

FIFTY-SEVENTH DAY

MORNING SESSION.

TUESDAY, April 16, 1912.

The Convention met pursuant to adjournment, was called to order by the president and opened with prayer by the Rev. P. H. Chappelle, of Columbus, Ohio.

The journal of yesterday was read and approved.

Indefinite leave of absence was granted to Mr. Harter, of Huron.

Leave of absence was granted Mr. Watson on account of illness.

Consideration of Proposal No. 163 was resumed.

The PRESIDENT: The question is on the adoption of the substitute of the member from Erie [Mr. KING] to Proposal No. 163.

Mr. KING: I have redrafted that amendment and I ask unanimous consent to withdraw the amendment heretofore offered and substitute my redraft for it. It presents the question fully and fairly.

Consent was given, the former amendment was withdrawn and the following amendment was offered:

Strike out all after the enacting clause and the pending amendment and insert the following:

"No person shall be elected to any office in this state or appointed to fill a vacancy in any such office unless possessed of the qualifications of an elector, but this provision shall not be construed to prevent the appointment of female citizens of this state to any office or position of honor, trust or profit, which office or position is by law only to be filled by appointment."

Mr. MILLER, of Crawford: I would like to state briefly my opposition to the amendment offered by Judge King. I feel that I am speaking for the Ohio Federation of Women's Clubs in this matter, and I favor the Harris amendment as reported as a substitute for the report of the committee. The reason the women of the state do not ask for all the appointive positions to be opened to them is that they think if the woman's suffrage proposition goes through they will be eligible not only to appointive but to elective positions. Should the woman's suffrage proposal be defeated, they are afraid that this proposal will fail too. Therefore, they favor this modified form of allowing appointments to positions in institutions where women and children are concerned. They do not care to hazard their chances by demanding too much.

Mr. STEVENS: If it were not already agreed to submit the proposition of woman's suffrage to the people of Ohio I would be in favor of the King amendment. I am in favor of woman's suffrage. We are going to submit that question of equal suffrage, and if that carries it will, of course, carry with it all the privileges that are contained in the King amendment. On the other hand, if the proposition for equal suffrage should meet with the opposition of the voters of Ohio, the King amendment would fall with it and be destroyed by the same vote that destroys equal suffrage. The King

amendment and equal suffrage are governed by the same principle. Consequently I believe the people who are in favor of equal suffrage would have more chance by having all their eggs in one basket. I favor the Harris amendment, because it is entirely possible for the Harris proposition to carry and the equal suffrage proposition to fail. In that event the equal rights for women would make a step forward anyhow. If we adopt the King amendment and lose the equal suffrage we will lose both. We have two chances with the Harris amendment and only one the other way. I hope the King amendment will not prevail, not because I do not think it is a good thing, and not because I would not favor it as an abstract proposition, but I hope the King amendment will fail and the Harris amendment be carried.

Mr. STOKES: The women's clubs of Ohio, representing a membership of 14,000, that agitated this question, were not for opening the way for women to hold office, but for opening a way to put women in charge of these institutions where the interests of women and children are involved. The agitation of this matter was caused by the condition of the Girls' Home at Delaware, and they do not want to enlarge the sphere of women so far as holding office, but only to the extent of bettering the condition of women and children in certain institutions and I hope and trust that this report of the committee will be adopted. It has been before the committee as many as half a dozen times. The women from different parts of the state have been before the committee and have argued the different questions, and not any of them have taken the position that they want the Convention to adopt a measure as broad as the King amendment. While I agree with him in many respects in the amendment, I disagree with him this time because the women of Ohio do not want it, and I hope the King amendment will be defeated and the measure adopted.

Mr. KING: Of course, I shall have no objection at all to that which is sought by the committee's report. I believe when this is incorporated as these gentlemen wish it done, it leaves a good deal to be determined. They leave to be determined the question of what institutions there are where the interests of the women and children are involved. This might include all the penal institutions of the state, the penitentiary and the state reformatory. If, therefore, we leave open to the appointing power the determination of availability and feasibility of appointing women to hold any appointive offices in the state, as I said last night, too many will not be appointed.

Mr. RILEY: Have you taken into consideration the fact that we are liable to adopt the short ballot and that by this amendment you will make women eligible to be appointed to everything, the office of attorney general and everything else?

Mr. KING: I didn't take that into consideration because I didn't know just where the short ballot is. If what I hear about it is true, it never will be adopted.

Mr. RILEY: The proposition has been sweetened and it is liable to be adopted.

Eligibility of Women to Certain Offices.

Mr. KING: But what sweetens it for one side spoils it for the other.

Mr. RILEY: Don't you consider this is involved in the short ballot proposition?

Mr. KING: No; I am not thinking about that. I cannot understand how gentlemen who so ardently supported the equal suffrage proposal which gave open door for all appointive offices, and elective offices as well, to women, oppose the opening of the door as far as can be to appointive positions. This is short and it says what it means. It leaves nothing for construction and it ought to be adopted.

Mr. HARRIS, of Ashtabula: The point which Judge King seems to bring out here prominently in the extent and scope of this proposal is a little indeterminate. All of those things were considered in the committee and it is true that it might require a decision of the supreme court to determine just how far women are eligible and where the eligibility ceases. But this is true, that if the substitute offered by the Judge should be approved by the Convention, there would be no discretion left with the governor so far as eligibility of women is concerned, and it might be somewhat embarrassing in some cases to make a choice. The conclusion of the committee was that it would be easier and less embarrassing for the governor to make a choice under the proposal with the amendment offered last evening by myself than if it opened the door completely. There is not any phase of this matter that has not been gone over by the committee. I apologize to Judge King for not enumerating his proposal when I enumerated the others last night. There were four proposals including that of Judge King.

I do not know that I can say anything in addition to what I have said and it would be somewhat of a repetition. The question is one that each delegate should settle for himself. The member from Tuscarawas touched upon a point worthy of consideration. We want to accomplish something, even if we fail in accomplishing all that we desire.

Mr. WINN: I am in favor of the substitute offered by the delegate from Erie [Mr. KING] and I want to tell why.

I can not agree that the adoption of the substitute will weaken the proposal in the eyes of the voters. I am of the opinion that if the substitute is adopted and the proposal as amended by it is submitted to the electors it will be approved. If there is any danger at all of the failure of the electors of the state to approve woman's suffrage, then let us have in lieu of it the very best obtainable. I do not know that there is anything to be alarmed about in the fact that the short ballot may be adopted by us and ratified by the people. Indeed, if I were sure that the short-ballot proposal would receive favorable consideration at our hands and would then be approved by the people, I would be ten times more in favor of the King proposal than I am now.

It is my judgment that all the electors of the state who are opposed to woman's suffrage, and who will vote against it, will vote in favor of the proposition to make them eligible to appointment. It will be understood by every man who comes to vote that it will only secure appointments of women to positions for which they are best qualified. Of course, it may sometimes be embarrassing to the governor to decide between some applicants

for appointment for an important position, the applicants being women, but the same thing applies to men. The governor is often embarrassed because there are different applicants for appointment to the same position, but even with this, there are within the hearing of my voice a goodly number of gentlemen anyone of whom is willing to take upon himself that embarrassment. Let us do the best we can for the women of this state. Of course, it may be that fourteen thousand members of the women's clubs of the state—and they are splendid women—would not prefer in this matter to go to the extent of the amendment offered by the gentleman from Erie [Mr. KING]. But they are comparatively few in number. Fourteen thousand is a very insignificant part of all the women of the state. We haven't heard from many of the women of the state, and I doubt very much if many of them have been called upon to express an opinion directly whether they would prefer the original proposal or the amendment of the delegate from Erie [Mr. KING]. I am in favor of the amendment for the simple reason suggested by its author and also for the reason that it removes from consideration the necessity to call upon some court or tribunal to determine who are eligible to appointment under the original proposal. We can just as well remove that—we can broaden the scope of the proposal and it will stand just as good a chance of being adopted as though it opened to the women of the state only one-half as many offices. Those in favor of woman's suffrage simply seek to accomplish that much more. I am in favor of the King amendment.

Mr. HURSH: I voted for woman's suffrage, but it is very problematical at best whether woman's suffrage is going to carry in the state of Ohio. The Legislative committee considered this proposal very carefully and at length. They finally reported out the proposal, and later some women, representing the Ohio Federation of Women's Clubs, came to us and stated their suggestions and we took them up and tried to comply with them, and the result we have in the Harris amendment. We went as far as the women before us asked us to go. If we load this proposal down with the King amendment the result will be that it will stand in the same category as woman's suffrage and you can not expect it to have any more strength. We want to give the women something along this line. We want to give them the superintendence of those institutions in which women and children are interested, but if we put these amendments in this proposal it will be involved in the fight against woman's suffrage, and if woman's suffrage goes down this proposal necessarily must go down with it and we will have nothing. This is the right step and a long one in the proper direction. If we are to accept the amendment of the delegate from Erie [Mr. KING] the result is, assuming woman's suffrage fails, the women will have a right to fill all the appointive offices in the state without the right of ballot, and if we succeed in getting the short ballot the women will have a right to apply and will apply for every position they can get in the state and counties and other political subdivisions. These arguments will be made against the proposal. I believe the amendment of the delegate from Ashtabula [Mr. HARRIS] should be adopted, and fear if we add to it the amendment of the delegate from Erie [Mr. KING] the whole proposal will go down.

Eligibility of Women to Certain Offices.

Mr. STOKES: I move that the amendment of the delegate from Erie [Mr. KING] be laid on the table.

The motion on a division was carried.

The PRESIDENT: The motion to table is carried. The question is now on the amendment of the delegate from Ashtabula [Mr. HARRIS].

Mr. ANDERSON: I want to call the attention of the Convention to the proposition in the Harris amendment. It is a well-known rule of law that where you attempt to enumerate the law only applies to the things enumerated. Do you not in your amendment, Mr. Harris, mention certain positions to which women may be appointed, and then you try to make a general provision at the end? Really, doesn't your amendment fall short of what you are attempting to do?

Mr. HARRIS, of Ashtabula: I think the objection offered by the delegate from Mahoning [Mr. ANDERSON] is a little too farfetched. I think the punctuation will prevent difficulty, if he will read it as it should be read. In the first instance, to illustrate, one suggestion was that women should be eligible to library boards. We promptly cut out the "library" and if it is properly read it will avoid all difficulty. We did not intend to indicate any particular boards or particular departments, but any position in which the interest or care of women and children or both were involved.

Mr. ANDERSON: Why would not this, added to the King proposal, settle the whole matter? I like the King amendment better than I do the Harris amendment, for the reason that it seems to me clear and does not admit of different interpretations. Would there be any objection to this: "No person shall be elected to any office in this state or appointed to fill a vacancy in any such office unless possessed of the qualifications of an elector, but this provision shall not be construed to prevent the appointment of female citizens of this state to any office or position of honor, trust or profit in institutions of the state wherein the interests of women or children are involved."

Does not that give you everything you ask for and in better form?

Mr. HARRIS, of Ashtabula: The matter of form is a matter of opinion.

Mr. ANDERSON: In other words, add to Proposal No. 163 "in those institutions of the state wherein the interest of women and children are involved."

Mr. KING: In enumerating you have left out the notaries public.

Mr. ANDERSON: I didn't enumerate.

Mr. HARRIS, of Ashtabula: I can not admit that the question the gentleman raised is pertinent.

Mr. THOMAS: The amendment of the gentleman from Mahoning does not include "departments." It should include the word "department" where the women are employed. It does not include boards of charity, and the women make a special request that that should be enumerated. I think the amendment of the delegate from Ashtabula covers all of the subject.

Mr. BROWN, of Highland: I think this proposal should be changed to read: "Provided that nothing in this section nor in the constitution shall prevent the appointment of women who are citizens as notaries public and to positions in charge of departments or institutions established by the state or any political subdivision thereof

where the interests or care of women or children or both are involved."

I would suggest that by general consent this change be made. It at least would simplify the language and confine the appointment of women to positions in the institutions as originally desired by the committee.

Mr. STOKES: Would not that eliminate inspectors of workshops?

Mr. BROWN, of Highland: Yes, I think it would; but I do not understand that the proposal is attempting to give any privileges except in institutions where women and children are involved.

Mr. STOKES: Are not women and children involved in workshops?

Mr. BROWN, of Highland: Then the workshops would be included. I don't see anything in the Harris amendment about workshops.

Mr. THOMAS: The word "department" covers that whole subject.

Mr. BROWN, of Highland: Then I was in error in interpreting the purpose of the proposal. I was only trying to simplify it.

Mr. FOX: As a member of this committee I want to say that we have not had a proposal before us that has taken up as much time as this proposal now under consideration. We have had more than half a dozen meetings, and have had various parties before us. I am satisfied we have done the best we could and the more you try to change it the worse it will be. The committee gave all the women of Ohio asked for, and I hope it will be adopted as presented.

Mr. WINN: I wish while you are on your feet you would explain to the Convention why your committee, after so much deliberation, made use of this particular language: "Provided that nothing in this section nor in the constitution."

Mr. FOX: Is that in the substitute of Mr. Harris?

Mr. WINN: Yes.

Mr. FOX: I don't understand about that.

Mr. KING: I offer an amendment.

The amendment was read as follows:

Strike out "women who are citizens," in the amendment offered by Mr. Harris, of Ashtabula, and insert "female citizens of this state".

Mr. HURSH: Does not the committee on Arrangement and Phraseology attend to things like that? We have given quite extended consideration to the proposal and have tried to cover the subject. We have the essence of the proposition in good shape and I hope without further quibbling this proposal will pass.

Mr. KING: If we are going to pass it at all, we ought to pass it in the best form that we can give it. We cannot shoulder everything off on the committee on Arrangement and Phraseology. Our work is to get things in proper shape and this is a proper correction, not changing at all the meaning or sense of the proposal, but simply putting in a better expression.

Mr. THOMAS: The women are opposed to putting the amendment of Judge King in the proposal. I think the matron at Delaware was brought here from Indianapolis or some point outside of the state because she is an expert in that class of work. The amendment of Judge King would prohibit the employment of any women

Eligibility of Women to Certain Offices — Omitting Word "White."

other than those who are citizens of Ohio. The language as used in the amendment would make the same provision for the appointment of women as for men and it should be left as it is.

Mr. KING: I do not understand that under the constitution of Ohio any person can hold an office in this state who is not a citizen of the state, whether a man or a woman. The employment of a person is a different thing from holding an office. Please bear that in mind. An office is created by the constitution or a law passed pursuant thereto, and a person to hold any office must be a citizen of Ohio. That is why we are trying to pass this, in order to make them who are not electors eligible to office.

Mr. BROWN, of Highland: I would ask the chairman of the committee if this proposal means that women shall be appointed as members of boards of any department relating to the work of women and children? My interpretation is that it admits of the appointment of women to all boards and departments and that would include the penitentiary and state board of agriculture and all of those different places.

Mr. HARRIS, of Ashtabula: Certainly it would permit their appointment on the penitentiary board. As to the board of agriculture I doubt that.

Mr. BROWN, of Highland: Is not the "all boards" language that will allow them to be appointed to any board where women and children are involved?

Mr. HARRIS, of Ashtabula: Certainly; I think it permits their appointment to every board where women and children are involved.

Mr. BROWN, of Highland: But would it not permit them to be appointed to all boards whether the women and children are involved or not?

Mr. HARRIS, of Ashtabula: That is not the opinion of the committee and not mine. As properly read it does not admit of what you say. For instance, there would not be any question as to the reformatory at Mansfield. There are no women there. It might apply to the state penitentiary, because there are some women down there, unfortunately. I think the distinction is easily seen by a person who wants to see a distinction.

Mr. MILLER, of Crawford: I move that the amendment of the member from Erie [Mr. KING] be laid on the table.

The motion was carried.

Mr. FESS: I now move the previous question.

The previous question was regularly demanded, and, a vote being taken, the main question was ordered.

The PRESIDENT: The question is on the adoption of the amendment of the delegate from Ashtabula [Mr. HARRIS].

The amendment was agreed to.

The PRESIDENT: The question is now on the passage of the proposal as amended and the secretary will call the roll.

The yeas and nays were taken, and resulted — yeas 99, nays 1, as follows:

Those who voted in the affirmative are:

Anderson,	Bowdle,	Colton,
Antrim,	Brattain,	Cordes,
Baum,	Brown, Highland,	Cunningham,
Beatty, Morrow,	Campbell,	Davio,
Beatty, Wood,	Cassidy,	DeFrees,
Beyer,	Collett,	Donahey,

Doty,	Keller,	Riley,
Dunlap,	Kilpatrick,	Rockel,
Dunn,	King,	Roehm,
Earnhart,	Kramer,	Rorick,
Eby,	Kunkel,	Shaw,
Elson,	Lambert,	Smith, Geauga,
Farnsworth,	Lampson,	Smith, Hamilton,
Farrell,	Leete,	Solether,
Fess,	Leslie,	Stalter,
FitzSimons,	Longstreth,	Stamm,
Fluke,	Ludey,	Stevens,
Fox,	Malin,	Stewart,
Hahn,	Marriott,	Stilwell,
Halenkamp,	Mauck,	Stokes,
Halfhill,	McClelland,	Taggart,
Harbarger,	Miller, Crawford,	Tallman,
Harris, Ashtabula,	Miller, Fairfield,	Tannehill,
Harris, Hamilton,	Miller, Ottawa,	Tetlow,
Harter, Stark,	Moore,	Thomas,
Henderson,	Nye,	Ulmer,
Hoffman,	Partington,	Wagner,
Holtz,	Peck,	Walker,
Hursh,	Peters,	Watson,
Johnson, Madison,	Pettit,	Winn,
Johnson, Williams,	Pierce,	Wise,
Jones,	Read,	Woods,
Kehoe,	Redington,	Mr. President.

Mr. Brown, of Pike, voted in the negative.

This roll was called by the member from Cuyahoga [Mr. Doty.]

Mr. BEATTY, of Wood: A point of order. I want to call the attention of the Convention to the fact that one of the rules has been violated. There is a rule that says no one shall be at the secretary's desk except the clerks.

Mr. DOTY: You are right. The rule was violated and I will leave.

So the proposal passed as follows:

Proposal No. 163—Mr. Miller, of Crawford. To submit an amendment to article XV, section 4 of the constitution. — Relative to who eligible to office.

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:

No person shall be elected or appointed to any office in this state unless possessed of the qualifications of an elector; provided that nothing in this section nor in the constitution shall prevent the appointment of women who are citizens, as notaries public, or as members of boards, or to positions in those departments and institutions established by the state or any political subdivision thereof, where the interests or care of women or children or both are involved.

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

The PRESIDENT: The next business is Proposal No. 5 by Mr. Cunningham.

The proposal was read the second time.

Mr. CUNNINGHAM: There are a number of amendments to article V, and I think they are unimportant except one. I therefore move to strike out all the proposal after the word "elections" in line 8.

The amendment was read as follows:

Strike out all of said proposal after the word "elections" in line 8.

Omitting Word "White."

The SECRETARY: That strikes out the last sentence in line 8.

Mr. CUNNINGHAM: That last line is section 6 of article V, of the constitution as now existing. My object is simply to strike out the word "white" in the constitution and leave everything else just as it was. While the proposal contemplated an amendment allowing citizens in the military service of the country and state to vote, I think that has been covered by the supreme court; therefore it is not necessary, and my idea about amending the constitution is to let it alone where it is all right and simply to amend where it is absolutely necessary. In order to get the word "white" out we have to amend only section 1. If this amendment prevails, the only change in that section will be the striking out of the word "white."

A vote being taken, the amendment offered by the delegate from Harrison [Mr. CUNNINGHAM] was agreed to.

Mr. KING: I want to offer an amendment. There is no use having a half dozen amendments to the same section. Proposal No. 242, which has been reported in this Convention favorably and which is on the calendar, should go in as section 2 of this proposal.

The amendment was read as follows:

Insert as section 2 the following:

"All elections shall be either by ballot or mechanical device or both preserving the secrecy of the ballot. The general assembly may regulate the preparation of the ballot and determine the application of such mechanical device".

The amendment was agreed to.

The PRESIDENT: The question is on the adoption of the proposal as amended.

Mr. FACKLER: I move that the vote by which that amendment was adopted be reconsidered.

Mr. DOTY: I move to lay that motion to reconsider on the table.

A vote being taken on the motion to table, the president announced that it seemed to be carried.

A division was called for and the vote being taken, the motion to lay on the table the motion to reconsider was lost.

Mr. FACKLER: There is a reason for that, and I want to call attention to it.

The PRESIDENT: The question now is, Shall the motion adopting this amendment be reconsidered?

Mr. KILPATRICK: What is the amendment?

The PRESIDENT: The amendment adds this section to provide for voting by the use of a machine. That was adopted and then the motion was made to reconsider the vote by which that amendment was adopted. There was a motion to table that, which was lost, and now the question is on the reconsideration.

Mr. FACKLER: My reason for not wanting Proposal No. 242 inserted as an amendment to Proposal No. 5 is that the sole object of Proposal No. 5 as now before us is to strike out the word "white." The form of submission of Proposal No. 5 will have to be different from the form of any other proposal. It will be provided that Proposal No. 5 shall be a part of the organic law unless the proposal providing for woman's suffrage is made a part of the constitution. If we put the pro-

posal of Mr. Roehm in this proposal and woman's suffrage carries, Mr. Roehm's proposal will be lost with this one. Let us not tie the two things together because of the peculiar method in which Proposal No. 5 will have to be submitted, lest we have two conflicting and contradictory amendments carried to the constitution.

