away with if we have some one in each county ready to transact business all the time.

The probate judge by statute gets as a salary \$100 for each one thousand inhabitants for the first fifteen thousand and then he gets \$65 per thousand up to and including the next fifteen thousand and \$55 per thousand up to and including the third fifteen thousand, so that in a county of forty-five thousand population the probate judge himself gets the sum of \$3,400, and in addition to that all of the clerk hire of that court is awarded and paid by the county commissioners out of the county treasury. So you will readily see that in a county of forty thousand or forty-five thousand population with the salary of the probate judge \$3,400 and the addition of the salaries of the clerks and deputies the amount will soon aggregate \$5,000. You could in any county of the state, if desirable, and if the two judges were not necessary, combine those two courts by merging the probate into the common pleas court. And

remember that this salary paid to the probate judge is paid out of the pockets of the people living in the county. Everybody prosecuting business in the probate court where they probate a will or distribute an estate pays a tax in the form of fees which is later transferred to the county treasury and then paid back in the way of salary, so that all of these fees come out of the pockets of the residents of these counties.

Three thousand dollars of the salaries of the judge of the common pleas is already paid by the state because he is a state officer, and the people of the county would not have a great additional amount to pay. If there were forty thousand people in the county they would only have \$640 to pay, based on the existing statute, in order to have the services of a common pleas court and a probate court, if you combine the two.

Mr. REDINGTON: Is it not true that some common pleas judges are drawing their salaries based on the population of the district of which they are part?

Mr. HALFHILL: There was a circuit court case involving that decided in the eastern part of the state some time ago which changed the rule. That case is now in the supreme court, and in my judgment will be reversed.

Mr. REDINGTON: Would not that work a hardship in the small counties, if the small county would have to pay the judge's salary based on the district?

Mr. HALFHILL: It would make the conditions harder on the small counties. Now these twenty-two judges that would be created would have authority to go to any county where they might be needed. For instance, in my county there is a great deal of the time when we ought to have two judges, but we have only one and he is there only part of the time. There are many counties in the northern part of the state, where there are great factories and great industrial establishments, to which the judge could come from some other county for a few weeks and help out in a way that would be very satisfactory.

Mr. BROWN, of Highland: There was a suggestion made to me by the judge of one of the courts in the state to the effect that that particular provision would work a hardship on the judges in that there was no provision made for paying the expenses of travel of the judge in going to the different parts of the state. He would also be subjected to extraordinary charges for living expenses.

Mr. HALFHILL: The judge was misinformed on that point, because there is a provision in the present law allowing expenses to the extent of \$150.

Mr. BROWN, of Highland: That would not amount to much.

Mr. HALFHILL: One hundred and fifty dollars would pay for several weeks' expenses and he would only be called out a few weeks at a time in any one year and he would probably be sent close to his district. The chief justice would attend to that and he would not send a judge clear across the state if it could be avoided.

There is another provision here that you do not want to lose sight of. How many of you gentlemen in this Convention who are not members of the legal profession know those members of the bar in an adjoining county that are qualified to be a judge of a court?

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Mr. DOTY: I know lots of them.

Mr. HALFHILL: You who are not members of the legal profession, or professional politicians, would not know who is qualified to be a common pleas judge, and there will be an advantage in this, that when you get the election down to your own county each individual will very likely have a much more potent influence in selecting a good man for the office of judge than you would if that particular man resided in some one of two or three other counties constituting a subdivision.

Mr. BROWN, of Highland: The laity may not know the fact, but the lawyers no doubt do know the fact that same counties have not a man in it fit to be a judge of the court. What condition would you be in then?

Mr. HALFHILL: It would be a good idea to propagate a few lawyers there. I know of no such conditions existing anywhere in Ohio.

Mr. BROWN, of Highland: I do.

Mr. STILWELL: In what county? Not in yours?

Mr. BROWN, of Highland: Oh, no.

Mr. HALFHILL: They are not in your congressional district, are they?

So when you come to select this judge and come to vote on a nonpartisan ballot you will eventually get more satisfactory judges in those counties where the county is not now of itself a subdivision; and this is something that intimately interests and touches all the people of the state of Ohio.

I think it is necessary to supplement the attempt that has been made to reform the judicial system of Ohio by adopting this proposal, and I hope it will receive the hearty approval of the Convention. I thank you for your undivided and earnest attention.