Mr. KING: When the provision is made about the submission it can simply be stated that if the proposal is adopted and the proposal providing for equal suffrage carries that section 1 of this proposal shall be null and void. That has not anything to do with section 2. You can well say in your form of submission that if woman suffrage carries, section 1 of this will be null and void. That still leaves section 2 which provides the manner of election. My objection to making it a separate proposal is that we are going to run up into a large number of proposals to which the electorate will give absolutely no consideration.

Mr. KILPATRICK: This Proposal No. 5 is based entirely on a question of sentiment. The idea is to strike out of the present constitution so far as this section or article is concerned the word "white." All of us know that the colored electors of the state vote by virtue of an amendment to the federal constitution. By Proposal No. 91 we have stricken out the words "white male," and if that carries it takes care of the proposition covered in this proposal. I think every one here will agree that if we get into complications over this section and this article it will have a tendency to confuse the electors when this proposition is put up to them and the result will be to beat the whole thing. As I said in the beginning, this is a matter of sentiment purely and there is not a single colored person in the state of Ohio who has the qualification of an elector who has not the right of suffrage. Proposal No. 91 covers the entire proposition and I believe the members of this Convention do not want in any way to injure that proposal. We do not wish to confuse the electors and for that reason I move that this whole Proposal No. 5, with all amendments, be laid on the table.

Mr. FACKLER: On that I demand the yeas and nays.

The yeas and nays were taken, and resulted—yeas 41, nays 56, as follows:

Those who voted in the affirmative are:

Antrim,	Fox,	Mauck,
Beatty, Wood,	Halenkamp,	Partington,
Brown, Pike,	Henderson,	Peters,
Cassidy,	Hoffman,	Pettit,
Collett,	Hursh,	Shaw,
Cordes,	Johnson, Madison,	Smith, Hamilton,
Crosser,	Johnson, Williams,	Stamm,
DeFrees,	Jones,	Tallman,
Doty,	Kehoe,	Tetlow,
Dunlap,	Kilpatrick,	Thomas,
Dunn,	Leete,	Watson,
Earnhart,	Ludey,	Weybrecht,
Elson,	Malin,	Winn.
FitzSimons,	Marriott,	

Those who voted in the negative are:

Anderson,	Campbell,	Fackler,
Baum,	Colton,	Farnsworth,
Beatty, Morrow,	Cunningham,	Farrell,
Beyer,	Davio,	Fess,
Brattain,	Donahay,	Fluke,
Brown, Highland,	Eby,	Hahn,

Omitting Word "White."

Halfhill,	Leslie,	Smith, Geauga,
Harbarger,	Longstreth,	Solether,
Harris, Ashtabula,	Miller, Fairfield,	Stalter,
Harris, Hamilton,	Miller, Ottawa,	Stevens,
Harter, Stark,	Moore,	Stewart,
Holtz,	Nye,	Stokes,
Keller,	Pierce,	Taggart,
King,	Read,	Tannehill,
Knight,	Redington,	Ulmer,
Kramer,	Riley,	Wagner,
Kunkel,	Rockel,	Walker,
Lambert,	Roehm,	Woods.
Lampson,	Rorick,	

So the motion to table was lost.

The PRESIDENT: The question is on the reconsideration of the vote whereby the amendment of the delegate from Erie [Mr. KING] was adopted.

Mr. ANDERSON: Mr. President.

The PRESIDENT: All those in favor of the proposal—

Mr. ANDERSON: Mr. President.

The PRESIDENT: —will say aye and the contrary no—

Mr. ANDERSON: Mr. President.

Mr. PRESIDENT: The motion seems to be lost.

Mr. ANDERSON: Mr. President.

The PRESIDENT: The gentleman from Mahoning [Mr. ANDERSON].

Mr. ANDERSON: I didn't know but that there was something the matter with your eyes. I don't see any reason why we should go on record against doing that which will assist in getting us an honest election and a fair count. Take the district from which Dr. Fess comes, and what is the situation there now under the old system where they cannot have a machine to register accurately the vote? You know the situation and you know the situation in the large cities. Why should we not have mechanical accuracy in determining elections? Why should any of us vote against it? Why should any of us vote against having the word "white" taken out of the constitution? It is just a matter of sentiment, it is true, but this life is not worth living without some sentiment. Sentiment is dear to every one. I am not trying to make this as a political speech. I mean what I say. Even the Southern states, since the adoption of the amendment to the federal constitution, have taken the word "white" out. Is a constitutional convention in the state of Ohio going to refuse the black man that which has been given him in the South? They say there is no substantial good accomplished, that he can vote. Yes, he can; but in our constitution we still recognize slavery.

Mr. MARRIOTT: Has not this Convention by the adoption of Proposal No. 91 already, so far as the Convention can do it, taken the word "white" out?

Mr. ANDERSON: Now let us see that situation. Every one admits that "white" has no place in the constitution and that it ought to be taken out, but we say, "Before you can have that slavery removed from the organic law of Ohio you have to vote for woman's suffrage." That is what you say in Proposal No. 91, and that is the only reason that some men here say it is a matter of sentiment. It is not sentiment. They want to use that word to help carry woman's suffrage.

Mr. MARRIOTT: Didn't you vote for woman's suffrage?

Mr. ANDERSON: Yes, and I am in favor of it, but I am in favor of this justice also.

Mr. THOMAS: I don't think anybody in the Convention objects to taking the word "white" out.

Mr. ANDERSON: Well, what is the objection to the use of the voting machine?

Mr. THOMAS: I am speaking of the word "white" and its being taken out of the constitution.

The PRESIDENT: Is the member asking a question?

Mr. THOMAS: I am prefacing my question with a remark so as to get an understanding as to what I want answered. Suppose both of these proposals, the woman's suffrage proposal and this proposal, are submitted and both adopted, one with "male" in it and the other with "white male" stricken out.

Mr. ANDERSON: That will be attended to. There are a number of other apparent inconsistencies that will happen before we finish, but they are easily attended to. You say that nobody objects to having the word "white" taken out?

Mr. THOMAS: No.

Mr. ANDERSON: And I have noticed that a number of members voted to table the thing viva voce, but when the yeas and nays were called they didn't vote that way.

Mr. HALFHILL: Is not all that to be taken care of in the schedule?

Mr. ANDERSON: Of course. That is where it will be taken care of.

Mr. ROEHM: Can't the voting machine be taken care of when it comes in its proper place?

Mr. ANDERSON: Why not take care of it here and save that much time? There is no conflict. You don't want to lengthen the sessions unnecessarily.

Mr. HARRIS, of Ashtabula: Do you propose to do that right along?

Mr. ANDERSON: Whenever it will expedite matters.

Mr. HARRIS, of Ashtabula: The member from Montgomery [Mr. ROEHM] has a proposal pending to make constitutional the use of voting machines. Now I object, as I stated the other day, to having proposals advanced and put in here and added to other proposals where the original proposal doesn't say anything about them. Now I want to add a few remarks when you are through, but don't you think there is a little incongruity about that?

Mr. ANDERSON: No, sir; the only thing is that the gentleman loses—and I would like to have a remedy for that if I could—Mr. Roehm will not have his name connected with the proposal, and as a matter of courtesy on a question of that kind I would vote the other way.

The PRESIDENT: The member's time is up.

Mr. HARRIS, of Ashtabula: Just a few words on the proposal itself. The member from Harrison county distinctly stated that what he seeks to accomplish by this proposal is the elimination of the word "white", a matter of sentiment as the member from Trumbull [Mr. KILPATRICK] has said. The member from Mahoning [Mr. ANDERSON] admitted it eloquently. I was called on during the recess by two colored gentlemen, one of whom has represented Cuyahoga county in both branches of the general assembly, and they protested against the elim-

Omitting Word "White."

ination being wrought out in the way it has been attempted. "We don't want it put on as a tail to the woman suffrage proposal, so that it must be gotten out of the constitution only by voting for woman suffrage. If the people of Ohio want to wipe out the last vestige of barbarism and say that we are equal before the law, let them do it in a way that will indicate their purpose." The member from Harrison [Mr. CUNNINGHAM] has distinctly done that. I have already adverted to the fact that the member from Montgomery [Mr. ROEHM] has a proposal which provides for making constitutional the use of voting machines. What connection is there between the two things? When it comes up I will support the voting machine proposition, and I think it is a proper thing, but let this proposal go through on its own merits.

Mr. RILEY: The propriety of inserting this is doubtful. We are on article V of the constitution. We all agree that section 2 of article V is the proper place for this machine matter. Section 2 of article V of the present constitution provides that all elections shall be by ballot and in that comes the machine question. If you wish to take the word "white" out of the constitution and don't wish to vote for the machines, what would you do if they were submitted together?

Mr. KING: I do not think the objection of the member from Ashtabula [Mr. HARRIS] ought to receive very great weight. The committee on Equal Suffrage reported out this Proposal No. 5 with section 2 in it. The proposal had a section in it all the time, which provided the manner of election—how you should vote. It did not go so far as to provide or authorize that voting by mechanical device might be legal, but it did provide that all elections should be by ballot, and that is a proposition that we started in to consider here. Therefore to amend by simply substituting another proposal that has been reported out of the committee for the original section 2 is perfectly proper. It is germane to the original idea of article V.

Now, on the other question, it seems to me that there ought not be a particle of objection to adopting the proposition to strike out the word "white" in section 1 of that article. Unlike the gentleman from Mahoning [Mr. ANDERSON] I did not favor woman's suffrage. I said on the floor at that time that the committee purposely included in the proposal the leaving out of the word "white" to gain, perforce, additional support for their proposal at the polls, but I have since found that these gentlemen of color are not asleep. They understood perfectly and understand perfectly the terms of that proposal as it was adopted in this Convention and many of them are opposed to linking the question of eliminating the word "white" with the question of broadening the constitution to include all persons regardless of sex. So it is only fair to put up an alternative that will strike out the word "white" and will also take care of the voting machine. If both proposals are adopted section 1 will then be null and void and this other section will take its place.

Mr. ROEHM: I have no particular objection to the taking off my name from any amendment or substitute that I have offered, but I do not believe that this is the time for that to come up. It has its place on the calendar and I believe it ought to stand on its own legs. I am, therefore, opposed to that being injected into this proposal at this time.

Mr. WOODS: I agree with the member from Erie [Mr. KING] in this matter. There are only two things to look at. The first is whether we are willing to take that word "white" out of the constitution. I am one of the members who voted to submit the woman's suffrage proposal to the state. Personally I am against woman's suffrage. I do not intend to vote for it on election day, but I am willing for the people of the state to say whether they want it. Now I do not want to vote for that, but I do want to vote to take that word "white" out of the constitution. I think it is ridiculous that a state like Ohio in 1912 should have that word in its constitution.

Mr. HARRIS, of Ashtabula: If you are anxious to take that word "white" out let us do it, and then when we get to this other we will adopt it.

Mr. WOODS: I am willing to take care of "white". I am willing to take care of the other proposition, too, and in fifteen minutes we can get through with both of them. I do not believe there is a member who is not willing to take the word "white" out, and I do not believe that anybody objects to the use of voting machines. Both are in the same article. I do not see why we should not kill two birds with one stone.

Mr. HARRIS, of Ashtabula: Do you think that there is everything in sentiment, is there not?

Mr. WOODS: Certainly.

Mr. HARRIS, of Ashtabula: The member from Mahoning asked if there is any thing in sentiment. There is everything in sentiment, is there not?

Mr. WOODS: Yes.

Mr. HARRIS, of Ashtabula: And if forty or fifty thousand voters would like to have it done one way instead of another and we can do it in two minutes, shall we not do it?

Mr. WOODS: Yes, and we can do them both in fifteen minutes.

Mr. CUNNINGHAM: I have no objection to this coupling up, but I don't want to take more honors myself than I have. I have almost too many honors now, and I am willing for the gentleman from Montgomery to have the honor of his proposal. More than that, under the peculiar manner of submission I think it would be better to have a separate proposal, because these two proposals, woman's suffrage and taking the word "white" out of the constitution, should be submitted in the alternative. I think therefore, the colored people of the state would prefer that the latter go in by itself. I will say, furthermore, for them that if that doesn't go in, woman's suffrage will lose just forty thousand votes in Ohio, because every one of them say, "If you shut us out and require us to get our rights through the woman's suffrage proposal and no other way, we are going to vote against it."

Mr. PECK: It seems to me this is simply an endeavor to do a sentimental act. It is nothing but the merest sentimentality, because there is no colored man deprived of any right of suffrage in Ohio and everybody knows that. Nothing is taken from him whatever. It is just mere talk. They have been wading along for fifty years with that in the constitution. Of course, it is an eye-sore, but that is all. It is no more of an objection than a bill you see on the wall. Now you are proposing by this sentiment to endanger the passage of something that involves real merit. I don't know whether these gentle-

Omitting Word "White."

men know what they are doing, but it looks to me as if they are inadvertently setting a trap to catch the voters and destroy woman's suffrage. I am opposed to that for this reason, and every man who was in favor of woman's suffrage ought not to vote for this. If you go to the people with two proposals in this shape you may kill woman's suffrage, and I am not in favor of mixing up things in that way. There is no necessity for this special amendment now.

Mr. HARRIS, of Ashtabula: Do you want the voting machine proposition in the woman's suffrage proposal?

Mr. PECK: No; I am in favor of the voting machine, but I don't want it mixed with anything else like that.

Mr. HARRIS, of Ashtabula: I don't want it mixed up with this either. I am opposed to having two different votes on the same section. I have no sympathy with this foolish talk of the negroes to the effect that they are not willing to vote along with woman's suffrage. If forty thousand negroes cannot join themselves with a million white women of the state in the support of a proposal in the interest of both what are they talking about?

Mr. ANDERSON: Say, for instance, we would submit to the voters later on, when the time comes for ratification, a ballot like this. "New constitution, yes; 'New constitution, no,' and then take the word 'white' out of the constitution, leaving the word 'white' out of the so-called new constitution. That would not in any way interfere with the separate ballot for 'woman's suffrage' would it?"

Mr. PECK: No; you could frame it almost any way if you made it clear.

Mr. ANDERSON: And would it not be true that the fact the word "white" is taken out of the new constitution would make the negroes vote in favor of it whatever else we put in?

Mr. PECK: I don't know whether they would or not. I don't want them to vote in favor of it unless they are in favor of it. I am not fixing up games to catch voters. I want the people of Ohio to vote on this constitution intelligently, and if they are not in favor of it to vote against it.

Mr. ANDERSON: Is not making the negroes vote for equal suffrage a game to catch votes?

Mr. PECK: No, sir; it is all a figment of the imagination. The gentleman from Erie [Mr. KING] was the first man who mentioned it. He put it to me in a question and that was the first time I heard of it. I didn't understand it that way when I first stated it because I hadn't heard of it. The two words stand in juxtaposition and while we were amending the section the easiest thing was to strike out both the word "white" and the word "male" as useless. Both of those words were injurious and we wanted to strike them out. Now the word "male" affected a million women and the word "white" didn't affect anybody, because the negroes vote anyhow.

Mr. ANDERSON: If woman's suffrage fails to carry on separate submission and we fail to adopt this amendment, would not the word "white" remain in the constitution?

Mr. PECK: I don't care whether it does or not.

Mr. CUNNINGHAM: Don't you know if you don't pass this proposal woman's suffrage will lose the vote of the colored people?

Mr. PECK: No; I don't know anything of the kind; I don't know anything about it. I am not figuring on the vote of the colored people or the white people. I want the people to vote intelligently and not to be mixing up two proposals amending the same section, first to strike out one word and then to strike out another. Did you ever hear of such a proposition?

Mr. CUNNINGHAM: Yes; and you hear it now. You are learning something as you grow old.

Mr. PECK: I am not too old to learn, as some people seem to be.

Mr. CUNNINGHAM: You just waked up.

Mr. PECK: I hope that everybody who was seriously in favor of woman's suffrage will vote against this proposal. I have a great respect for sentiment, but I have no respect for sentimentality. The latter is what the gentleman from Mahoning [Mr. ANDERSON] indulged in this morning.

Mr. HALFHILL: I voted in favor of woman's suffrage and I am glad I did. I expect to vote for it at the polls, and I can furnish reasons satisfactory to myself for doing so. I take it that the advice of the gentleman from Hamilton [Mr. PECK] on this proposition is not good advice, even for those who are in favor of woman's suffrage. I take it if the gentleman from Hamilton [Mr. PECK] understood somewhat of the temper of the colored citizens upon this point, he would know and appreciate that this proposal is a very material thing. There is such a thing as living a little too far from some of the citizens of your own state, and I don't consider, so far as I am concerned, that I in any way lower myself by coming in contact with representative men of that particular race. I was called upon by a delegation of them very recently and they were men of standing, men who stood well in their respective social spheres and as citizens in the community where I reside.

Mr. PECK: They think they are politicians.

Mr. HALFHILL: Three of them were preachers of the Gospel and so far as I know have never taken any interest in party politics. One of them I know is personally in favor of woman's suffrage and the other two upon this particular point mentioned in the Cunningham resolution were very earnest in their insistence that we wipe out of the constitution this stigma on them and their people. If it is a question of votes you are after I submit it would be a wise idea to drop out any consideration of other questions than the one before us. Logically it does belong in this particular section of the constitution, for article V. deals with the elective franchise and section 1 now contains the word "white" in describing the qualifications of an election.

It is the duty of government to do, as nearly as it can, equal and exact justice toward all. While I am in favor of woman's suffrage, I would like my vote to show the colored men of Ohio that they are not forced to vote at the polls for some other proposition that I favor in order to secure a right which ought to be accorded them without question. They are electors and have a right to vote under the federal constitution. That is absolutely fixed, so that this word remaining in the

Omitting Word "White."

Ohio constitution is merely a harsh reminder of their days of bondage and should be removed. On the matter of getting votes, I think Mr. Cunningham was exactly right when he said that the woman's suffrage proposal will lose votes at the polls, if the colored men have to vote upon that question in order to relieve themselves from this stigma that is now in the organic law.

Mr. ANDERSON: A word in reference to the question that Judge Peck made about confusing voters. If we submit a separate constitution of which this is part, and we submit equal suffrage on a separate ballot, will that be mixing it up in the minds of the voters?

Mr. HALFHILL: I would not think there would be any one of ordinary mental capacity who could not handle that.

Mr. MARRIOTT: Take the suggestion of the gentleman from Mahoning [Mr. ANDERSON]. I understand that it will be proposed to submit several of our proposals in a new constitution and not submit them separately and at the same time to submit others separately. Suppose that is done and woman's suffrage carries, and the section of the constitution with the word "male" in it remains; what is the position then?

Mr. HALFHILL: I don't see the slightest difficulty in meeting any of these conditions. In the first place, if woman's suffrage does not carry, then by all means the colored people are entitled to have this section amended. If woman's suffrage does carry, there can be a proviso in the schedule whereby this particular section can be nullified.

Mr. MARRIOTT: This delegation which called upon you and of which some were preachers were objecting to the word "white" being left in the constitution, when they have the right to vote and have had ever since the adoption of the amendment to the federal constitution. I understand that they object to having the elimination of "white" coupled up with woman's suffrage. That was in effect a threat.

Mr. HALFHILL: I didn't repeat anything in the nature of a threat, but I did say that those colored men thought it was unjust to leave the qualifying word "white" in the constitution and I will further say that one of those men who called on me is a man who held a commission from the United States government as a captain of infantry in the regular army and led his troops up San Juan Hill. He is a man perfectly competent to understand exactly what we are doing in this Convention.

I want further to answer the question of the gentleman from Delaware [Mr. MARRIOTT] by saying that to my mind there is no trouble whatever about fixing in the schedule a provision whereby if woman's suffrage prevails, as I hope it will, this particular part of the constitution will be of no avail.

Mr. STOKES: There seems to be a unanimous sentiment for both propositions if they are divided. For the purpose of demonstrating the sentiment of the Convention, I move that the amendment of the delegate from Erie be laid on the table.

Mr. KING: The motion is now to reconsider and if the vote by which the amendment was carried is reconsidered I will withdraw this amendment.

The motion to reconsider was carried.

Mr. KING: I withdraw my amendment.

Mr. BROWN, of Highland: I move the previous question.

The motion was carried.

A further vote being taken, the substitute of the member from Harrison was agreed to.

By unanimous consent Mr. Cunningham moved to amend Proposal No. 5 as follows:

In line 3, before "Article V," insert "Section 1."

The amendment was agreed to.

The PRESIDENT: The question is now on the adoption of the proposal.

The yeas and nays were taken, and resulted—yeas 100, nays 2, as follows:

Those who voted in the affirmative are:

Anderson,	Halfhill,	Partington,
Antrim,	Harbarger,	Peters,
Baum,	Harris, Ashtabula,	Pettit,
Beatty, Morrow,	Harris, Hamilton,	Pierce,
Beatty, Wood,	Harter, Stark,	Read,
Beyer,	Henderson,	Redington,
Bowdle,	Hoffman,	Riley,
Brattain,	Holtz,	Rockel,
Brown, Highland,	Hursh,	Roehm,
Brown, Pike,	Johnson, Madison,	Rorick,
Campbell,	Johnson, Williams,	Shaw,
Collett,	Jones,	Smith, Geauga,
Colton,	Kehoe,	Smith, Hamilton,
Cordes,	Keller,	Solether,
Crosser,	Kilpatrick,	Stalter,
Cunningham,	King,	Stamm,
Davio,	Knight,	Stevens,
DeFrees,	Kramer,	Stewart,
Donahey,	Kunkel,	Stilwell,
Doty,	Lambert,	Stokes,
Dunlap,	Lampson,	Taggart,
Dunn,	Leete,	Tallman,
Earnhart,	Leslie,	Tannehill,
Eby,	Longstreth,	Tetlow,
Elson,	Ludey,	Thomas,
Fackler,	Malin,	Ulmer,
Farnsworth,	Marriott,	Wagner,
Farrell,	Mauck,	Walker,
Fess,	McClelland,	Watson,
FitzSimons,	Miller, Fairfield,	Weybrecht,
Fluke,	Miller, Ottawa,	Wise,
Fox,	Moore,	Woods,
Hahn,	Nye,	Mr. President.
Halenkamp,		

Mr. Cassidy and Mr. Peck voted in the negative.

So the proposal passed as follows:

Proposal No. 5—Mr. Cunningham. To submit substitute for section 1 of article V., of the constitution.—Relative to elective franchise.

Resolved, by the Constitutional Convention of the state of Ohio, That a proposal shall be submitted to the electors to amend the constitution by substituting for section 1, article V, of the constitution the following:

SECTION 1. Every male citizen of the United States of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county, township, precinct or ward in which he resides, such time as may be provided by law, shall have the qualification of an elector and be entitled to vote at all elections.

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

Resolution Relative to Loss of the Titanic Steamship—Conservation of Natural Resources.

Mr. HARRIS, of Hamilton: I ask unanimous consent to offer a resolution.

The consent was given and Resolution No. 104 was read as follows:

Resolution No. 104:

Resolved, That the Fourth Constitutional Convention of the state of Ohio pause from its labors to express its sincere sorrow at the calamity which has overtaken the sister nations of the United States and Great Britain, in the deplorable loss of life in the sinking of the steamship "Titanic," and to offer its deep sympathy to the families of those whose shrouds are the waves of the Atlantic.

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

The rules were suspended.

The resolution was unanimously adopted.

Mr. CROSSER: I would like to have my vote recorded on Proposal No. 163.

His name being called, Mr. Crosser voted "aye."

Mr. DOTY: It is perfectly apparent that we can not take up a new proposal within five minutes of time of adjournment, and I move we recess until half-past one.

The motion was carried.

AFTERNOON SESSION.

The Convention was called to order by the president.

The PRESIDENT: The question before the Convention is substitute Proposal No. 64.

The proposal was read the second time.

Mr. MILLER, of Fairfield: In beginning the discussion I would like to say that I shall be very much pleased if you will consider in connection with this proposal Proposal No. 230, introduced by Mr. Tetlow, and Proposal No. 213 introduced by Mr. Leete. They are also conservation measures, and they, with this proposal of mine, form a conservation scheme for the state of Ohio. The proposal by Mr. Tetlow is with reference to the mineral resources and the one by Mr. Leete is with reference to the conservation of the water power of the state. My proposal is purely a proposition for the conservation of the forests of the state.

I want to speak first about Proposal No. 64, as originally presented. The purposes of the proposal, in this form are:

Protection for the birds as a necessity to combat insect life.

Encouragement of forestry.

Agricultural education.

I wish it understood that I am perfectly agreeable to the change that has been made, for the proposal as amended provides for encouragement of forestry as a means of education. A protection of the home of the birds means more of them, just what we were seeking to accomplish, so, in a way, this is the key to the scheme as presented in the original proposal.

It is interesting in this connection to note the reforestation policies of foreign countries. In Austria over 10,000 acres have been reforested since 1884 and the ex-

penditures have been about \$125,000, to which the state contributed four-fifths. The Chinese reforestation policies embrace only 600 acres. To propagate the reforestation idea a free distribution of plant material to Chinese communities is practiced. Bulgarian forests amount to seven and a half million acres, or 30 per cent. of the entire area. One-third of this is state forests, one-half communal and one-sixth private forests. Bavaria, among the German states, stands next to Prussia in size of state forests, which, in 1905, comprised 2,035,700 acres of timber-producing areas. Results of forest management in the Black Forest, known to every American student, are very satisfactory. Eighteen per cent, or two-thirds of the total forest area, is under direct state supervision. State forests have been slowly but steadily increasing. They contain less than four per cent of nonforested land. It is indeed interesting to note the destruction of the ancient forests of Europe, although there are still fragmentary remains of the great Hercynian Forest, which originally covered the greater part of Continental Europe and was extensively diffused over the districts now known as Germany, Poland and Hungary. In Caesar's time it extended from the borders of Atsalia and Switzerland to Transylvania, and was computed to be sixty days' journey long and nine broad. In Denmark all remains of that ancient forest have disappeared, but in Norway and Sweden, in Finland and Russia, we have remains or representations of the northern skirt of the immense forests which once covered Europe.

Forests in the United States are taxed today under the general property tax in every state and territory. Thirty-two states and territories make no reference to forest lands in their tax laws. The present tendency, however, is toward stricter administration and heavier taxes. Forestry must come some time and its early coming is a thing greatly to be desired—and whenever we are ready to undertake it seriously we will find that our present methods of taxation are a very severe handicap. Strictly enforced—and it is not safe to count on the lenient enforcement forever—the annual tax on the full value of the land and standing timber might take away anywhere from one-third to one-half of the net income, or even more. Forestry should not be subjected to such an unjust burden. Moreover, the tendency of the present system to force premature cutting and prevent reforestation, though probably not very serious as yet, is bound to gain strength as time goes on. For these reasons it is highly desirable to take some action which will not retard and destroy, but will encourage and foster this natural asset of the state and nation. If any tax should be placed on the forests it should be on the yield when cut. It would be equitable and would be an encouragement rather than a hindrance to forestry.

I want to read at this point from the book "State and Local Taxation" of a conference at which Dr. Chamberlain quotes a few things in regard to this point to which I desire to call your attention:

I am inclined to think that our reforestation in Ohio will largely be in the way of shade trees for beauty, and in the way of orchard trees of one kind or another which shall serve climatic purposes. I know that on the site and in the vicinity of the little town in which I lived, Hudson, Ohio, near Cleveland, the timber was originally

Conservation of Natural Resources.

cut and burned, and I can remember the horrible droughts we used to have, and I remember how the showers would fill the river on one side, and Tinker's Creek on the other, and scarcely touch us on the high land every time, because it was so poor and so dry. Later the village planted trees and the college planted trees, and we planted orchards and shade trees, and now the showers do not miss us and go around.

But the question is, Is there any way we can induce foresting by removing the taxation? The southwestern quarter or third of Ohio was never glaciated, the glacial action did not pass over there, the coal seams lie over there, the land is set up on edge almost as much as it is in New Hampshire. I can say now that if somebody big enough, if the owners of the coal mines, for example, would take hold of it scientifically, and be exempt from taxation on land while the timber trees on it were growing, you could reforest that land that is too poor for almost anything else. The question asked by one of the delegates why a man who has a house worth \$5000 should pay taxes and the man who has timber worth \$5000 should not pay taxes may be answered in this way: The house is a personal benefit absolutely and nothing else; it is no public benefit whatsoever; it is for that man himself; it is his property; he owns it and uses it. On the other hand a forest is a public benefit to the state, to the watershed, to the farmers below, and it looks as if there were some justice in exempting it from taxation, and I take it that land actively used in growing forests may be justly exempted from taxation. You can not do that in Ohio now under the constitution, and so the assessors and the trustees have to whip the devil around the stump, as I may say, and they have said, "Well, here are forty acres of timber; it is not bringing a cent to you, and we will value that for taxation at about \$5 an acre." For ten years this valuation stands—a decennial appraisal—and so they virtually exempt it from taxation as long as it is exclusively in timber.

In "Forestry Conditions in Ohio," Bulletin 188, Ohio Experiment Station Director Thorn says:

Forestry problems in Ohio differ from those in many other states in the fact that the state contains no mountain ranges or other large bodies of waste land, but outside of a few tracts of several thousand acres each belonging to coal companies in the southern part of the state, it is everywhere cut up into small farms, the average size of which is less than 100 acres each. The principal work in forestry in Ohio, therefore, is to be done, not in the reforestation of large areas of state-owned lands, but in the improvement of the woodlots of small farms. Statistics collected by township assessors indicate a total area reported as forest amounting to about 2,500,000 acres, but the major portion of this area is in the condition of woodland pasture rather than that of forest, and that is rapidly diminishing in size and decreasing in value. There is much steep hillside land in Ohio which should remain permanently in forest. The suggestion is also offered that the reforestation and future control by the state of the steep hillsides bordering the narrow valleys through

which the streams of Ohio flow would mitigate the disasters of the freshets which have been so destructive in recent years by retarding the inflow and distributing it over a longer period. The state already owns some land of this character. Information, demonstration and leadership, and further beneficial legislation would be of the greatest assistance. The fact that the few remaining trees, which are ripe for the harvest, will soon be gone is not so much to be deplored as that there is almost nothing left to take their places. At least 80 per cent of our mature timber trees are standing where natural forest conditions have been destroyed so that early decay is inevitable. Not more than half a million acres of young-growing forests remain, and many of these are in bad condition, the stand being poor and the trees inferior. These facts point to the inevitable disappearance of our forests at a more rapid rate than at any time before. An effort has been made to learn what estimate of value farmers put upon woodland pasture. The average of these is 60 cents per acre. Since there are more than two million acres of these pastures within the state, it is evident that the annual loss in holding them in their present condition is considerable.

Referring to forest conditions in Ohio, Bulletin 188, Ohio Experiment Station, continues:

It is believed by many that if any plan could be devised by which the tax on land in forests could be remitted or exempted the practice of forestry would become common. A huge obstacle to the preservation of privately owned forest is the system of taxation in vogue, which year after year taxes the full timber value of the trees, whether used or not, as though timber were a series of crops, whereas, under present policies it is only one crop. The taxation applies even before the trees are matured; hence they are often cut when they should be allowed to grow much longer.

I wish to read at this point from Bulletin 204, of the Ohio forest conditions:

The comparatively high price of land in this county has been a discouraging feature for forestry operations, and it can never be expected that this phase of agriculture will be given any prominence. Granting the above, it may be said, however, that the land set aside for operations in the way of forming windbreaks for animals and buildings, and products for direct farm use, will not lack returns proportional to the investment. There are a large number of so-called wood-lots through this section which are being held at a dead loss to the owner in every respect; the growth existent consists of distorted and worthless beech, gum, maple and ironwood, fit only for firewood, and with a poor market for such utilization it is absolutely worthless from the aspect of growth increment and is paying no interest on the investment. It is the general admission of woodlot owners that the average woods pasture yields small profit. In some cases, where beech predominates, there is

Conservation of Natural Resources.

a very meager sod, and many times not one-fourth of the ground produces grass. Here then, from two aspects, is a loss to landowners of this county, and while we have no adequate knowledge of the amount in figures, it is evident that the annual loss in holding the majority of these wooded pastures in their present condition is considerable. Afforestation here must be carried on not by the reclaiming or improving these pasture woodlands, but by entirely removing them and starting anew by artificial means. It is often the case that the soil of these woodlands is of most excellent quality, due of course, to being on virgin ground. It was often the case that the woodlot was the portion considered the poorest piece of ground and left in trees and pasture for that reason. Long-continued cropping of the better portions, however, has made this erstwhile barren soil more productive than the better portions. It is advisable then in many cases to give the woodlot ground over to tillage and select some exhausted and thin piece of ground for growing trees. In this county everything along forestry lines must be obtained by commencing at the bottom, and the sooner the start the quicker the results. Nothing is to be gained by waiting, and nothing need be expected by waiting, and nothing need be expected from natural reproduction.

Now I will read the forestry conditions in Franklin county:

Franklin county contains a smaller percentage of forest lands than any of the counties heretofore mentioned. The comparatively high price of land and its value for trucking and dairying makes it almost impracticable to retain forest lands of any magnitude. There are many wooded pastures in the county which are being held at a loss. Practically all of the standing timber trees are culls or species of inferior timber qualities. The forest capital is virtually inactive and becomes less productive each year.

I wish next to call your attention to the drain upon our forests, Circular 129, United States Department of Agriculture. There is very much interesting information in these bulletins if you would take the trouble to investigate. I can not read it all and shall give only one citation. The one question that interests us is, How long will the timber last?

The estimates of standing timber in the United States are by no means satisfactory. The most detailed ones range roughly from 1,400 to 2,000 billion feet. Assuming a stumpage of 1,400 billion feet, an annual use of 100 billion feet, and neglecting growth in the calculation, the exhaustion of our timber supply is indicated in 14 years. Assuming the same use and stand, with an annual growth of 40 billion feet, we have a supply for 23 years. Assuming an annual use of 150 billion feet, the first supposition becomes 9 years and the second 13 years. Assuming a stand of 2,000 billion feet, a use of 100 billion feet, and neglecting growth, we have 20 years' supply. As-

suming the same conditions, with an annual growth of 40 billion feet, we have 33 years' supply. With an annual use of 150 billion feet, these estimates become, respectively, 13 and 18 years. * * *

The present rate of cutting will exhaust the supply in about 10 years in the first case and 25 years in the second case. * * *

Practical forestry has not yet been introduced on any state forest land, and even New York, which owns about 1,250,000 acres in the Adirondack and the Catskill mountains, has not yet progressed beyond the stage of simple protection. To have reached this, however, is a long stride in advance. The constitution of New York forbids the cutting, destruction, or removal of any tree on the "forest preserve," as the lands definitely assigned to forest uses held by the state are collectively called, a provision which is quite as effectively opposed to practical forestry as it is to forest destruction, and which must be regarded as purely temporary in character. The forests of the state, as well as its salt-water and fresh-water fisheries and its game animals and birds, are under the care of a commission of fisheries, game, and forests appointed by the governor, having under it a superintendent and a corps of subordinates in the woods. The sincere interest of the people of New York in the forest preserve is indicated by the recent appropriation and expenditure of \$1,800,000 to increase the area of the preserve by purchase.

In Pennsylvania the acquisition of wild lands by the state for forest uses has become an established policy, and bids fair to result in the control and management of an area not greatly inferior to the forest preserve of New York; and Pennsylvania has no legal bar to practical forestry. Michigan has recently taken steps in the same direction, and several other states have taken or seem about to take similar action. It may be said of the forested states in general that public sentiment is moving rapidly toward a satisfactory treatment of the question of the state forest lands.

The foregoing quotation is from "Progress of Forestry in the United States," by Pinchot.

The taxes on poor land are, as a general rule, relatively higher than on good land. This is due to the fact that most of the taxes are for local purposes, school, roads and bridges; and the actual expense in a poor-land section is about the same as where the lands are rich. Thus, land which produces only 20 bushels of corn may pay 30 cents per acre tax, while land producing 80 bushels in another section of the state may not be taxed more than 50 cents per acre.

To be sure the state tax might be properly equalized, but the county and local taxes are often more than ten times the state tax.

It will easily be noted that when crop yields sink slightly below the minimum yields, the land becomes practically valueless for business or investment purposes.

Conservation of Natural Resources.

Agriculture is often referred to as the most independent occupation, and in the struggle against poverty in countries with increasing population and failing resources, it is certainly true that, after men in most other lines of occupation have literally starved out, the farmer will continue to eke out an existence; in fact, he may still have bread and potatoes, milk and butter, eggs and poultry, and even vegetables, fruits, syrup and honey for the support of his own family long after he has practically ceased to buy or sell in support of a dependent urban population.

Thus the city is the first to feel the country's poverty and for their own preservation the men of the town or city must contribute their influence toward the development of systems of permanent agriculture. Bankers, merchants, grain dealers, physicians, editors, teachers and ministers, as well as educated land owners, because they have trained minds and are able, with moderate study, to acquire a correct and adequate understanding of the fundamental principles of soil improvement and conserving our natural resources, must exert their influence over those who are less able to secure such positive knowledge, but who may own or control much of the land, lest the lands generally become so impoverished that they will support only the agricultural people who, of course, have the first right to the food they produce. Under such conditions land may have no value as a source of profit and still be invaluable as a means of existence.

Therefore the conservation of the soil becomes a most necessary and beneficial enterprise. Every blade of grass is a study. To produce two where only one grew before is a source of both pleasure and profit. And not grass alone, but soil, seeds and seasons, bridges, horses and cattle, sheep and poultry, reaping, mowing and threshing, draining, droughts and irrigation, plowing, hoeing and harrowing, saving crops, pests of crops, diseases of crops and what will prevent and cure them, trees, shrubs, fruits, plants and flowers—the thousand things of which these are specimens, each is a world of study within itself.

Education is the key that solves the problems, and, more, it gives a relish and facility for successfully pursuing the unsolved ones. The total number of acres owned in Ohio are, in round numbers, 20,000,000. The acres of woodland 2,340,573; the acres lying waste are 771,594; the acres of worn out lands, 141,590 an increase of 93,937 of waste or abandoned land in ten years.

The loss from freshets, soil waste, drouth and extreme climatic conditions, etc., will run into many millions of dollars, and a great deal of this loss could have been saved had there been a careful conservation of our natural resources.

The destruction of our forests has not been startling to us because their disappearance has been gradual—from generation to generation—and no one generation has seen it all. The same thing may also be said of the loss of fertility of our soil, the increase of plant diseases and injurious insects, and the destruction of our insectivorous birds. If our forests had been destroyed by some great tornado or fire all at once we should have been more generally impressed with the calamity of the loss. The loss, however, is none the less real because of our gradual awakening to it. In this loss there has been also a loss in connection with our extremes of climate, for

nature is so intricately organized that she can not suffer in one direction without being affected in her operations in another. Through the removal of our forests the flow of our streams has become spasmodic, falling into trickling rivulets in one season, rising to destructive torrents in another. Upon a proper forest cover depends largely the multiplicity of our feathered friends and songsters, those that fly by day and night.

These facts give vital importance to the conservation movement, and any agency which tends to help this movement along in a practical way is therefore a power for the public welfare. Such, I assure you will be the influence of this conservation and protection of our forests. Our birds should be protected for they are of untold benefit in the consuming of weed seeds and troublesome insects. Some of the insects eaten by the birds not only threaten the destruction alike of village shade trees and country forests, but seriously afflict humanity. Brown-tail moths, potato beetles, grasshoppers, cutworms, caterpillars, and even the disgusting stinkbugs are included in the lists of insects eaten by the birds.

The time has long passed when the practical farmer can afford to ignore the relation of birds to agriculture. Larger and larger areas are being devoted to tillage every year and the amount of capital invested in agricultural pursuits in the United States is constantly increasing.

The whole world is being laid under contribution for trees, new fruits, forage plants and crops for the benefit of the American farmer and consumer, in order that by his superior energy and foresight he may not only feed our own people but create a surplus of American products for consumption in less favored lands.

New pests are introduced and here, under favorable climate and new conditions, they multiply until they inflict great damages. Such pests go unnoticed until the damage they do forces them on the attention of the community, and they become so numerous and widespread that their extermination is impossible. Once introduced into the country they are here to stay. The vast sums already spent in efforts to prevent the ravages of such pests emphasize the importance of utilizing to the utmost all the allies nature places at our disposal. Birds reproduce slowly and often suffer immense loss in their migration by climatic extremes.

It is the part of prudence, therefore, to protect useful birds by protecting their natural home, the forest, at all times, and so augment their number that they may constantly play their respective parts in the police system ordained by nature, and be ready when emergency arises to wage active and aggressive warfare against sudden invasion of insect enemies.

The protection of the climatic and physiographical interests of the country are not to be overlooked. The destruction of the forests is detrimental to the climate, waterflow, and fertility of the soil. The forests are the great recreation grounds of the people. Let us hope, in behalf of the welfare of our state and nation, that as soon as the initial decades of the new century shall make more and more apparent the crying need of improvement in the treatment of this great natural foundation of our life as a people, that there will arise a class of men able to perform the tasks that will be thrust upon them.

Conservation of Natural Resources.

Forests are indeed necessary to our country as great regulators of meteorological processes, mitigating the evil effects of storm and flood, keeping erosion down to a moderate degree and influencing climatic conditions. The absolute necessity for the conservation of our timber supplies and the manifold blessings that come from the woodland should lead us to protect in every way possible the great passing giants of the forests. But this question of forestry can not be solved by sudden bursts of enthusiasm; nor does it appeal to man's emotional nature. It must be solved by the millions of men and women, each of whom has his own particular interests to make him indifferent to what does not concern him individually.

The scenic value of all the national domain yet remaining should be jealously guarded as a distinctly important natural resource and not as an incidental increment. We have for a century stood actually, if not ostensibly, for an uglier America. No one will suggest that the travel to Europe is to see ugly things or wasted scenery. No, these vast sums are spent by our people in travel to view agreeable and attractive scenery, natural and urban.