Mr. PECK: This matter was very thoroughly considered by the committee on Judiciary and Bill of Rights. It was before us a long time. I think it was perhaps more thoroughly discussed than anything we had before us, but it was not out of any difficulty about the first proposition as to the one judge of the court of common pleas for each county. That was one thing that every member of the committee was agreed upon and there was absolutely no opposition to it. The difficulty grew out of the proposition to combine the probate court and the common pleas court. There was a strong party in favor of the abolition of the probate court and the consolidation of the power of that court with the court of the common pleas and there was a still stronger party opposed to that proposition. Finally it was settled by the agreement embodied in the proposal to the effect that any county might have that sort of an arrangement if it voted for it. That is the present arrangement by which the people of the county may consolidate the two courts by a vote if they wish to get rid of one of them.

Now the idea of one judge of the court of common pleas to each county struck every one very favorably. The members from counties other than the one from which I come knew more about it than I did. Personally, I did not come here with much information on the subject, because you notice by reading the constitution of 1851 the county of Hamilton was favored in that matter as it was provided that the county of Hamilton shall constitute a district by itself. We have always had our judges to ourselves and never had any trouble. The average lawyer in Hamilton county does not know there

is any such thing as subdivisions or common pleas districts, and it is only when they meet with the common pleas judges on some formal matter that it occurs to any of us that there is such a thing as a common pleas division. We have had no trouble. It will continue the same if each county has its own judges.

There was great complaint, and many members of the Convention came to me and complained about the situation of the common pleas court in their counties and out of them. They say, "We are districted up with this, that and the other county and we can not get a judge when we want one. Our cases are put off from month to month and year to year. The judge comes once in a while. He is always in a hurry and about the time we get fairly going off he goes and we don't see him for another six months. There is a great deal of trouble and our dockets are all behind and there is a great delay in the administration of justice." So they all got the idea that each county should have the court of common pleas, and it is a correct idea. As I understood it, the principal reason for districting in 1851 was an economic one. The state of Ohio at that time was comparatively poor. You can see from other things in the constitution how extremely economical the convention was, and a number of small counties at that time really had no need for a court of common pleas for themselves, but now there are very few counties in the state that ought not to have a separate court of common pleas, and they will grow up to it in a few years. With the increase of population and business of the state the time is very near when there will be no county in Ohio that will not need a common pleas court, and I do not believe there are any counties in Ohio that can not furnish a man fitted for the position. I don't take any stock in that statement.

Mr. BROWN, of Highland: If you would go among the laymen a little you might get some information.

Mr. PECK: I have seen lawyers from a good many parts of the state and I do not believe there is any one here who will admit there is any county in his district that hasn't a lawyer fit to be judge of the common pleas court. I do not think you will get anybody to rise on the floor of this Convention and admit it. I do not know of any such county and I have not heard of one. The statement was a surprise, but if there should be such counties they can take a layman until they can grow a lawyer, as suggested by the member from Allen. The truth of the matter is there ought to be a court of common pleas in each county, and the slight difference in the matter of expense ought not to cut any figure in consideration with the great gain that is made in the convenience of the people. These courts are the creatures of the people. The court of common pleas has always been the court of the people of Ohio, as its name indicates. It has great general jurisdiction, legal and equitable, civil and criminal.

Mr. DWYER: And this gives the common pleas court jurisdiction all over the state.

Mr. PECK: Jurisdiction is given in every county. They can hold a court in any county of the state when the chief justice sends them there. The chief justice will say, "Mr. Judge, go over into such a county and hold court," and the judge goes over there and proceeds to hold the court. It is a system that ought to work

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well. Of course the proof of the pudding is in the eating, but so far as can be foreseen by anybody — and there were several ex-judges on the committee and we had the advice and assistance of Mr. Halfhill, the proposer of the measure — we believe that this is a valuable reform and a good thing for the state of Ohio, and that it will assist in the speedy administration of justice, which is one of the reasons why I insisted upon the adoption of Proposal No. 184, providing for a reform of the supreme court and the institution of a court of appeals.

This is supplementary to that, and it ought to be carried out. This is a court in which a great many more of the people are directly interested than are interested either in the supreme court or the court of appeals. It is the court of the people and the one to which they ordinarily resort whenever legal remedies are required.

Mr. BROWN, of Highland: It requires a good deal of temerity for a layman to speak on a legal subject, but I have had a great deal of interest in this proposal and have considered it and followed it carefully through all its forms. I have concluded it is a good thing if we can afford it. It is a matter of \$88,000 to the state. It provides a court in every county and it gives the people of the county the privilege of having only one court, of merging the common pleas court and the probate court into one court. The opposition to the abolition of the probate court is because of the relations of the probate judge with his clientele or constituency and because of the personal, intimate, fraternal and paternal interest that the probate court has been giving in matters of expediency and advice to the patrons of the court. The common pleas judge could not do those things, because the matters might be afterwards brought before him in the court of common pleas and he would be disqualified from sitting in the case, or he might be compelled to nullify his own advice as probate judge because his advice would be incompatible with the law as he afterwards found and it would be contradictory of the constitution. I find, however, after these things have been discussed, and from interviews with a number of people, that there are a great many in different counties of the state who are strongly in favor of abolishing the probate court. In those counties under this proposal that thing can be done in accordance with the wishes of the people and in the interest of economy. I think before this proposal would be in effect very long there would be enough counties that would deem it advisable to abolish one of the courts, and have only the common pleas court, to make up for the added expense we have provided for in this proposal.

Some time ago, in a most extreme emergency, I was justified in getting out an injunction, as everybody recognized and fortunately we had a judge in the town. I secured this injunction, which was of vast importance to me and to others, as it was a case in which we had rights that were important. If the judge had been in Madison county, which is in the judicial district where I live, I would have had to secure a hearing in Madison county; the necessity for an injunction would have been past, and the damage the injunction prevented would have taken place long before we could have done anything. I have talked with a number of gentlemen on this floor who are similarly situated and they are asking for relief. I believe we can give it to them, and I am per-

fectly confident there is not a man on the floor, lawyer or layman, who does not know it is a good thing. I think the counties that do not need two courts will soon have only one. We will thus save the state a great deal of money and furnish a court to every man to which the people can go in an emergency. I am in favor of the measure and I think everybody should vote for it.

Mr. OKEY: I move the previous question.

The main question was ordered.

The PRESIDENT: The question is on the passage of the proposal.

The yeas and nays were taken, and resulted — yeas 94, nays 12, as follows:

Those who voted in the affirmative are:

Anderson,	FitzSimons,	Moore,
Antrim,	Fox,	Norris,
Baum,	Hahn,	Nye,
Beatty, Morrow,	Halenkamp,	Okey,
Beatty, Wood,	Halfhill,	Partington,
Beyer,	Harris, Hamilton,	Peck,
Bowdle,	Harter, Huron,	Peters,
Brattain,	Harter, Stark,	Pettit,
Brown, Highland,	Henderson,	Pierce,
Brown, Lucas,	Hoffman,	Read,
Brown, Pike,	Holtz,	Redington,
Campbell,	Johnson, Madison,	Rockel,
Cassidy,	Jones,	Roehm,
Collett,	Kehoe,	Rorick,
Colton,	Keller,	Smith, Geauga,
Cordes,	Kerr,	Smith, Hamilton,
Crosser,	Kilpatrick,	Solether,
Cunningham,	King,	Stalter,
Davio,	Knight,	Stamm,
DeFrees,	Kramer,	Stevens,
Donahey,	Kunkel,	Stilwell,
Doty,	Lambert,	Stokes,
Dunlap,	Lampson,	Taggart,
Dwyer,	Leete,	Tannehill,
Earnhart,	Leslie,	Thomas,
Eby,	Ludey,	Ulmer,
Elson,	Marshall,	Wagner,
Evans,	McClelland,	Watson,
Fackler,	Miller, Crawford,	Weybrecht,
Farnsworth,	Miller, Fairfield,	Winn,
Farrell,	Miller, Ottawa,	Wise.
Fess,		

Those who voted in the negative are:

Dunn,	Johnson, Williams,	Riley,
Fluke,	Longstreth,	Shaw,
Harbarger,	Malin,	Stewart,
Hursh,	Mauck,	Tetlow.

So the proposal passed as follows:

Proposal No. 304 — Mr. Halfhill. To submit an amendment to the constitution. — Relative to amending sections 1, 3, 12, and 15, or article IV, so that each county will elect at least one judge of the court of common pleas.