The lumber king leaves the hills he has denuded into piteous ugliness and takes his family to view the jealously guarded and economically beautiful Black Forest of Germany.

Mr. BROWN, of Highland: I am afraid that what I shall say will be out of order. In view of the fact that there are two other proposals relating to the same matter of conservation and that it would be difficult for the Convention to consider the three separately, and as there seems to be a tendency toward agreement between the three proposers along the line of conservation of natural resources, I move that the matter be submitted to a committee consisting of three or more to report tomorrow morning and that the matter be placed on the calendar in regular order for tomorrow.

Mr. DOTY: I second the motion with a slight change, that when the report is made it shall be placed at the head of the calendar the next day so they would have the right to print it. That keeps the right of way for the proposal.

Mr. STEVENS: What is that motion?

The PRESIDENT: It is the motion to refer.

Mr. STEVENS: I did not observe that the motion was seconded.

Mr. DOTY: I seconded it.

The PRESIDENT: The motion was seconded and the motion before the Convention is to refer this matter to a special committee.

Mr. STEVENS: On that motion I intended to say that if this matter were submitted to a special committee it would appear in proper form, but it seems to me the amendments could be offered and the matter kept in regular order and debated now. I don't see any necessity for putting it into the hands of anybody else. I have an amendment to offer myself and I think the debate should proceed.

Mr. DOTY: I think the motion was made by agreement of the three proposers. If they could put the three proposals into one and submit it as a substitute for this one, the whole matter would be taken care of.

Mr. BROWN, of Highland: I feel that the three proposers should have respectful consideration in the matter of presenting their proposals. I doubt if any one could offer an amendment which would satisfy all three of these gentlemen. I believe it would be better if we submit this matter to the three proposers and let them bring in a substitute in the form that they can all agree on.

Mr. HARRIS, of Ashtabula: I don't exactly understand what three proposals are involved.

Mr. BROWN, of Highland: Proposals No. 230, 313 and this one. It seems that one of the proposals provides for the conservation of the mineral resources of the earth, another for the water, and another for the forests. They are all along substantially the same line.

Mr. HARRIS, of Ashtabula: In plain terms it means the proposals of Mr. Miller, of Fairfield, Mr. Tetlow and Mr. Leete. I believe those gentlemen should have an opportunity to put these proposals together in a form to suit them.

Mr. MILLER, of Fairfield: I would like to say that the authors of these three proposals had a meeting and it was thought best to let them go in separately because they might wish them to be amended differently. I have an amendment to my own which I think changes it for the better. For instance, on account of the adoption of the initiative and referendum proposal I want to change the words "the general assembly" to "laws may be passed." It was agreed between the three that we were willing to have the first three groups under one head and there is no real objection to bringing them in together.

Mr. STEVENS: If these three gentlemen desire to come in with the proposal I don't see any good reason why the matter shouldn't be referred to them, but I want to have my amendment offered now. I think this motion ought to be lost, thereby giving all of us a chance to offer our amendments.

Mr. TETLOW: As one of the delegates who is intensely interested in the question of conservation I want to say I introduced a proposal covering the question of conservation of our natural resources and it was submitted to the committee on Judiciary. The proposal was acted upon and reported favorably to the Convention and it was amended in that committee to cover all of the natural resources of the state. Something can be gained by the merging of these three proposals. Mr. Miller's proposal will permit the exemption of woodland from taxation. Mr. Leete's proposal will grant further power to the general assembly or the people to enact laws for the conservation of the water power. I am perfectly satisfied that this entire subject matter should be referred to the committee to redraft. The thing I am interested in is to get some proper method which will adequately conserve our natural resources. Consequently I am in favor of any proposition that will bring about that. I am satisfied to amend Mr. Miller's proposal upon the floor and settle the question now. I realize there may be some objection to the different ideas that are contained in these proposals, and if there is any difficulty about handling Mr. Miller's proposal as amended I want my proposal to be insured the same position on the calendar that it has now. I want it so it will not affect my report if the matter doesn't go through and if

Conservation of Natural Resources — Primary Elections.

this report should not be adopted I would wish to have the opportunity to come before the Convention on my proposal. With that understanding I am willing to go ahead.

Mr. MOORE: Since the state is asked to assume care over the waterways, which is one of the great natural resources, and since it has been asked to assume control over the minerals, I can not see why the great natural water power should not be conserved and these three matters could come along together with probably some others added, and I think this should be provided for in some broad, comprehensive proposal built out of these three which will be a benefit to the people of Ohio. I am in favor of appointing this special committee and having it put the proposals in shape to protect the people in their great natural resources which we have and which are rapidly being exhausted.

Mr. Miller's proposal does not aim to save the timber only, but it aims to conserve the soil too. I believe if the timber were not exhausted we would not have a good many troubles we have now. It is the waste in the fields and forests that causes the great droughts.

To avoid any confusion, I move to amend by naming a special committee composed of the three authors.

The amendment was agreed to.

The motion to refer was carried.

The PRESIDENT: The next business is Proposal No. 249—Mr. Tannehill.

The proposal was read the second time.

Mr. TANNEHILL: Gentlemen of the Convention: I have not, as you all know used very much of this Convention's time and I do not intend to in the future. I consider this matter important and I hope that I can present my idea in the time allotted. If I should have to exceed the time a few minutes I feel sure the Convention will grant me the extension.

It is a real pleasure to stand before this Convention advocating a proposal that grants to the people of Ohio a reform more necessary than any other not at present enjoyed by the citizens of this state.

No member of this body can exceed me in enthusiastic and loyal support of the initiative and referendum, and it will be to me one of the cherished memories of this Fourth Constitutional Convention that I was one of the sub-committee of ten who drafted the substitute initiative and referendum proposal that was adopted almost unanimously by this Convention.

But we must remember that the initiative and referendum are instruments of defense rather than of aggression. Ours is a representative government and must so continue if we hope for sane administration and stable institutions. But I would as soon have our people menaced with the cholera or black death as to run the gauntlet of another legislature such as the last, if we are not to be protected by a workable initiative and referendum. I cannot understand how a friend of representative government can oppose a safeguarded initiative and referendum proposal such as we have adopted, for I say to you here and now that with a few more such dictagraph-pursued and corruption-enmeshed sessions of the legislature as we witnessed a year ago an outraged public will arise in its might and wipe representative government from the state, and we will revert to the rule of the mob.

But this will not occur, for we are going to adopt and have the protection of the initiative and referendum, and while in the past the problem has been how to escape the evils of representative government, the task of the future will be how to prevent the abuse of direct legislation, for I say to you without fear of successful contradiction that it is neither the most efficient nor the most desirable method of passing laws. But the people have been trifled with and betrayed by corrupt legislators until they will endure the perfidy and infamy no longer. They are going to demand their rights. They are going to see to it that they get the legislation they desire and require, and if they can not obtain it through representative government they will enforce their demands through direct legislation.

Therefore, since we face the dangers of a too frequent use of the initiative and referendum it is wisdom to ascertain what can be done toward restoring to representative government the position of confidence which it held in the days of its greatest advocate, Thomas Jefferson.

It certainly needs no argument to prove that representative government can never be satisfactory where the representatives of the people in any branch of the government — legislative, executive or judicial — are inefficient, corrupt or controlled by selfish interests. So long as the manner of their selection is such that party bosses or self-seeking corporations can name both the democrat and republican candidates for each office, there can be no hope of improvement in representative government.

But, it is asked, do not the people select their officials to make, construe and enforce the laws? Often they do not. Frequently at the election they find that they simply have a choice between two undeserving candidates, neither of whom is competent or worthy of the position. If mistakes are made in the nominating conventions of both parties, which frequently occur, the voter is powerless to prevent misgovernment. The chief cause of the frequent failure of representative government lies in the corrupt, boss-controlled, drunken, debauched and often hysterical nominating convention. The convention must go.

No man in America has made a more systematic and thorough study of the relative merits of the convention and primary systems of nominations than Professor Merriman, of the University of Chicago. Hear his opinion on the subject:

Whatever the advantages, theoretical or practical, of the convention system, its doom is clearly written. The limitation of the voter to the choice of one leading candidate, the manipulation of representatives chosen, the opportunities for trading and jobbery, the undeliberative character of the convention, all have combined to make the system, as now known and practiced, intensely unpopular and incapable of long duration. Originally the weapon of the many against the few, it has become, in only too many cases, the defense of the few against the many. Once the foe of aristocracy, it now stands in the way of democracy and must move aside. No defense that can be made for it at this late hour is likely to prove effective against the assaults of its foes. In fact,

Primary Elections.

the stubborn and mistaken advocacy of the system in various states by a certain type of party leader has alone cost the system much opposition.

The direct primary is no innovation. It is the established policy of a large number of the states of the Union. Today in this great nation over forty million of America's best citizens select their governors by direct primary vote, but, sad to relate, the great state of Ohio still clings to the corrupt, boss-controlled convention plan.

The state-wide direct primary is not peculiar to the Pacific Coast, for while Nevada, Idaho, Oregon, Washington and California nominate every state official, the legislature and all other elective officers by direct vote, yet it is the great Middle West, the region from the Alleghenies to the Rockies, where the reform is most firmly established. Consider this group of states and ask yourself if you want Ohio longer to be lined up with Delaware and Rhode Island. The direct primary for the nomination of governor and every other elective state official is now in operation in Michigan, Wisconsin, Illinois, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Missouri and Iowa. This is the cream of American resources and American intelligence and progress. These ten great commonwealths have a total population of over twenty-two millions.

But Ohio is more reactionary even than the South, which is proverbially conservative, for the state-wide direct primary is now in force in Louisiana, Mississippi, Tennessee, Oklahoma and the great territorial empire of Texas. Light is breaking in politically benighted New England, for New Hampshire progressives have secured the adoption of the unlimited direct primary in that state, and Massachusetts is now wheeling into line. When will Ohio free herself from the domination of boss-controlled conventions?

Some may object that the direct primary is not a constitutional matter. One whole article of our present constitution is devoted to the subject of elections, and primary elections are just as fundamental as the general elections in November. Under our present constitutional provision on elections we lock the door after the horse is stolen. Why not save the horse as well as the stable by incorporating provisions for the direct primary in our constitution?

Is it a constitutional matter? Many states have so decided, for a number of states have constitutional provisions as to direct primaries and a number of others would have saved a world of trouble in securing the adoption of the direct primary had they possessed provisions in their constitutions requiring direct primaries. Particularly is this true of Illinois and California, where numerous primary laws passed by the legislature were declared unconstitutional.

Let me briefly comment on some benefits to be derived from the direct primary. First, the larger vote it brings out, clearly demonstrated in the county primaries. It clearly shows that more people will vote. When you are selecting delegates for some convention they never tell you who they are going to vote for. So the people don't take any interest, but with your direct primary, where you are voting not for a delegate but for your own officials, much greater interest is taken. Another thing, there are fewer unworthy candidates.

There is a good reason why this is true. When you put it up to the direct vote of the people no unworthy candidates will present themselves, because they are afraid of the popular vote. They can't go into a convention then and by swapping and trading around get nominated. They have to go before the electors and get so many votes.

It makes the caucus and the slate futile, because if they get in a caucus and form a slate the voter at the primary will destroy it. It doesn't cost the candidates as much. I assert it does not cost anything like as much. They don't have to buy a delegation in a county convention. They don't have to do a lot of other things that they have to do under the convention system. It does not destroy party organization either. In those states which I have mentioned, the great Central West, party organizations are just as strong today as they were before they got the primary, but their politics is a good deal clearer. It does not prevent party platforms. Let me just for a moment speak on that matter. You may think when you don't have a state convention that you could not have a party platform. Let me tell you what they are doing in some of these states where they have direct primaries. I think every one of you will admit that it is a better system than we have at present. As it is now a bunch of us meet in a state convention and resolve that we are in favor of this, that or the other thing, and not one of us will be in a position to carry the matter out. Now the plan they are following in the states where they have the direct primary is to hold a primary and nominate their state officials and nominate their members of the legislature, and then the candidates for state officers and for members of the legislature meet and declare their opinions on various questions. They are the men who are going to carry out the policies. Are they not the men who ought to write the platforms? They make their declarations and then you have the privilege of reading them and deciding whether you want to vote for one set of men to carry out a certain set of principles or for another.

Now, some suggestions as to the application of the system and the time of holding primaries. Our May primaries are a mistake. Primaries should not be held more than two months before the election. The first of September for a November election is perfectly proper. Then as to the matter of plurality or majority, I think a plurality should rule. As to the matter of percentages it has been clearly shown in those states using the direct primary that low percentages should be required for petitions.

Then there should be a time limit on petitions. The petitions ought to start out at a certain time and ought to be filed by a certain time. Starting them out at a certain time gives every candidate a chance. Nobody starts out ahead of anybody else and gets all the petitioners before anybody else can come out, and then you can have as stringent rules as to the primaries as you please. Let me give you an ideal system. The ideal system is to make your primaries, not as to judges and school officers, but as to state officers and members of the legislature, as strictly partisan as you can. Don't permit a democrat to vote in the republican primaries, and don't permit a republican to vote in the democratic

Primary Elections.

primaries. Put the parties on their honor and make them select the best men they can and then at the November election make your ballot nonpartisan. Put all the men in one list and let the voters select them, not as party men, but as men. You will notice this substitute that been passed around. The original proposal is a little faulty and I am going to make a motion to substitute this in place of the other. You notice that I have made a change permitting nominations by petition. The object of that is to permit nominations for school boards and judges, if you want to, by petitions to keep them out of politics. Now, if you will excuse me for a few moments I want to make some personal allusions. Personal experiences in conventions — it is not a pleasant theme. I suppose I have been in more state conventions, probably, than any one here, and yet I do not consider that that is particularly a credit. It is simply a matter of experience. It has been so long since I was not a delegate to a state convention that I cannot remember the time. I have scarcely missed a state convention of either party in the last quarter of a century. I have observed things as a delegate, and I have observed things as a newspaper man.

Now, you say you favor representative government. Is a state convention representative? Who are the delegates? A lot of two-by-four editors like myself, a lot of one-horse lawyers and a bunch of county officials. There is your state convention. It is the same old bunch year after year. I know whom I am going to meet at the state convention before I go. Having had twenty-five years' experience at state conventions I can write you out a list of the delegates that will comprise a majority of the next democratic and the next republican state convention and there has not been a delegate elected yet. Is that representative government? You don't find any farmers worth mentioning, you don't find any business men in a state convention of either party. You don't find any representatives of the great body of laborers of the state there. It is just the three classes I have mentioned. If you would take the editors and the lawyers and the county officials out of every state convention it would look like the Constitutional Convention on Friday. That was absolutely true of all the conventions that we had before we wiped out the county conventions with the one-horse primary we are having now.

I will tell you something that will illustrate what I have said. A few years ago I had noticed what I have been telling you as to the county conventions, that the same bunch came up each year. I sat down and looked over the files of the papers and I made a list and published it in my paper and I said, before any delegates had been selected, that at the next county convention of the opposition party the following will be the list of delegates. It created consternation. They could not select that list; they had to take others and when they came up to McConnellsville they had a strange bunch that didn't know how to run a convention. They had never been in one before. Another thing, the state conventions and other conventions don't represent principles, but they represent a great desire for office and nothing else. I have seen the same men in the democratic convention solemnly resolve against all sumptuary laws and then turn around and nominate Pattison and try to put all the saloons out of business. I have seen the repub-

lican party in state conventions complete a circle on temperance and now they are on the back track on the second lap. One party is just as bad as the other in a state convention. I remember a big fight we had at Springfield in 1895 on the silver question. We had one of the greatest fights down there you ever saw. There was a little bunch of original silver men; we were probably wrong, but we thought we were right. The convention was presided over by Cal. Brice and the cities were represented by goldbugs. The convention was about two-thirds goldbugs and one-third silver, and they ran over us and trampled us to the earth. That was in 1895 and the very next year practically the same body of men met in convention and they were all the greatest free-silver men you ever saw, and those fellows who had fought us and licked us a year before got into the democratic free-silver bandwagon and rode off to expected victory and glory while we original silver men trailed in their dust. I don't think I ever felt so badly as in the election of 1896 when Bryan was defeated. But there was one consolation — those fellows who had come over for office because they thought it was going to be popular didn't get in. Just think of it! I don't like to be personal, but just think of Louie Bernard, Joe Dowling, Jimmy Ross, John O'Dwyer, John Bolen and Charley Salen having a Saul of Tarsus conversion on the silver question as they had that year!

But, gentlemen, lack of principle is not the worst thing in the state conventions, or in other conventions. They are dishonest. I know of one convention in Ohio where a man was nominated for governor and the secretaries counted him out. I was in a convention where a man was not nominated for governor and the secretaries counted him in. They have been boss-controlled invariably. Most of these references are toward democrats. I feel freer to criticize them than my adversaries, but I remember one convention, only two years ago in Memorial Hall, when I sat within ten feet of a great boss of a city and that man, with eighty men in his delegation, without consulting a single man got up and changed the vote of that county and nominated Harding for governor. He had not consulted a single man in that delegation. That is representative government! I was within ten feet of him and I watched his every movement. There was no consultation whatever. I believe that I can say truthfully that in twenty-five years I have only seen one convention of either party where the bosses were not satisfied with the nominee for governor. He died soon after. When it comes to insignificant offices like attorney general, the bosses parcel them out. I know a case where a man went to the supreme bench and all he had to do was to send a man to a certain other man and tell him "My friend wants to go on the supreme bench," and the man went on the supreme bench. The go-between told me he did it.

The state convention is no worse than the lesser convention. In our district a certain man was elected by the democrats as senator. He promised in my presence what he would do on certain matters and he came up here and did just the opposite. You naturally would expect me to do all I could to prevent his renomination. My county was almost unanimously against him, and in the making up of the list of delegates to be voted on I was permitted to select the delegation from my county

Primary Elections.

and I handpicked every delegate that went to that senatorial convention. I selected men that I felt absolutely sure would not favor the renomination of the senator and they went to the convention and what happened? They went to Lancaster and he got over half of them.

Now, in conclusion, who ought to support this proposal? All Roosevelt republicans. That is the chief thing they have been howling about in this campaign, that if there had been a primary there would have been no trouble. The La Follette men ought to be for it. The Bryan democrats ought to be for it, because that is one of the great principles of Bryan. The Wilson and Clark supporters ought to be for it. Every progressive initiative and referendum supporter ought to be for it. If you are going to trust the people, play fair. Those who favor the short ballot ought to be for it, for you are only going to nominate three men for state executive officers.

Ought we trust a boss-controlled convention? You who are against the short ballot ought to have had the experience that I have had. I have seen some of the most shameful proceedings in state conventions in connection with minor officers that could be witnessed. Talk about the great importance of these minor officers! I was in one convention where a gentleman cast five counties for attorney general and the gentleman didn't live in any one of the five. I have cast more than one myself. If Judge Okey were here he would tell you that his delegation left the convention two years ago and I was given Noble to cast in addition to Morgan.

Above all others the friends of representative government ought to be for this measure. If you don't want the initiative and referendum used every day in the week you had better clean up politics in the state of Ohio and get rid of the boss-controlled, corrupt convention. That is the danger to representative government.

Now, I want to consider for a moment the exception that you notice at the conclusion of the substitute as to township officers and the officers of little towns. We have been reversing the rule. We have been nominating justices of the peace by the direct primary and nominating governors and "little" officers like that at corrupt conventions. Now let us make a change. The direct primary is useful where there is an office worth while. Nobody wants a township office. I was on an election board two years ago and when we printed the ballots half of the township places were blank. Nobody wanted them. Why go to that expense when nobody wants the office? They can be nominated by a petition. I hope no one will offer an amendment on that. The country people are demanding it. This feature will save every county every other year \$1000. It will save the state of Ohio next year \$100,000 that is absolutely thrown away. I trust that no one will offer an amendment taking this provision out because it means two hundred thousand farmer votes for this proposal. I have had more demands from the farmers wanting this cut out than anything else since I have been here or before I came. I hope you will give this matter careful consideration and adopt it. I now offer the substitute.

The substitute was read as follows:

Amend Proposal No. 249 as follows: Strike out all after line 3 and insert the following:

"All nominations for elective state, district municipal and county offices shall be made at direct primary elections or by petition as provided by law, but direct primaries shall not be held for the nomination of township officers nor for the officers of municipalities of less than two thousand population, unless petitioned for by a majority of the voters of such township or municipality."

Mr. FACKLER: I offer an amendment.
The amendment was read as follows:

Amend the amendment of Mr. Tannehill to Proposal No. 249 as follows: Add the following:

"All delegates from this state to the national conventions of political parties shall be chosen by direct vote of the electors; each candidate for such delegate shall state his first and second choices for the presidency, which preferences shall be printed upon the primary ballot below the name of such candidate, but the name of no candidate for the presidency shall be so used without his written authority."

Mr. THOMAS: I offer an amendment:
The amendment was read as follows:

Insert after the word "offices" in line 4 the words "including candidates for United States senator."