Resolved, by the Constitutional Convention of the state of Ohio, That a proposal to amend the constitution shall be submitted to the electors to read as follows:

SECTION 1. That section 3, article IV, be amended to read as follows:

One resident judge of the court of common pleas, and such additional resident judge or judges as may be provided by law, shall be elected in each county of the state by the electors of such county; and as many courts or sessions of the court of

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common pleas as are necessary, may be held at the same time in any county.

Any judge of such a court of common pleas may temporarily preside and hold court in any county; and until the general assembly shall make adequate provision therefor, the chief justice of the supreme court of the state shall pass upon the disqualification or disability of any judge of the court of common pleas and assign some other judge for such place, or assign any such judge to another county to hold court therein.

SECTION 2. That section 7 of article IV be amended to read as follows: There shall be established in each county, a probate court, which shall be a court of record, open at all times, and holden by one judge, elected by the voters of the county, who shall hold his office for the term of four years, and shall receive such compensation, payable out of the county treasury, as shall be provided by law. But the general assembly may provide by law to submit to the electors of any county the question of combining the court of common pleas and probate court in such county and provide that such courts shall be combined in any county where a majority of the electors at such election shall so vote. And provision may also be made for similar submission to the electors of the question of the separation of such courts in each county where the same may have been combined and for such separation when a majority of such electors shall so vote.

SECTION 3. That section 12, of article IV, be amended to read as follows:

The judges of the courts of common pleas shall, while in office reside in the county for which they are elected; and their term of office shall be for six (6) years.

SECTION 4. That section 15, of article IV, be amended to read as follows:

The general assembly may increase or diminish the number of judges of the supreme court, may increase beyond one or diminish to one the number of judges of the court of common pleas in any county, or may establish other courts, whenever two-thirds of the members elected to each house shall concur therein; but no such change, addition or diminution shall vacate the office of any judge; and any existing court heretofore created by the general assembly shall continue its existence until otherwise provided by law. The judges of the courts of common pleas in office, or elected thereto prior to January first, 1913, shall continue to hold their offices for the term for which they were elected.

Under the rules the proposal was referred to the committee on Arrangement and Phraseology.

Mr. DOTY: There are two proposals on the calendar which have not been referred, and I move that the rules be suspended and the two proposals be referred to the proper committees.

The motion was carried.

Proposal No. 332 — Mr. Dunlap. To the committee on Equal Suffrage and Elective Franchise.

Proposal No. 333 — Mr. Peck. To the committee on Judiciary and Bill of Rights.

By unanimous consent the following proposal was introduced and read the first time:

Proposal No. 334 — Mr. Jones. To submit an amendment to article II of the constitution. — Relative to the creation of a system for the registration and guaranteeing of land titles and to simplify and facilitate the transfer of real estate.

By unanimous consent Mr. Stilwell offered the following resolution:

Resolution No. 109:

Resolved, by the Constitutional Convention of the state of Ohio, That the Honorable William H. Lewis, Assistant Attorney General of the United States, be invited to address the Convention Tuesday morning, April 30, at 9:30 o'clock.

Mr. STILWELL: I move that the rules be suspended and that we consider the resolution at once.

DELEGATES: No.

Mr. STILWELL: I suggest that the gentleman is in the city at this time —

Mr. PECK: Well, we don't want him.

Mr. STILWELL: —and the hour set will not disturb the Convention.

The motion to suspend the rules was lost.

Mr. FACKLER: I ask unanimous consent to submit a report of the Short Ballot committee.

Consent was given and Mr. Fackler submitted the following report:

The standing committee on Short Ballot, to which was referred Proposal No. 16 — Mr. Elson, having had the same under consideration, reports it back with the following amendment and recommends its passage when so amended:

Strike out all of line 9 after the words "Term of office" and all of line 10 up to the period — and insert in lieu thereof the following: "The governor, lieutenant governor and auditor of state, shall hold their offices for four years, beginning with the officials elected in 1914. The auditor of state elected in 1912 shall hold his office for two years only."

Mr. HOSKINS: Where does that report go?

The SECRETARY: It is up for consideration now.

The VICE PRESIDENT: This is a report from a select committee to which this was sent.

Mr. HOSKINS: Why doesn't it take its place at the foot of the calendar?

Mr. DOTY: Is not this the situation? The Convention referred the proposal to the committee and the committee reports back, recommending an amendment. Is not the amendment before the Convention now? If we adopt the amendment and it amends the proposal then it goes on the calendar.