Mr. ULMER: I am an out-and out independent, and so far as the present primary election is concerned I don't attend and can't attend because I have to say that I want a republican a democrat or a socialist ticket. We have all observed the present tendency in political life. There are no more people coming out and saying "My grandfather was a republican and I am a republican," or "My grandfather voted the democratic ticket and I am going to vote the democratic ticket." Our citizenship has begun to think for themselves and they are not sheep to be led by certain political leaders. Why not make some provision that a man can go to a primary without being asked whether he belongs to a certain party? I say you are just giving democrats and republicans and socialists a chance to vote for somebody that will be elected. The independent voter doesn't get a chance to vote. I say every name should be printed on one ballot, and I say each man who goes to the primary should have that ballot and should be allowed to vote for any name on it. I have an amendment to that effect, but there are three already in. As soon as one of them is disposed of I want to offer mine.

Mr. MAUCK: This proposal does not involve any good that the legislature itself cannot accomplish. It certainly is true that a convention called for the purpose of determining fundamental rights ought not to bother itself with questions which the general assembly may pass upon and determine. It is certainly true that there is no constitutional question involved in this proposal or in any of the amendments suggested. As long as that is true, those of us who are called here to determine the fundamental rights of the people and to incorporate them into a constitution ought not be required to waste our time on such matters as here presented and

Primary Elections.

I move that the proposal and all amendments be laid on the table.

The motion was seconded.

The PRESIDENT: The question before the Convention is, Shall the proposal and amendments be tabled?

The yeas and nays were regularly demanded, taken, and resulted — yeas 14, nays 79, as follows:

Those who voted in the affirmative are:

Brattain,	Kehoe,	Shaw,
Cassidy,	Ludey,	Smith, Hamilton,
Halfhill,	Mauck,	Tallman,
Harris, Hamilton,	Norris,	Mr. President.
Henderson,	Rockel,	

Those who voted in the negative are:

Anderson,	Hahn,	Nye,
Antrim,	Halenkamp,	Partington,
Baum,	Harbarger,	Pierce,
Beatty, Morrow,	Harris, Ashtabula,	Read,
Beatty, Wood,	Harter, Stark,	Riley,
Beyer,	Hoffman,	Roehm,
Bowdle,	Holtz,	Rorick,
Brown, Highland,	Hursh,	Smith, Geauga,
Campbell,	Johnson, Madison,	Solether,
Collett,	Johnson, Williams,	Stamm,
Colton,	Jones,	Stevens,
Cordes,	Keller,	Stewart,
Crosser,	Kilpatrick,	Stilwell,
Davio,	Kramer,	Stokes,
Donahay,	Kunkel,	Taggart,
Doty,	Lambert,	Tannehill,
Dunlap,	Lampson,	Thomas,
Dunn,	Leete,	Ulmer,
Earnhart,	Leslie,	Wagner,
Eby,	Longstreth,	Walker,
Fackler,	Malin,	Watson,
Farnsworth,	Marriott,	Weybrecht,
Farrell,	McClelland,	Winn,
Fess,	Miller, Crawford,	Wise,
FitzSimons,	Miller, Fairfield,	Woods.
Fluke,	Miller, Ottawa,	
Fox,	Moore,	

So the motion to table was lost.

The PRESIDENT: The question is on the adoption of the amendment offered by the gentleman from Cuyahoga [Mr. THOMAS].

Mr. THOMAS: I don't want to take up the time of the Convention, but it seems to me that the last two or three elections for United States senators should be sufficiently convincing to make the delegates vote for such primary election in this state as they have in a great many western states and provide for the nomination of United States senators also. I demand the yeas and nays on the passage of this amendment.

Mr. MARRIOTT: Before the vote is taken let us consider carefully what we are about to do. Some of us do not understand this. It purports to amend article V, section 1, of the constitution. If it has any relevancy to that article or section I am unable to discover it. If it is an amendment to that article I would like to know where it begins in the article and where it ends, or whether, if we adopt it as it is, we are amending any part of the constitution. If it pertains to article V, section 1, if it is a proper amendment to that section, it might as well have been added to the proposal adopted this forenoon.

Mr. BEATTY, of Wood: While this is a legislative matter there are two or three men here who were in

the legislature when the Bronson primary bill was up. I would have voted to indefinitely postpone this matter if it had not been for one or two instances that occurred there. I introduced an amendment to the Bronson primary bill providing that state senators as well as all of the other officials below the governor, be nominated by primaries, and I introduced it four different ways and it was defeated every time. We simply couldn't get it. When the primary bill came up for congressmen, we tried it again and the senate defeated it again. You can't get the primaries under the legislature, and for that reason I am voting here today that there may be something done on this question and that a state senator shall not have any more rights than any other officer of the state of Ohio. If you don't elect a different class of members to the legislature than that which has been serving for the last eight years, you cannot pass any primary bill to put the senators under it, and I know it. You cannot get any matter in the senate that effects their own standing. We have been standing for a good many things that were purely legislative and this is one of them, but if you cannot reach a thing through the legislature you will have to reach it here. For that reason I am supporting this heartily.

We also tried to amend the primary bill so that we would not have to elect township officers under the primaries and that was defeated. There are many townships that don't have five votes at the primary election. At one time in Bowling Green there were wards that couldn't get a man to go on the ticket on account of the primary. That was on the democratic side, but it was the same thing on the republican side, and for that reason I opposed the indefinite postponement of this matter and will vote for it.

Mr. KRAMER: This whole matter is legislative. One objection to the amendment offered by the delegate from Cuyahoga [Mr. THOMAS] is that it is a direct contradiction to the constitution of the United States. It looks as if we were assuming a little too much authority. The United States constitution specifies the manner in which senators are to be elected and here we are providing another way.

There is not a state in the Union that has a constitutional provision with reference to senatorial primaries except Arizona. I would hate to see Ohio governed by Arizona and adopt the provision contrary to the constitution of the United States.

I move that the amendment offered by Mr. Thomas be laid on the table.

The motion was lost.

Mr. ANDERSON: I don't care very much if the legislature can do all the things we are attempting to do in this proposal. We know what Senator Beatty has said is true, that the legislature will not do it. Furthermore, we know it ought to be done, and consequently, if it is going to be done, this body of men must do it. The gentleman who has had so much newspaper and political experience, the author of the proposal, has told you the facts that have come within his personal knowledge, and you who have had any experience along these lines know it is true. Personally, so far as any political aspirations are affected, I wish this were the law. I would have a much better taste in my mouth after defeat at the primary than at a political convention, because at a

Primary Elections.

primary all of the people have had an opportunity to speak. In a political convention you don't know whether the people want you or not. A few bosses behind closed doors make the nomination and that is the end. In years gone by when we started from Mahoning county to come down to a so-called convention, we knew the only service we could perform here would be to buy peanuts and feed the squirrels. Everything was arranged before we came. I can only remember one instance in which we succeeded in breaking a slate and that was when we chose Emerson and Price. I cannot see how any one can oppose this proposal. For instance, the legislature gave us the nonpartisan judiciary bill, but it was not nonpartisan. The legislature stopped short of giving us all we ought to have had. They said a judge could have his name put on the ticket by petition, or his name could go on through a convention.

Mr. BROWN, of Highland: I would like to know what your opinion is as to the constitutionality of the amendment offered by the gentleman from Cuyahoga [Mr. THOMAS]. If the federal constitution says that United States senators shall be elected by the legislature, how can we make effective this amendment to the proposal providing we pass it?

Mr. ANDERSON: In answer to the gentleman, we cannot change the constitution of the United States nor can any act we do finally determine how United States senators shall be elected in Ohio, except that it puts us on record in favor of it and to that extent it may help.

Mr. WOODS: Do you think it advisable for the Constitutional Convention to pass something here that openly and aboveboard violates the strict wording of the federal constitution? Do you think we ought to do such a thing as break an oath?

Mr. ANDERSON: Are you afraid of that? Is that a technicality on which you want to escape voting for this measure? Is that what your suggestion means?

Mr. WOODS: Do you think we ought to do something that clearly is in violation of the federal constitution, no matter what you and I personally think about it? Do you think we should do something here that clearly violates a provision in the federal constitution in the election of United States senators?

Mr. ANDERSON: I do not believe that we do that which is in clear violation of the federal constitution by any means. This simply provides that we have senatorial primaries for nomination, and then when the people express their choice the legislature will obey the will of the people and elect the senator thus designated. The Thomas amendment is not a violation of the United States constitution.

Mr. DOTY: Do you think the amendment offered by my colleague is any more out of whack with the federal constitution than the present law of the state of Ohio — the Stockwell bill — which provides the same thing?

Mr. ANDERSON: I see no difference, and in every state where similar legislation has been had they have violated the constitution, if we are violating it here. If Mr. Kramer is correct, they have the same provision in the constitution of Arizona, and an equally oath-breaking clause.

Mr. McCLELLAND: Is not there a difference between "nominating" a man for United States senator

and "electing" a man for United States senator? They are not the same, are they?

Mr. ANDERSON: No.

Mr. THOMAS: Is it not a fact that the senators from Oregon are nominated through preferential primaries and elected by the legislature?

Mr. ANDERSON: Certainly. I think all the delegates are acquainted with that fact.

Mr. JONES: To my mind there are two things, and only two, legitimately within the sphere of action of this Convention with reference to constitutional provisions which may be the subject of its consideration:

1. To confer powers.
2. To regulate the manner of the exercise of such powers.

As has been suggested by gentlemen here, there is no doubt now about the power of the legislature to do the very thing that is proposed by this amendment; but with regard to many of the subjects, power to act upon which is conferred upon the legislature, the people have thought it wise to regulate the manner of the exercise of the power. Take, for instance, the matter of taxation. You confer upon the legislature the power to levy taxes, but you do not want to trust the legislature with the manner of exercising that power, and so you provide that taxes must be levied by a uniform rule upon all property according to its true value. The same reasons apply here. The people don't want to trust, for reasons suggested, the legislature to determine the manner in which this power with reference to the selection of candidates for office shall be exercised, and so, to my mind, it is perfectly proper and legitimate, although in a sense legislative matter, to provide in this constitution how these nominations shall be made, and I am heartily in favor of this proposal and the amendments to it provided they can be brought into proper form. There are objections that are immaterial and can be corrected, but in substance this proposal and the amendments are right and they are in the line of doing what I think ought to be done with reference to our present system of government, to perfect it in the respects in which it has been deficient. Practically the only trouble with representative government today is the character of the representatives, and whatever can be done to improve the character of representatives who are to administer this government is in the interest of the people and is in the interest of good government; and this measure to my mind is one of the greatest steps that can be taken in the matter of improving the character of the representatives that are to be chosen to make the laws and to administer them. It is too true that in the selection of candidates for state and other officers, as in the selection of United States senators, the people have had very little to say about it, but it is manifest to us all that if this government which has served us for more than a hundred years is to continue to be even as effective as it has been, although it is not what it should be, but clearly, if it is to be improved, something must be done to place more directly in the hands of the people the selection and determination of their representatives. To the extent that we can use preferential primaries to indicate the wishes of the people as to who shall be United States senator and who shall be their candidates for president of the United States I am in favor of doing it,

Primary elections.

and I am in favor of their indicating by direct primaries their preferences for governor and other state officers. We should all be unqualifiedly in favor of this, and I hope this proposal in proper form will meet with the approval of an overwhelming majority of this Convention.

Mr. HURSH: Mr. President and Gentlemen: It is gratifying indeed to know that the motion to lay the amendment of the gentleman from Cuyahoga [Mr. THOMAS] on the table was not sustained. The objections the gentlemen are raising that we can not insert in the constitution something prohibited in the national constitution is not at all well taken, in view of the tendency of the times. Let us insert a provision in this proposed constitution that will provide for the nomination of United States senators by primary and so far as possible for their election, for we shall soon be there. It will only be a few years until the United States senators in this country will be elected by a direct vote. This amendment commends itself to me as much as the main proposition, and as much or more so than the amendment by Mr. Tannehill to the original proposal providing for the elimination of primaries in townships, and that is surely a good thing. I know, as do the rest of you, that this is purely a legislative matter, but we all know by experience with the legislature for the past twenty years that we can't get this done in the legislature. We have tried to do this same thing through the legislature for years and the legislators have steadily and repeatedly refused to do it. In doing these things we know we shall receive the approval of the people. I want to say to you that the present law providing for primaries in townships is worse than a farce. I believe I am safe in saying today that we have the poorest set of township officials in the state of Ohio that we have ever had. I have had some experience in this, and I know that formerly we used to go into a caucus and put good men on the ticket. We wouldn't let them get off. As it is today nobody will allow his name to go on the ticket and in my part of the state, in several of the townships, we have the poorest class of township officers that we have had in years. I say to you I am heartily in favor of the proposition presented by the gentleman from Morgan.

Mr. MOORE: I would feel derelict in my duty to forty thousand patrons of husbandry in the state of Ohio if I did not support this amendment of Mr. Thomas of Cuyahoga, looking toward the election of United States senators by the direct vote of the people. It has been objected that this is in contravention of the constitution of the United States in that the constitution provides the manner in which United States senators shall be elected. But it is left to us to provide for the nomination, and we can do it. For a great many years there has been a continuous scandal in the congress of the United States over the manner in which some senators have been elected. I believe it was simply because they were elected by the bosses and by cliques within the parties and not because the people had any voice in it at all. I think the nomination of candidates for United States senators would take away much of this scandal which we have heard so much about in the last few years.

There is another thing that this amendment will do. It will gain for this Convention the applause and the respect and the support of the farmers of Ohio and of

the United States. Wherever in the United States there is an organization of farmers our work will be commended, for they are in favor not only of nomination of senators by direct vote of the people but of the election of senators by the direct vote of the people. I am only sorry that we cannot have elections by direct vote of the people now, but as we can have nominations and that is all we can have now, I am in favor of passing this amendment offered by Mr. Thomas.

Mr. WINN: Mr. President and Gentlemen of the Convention: There still exists another reason why we should write into our constitution the subject matter of this proposal and that is that it may be a permanent thing, beyond the power of the general assembly to repeal. It has been said, and generally speaking it is true, that the things which the general assembly can do should be left to that branch of the government. But standing where I now stand I said a few days ago that I am not afraid to write into the constitution some things that some people think are purely legislative. As the member from Fayette [Mr. JONES] has said, we can well say in the constitution as to taxation that the general assembly shall provide by law for the levying and collection of the necessary taxes. That would be nothing but a warrant to leave it to the general assembly to provide one system of taxation one year and another year a different one; but to the end that the system may be permanently fixed and not be changed except by the whole people of the state, acting directly or through a constitutional convention or voting on an amendment to the constitution, we provide a method by which the taxes shall be levied and we place it beyond the reach of the legislature. Now you know of one or two instances where a candidate will be nominated to succeed himself as a senator in the general assembly of Ohio because we do not make the nominations at the primaries, and I presume in the instance I have in my mind the candidate will be successful. I have in mind one case where a senator fought with all the power he could command against the adoption of a measure pending then in the general assembly making it necessary to nominate his successor by primary, and by causing the defeat of every proposition of that sort the gentleman whom I have in mind will be a candidate and in a few days will be nominated. He will be nominated simply because the people cannot express their will upon the subject. Some people say "Why not defeat him at the polls?" Well, it is not as easy as said to do that, because we know until we succeed in breaking down party lines a little more it is not easy to beat a man when he is nominated by a party largely in the ascendancy. However, the time is fast approaching when every man will go to the polls and will vote only for those men whom he conscientiously believes are best fitted to fill the offices for which they are candidates. Many men have reached that position now and many are approaching it. We all know it was only just a few years ago when we were on the stump telling our dear hearers to take their ballots in the booth, make a mark in the circle, close their eyes, harden their consciences and "let her go, Gallagher," good, bad or indifferent. I have quit those habits now and I shall never be heard on the stump again. If I find it necessary to so vote for a picture at the head of a column without regard to what is under that pic-

Primary Elections.

ture I will simply refrain from voting. I certainly favor this amendment. I hope we shall pass it and that it will be approved at the ballot box.

Mr. LAMPSON: There is nothing in this amendment about the election of United States senators. It is only the nomination we are considering. I am in favor of the amendment of Mr. Thomas and the amendment of Mr. Fackler too.

Mr. FITZSIMONS: Mr. President and Gentlemen of the Convention: I had intended to sit here quietly and listen to gentlemen discussing these subjects, for in my day I have pretty nearly talked myself out, but when it comes to this proposition it brings up recollections that I dare not ignore in silence. If I did I would not be true to the oath I took when I became a member of this Convention. I have not seen a man elected senator from the state of Ohio in the last thirty years that represented the choice of a majority of the people of this state. I have seen men come in here to the city of Columbus with their friends, and with their boodle in gripsacks buy legislators of the state of Ohio as you would buy cattle in the stock yards. I have known of a sack of \$75,000 that was kicked around in a room in the Neil House because of the indifference of the gentlemen who brought the money here after they had accomplished their purpose. I saw another senator elected who, after his election, had to be a fugitive from the state of Ohio for twelve months. I have seen another elected when the constitutional rights of the citizens of Ohio were trampled on at the election so that he might have an opportunity to get a sufficient number of legislators to put him in Washington, and then you hear delegates, representatives of the people, who are to frame the organic law of the state of Ohio hesitate about putting barriers in that road. Now is the time to say that the people of Ohio shall have a choice in the selection of their senators. Put it up to the people to do it, and if you don't you are not entitled to proper representation on the part of your senators in Washington.

Mr. WATSON: I think we want a vote on this matter and I demand the previous question.

Many DELEGATES: No.

Mr. WATSON: Then I withdraw the demand.

Mr. CROSSER: Suppose this amendment becomes effective; won't their be a conflict—

Mr. TANNEHILL: Any conflict will be taken care of in the schedule. That is the last word in every constitutional convention.

Mr. THOMAS: A number of the delegates have suggested that I change the wording of my amendment to make it better. It reads like this: "Provision may be made by law for a preferential vote for United States senators." That means the same thing, so with the permission of the Convention I withdraw the other amendment and offer this amendment.

The amendment was read as follows:

Insert after the word "law" in line 3 "and provision may be made by law for a preferential vote for United States senator."

Mr. FESS: Mr. President and Members of the Convention: I believe we will not go before the people with a more popular proposal than this, because there has been so much criticism and just criticism arising out of

the method of electing United States senators. This is not an attack upon the senators, but is rather an effort to save them from a situation into which they sometimes get, usually on their own invitation. Even if it were an attack, it seems to me we should vote on and adopt it. As there is no desire to further discuss it—

Mr. DOTY: Just a moment. The amendment just proposed is to the Tannehill amendment, but the Fackler amendment, if adopted, would necessitate a change of wording in the Tannehill amendment, because they are both amendments to the proposal and not one to the other.

Mr. HURSH: Before the gentleman from Greene moves the previous question I would like to make a request for a change. Instead of using the word "may" I prefer to use the word "shall".

Mr. THOMAS: I accept that.

Mr. SMITH, of Hamilton: I want some information before I vote. Does any one here know whether or not members of the school boards are nominated by petition only, whether they are under the nomination of the party?

Mr. TANNEHILL: We have a ridiculous provision right now that the nomination shall be by parties, but that they go on an independent ballot. As soon as your party convention or primary is over anybody can go out with a petition and put his name right on with the others, so that the nomination is of no value whatever.

Mr. SMITH, of Hamilton: I thought in Cincinnati that the nomination was only by petition. Another question I wanted to ask Mr. Tannehill was whether he means that nominations may be made both by direct primary elections and petitions. Is that right?

Mr. TANNEHILL: My object in putting the petition in there was just to make it possible to nominate the members for the school board and the judiciary that way if it is desirable.

Mr. SMITH, of Hamilton: Then won't you be willing to insert the words "in such manner as may be provided by law"?

Mr. TANNEHILL: I have no objection to that.

Mr. SMITH, of Hamilton: That will clear it up.

Mr. THOMAS: I want, with the consent of the Convention, to change the word "may" to "shall".

Consent was given and the change made.

Mr. WOODS: I simply want to say the last general assembly provided a law of this kind, and I don't know but that this means we shall do all over again what they have done. I am in favor of electing United States senators by a direct vote and I would overrule the constitution of the United States to do it if I could, but we cannot do it. If I remember right the last general assembly passed a law providing for a preferential vote on United States senators. If they have done it I don't think we should say that they shall do it again.

Mr. THOMAS: I don't think this will require a reenactment.

Mr. MOORE: I feel that this preferential vote for United States senators is a phantom. I believe it is a grasping at the shadow instead of at the substance. I feel that when the people of Ohio go out and vote to nominate a man that he should be elected, but if we have no authority to enforce the wishes of the people on the legislature we are lost. I would like to have that so

Primary Elections—Abolition of Capital Punishment.

fixed that if a man is nominated he would be elected; that they must vote for him.

Mr. FESS: Now I move the previous question.

The previous question being regularly demanded and a vote being taken the main question was ordered.

Mr. ULMER: I want to say —

The PRESIDENT: The member is out of order.

Mr. ULMER: —that I don't think it was ever intended —

The PRESIDENT: The member is out of order.

Mr. PECK: I would like to inquire whether this proposal covers judicial officers?

Mr. THOMAS: Yes.

Mr. PECK: There are some of us who would like to put in a proposal requiring all judicial officers to be nominated by petitions.

Mr. SMITH, of Hamilton: I think provision has been made as to that.

The PRESIDENT: The question is on the amendment offered by the delegate from Cuyahoga [Mr. THOMAS].

The amendment was agreed to.

The PRESIDENT: The question is on the amendment of the delegate from Cuyahoga [Mr. FACKLER].