The VICE PRESIDENT: The presiding officer understands that we were considering the second reading of the proposal. It was referred back to the committee and this committee now reports it back with an amendment. It will be placed on the calendar, but the question now is on agreeing to the committee's report.

The report of the committee was agreed to.

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Mr. DOTY: Inasmuch as this particular proposal has been engrossed and read the second time, it does not come within our rule and I do not know exactly where it goes. My own idea would be that it goes to the foot of the calendar.

Mr. HOSKINS: I move that the proposal be placed at the foot of the calendar.

Mr. DOTY: For tomorrow? That means about two weeks.

The motion was carried.

Mr. PECK: I have a little bunch of things here that my committee worked on yesterday, which I would like to present.

Consent was given and Mr. Peck submitted the following report:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 25 — Mr. Bowdle, having had the same under consideration, reports it back with the recommendation that it be indefinitely postponed.

Mr. Doty moved that further consideration of the proposal be postponed until tomorrow and that it be placed on the calendar for that day.

The motion was carried.

Mr. Peck submitted the following report:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 3 — Mr. Thomas, having had the same under consideration, reports it back with the recommendation that it be indefinitely postponed.

The report was agreed to.

Mr. Peck submitted the following report:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 165 — Mr. Stilwell, having had the same under consideration, reports it back with the recommendation that it be indefinitely postponed.

The report was agreed to.

Mr. Peck submitted the following report:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 318 — Mr. Thomas, having had the same under consideration, reports it back with the recommendation that it be indefinitely postponed.

The report was agreed to.

Mr. Peck submitted the following report:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 289 — Mr. Fluke, having had the same under consideration, reports it back with the recommendation that it be indefinitely postponed.

The report was agreed to.

Mr. Peck submitted the following report:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 278 — Mr. Bowdle, having had the same under consideration, reports it back with the recommendation that it be indefinitely postponed.

The report was agreed to.

Mr. Peck submitted the following report:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 156 — Mr. Davio, having had the same under consideration, reports it back with the recommendation that it be indefinitely postponed.

The report was agreed to.

Mr. DOTY: It appears that the author of Proposal No. 15 [Mr. RILEY] the other day moved under the rules to take that proposal from the committee, and therefore the committee did not have it to report out. So if there is no objection I move that it be recommitted to the committee so it can come out in regular order.

The motion was carried.

Mr. PECK: Now I bring the report out as follows:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 15 — Mr. Riley, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

Strike out the words "and such" at the end of line 9 together with all of lines 10 and 11 and in lieu thereof insert the following: "and the number of persons to constitute such grand jury and the concurrence of what number thereof shall be necessary to find such indictment shall be determined by the general assembly."

In line 16 strike out the words "or district".

In line 17 strike out the parenthetical mark "(".

In line 22 strike out the parenthetical mark ")".

In line 24 change the first comma to a semi-colon and insert immediately thereafter the words "but his failure to testify may be considered by the court and jury and the same may be made the subject of comment by counsel."

In line 24 strike out the word "or" and in lieu thereof insert as follows: "No person shall".

In line 24 change the semi-colon to a period and strike out all of the proposal thereafter.

The report was agreed to. The proposal was ordered to be engrossed and read the second time in its regular order.

On motion of Mr. Peck the proposal as amended was ordered printed.

Mr. Peck submitted the following report:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 315 — Mr. Smith, of Geauga, having had the same under consideration, reports it back and recommends its passage.

The report was agreed to.

The proposal was ordered to be engrossed and read the second time in its regular order.

Mr. Peck submitted the following report:

The standing committee on Judiciary and Bill of Rights, to which was referred Proposal No. 152 — Mr. Brown, of Highland, having had the same under consideration, reports it back with the following amendment, and recommends its passage when so amended:

Strike out all after line 3 and in lieu thereof

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insert the following: "The business of buying, selling or handling foodstuffs shall not be subjected to any license or other charge by any municipality."

The proposal was ordered to be engrossed and read the second time.

Leave of absence for the remainder of the week was granted to Mr. Rorick.

Leave of absence for today was granted to Mr. Walker. Mr. Doty moved that the Convention adjourn until 9 o'clock a. m. tomorrow.

Mr. Hoskins moved to amend the motion by striking out the figure "9" and inserting in lieu thereof the figure "10".

The motion to amend was lost.

The original motion was carried.