The amendment was agreed to.

The PRESIDENT: The question is on the adoption of the amendment of the delegate from Morgan [Mr. TANNEHILL].

The amendment was agreed to.

The PRESIDENT: The question now is on the adoption of the proposal as amended, and the secretary will call the roll.

The yeas and nays were taken, and resulted — yeas 99, nays 2, as follows:

Those who voted in the affirmative are:

Anderson,	Halenkamp,	Partington,
Antrim,	Halfhill,	Peck,
Baum,	Harbarger,	Peters,
Beatty, Morrow,	Harris, Ashtabula,	Pettit,
Beatty, Wood,	Harris, Hamilton,	Pierce,
Beyer,	Harter, Stark,	Read,
Bowdle,	Henderson,	Riley,
Brown, Highland,	Hoffman,	Rockel,
Brown, Pike,	Holtz,	Roehm,
Campbell,	Hursh,	Rorick,
Cassidy,	Johnson, Madison,	Shaw,
Collett,	Johnson, Williams,	Smith, Geauga,
Colton,	Jones,	Smith, Hamilton,
Cordes,	Kehoe,	Solether,
Crites,	Keller,	Stalter,
Crosser,	Kilpatrick,	Stamm,
Cunningham,	King,	Stevens,
Davio,	Kramer,	Stewart,
DeFrees,	Kunkel,	Stilwell,
Donahy,	Lambert,	Stokes,
Doty,	Lampson,	Taggart,
Dunlap,	Leete,	Tannehill,
Dunn,	Longstreth,	Tetlow,
Earnhart,	Ludey,	Thomas,
Fackler,	Malin,	Ulmer,
Eby,	Marriott,	Wagner,
Farnsworth,	Mauck,	Walker,
Farrell,	McClelland,	Watson,
Fess,	Miller, Crawford,	Weybrecht,
FitzSimons,	Miller, Fairfield,	Winn,
Fluke,	Miller, Ottawa,	Wise,
Fox,	Moore,	Woods,
Hahn,	Nye,	Mr. President.

Messrs. Brattain and Tallman voted in the negative.

So the proposal passed as follows:

Proposal No. 249 — Mr. Tannehill. To submit an amendment to article V, section 1 of the constitution.—Relative to primary elections.

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:

All nominations for elective state, district, municipal and county offices shall be made at direct primary elections or by petition as provided by law, and provision shall be made by law for a preferential vote for United States senator, but direct primaries shall not be held for the nomination of township officers nor for the officers of municipalities of less than two thousand population, unless petitioned for by a majority of the voters of such township or municipality.

All delegates from this state to the national conventions of political parties shall be chosen by direct vote of the electors; each candidate for such delegate shall state his first and second choices for the presidency, which preferences shall be printed upon the primary ballot below the name of such candidate, but the name of no candidate for the presidency shall be so used without his written authority.

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

The PRESIDENT: The next business before the Convention is Proposal No. 62 — Mr. Pierce, relative to the abolition of capital punishment.

The proposal was read the second time.

Mr. Pierce was recognized.

Mr. TETLOW: Will the gentleman yield so that I can move to postpone the consideration one minute? I wish to offer the report from the committee of three on conservation.

Consent was given and Mr. Tetlow offered the report of the special committee of three which was read as follows:

The select committee to which were referred Proposal No. 64 — Mr. Miller, of Fairfield, Proposal No. 230 — Mr. Tetlow, and Proposal No. 313 — Mr. Leete, having had the same under consideration, report them back with the following amendment, and recommends the passage of Proposal No. 64 when so amended:

Strike out all after the resolving clause and insert the following:

"Laws may be passed to encourage the propagation, planting and cultivation of forestry and exempting from taxation, in whole or in part, wood lots or plantations devoted exclusively to forestry or to the growing of forest trees; and also provide for reforestation and holding as forest reserves such lands or parts of lands as has been or may be forfeited to the state, and may authorize the acquiring of other lands for that purpose; also to provide for the conservation of all natural resources of the state, including all streams, lakes, submerged and swamp lands or other collections of water within the boundaries

Abolition of Capital Punishment.

of the state, and for the formation of conservation districts; and shall provide for the regulation of all force, energy and power developed or to be developed from said water; and shall provide for the regulation of mining, weighing, measuring and marketing of all minerals."

The report was agreed to.

Mr. TETLOW: I now move that the report be printed and made a special order for ten o'clock tomorrow.

Mr. DOTY: The original motion was that it be placed at the top of the calendar. That is better than what you are moving.

Mr. TETLOW: Then I will withdraw the motion to make it a special order.

Mr. DOTY: That report should refer to but one proposal.

Mr. BROWN, of Highland: Well, there are three proposals, one each from the delegate from Columbiana, the delegate from Fairfield and the delegate from Lawrence. These, under the motion of the member from Highland, were submitted to this special committee for report.

The PRESIDENT: The president would say that in order to keep the books straight it is necessary to strike out the reference to the other reports. When they are met with they can be indefinitely postponed if this matter takes care of them. Just let it read, "The committee, having under consideration Proposal No. 64, offers the following substitute."

The change was made as directed.

The PRESIDENT: The question now is on the printing of the report and the placing it at the head of the calendar for tomorrow.

The motion was carried.

The consideration of Proposal No. 62 was resumed.

Mr. PIERCE: There is a disposition on the part of the delegates to this Convention to expedite business. I do not want to interfere with that desire because I feel it is a laudable one, and I am perfectly willing, so far as I am concerned, for this Convention to pass on this proposal without debate. I have canvassed the Convention and the sentiment of the members is overwhelmingly in favor of the adoption of my proposal. If the Convention is willing to forego the debate, that will be entirely satisfactory to me. I believe it will be a good thing for the Convention to pass the proposal.

Mr. WOODS: I want to protest for a few minutes. I am opposed to this proposal, and my first point of opposition is this: If there is any matter that is clearly legislative and that can be taken care of in the general assembly it is this one. There is not any reason why we should put this into the constitution. There was a reason why we should put what we have just done in it, but I would like to have some one tell me why this should go into the constitution.

In the second place I am opposed to abolishing capital punishment. Here in the state of Ohio nobody can be electrocuted except upon a verdict of a jury, and that jury has a right to recommend mercy. If it recommends mercy the defendant gets a life sentence. I say to you that no jury in the state of Ohio will fail to recommend mercy unless it is an aggravated murder. I never shall vote in a body like this or in any body to

abolish capital punishment. This is not the age to be making laws for criminals. We are making laws to take care of criminals. I think you are making an awful mistake. There is a lot of things that could be gone into on this matter, but if you don't want to debate it there is no use taking up time. There is no reason why this Constitutional Convention should put a proposition of this kind in the constitution. This matter has been in the general assembly and has been thoroughly debated. I have sat on the judiciary committee where every member was against the proposition and we reported it nevertheless. After thorough debate it was killed. If we electrocute every man who commits murder there might be some reason for it, but we don't. Do you think that men who would go down into a court house, as they did in Virginia, and shoot and kill the prosecutor and the judge on the bench and some of the jurors and some of the witnesses, should be allowed to live? If you do I don't agree with you. I think this is a mistake. I think it is a mistake for us to attempt anything of that kind here, and I hope you will think about the matter before you do anything of the kind.

Mr. WATSON: I want to raise my voice in protest against the abolition of capital punishment. The tendency of all is to protect the weak against the strong, and when a man coolly and calmly and deliberately enters your house with the purpose to commit robbery, armed to the teeth to commit murder if necessary, to carry out the other offense, you give him life imprisonment. I think the old Mosaic law should apply to this. I think it comes into play here.

Now, just a word further. There seems to be a spirit of sentimentalism that is asking us to take this penalty from the back of the criminal. I have as much compassion for my fellow man who goes astray as any other man, and I believe that we should reach out and lift him up rather than kick him down, but there are cases that are aggravated and as the tendency of the day is to give the criminal merely a nominal fine, I don't think anybody will be electrocuted who ought not to be. Take that case in the adjoining county recently. A helpless school girl in passing her home was outraged and murdered and yet that criminal was only given twelve years' sentence. A few years ago near Bellefontaine, in Logan county, a far distant relative of mine was criminally assaulted and trampled into the mud by a brutish man and murdered in cold blood. Should that man escape with a mere penitentiary sentence for life? I tell you, gentlemen, this is not the time to trifle with such matters.

Mr. ANDERSON: What is your idea as to the purpose of the law for capital punishment? Is it for revenge?

Mr. WATSON: Protection.

Mr. ANDERSON: Would not life imprisonment without pardon be a protection?

Mr. WATSON: No.

Mr. ANDERSON: Then you are in favor of the old Mosaic law, "an eye for an eye, a tooth for a tooth—"

Mr. WATSON: "And whosoever sheddeth a man's blood, by man shall his blood be shed."

Mr. PIERCE: I made a little speech a while ago in the hope that this matter would be adopted without

Abolition of Capital Punishment.

any trouble, but that seems to be impossible." I believe it will be better to proceed in the regular way and I therefore wish to proceed with my remarks.

Mr. President and Gentlemen of the Convention: Unlike some others who have spoken, I shall not be egotistical enough to claim that this is the most important proposal that has come before the Convention, but I want to assure you that it is of vital importance to the people of the state. A question may assume importance from the angle at which it is viewed. If a person were awaiting electrocution for some crime he did not commit the probabilities are he would regard capital punishment as the paramount issue. Each individual is judged by what he does and by what he fails to do. Society is composed of individual units and its acts, either good or bad, are reflected in its customs and laws. If a majority of the people of a community are ignorant, depraved, superstitious and sanguinary, it is reasonable to suppose its laws will be crude and barbarous. It is a principle of mechanics that water will not rise above its source; neither will the customs, habits and laws of a people rise above the average intelligence of the community. If its people are intelligent and progressive, this fact will be reflected in its acts; if savage, its laws will be savage; if humane, its laws will partake of the same character. The people of antiquity are judged by their penal codes, as our civilization will be judged in time. We view with horror the penal laws of the sixteenth century, and I am sure two hundred years hence the people will regard electrocution as barbarous as the whipping post. No nation has a right to boast of its civilization until its laws are humane. When it is constantly putting men to death for crime, no matter what its claim may be, future generations will decree it is either savage or semi-savage. This state, one of the most enlightened in the Union, in the past twenty-seven years has put sixty-eight men to death within the walls of its penitentiary and has one now awaiting electrocution. It has become criminal because a few of its citizens are criminals. It murders because its citizens murder. In the evolution and progress of humanity the time will come and at no distant day, when the people will look upon us as we look upon our ancestors—with shame and humiliation. It is time to retrace our steps, to undo the wrongs we are inflicting upon society, and to guard the future against the cruel and heartless past.

The present constitution of the state provides:

All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel or unusual punishment inflicted.

And it is now proposed to amend the above section to read as follows:

All persons shall be bailable by sufficient sureties, except in cases of homicide, where proof is evident or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted; nor shall life be taken as a punishment for crime.

I apprehend some of the opponents of the abolition of capital punishment will ask, Why recommend its abolishment constitutionally; why not leave it to the legislature?

It is true the legislature of the state has the power to abolish it, but the fact remains that it has never done so. The legislature is a partisan body, and not so well adapted to the work as this Convention; besides it has been in session every year since the adoption of the present constitution from 1851 to 1891, and each two years from 1892 to the present time. During all these years, it has not abolished it, which is the best evidence that it is not the proper body to deal with the question.

If the legislature during the past sixty years had passed a bill to abolish it, and the governor of the state had signed it, it would have been the law whether the people approved it or not. But not so if this Convention should recommend its abolishment. It has to go to the people for their approval or rejection, which is right. If the majority of the people do not want it abolished it cannot be done; if they want it abolished they may say so at the polls. All this Convention can do is to submit the question to the people of this state by referendum vote, Shall Ohio abolish capital punishment?

It seems strange that any man who believes in rule by the people will seriously object to this method of procedure. It is democratic to let the majority rule, and I believe if the people want a thing they should have it, whether it is best for them or not, provided it is not malum in se.

It is not material to the issue whether the legislature has the authority to abolish capital punishment or not. I am willing to concede it has full power and authority to do so, and if it had exercised it, as it had a right to do, it would be unnecessary for this Convention to deal with the subject matter. We are here discussing the advisability of its abolishment because the legislature of the state has failed to act, and I submit, after waiting for sixty years, it would be unreasonable to wait longer. This Convention has plenary power to recommend its abolishment to the people, and it will be derelict in its duty if it fails to act so the people may vote upon the question.

The greatest compliment this Convention could pay itself would be to pass by unanimous vote the proposal to abolish capital punishment. It would indicate to the people its progressiveness as well as its humanity, and expunge from the law of the state a crime that should never have disgraced it.

It shall be my aim, in the discussion of this question, to go to its merits without a multiplicity of words.

Capital punishment is justified, if at all, only on one ground, protection to society. Society has the inherent right to protect itself against the criminal acts of the lawless, because the great mass of mankind prefer to live an honest, industrious, virtuous, upright life, and those who interfere in any way with this right are enemies to society, and society has the right to self-protection.

To preserve inviolate this right it is not necessary for society to take the life of an individual. There is a more humane way than to kill. Life imprisonment is just as effective in most instances. It is true there is a remote possibility the prisoner will escape, but when hedged about by proper safeguards the likelihood is reduced to a minimum. Imprisonment for life is an effective mode of punishment, far less barbarous than hanging

Abolition of Capital Punishment.

or electrocuting, and more in accordance with the spirit of the age.

Every advocate of capital punishment goes back to Noah's time for authority to kill. He justifies it on the scriptural quotation, "Whoso sheddeth man's blood by man his blood shall be shed." Dr. Cheever, who was one of the principal advocates of capital punishment, says, "It is the citadel of our argument, commanding and sweeping the whole subject."

If there is any delegate to this Convention who is influenced by the above quotation from the Bible in favor of capital punishment, I want to remind him that Hebrew scholars translate it in at least twelve different ways from the original, many of the translations materially changing its meaning. But for the sake of argument I will admit it means just what it says. How then can we reconcile the fact that a person who sheds another's blood in self-defense is exempt from murder? Shall we judicially kill the insane because they commit murder? If every person who takes life should be subject to the decree "Whoso sheddeth man's blood by man his blood shall be shed", no one would escape the death penalty, no matter what the provocation or the circumstances. It either means what it says or it means nothing at all, and if it is to be literally accepted it includes all who shed blood, be they sane or insane, justified or not justified.

If it is the will of God that every person who commits murder, either accidental or premeditated, shall be executed, how do we account for the leniency with which God himself dealt with murderers both before and after the above injunction was issued?

The first man to commit murder, so far as there is any recorded evidence, was Cain. It was cold-blooded, premeditated, wholly unjustifiable. How did God, who was his sole judge, deal with him? Did he hang him, as a barbarian would have done, by the neck until dead? Did he electrocute him? He did not even imprison him—

And now art thou cursed from earth, which has opened her mouth to receive thy brother's blood from thy hand.

When thou tillest the ground, it shall not henceforth yield unto thee her strength; a fugitive and vagabond shalt thou be in the earth.

And the Lord said unto him, Therefore whosoever slayeth Cain, vengeance shall be taken on him sevenfold. And the Lord set a mark upon Cain, lest any finding him should kill him.

This was the decree of the court, the highest court in the land, but this was before "whoso sheddeth man's blood by man his blood shall be shed" was written to give the human Dracos, hyenas and jackals pretended authority to strangle men to death.

Did God kill Moses because he slew the Egyptian and hid his remains in the sand? Not a bit of it. He let him go scot free. What was done with Lamech? Were not his hands stained by the blood of another? What was done with David, who, the Bible informs us, "was a man after God's own heart?"—

And he walked one evening to enjoy the cool air on the roof of his house when his watchful eye saw a beautiful woman washing herself, and

he coveted her. Upon inquiry he found she was the wife of Uriah, one of his faithful soldiers. He sent for him, treated him kindly, and told him he might go home to Bathsheba. But Uriah, being a faithful soldier slept in the guard-room, refusing to desert his soldiers who were faring hard on the field of battle. So David got him drunk and commanded Joab "Set ye Uriah in the fore-front of the hottest battle, and retire ye from him, that he may be smitten and die.

This was an infamous crime, one of the worst recorded in the annals of literature, yet David escaped both the gallows and the electric chair.

What about Simeon and Levi? They too are murderers, and yet they were not strangled to death by divine command.

But all this occurred under the old doctrine of "an eye for an eye, and a tooth for a tooth," and it is a notorious fact that God did not cause one of them to be put to death. The people are now living in a different age. The laws suitable to the early inhabitants of a country may be wholly unsuited to a later period of time. What may have been suitable law to the early Hebrews may not be suitable to the people of the present day.

But the people are now living under a new dispensation. They are living under the benign influence of Christianity. It would be a sad commentary on them if there had been no progress in the last six thousand years. Notwithstanding the wonderful progress made toward higher ideals and life, there are a few half-civilized people who in their vanity and egotism imagine they are civilized, that would forever chain the human race to the dark and bloody ages of the past. They would go back to the time of Moses and re-enact the thirty-three capital offenses of his blood code. They would punish by death the crime of witchcraft; eating leavened bread during the passover; suffering an unruly ox to be at liberty; putting holy ointment on a stranger; going after familiar spirits and wizards; coming nigh the priest's office, and opposition to the decree of the highest judicial authority. Under the law of Moses these were all capital offenses punishable by death.

Is there any man in this Convention who wants them placed in our statutes? Does any man want a fellow-being put to death because he suffers "an unruly ox to be at liberty?" If he believes in capital punishment at all he should demand it because it is based upon as high authority as "Whoso sheddeth man's blood by man his blood shall be shed." It was the law of Moses, and notwithstanding our higher and better civilization, it is still binding, if it ever was, upon the people. Does any man clothed in his right mind subscribe to any such nonsense? Does he not know it is wrong and unjust? Will he ask that it be restored?

If the people of this state have the authority to abolish all the capital crimes laid down in the law of Moses except one, why have they not the right to abolish it also? When, where and how did they get the right to prohibit the other thirty-two? If it is divine law that "whoso sheddeth man's blood by man shall his blood be shed," it is equally true that "putting holy ointment on any stranger" is divine law also, because both are of equal authority. If it is right to abolish the one, why is it not right to abolish the other?

Abolition of Capital Punishment.

Capital punishment can not be defended on the ground of divine law. People may honestly differ as to the wisdom of its abolishment, but let its retention be placed on the true ground—its inexpediency. Do not try to place it on God, but rather to the ignorance and superstition of the people.

Will any person contend that the criminal law of Moses was sanctioned by Christ, and that society is still bound by it?

I prefer the teachings of Christ to the law of Moses. I regard them more humane, better suited to the times. I prefer to reject the Mosaic law which says, "He that smiteth father or mother shall surely be put to death," and in its place accept the saying of Christ, "I am not come to destroy, but to fulfill." The religion of Christ is one of love, not of hate, violence or murder. It teaches us to love our neighbors as ourselves, and if we accept His teachings, capital punishment will be abolished for all crimes.

The old law was, "Let her be stoned to death"; the new is, "Neither do I condemn thee; go, and sin no more."

The question, "Is the death penalty expedient?" has agitated the people for ages. It should be answered negatively, because it does not restrain the commission of crime. Society has been hanging criminals and others for centuries yet crime has not diminished. It has not had a deterrent effect; therefore it is a failure.

The most efficacious method of punishment is to confine in the penitentiary. If a criminal is executed he is beyond human aid. If he is imprisoned, he may be pardoned if subsequent events prove him innocent. It is more humane to imprison than to electrocute or hang. Punishment for crime ought to be certain, speedy, and tempered with mercy. The severity of punishment frequently prevents conviction.

Capital punishment is a relic of the dark ages. No tenet of the Christian faith can enjoin it. Six states of the Union have abolished it, and there is no disposition on the part of the people to return to it. Crime is less frequent where it has been abolished; there is less mob violence, and it is in accordance with the enlightened and progressive spirit of the age. It should be remembered that only one criminal out of each fifty-seven who commit capital offenses is judicially hanged or electrocuted. If fifty-six out of each fifty-seven escape, it will not endanger society much more if the other one should escape death.

Michigan, Rhode Island, Wisconsin, Kansas, Maine and Minnesota have abolished capital punishment, and after years of trial in each of them there is no disposition on the part of any of them to return to the sanguinary and barbarous custom. The sentiment of the people of all those states is now so strongly against it that it may be safely assumed that it will never again be enacted in any of them.

Mr. JONES: Will you permit a question?

Mr. PIERCE: Yes.

Mr. JONES: Do you know how long any of the states have had laws in effect that abolish capital punishment?

Mr. PIERCE: Yes, Michigan and Wisconsin previous to 1853, and Kansas about the same year. In Kansas the law provided that a person convicted of a

capital offense could not be executed until one year and one day had elapsed and then only upon the order of the governor. The fact remains that no governor in the state of Kansas ever issued an order for the execution of a criminal, and a few years ago the legislature of the state wiped it from the statute books completely.

Mr. STALTER: Do you think that life imprisonment is too severe a punishment for burglarizing a dwelling house?

Mr. PIERCE: I think that depends altogether upon circumstances. It might be in some instances and might not be in others. I do not think you can lay down any iron-clad rule.

Mr. STALTER: Were life imprisonment the penalty for burglarizing a dwelling house would there be any disinclination on the part of a burglar if a person should see him there to take that individual's life and destroy all evidence of his crime if there were no higher penalty for murder than life imprisonment?

Mr. PIERCE: I presume not. If he knew he would go to the penitentiary for life and that would end it, he might not hesitate to take the life of any one who would discover him in the commission of the crime.

Mr. STALTER: Then would not taking away the penalty of death for murder have a tendency to increase murder?

Mr. PIERCE: Not at all. It would have a tendency to decrease it and I will tell you why. The law of this country will show it. In Massachusetts and Connecticut they used to have a provision that the person who stole forty shillings should be executed capitally. They tried a great many of those cases under that law and there were a great many convictions, and even where the proof was clear that a man had stolen far to exceed forty shillings the jury would always return a verdict of guilty, but fixed the amount stolen at less than forty shillings.

Mr. STALTER: If the penalty for stealing a shilling were life imprisonment and there was no death penalty for murder, wouldn't the man who stole the shilling be inclined to take life to wipe out the evidence of the stealing?

Mr. PIERCE: No. You are an attorney at law, are you not?

Mr. STALTER: No; I am a farmer.

Mr. PIERCE: If you will go back and read the early law of England you will find pocketpicking was a capital offense and there were instances, hundreds of them, where people were executed for picking pockets, and in the very crowds that assembled to see those people executed there were any number of pockets picked right in the face of death. It did not deter them at all.

Mr. ANTRIM: Have not more murders been committed where capital punishment existed than after the capital punishment was abolished?

Mr. PIERCE: Yes.

Mr. WOODS: Suppose some one went to the penitentiary for life for some crime. Under the proposal as you want it that is just as great a punishment as a man can get.

Mr. PIERCE: Yes.

Mr. WOODS: Well, suppose he kills a guard at the penitentiary in order to escape? What would you do?

Abolition of Capital Punishment.

Mr. PIERCE: Put him in solitary confinement where he would not have a chance to do anything like it again.

Mr. ANDERSON: Would not there be the same incentive to kill a guard where the man was in for murder in the first degree and waiting the chair as there would be if he were in for life?

Mr. PIERCE: Yes.

Mr. ANDERSON: And does not history show that men who are in the penitentiary without any chance of getting out and waiting for execution do not kill or attempt to kill attendants?

Mr. PIERCE: Yes.

Mr. STOKES: Do you think it would have been beneficial to society if the murderers of Garfield and McKinley had been imprisoned for life rather than executed?

Mr. PIERCE: Yes; I think that is what ought to have been done with them. Now I shall be glad to answer questions, but I am trespassing on my time and I want to get through. If I have any time when I get through I will be glad to answer any questions that are propounded to me.

To give you an idea of the sentiment of the people of the state of Wisconsin relative to capital punishment I submit the following letter:

MADISON, January 27, 1912.

Hon. DAVID PIERCE,
Columbus, Ohio.

Dear Sir: Your letter of January 24 to Governor McGovern has been referred to this department for reply. We note that you have introduced in the Ohio Constitutional Convention a proposal to abolish capital punishment in your state and that you desire certain information concerning the effect that the abolishment of capital punishment in Wisconsin has had upon the number of capital offenses committed.

Capital punishment was only in operation in this state from 1849 to 1854.

During the time that it was in operation only three executions took place. It would be useless to attempt to make any comparison between the number of capital offenses committed when capital punishment was in operation and since it has been abolished, or to give an opinion as to whether the number of offenses have increased or diminished. All of the conditions that existed at the time capital punishment was in operation in this state have so materially changed that any comparison of statistics would prove nothing. We do not believe that capital offenses are more frequent in this state in proportion to the population than in others where capital punishment is in operation, but, of course, there are no statistics by which comparisons can be made.

There is not now, and never has been since the abolishment of capital punishment, any disposition on the part of the people to have it restored. During the last ten years there has not been a single lynching in Wisconsin for crimes that have been committed by persons. The last lynching occurred in this state about eighteen years ago. At the present time we have in the state prison

about ninety life prisoners, all of whom have committed capital offenses. The people of this state do not believe in capital punishment. They do not believe in it because they do not think that it prevents the commission of capital offenses. They do not believe in it because they do not believe that the taking of a human life should be legalized. Whenever an execution takes place the newspapers give it so much notice that it has a demoralizing effect upon the people of the state in which it occurs, and especially upon the community in which it takes place. We do not believe that the legalizing of the taking of a human life relieves the person that is obliged to do the executing from the moral responsibility of taking human life. We would be glad to see capital punishment abolished in every state in the Union, and we believe the time will come when this will be done.

We are sending you by mail, under separate cover, a copy of our last biennial report. You may get information from this report which will be of benefit to you.

Very respectfully,

STATE BOARD OF CONTROL,
M. J. Tappins, Secretary.

What is true of the state of Wisconsin is true of the states which have abolished capital punishment. Capital crimes have not increased in them, and mob violence is seldom resorted to where the people have been wise enough to abolish it.

If the right of capital punishment is conceded the question of its expediency is debatable.

Judge Walker says:

The great argument in favor of death as a punishment is the terrific example it holds out to others. Not only does death render it certain that the same offender will never repeat the offense, but it has the strongest possible tendency to deter others from committing it. On the other hand, however, it is urged that the same result may be attained without inflicting death. Solitary imprisonment for life renders it almost equally certain that the offender will not repeat the offense; and as a terror to others it is scarcely less effectual than death itself. At the same time our sentiments of humanity are much less shocked at seeing the prison doors closed forever upon a fellow-creature than at seeing him suspended from the gallows. We feel that he has a space for repentance and reformation, instead of being sent suddenly away, reeking with guilt, to the presence of his final judge. We also feel that he may, after all, be innocent, so uncertain is human testimony. We know that innocent men have often been condemned and executed, and in such cases an infinite wrong has been done without the possibility of undoing it. The vital spark has been rashly put out, and all earth can not rekindle it; whereas the prisoner, when his innocence is discovered, can be set free and thus be indemnified, in some degree, for the wrong he has sustained. These considerations, and others

Abolition of Capital Punishment.

of a similar nature, are strongly turning public sentiment toward the abolition of capital punishment."

I am opposed to capital punishment for the following reasons among others:

1. It prevents the enforcement of law by reason of its severity. I agree with Henry Ward Beecher that "while the fear of hanging does not deter men from crime, the fear of inflicting death deters many a jury from finding a just verdict, and favors the escape of criminals."

Mr. WOODS: I would ask you to explain how the finding of the verdict of guilty interferences with the jury bringing it in when the law provides for them to recommend a sentence of mercy and then a man can only be imprisoned for life.

Mr. PIERCE: It does, but it would take me a long time to explain it to you. As I said, when the punishment for stealing forty shillings was death the jury would find them guilty, but would always bring in a finding that the amount stolen was less than forty shillings, no matter what the amount actually was.

Mr. WOODS: You don't understand me. The statute provides that a jury can recommend for mercy in any case where they find a man guilty of murder in the first degree, and if the jury does that the sentence only can be for life imprisonment. If capital punishment were abolished the sentence would still be for life imprisonment, would it not?

Mr. PIERCE: Suppose the jury was composed of men like you; you would never bring in a sentence of mercy.

Mr. WOODS: I would not.

Mr. PIERCE: No; you would take them out behind the barn and shoot them.

Mr. WOODS: I would if they were guilty.

Mr. PIERCE: That is just the reason I want this, because we would find juries occasionally composed of individuals like you who would not recommend mercy.

2. It does not deter, restrain or prevent murder.
3. It occasionally takes the life of innocent people.
4. It is a relic of barbarism and belongs to the dark ages.
5. It has a bad effect upon the people of a community in which it occurs.
6. Life imprisonment is more humane and severe and just as effective.
7. It is against the progressive spirit of the age.
8. It violates the commandment of God, "Thou shalt not kill."

The select committee to investigate capital punishment appointed by the Ohio house of representatives, of which Gen. Durbin Ward was chairman, reported as follows:

The punishment, originating in the ages of darkness and barbarism, has been continued like so many other evils, because society has been too feeble and too prejudiced, too much attached to ancient usages, and too fearful of radical changes to be thrown off. The proud and cruel conqueror claimed the right to dispose of the life and liberty of the conquered, and having the power to enforce the claim transmitted capital punishment

and slavery — the twin children of conquest — to succeeding ages. And they, like the other destroyers of mankind, veil the meanness of their birth under a pretended divine origin. The capital punishment theory now enslaves mankind in the same way the divine right of kings held its place till so lately in the popular mind, and like the slavish falsehood, was in earlier ages unfortunately incorporated into the people's religious faith.

It is pleasing to reflect that we have made so many advances in all that constitutes true civilization, but the cheek has still cause to mantle with shame that some of the relics of barbarism remain. Criminal reforms are always behind the spirit of the age. This is natural enough, for punishments connect themselves so closely with the passions of men that the more humane dictates of reason do not soon exercise their reforming influence on the criminal code. Men learn only after a long and painful experience that their reason more certainly than their passions illuminates the path of duty and conducts them to happiness.

But there is an evident progress. Step by step civilization advances, and the humane judgment, attaining greater maturity, assumes the control of the passions. This advance ultimately reflects itself in penal legislation, and the barbarous enactments of a ruder age fade one by one from the statute book. The wager of battle, the burning of witches, the branding of the forehead, are all gone to return no more. The death penalty must go too. It is too unphilosophical and too unjust to maintain its ground much longer in any country where reason is not the slave of prejudice. Already has the common sentiment of society forbidden the public exhibition of the accursed punishment, and ere long the gallows will be condemned to the same grave which now covers the stocks and the thumbscrew, the hurdle and the fagot.

Much has been said here about being progressive. I want to remind this Convention that we shall be judged by what we do, not by what we say. To abolish capital punishment will be a step forward. The grand old commonwealth of Ohio can not afford to belong to the age of dug-outs and stone hatchets. She should demand a higher and better civilization. She cannot afford to be less progressive than Holland, Finland, Switzerland, Belgium, Prussia, Portugal, Roumania, Tuscany and Russia, all of which have abolished capital punishment, except Russia for political offenses.

If this state shall abolish capital punishment it will be a forward step, and one that the people of the whole country will applaud. We shall be glad that we voted for it, and our children's children will honor and respect us for it.

All reform is slow. It took years to abolish slavery. Eminent lawyers, ministers, and college professors defended it as a divine institution, as they now defend capital punishment, but it had to give way to a higher, broader, better civilization. Its abolishment is progress, evolution, destiny. It is time to turn from the bloody

Abolition of Capital Punishment.

past with all its horrors and to obey God's command, "Thou shalt not kill."

Mr. PARTINGTON: Members of the Convention: It is rather strange to me to listen to an argument favoring the abolition of capital punishment upon the ground of humanity, upon the ground of progress and the spirit of humanity and then to cap that argument by saying we should impose life imprisonment, and for misconduct while so confined in that prison the criminal should be put in solitary confinement. I can not see that spirit of humanity. A great student of penology has said if you confine one hundred men in the penitentiary, and take from them the last hope of escape, not one will be alive in fifteen years. I want to read you an indictment by President Andrew D. White in an address at Cornell University, wherein he declared that as a result of extensive studies, carried on through a long period of years and in all parts of the Union, he had become convinced that the United States leads the civilized world, with the exception perhaps of Southern Italy and Sicily in the crime of murder, especially unpunished murderers. The proponent of this measure told us that only one out of fifty-six murderers was convicted, and after making that statement he tried to follow it with the argument that capital punishment does not prevent crime. You give a criminal that kind of a chance, fifty-five to one, and he will take his chance every time. But I do not believe those figures are correct. I believe the figures would be nearer right at one hundred to one.

No man can argue rightly that capital punishment is not a deterrent from the commission of murder when only one man out of one hundred who commits murder is executed.

In England, where they have capital punishment, one out of three is executed, and this shows an appalling difference in the number of murders between England and the United States. In the United States from seven thousand to nine thousand and even ten thousand murders are committed in every year and in England there are only three hundred.

Now I wish to argue for a little while, not upon the justification, but upon the necessity of capital punishment.

Colorado just a few years ago abolished capital punishment and then a beast in man's clothes committed a heinous crime—robbed and murdered a girl of twelve. The sheriff led that criminal to the place of execution instead of the law; that man was executed by a mob. So I wish to argue to you for a little while only on the necessity for capital punishment, not its justification.

That capital punishment can not be justified on moral grounds may be admitted, i. e., on the grounds of Christian morality. It is true that the law of Moses exacted "an eye for an eye, and a tooth for a tooth," and commanded that "Whoso killeth any person, the murderer shall be put to death by the mouth of witnesses" (Numb. 35:30); but it was only until faith came that we were kept under the law (Galatians 3:23), the law being likened unto a schoolmaster to teach faith in Christ, and after faith is come the schoolmaster is no longer needed (Gal. 3:25). In other words, when faith fully possesses the heart the individual will keep Christ's commandments, and among other things which He commanded was an observance of that part of the law and

the prophets which runs thus: "Thou shalt love thy neighbor as thyself." If all men observed that injunction the law against capital punishment would be practically repealed; there would be no occasion to inflict it, for, while some men commit suicide, yet they are insane, and the law does not punish the insane.

But all men do not observe that injunction—in fact, few do—and until they do attain to that perfection they are under the law. As long as there are men who, like the unjust judge, neither fear God nor regard man, there will be murderers, and as long as there are murderers it is manifest they are not controlled by faith. Hence, as they must be controlled, it will have to be by the law. And the law, as I have shown, sanctioned capital punishment. So it appears that that repository of the oracles of God, the Bible, prescribes two sanctions, either that of faith or that of the law, and capital punishment is the sanction of the latter for the crime of murder.

But it was the sanction, too, for many other crimes which are not now punishable capitally. For instance (Deuteronomy 21:18), a stubborn and rebellious son was to be put to death, as were also men stealers, rapists and numerous other offenders. And it might plausibly be urged that just as we have come to regard the imposition of the death penalty for these and other lesser crimes as inhuman and indefensible, so we shall some day similarly regard capital punishment for murder; that, indeed, that day is now here. But is it inhuman and indefensible?

There are some things that to the conscience, whether Christian, pagan or savage, have always seemed justifiable. One of these is the doctrine of self-defense. Even the most devoted casuist does not seriously controvert that doctrine. Defending one's self, even to the taking of the life of one's assailant, is so natural and instinctive that it needs no justification in reason. And if society is really but the larger individual—that is, a collection of individuals who had their rights circumscribed by a necessary deference to the rights of others—why may not the doctrine of self-defense be justified in society's behalf?

It may be urged that the execution of a convict, occurring as it necessarily does, after the fact of the crime, can in no sense be said to be done in self-defense; that just as the law of self-defense for the individual requires him to go no further than is reasonably necessary to protect himself, so that if he uses more force than he believed, and had reasonable ground to believe, was necessary to his self-protection, he himself is guilty of a breach of the law; so, society, after a murder is committed, can not prevent the murder by afterwards killing the murderer.

Admitting that an execution does not prevent the murder that preceded it; and admitting that it has all the characteristics of an act of vengeance—as it is regarded in the minds of a great many people—yet it appears to me really to be an act properly denominated "self-defense," and to be justifiable as such.

In the first place, it must be remembered that it is organized society that is acting, and not any mere individuals; and in the second place, that while society consists of an aggregation of individuals, yet it is something more and different from a single individual. It is an organism which, while it often acts as an individual

Abolition of Capital Punishment.

would act, yet also acts entirely and radically different from an individual, because it has more attributes peculiar to itself than an individual has, as its wants and necessities are radically different. While its life resides in the number of individuals composing it, yet it recognizes that the individual life is an essential part of its own life, and that a blow struck at an individual life — whereby it is extinguished — is a blow, and a deadly blow, struck at the life of society itself. No one would deny the right of the aggregation of individuals composing society to collectively defend themselves against a deadly attack on their own numbers, and to kill their assailants if it appeared necessary in order to prevent themselves being killed. They would be exercising collectively the right of self-defense. And, if the aggregation outnumbered the assailants, so that some of the former, in killing some of the latter in their attack, were really in no danger themselves and killed the assailants of others as part of the general defense, could it be said they were not justified in so doing? So society, in providing for and sanctioning the execution of the murderer, instinctively recognizes, first, that he has made an attack on society and killed one of its members; second, that having killed one of them, there is no guaranty, except by execution, that he will not kill another; third, that as a very general rule the fear of death is the greatest deterrent known, for "all that a man hath will he give for his life." While society executes after the fact, yet it could not proceed any other way, for society is different from the individual; yet it acts in self-defense nevertheless.

Society is organized, among other things, to secure the peace and good order of society. It has been found by long experience in civilization that peace and good order are essential to the exercise by the individual of all his constitutional and legal and, indeed, natural rights. So there is a duty resting on society — a duty to its members and to civilization — to do something more, upon the happening of a murder, than what is commonly understood by the punishment of the criminal. It is society's duty to take such steps as will not only make it impossible for the criminal to repeat his offense, but also, as far as possible, prevent others from doing likewise. That execution is an effectual preventive no one can deny, and that anything short of it is not effectual is abundantly proved by the numerous murders by life-convicts of their keepers of fellow-prisoners, or after their release from prison, which usually follows within a comparatively few years. That the possibility of capital punishment does not deter every potential murderer is true, but that it does deter very many I think is abundantly shown by the increase in homicides in those states and countries where capital punishment was abolished. In many of these it was subsequently restored.

In many of these it is not often resorted to, though still on the statute books. And it is a credit to humanity that it is not. But if this supreme penalty is to be abolished so that the man contemplating a murder — and it is only murders that are contemplated that are punishable by that penalty — shall feel assured that his own life will not pay the forfeit, will not the remaining restraint — the fear of his imprisonment, which is surely inadequate when the fear of death does not prevent — be lightly regarded by intending murderers? In no case is it true, I believe, that a condemned murderer,

when it came to the moment of execution, would prefer death to imprisonment. While there's life, there's hope of escape or pardon.

The reluctance of society to impose the death penalty, as is shown by the few executions compared to the number of homicides, is one reason, and a very cogent one, why capital punishment is not more effectual as a preventive of homicide. The criminal, seeing this reluctance, takes his chances on escaping. How many more times would he do so if there were no capital punishment to fear and the worst that might happen would be his incarceration in prison, whence he would hope to escape or from which be pardoned?

The law is a practical science, intended to meet practical conditions in a practical way to secure results. It embodies the instincts of the race as affected by its experience over hundreds of years, and it responds to its needs and then to its ideals. It is well to have ideals. If we had none, there would be no advance. But you can not have an ideal state of law unless you have a corresponding ideal condition of facts. Capital punishment does not make murderers — murderers make capital punishment. The tortures and the brutality that used to characterize executions have passed away; in fact, they are seldom any longer public even. There is a great disproportion between the number of homicides and executions for homicide. More and more our common humanity constrains us to evade imposing the death penalty. Frequently, where the evidence points conclusively to guilt required by law to be punished with death, juries return verdicts of that degree of crime punishable only by imprisonment, shutting their eyes to the probability of a pardon in a few years, and doing the very thing the convict hoped and expected they would do if he were caught. Ultimately, in some happier time, the occasion for capital punishment may pass away. When it does, of course capital punishment will be abolished. And while the imposition of the death penalty is more honored in the breach than in the observance, it would hardly be wise to do away with what is generally believed (regardless of any notions as to its morality) to be the real restraint upon a great many potential murderers — namely, the possibility of suffering death if the murder is committed.

The time of the delegate here expired.

Mr. WALKER: Mr. President and Gentlemen: I think this an opportune time to break a silence which has been golden for several weeks, though I am naturally reluctant to take part in a discussion of this character. I feel that I am in danger of being misunderstood, as I always like to be en rapport with truly progressive issues, therefore I say I have been somewhat reluctant to express myself. The question that has been precipitated upon us here is no new one. It is as old as the first murder.

I was delighted with the familiarity with the Bible shown by the able proponent of the measure, but I was disappointed at the exhibition he gave in the manipulation of those Biblical passages and the application he made of them. If that is to be taken as a criterion of the proficiency of the average legal mind in the interpretation of language, I must yield some of my hitherto generally recognized and accepted appreciation of legal skill in this regard.

Abolition of Capital Punishment.

This matter is not new. The first man born upon earth became a murderer and for the sake of the preservation of the race the death penalty was passed by and the command was given that he should go forth at liberty. He was sent from home, and went out and founded a city. The result of the passing by of that murder was that society became so violent that we are told the God of Heaven looked down and said it must all be blotted out, so violent had it become. After looking over all the people there were found only eight souls that were worthy to be saved, and after having saved them the new world began to be peopled. Even with the world yet to be peopled, the law was given (and this was not the Mosaic law, nor was it the law passed by the "human hyenas" who were demanding vengeance as some one else has said), a law that God himself gave when He was providing for the peopling of the earth the second time: "Whoso sheddeth man's blood by man shall his blood be shed." That was a thousand years before the enactment of the law of Moses. And that law of God himself remains in force until he chooses to repeal it and there is no record that that law has yet been repealed, and you should respect it if you have respect for the law of God. Bear in mind that not even did Jesus Christ himself while on earth announce the repeal of that law. True, he did preach the religion of love and kindness, and with His teachings we all stand in hearty accord, but not one of us thinks when He taught kindness and love for our fellow-men that He was talking about the treatment of confirmed criminals. I think if we write this law upon our books we shall be going back six thousand years instead of making progress as suggested here. The death penalty as we inflict it is not barbarism. Barbarism inflicts penalties for revenge. The law of our land takes human life in self-defense, as has been ably argued by the gentleman who has just taken his seat. The experience of the world in general has demonstrated the fact that a law like this is salutary.

I deprecate the fact that this matter has been injected here. Of all the measures that have been presented to this Convention, I do not know of a single one that is more legislative in character than this one. The matter is wholly within the control of the legislature now. The fact that this law still remains on our books is evidence that the people have not been demanding the change here sought to be made.

Under the initiative and referendum, which unquestionably we shall soon have, whenever the people demand it we can get it, and then, after a trial if our experience should be that it does not work well, the opportunity will be with us to repeal the law. We can handle it much better when it is a mere matter of legislation than if it is constitutional in character. I think the wise thing for us to do would be to leave the whole matter to the people themselves—to the legislature.

I have very little patience with much of the maudlin sentimentality of those who talk about criminals. Now the absurd part of the punishment of criminals ought to be noticed. We punish every man who commits a crime, either by fine or imprisonment, and then boast of our humanity. I submit to you we are still tyros in criminology. No matter how much we may boast of our superior intelligence in other lines we have dragged

away behind on this matter of penology. We only have the death penalty for first degree murder, and do you not think the death penalty should be inflicted in such a case as occurred in the outskirts of this city when two hoboes shot to death a man who was arresting them when they had no incentive whatever to do it except to escape from a thirty days' imprisonment in jail? Men like that are entitled only to the consideration that is due criminals. What guarantee can you give for the security of life if such characters as these take life under circumstances such as they did and are not themselves executed?

Just take some of the cases of cold-blooded murders that come to your attention. When I was a boy playing in a brass band we were walking down the streets of the town and we heard the crack of a gun. Rushing to the scene of confusion, we learned that a man had deliberately shot to death a neighbor for whom he had been lying in wait behind a bush for three hours, and it was just a little personal grievance between the two. That man was put in the penitentiary for life and pardoned out at the end of seven years, as is the custom. We can count on the court and the jury to exercise all needed leniency in this matter of punishment.

Now, another idea I want to impress: If a majority of you have decided you are not favorable to capital punishment, as the proponent of this measure has said, before you pass the matter, before you fix it where it can't be changed, let us try it. We never yet have tried capital punishment in this state to see whether it will prevent crime. If it is true that but two or three per cent of the people who commit homicides are convicted, we have really never tried capital punishment for the prevention of murder. Before we throw away the remedy, let us try it. We ought not to be thus hasty, especially when we see that the result of applying the penalty is that homicides decrease amazingly. I have always had it in my own mind that the death penalty is a decided deterrent of crime.

It is said it is not the severity of the penalty, but the certainty, that prevents crime. I grant that, but why can't we visit with certainty the death penalty in such cases as I have cited? Why can't we make it just as positive and just as certain as we make life imprisonment?

Now, I want to answer a few suggestions and hints that have been thrown out in the remarks by the author of the proposal. It was hinted that criminals are born and not made, and that therefore they are largely irresponsible. That is a theory that has been made to work overtime. But even if it is true, there are some monsters that should be removed. No society should be jeopardized by their presence. After all that has been said about prenatal influence, the fact remains that no man is compelled to become a criminal unless insane and nobody advocates the death penalty for that man. Does any one think that that law given by God, "Whoso sheddeth a man's blood by man shall his blood be shed," was intended to be applied to an insane man? If that is a lawyer's conception of the law, no wonder the people liberally discount legal interpretations. A casual glance at the enactment of that law of Jehovah

Abolition of Capital Punishment.

will show it was aimed directly at violent murderers and no one else.

It is said you can not reform a man by killing him. I deny that statement. You can not reform him after he is killed, but it is true that the fear of death will deter many men from committing crime. That is all the state has to do with reformation. Reformation of conduct is all of which the state can take cognizance. Reformation of life within belongs to the realm of religion, but the state directs its reformatory efforts toward a man's conduct. The certainty of the death penalty will deter men from murder, so that is the sense in which you can reform a man by killing him.

Again, there was considerable said about giving a man opportunity to reform. I am willing to give him an opportunity to reform, and I think the ordinary stay of execution is ample time to bring a man to penitence. It does not take a man twenty years to repent when he is brought face to face with his crime and knows the enormity of it and knows that he is to be executed for it. If there is a speck of manhood in him that can be regenerated, it will disclose itself in a short time.

Now someone asked what punishment would there be for a man under life imprisonment who killed a fellowman in the penitentiary, and the answer was that he might be put into solitary confinement. What is the effect of solitary confinement? Thirty-three per cent of the murderers confined in the Michigan penitentiary are insane. You talk about being humane! I insist it would be far more humane to take a man's life than to condemn him to a long and hopeless insanity. If you do not care to doom him to solitary confinement, what is the next course? Put him in the idle house with other men? That is to encourage riot, insurrection, and the opportunity to escape. But suppose you say cooperative work with other criminals, and this is the third possible thing before you. Solitary confinement is the first, the idle house is the second and the third is cooperative work with other criminals. But there is no guaranty that he will not take the life of some of those criminals of a lesser degree. I submit it is unjust to the average criminal to confine him and make him work alongside of a man who is a constant menace to him. Many instances might be cited where men have been guilty of taking lives of their fellow prisoners.

The reason for the abandonment of capital punishment on the part of some European nations has not been because of humanitarianism, but has been because of the manner in which they have been inflicting the death penalty. For instance, Russia used the knout. It was a loaded strap and a man was beaten with it until his life was gone. The people rebelled against that barbarous manner and wiped out capital punishment instead of changing the manner of execution to a more humane one. It was not that they rebelled against capital punishment, but against the manner of its infliction.

Mr. KRAMER: If the severity of the punishment is what you are after why not put the man to death by the knout? Why not use that method if all you are after is the severity of the punishment?

Mr. WALKER: I have been speaking with a stammering tongue if I have left such an impression. What I am after is not severity. I was trying to show that the death penalty was a deterrent because a man will

give up everything to keep his life. Life imprisonment does not make the penalty any the less severe. As for myself, I would rather be executed than have a long period of confinement in the penitentiary. I might answer further, from an ethical standpoint, that first of all it is a safeguard forever from any possible crime on the part of that man again.

Mr. BOWDLE: The psychology of preachers is very interesting to me. There is among preachers a certain ferocity of view that is very curious. Of course, that does not refer to all preachers. I know a number of preachers who are almost human. It is interesting to me to see that the humanity in this Convention is, at least temporarily, observed to be on the side of the miserable lawyers. Of course, one does not often connect lawyers with christianity, but it is a significant fact in the life of Jesus pretty nearly all the decent things done were done by members of the legal profession. When our Lord needed somebody to say a word for Him in the presence of a lot of deriding preachers, Nicodemus, a lawyer, came to the front, and said "Does our law judge any man, before it hear him and know what he doeth?"

At the crucifixion, when all of the preachers had fled and there was nobody around to arrange our Lord's sepulchre "Joseph, of Arimathea, a rich man and a lawyer" went to Pilate and begged the body of Jesus.

And when the time came to carry the Gospel to all the world, the divine mind did not select a preacher, but saw a sign in Tarsus "Saul, Attorney at Law and Notary Public," and He selected him for the mission. The legal profession has shown brilliantly in all the mutations of history. Not so much the preachers. Preachers, of course, naturally tend toward ferocity because they think they have received a kind of divine commission to go out and by force clean up the earth; and they have been appealing to that force ever since they got the commission and without success. They have forgotten utterly that the genius of His command is love. I feel I can speak thus frankly because I was denounced by the preachers of this Convention. We are charged with knowing not how to use Scripture. Maybe the charge is true, but let me quote a little from the Scriptures:

Ye have heard that it hath been said, An eye for an eye, and a tooth for a tooth:

But I say unto you, That ye resist not evil: but whosoever shall smite thee on thy right cheek, turn to him the other also.

And if any man will sue thee at the law, and take away thy coat, let him have thy cloak also.

Just ask a minister for his coat or cloak!

And whosoever shall compel thee to go a mile, go with him twain.

Give to him that asketh thee, and from him that would borrow of thee turn not thou away.

Ye have heard that it hath been said, Thou shalt love thy neighbor, and hate thine enemy.

But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you;

That ye may be the children of your Father which is in Heaven: for he maketh His sun to

Abolition of Capital Punishment.

rise on the evil and on the good, and sendeth rain on the just and on the unjust.

This is the law of love that humanity has been trying in a staggering way through these ages to infuse into our economic and legal life and into the criminal law of our life, and it is this law of love that the preachers denounce because it impinges against their imagined commission to go out and borrow Caesar's club and clean up things.

It is curious to observe the misuse that is made of Scripture. I agree with the gentleman from Holmes [Mr. WALKER] that far. The misuse of Scripture has led to a great deal of anarchy in this world. The Bible condemns the taking of interest, yet most Christian people are glad to collect eight per cent. It appears that David once danced acceptably before the Lord, and based on that we have the Holy Rollers coming in and they say the reason the Christian faith has failed is that we have not cultivated dancing. The Bible says "Ye shall not suffer a witch to live" and relying on that our forefathers burned the witches. You can find in the commands to the apostles ample authority for socialism. It states distinctly that the apostles had all things in common. But of course, socialism won't do.

By searching the Scriptures you will always be able to find some letter that will sanctify any ridiculous movement. Much of it comes from the fact, as Swedenborg has pointed out, that we have fallen into the custom of regarding the Epistles in the new Testament as inspired. All of the vagaries of the human understanding will find authority in the Epistles. But Swedenborg has ably shown us that the inspired word of God is in the Old Testament and in Matthew, Mark, Luke and John; and we should not regard the Epistles, although containing many excellent things, as the inspired word of God.

I am in favor of this proposal as suggested to us by this humane lawyer from Butler [Mr. PIERCE]. I am in favor of it on a ground not yet stated. I do not think it is a good thing to visit a form of penalty upon man which entails thereafter a stigma upon innocent relatives. I know of one or two cases in my own experience where families—mother, father and children—have lived lives of blight because of what has happened to a son in the penitentiary. I read with infinite sorrow a few years ago of an old woman, Mrs. Stimmel, who had had her life abbreviated by heartbreak owing to the fact that her son had been electrocuted. I have read with unspeakable sorrow of the father and mother of Richeson going and falling at the feet of the governor of Massachusetts and begging him to spare the life of their son. I read lately that the family of a certain noted criminal who had been electrocuted, left the community, trying to hide themselves from the awful stigma. No, I can not believe the state is justified in visiting a form of punishment on a man that haunts relentlessly so many innocent relatives, nor do I believe the visitation of the death penalty has any kind of deterring effect upon crime or criminals. All who have studied crime know that men who commit crime are afflicted with a curious egoism; that they feel their particular crime will never be discovered; that their crime is a conspicuous exception to all rules. I can not believe the severity of the penalty has anything to do with such cases. There-

fore I am in favor of abolishing the death penalty, as so many other highly civilized countries have done.

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

The PRESIDENT: The gentleman from Highland [Mr. BROWN] is recognized.

Mr. WALKER: I want to ask the gentleman from Hamilton [Mr. BOWDLE] a question.

The PRESIDENT: The gentleman from Highland is recognized.

Mr. BROWN, of Highland: I have been considering this question somewhat and was on a committee that had it under advisement. At that time I was disposed to favor it, but at the present I have changed. I have listened to these debaters with their biblical references and I have heard them splash around in each other's literary suds, apparently not coming to the real question of anything that has been put before us. We have been putting in a great deal of time exploiting ourselves. I think we should get right down to these things and consider the real point and pass or reject all of the proposals that we have before us and get through.

It is a fact many writers on the question of criminal responsibility find that capital punishment or severe punishment of any kind does not deter the commission of crime. Sir Henry Maudsley, a famous writer on responsibility in mental diseases, says that during the Spanish inquisition all of the people, of Europe at least, followed a sort of sympathetic application of law to criminal—sympathetic with the inquisition—and that the death penalty applied in England for the stealing of sheep increased the number of sheep stolen. It was as the gentleman from Hamilton county [Mr. BOWDLE] has justly said. All criminals are dominated by the ego. A criminal can not escape the tyranny of his organization. The forefathers who made him are responsible for his condition mentally, morally and spiritually, and if he is a criminal he is impelled by an irresistible impulse to do things which seem to be proscribed by law, and no matter what the severity of the punishment for crime may be in any country the person who has a tendency by inheritance of that kind of mentality can not restrain himself from submitting to impulse, but does that argue against the punishment? Is it an argument in favor of punishment? If the condition is hereditary it should be stopped by emasculation if need be. That is the situation.

I would like to know what the gentleman from Butler would do with a case like this:

A man named John Billman, who had been sent to the Eastern Penitentiary of Pennsylvania for horse-stealing, murdered his keeper under circumstances of great brutality and yet with so much ingenuity as to elude suspicions of his intentions and almost conceal his flight. He hung a noose on the outside of the small window which is placed in the door of the cells to enable persons outside to look in. He then induced the keeper in order to look at something on the floor directly at the foot of his door to put his head entirely through. The noose was then drawn, and but for an accident the man would have strangled. Notwithstanding this attempt, the same keeper was inveigled into the cell alone a few days afterwards on the pretense

Abolition of Capital Punishment.

of Billman's being sick and was there killed by a blow on the head with a piece of washboard. Billman undressed him changed clothes with him placed him on the bed in such a position as to induce the general appearance of his being there himself, traversed in his assumed garb the corridor with an unconcerned air, addressed an apparently careless question to the gate-keeper and sauntered listlessly down the street to which the gate opened.

Mr. STAMM: Would it not be more humanitarian and afford sufficient protection to amputate Billman near the hip joint and give the preachers a chance to reform the criminal instinct?

Mr. BROWN, of Highland: That is apparently not a serious question. If a person is affected with pyromania, an irresistible impulse to burn houses, something must be done, and if that individual has inherited the tendency and it is an uncontrollable impulse which he cannot resist, what can society do if the man can not be reformed? In the interest of humanity and the social compact he at least ought to be prevented from propagating his kind.

Mr. ANDERSON: Do you know any of the writers upon that question, alienists, who have laid down the doctrine that they ought to be disposed of as you suggest?

Mr. BROWN, of Highland: No. That is the trouble with the lawyers. They are always looking for precedent. They must follow precedent regardless of where it leads.

Mr. ANDERSON: Lawyers didn't write that—

Mr. BROWN, of Highland: No, but you think we should teach the things the alienists teach because they teach them.

Mr. ANDERSON: Is it not true in murder cases that alienists are put upon the witness stand and then testify according—

Mr. BROWN, of Highland: To whichever side hired them, the way that side wants them, and in accordance with the size of the fee?

Mr. ANDERSON: Therefore, if the relatives of one charged with crime have not enough money to employ the alienist all efforts looking toward innocence ought to be stopped and the man allowed to be executed?

Mr. BROWN, of Highland: The alienist pettifogs the case, just the same as the lawyers themselves, for the fee he gets.

Mr. ANDERSON: Can you tell me one alienist who claims there is no border-line in insanity, that a man may be sane one minute and insane the next—that there is no border-line between sanity and insanity?

Mr. BROWN, of Highland: I will inform the gentleman privately all I know on that subject, if he wants, and publicly I will say that there is no discriminating differentiating border-line between sanity and insanity. I believe that all people of extremely high genius are insane; I believe that all persons who are uncontrollable criminals are insane, and I believe you are insane, because I think all men of genius are insane.

DELEGATES: Agreed.

Mr. ANDERSON: Is it because I recognize your great ability that you think I am insane?

Mr. BROWN, of Highland: I can only judge your insanity by my own. I believe all men of large ability

are insane. But I think this is too serious a matter to be considered in light vein. It must be a question of expediency and not a question of broad humanitarianism applied to a single individual. I think it should be based upon the broad question of expediency in the interest of coming generations to exclude, if possible, the tendency of perpetuating criminality in the race. I think it would be better to emasculate every person of grave criminal tendencies if his crime was not of sufficient gravity to apply capital punishment. I believe after a while that would solve the situation and that we would be able to raise healthy, normal and natural children. I feel that it is a physical degeneration that makes us so criminal, and I think we are suffering by the survival of the criminal nature more than we are gaining on the humanitarian side. If we had a measure by which the criminal does not survive we would cease to propagate criminals, and as a matter of general policy, in the interest of the state, those people should be included and their disability should be secured in the direction of the prevention of the propagation of their kind, so that the thing would finally be impossible.

Mr. ANDERSON: I don't know of any lawyer pettifogging a criminal case where a life was at stake. I have known prosecuting attorneys to go a great distance to convict where I did not think it was the duty of the prosecuting attorney to do that. I have personal knowledge where a certain man committed a crime. He loved a girl and saw her in company with another young fellow and shot at the other man and killed the girl. A pettifogging alienist was paid his expenses and \$50 to come down to Youngstown to make an examination of the case, and he stated to the attorney that he would willingly take the witness stand and testify that the man who did the shooting was insane, but he wanted \$500 before he would so testify. The \$500 could not be raised by the widowed mother of the criminal. She couldn't get any money to employ an alienist. The result was that that same expert, high in the profession—he is now dead and I do not care to mention his name—took the witness stand for the state and was given \$1000 to testify that the criminal was sane and the man was executed. That is an example of the honorable alienist.

Mr. WATSON: Don't you think that capital punishment ought to be applied to just such fiends as that alienist?

Mr. ANDERSON: Yes; I would like to have it done. I have sat, not as an attorney taking the principal part, but I have sat in a number of murder cases, and I made up my mind then if I ever had an opportunity to cast my vote to do away with capital punishment I would do it. Let me appeal to the gentleman who has all the earmarks of a prosecuting attorney, the gentleman from Medina [Mr. Woods]. Let me appeal to him and let him tell the Convention how difficult it is to get a jury because, when you ask the juror the question, "Are you in favor of capital punishment?" the average juror will say no. I admit they say that sometimes to escape the duty, but the number is increasing every day, and unfortunately for the accused and unfortunately for the right determination the best men in the community are against capital punishment. When they are put in the jury box and asked

Abolition of Capital Punishment.

the question they say, "I don't believe in capital punishment." Is not that true, Mr. Woods?

Mr. WOODS: And if you go further you will find that very fellow just doesn't want to spend the time to be on the jury.

Mr. ANDERSON: That is true to a certain extent.

Mr. WOODS: Don't the best men in the county come and say under oath in the jury box that they are not in favor of capital punishment?

Mr. ANDERSON: Thank God we haven't many of the kind of citizens you describe in Mahoning county. You may have perjurers in Medina. You are in favor of capital punishment, but do you arrest, for perjury, the men who perjured themselves because they don't want to sit on the jury—do you punish them or let them go free?

Mr. WOODS: There is a difference between a witness and a juror. When you ask those jurors if they can render justice are they under oath?

Mr. ANDERSON: Certainly. Didn't you know that?

Mr. WOODS: The juror is not sworn to try the case?

Mr. ANDERSON: He is sworn to answer questions.

Mr. KING: Is not every juror examined under oath touching his qualifications to serve?

Mr. ANDERSON: Yes. It may be that they make an exception in Medina, but that practice prevails all over the rest of the state. Consequently when he is asked the question whether he is in favor of capital punishment he is under oath, and if he wants to perjure himself for the purpose of escaping the unpleasant duty of sitting on the jury he can do so, but I am not referring to that class of citizens. And right there, I would like to suggest that I am in favor of the humane doctrine of Dr. Brown, that all men who have a tendency toward degeneration should be executed, because the first men who would be executed under that would be the alienists.

Mr. BROWN, of Highland: Did you understand me to say that I believed in executing all persons who had a tendency to commit crime?

Mr. ANDERSON: No. You said you believed in executing all those who inherited a tendency to commit crime.

Mr. BROWN, of Highland: No. I said I believed in executing those who have committed capital crimes; and even though it could be proved that it was from hereditary alienation of mind, it would be better in the interest of coming generations of society to stop the propagation of that kind of mental condition.

Mr. ANDERSON: Didn't you say those who inherited an irresistible impulse to commit crime ought to be executed so that that inherited tendency would not go on through coming generations?

Mr. BROWN, of Highland: No. I said if they inherited criminal tendencies and were impelled by irresistible impulses to commit capital crimes, then in the interest of society, even though they might have other humanitarian impulses, it would be better for them to be executed or emasculated.

Mr. ANDERSON: Don't you stop that which you suggest if you imprison them for life?

Mr. BROWN, of Highland: If we had any good, well-founded reason for believing that the authorities

would allow them to be imprisoned for life it would be all right, but through the processes of law and by the aid of lawyers they have been able to get out of their punishment in very much shorter time than life.

Mr. ANDERSON: Is it not true that the man who inherits an irresistible impulse to commit crime is insane?

Mr. BROWN, of Highland: Certainly.

Mr. ANDERSON: Do you believe he should be executed?

Mr. BROWN, of Highland: I believe he should be executed if he is sufficiently insane not to have a responsible condition of mind permitting him to know right from wrong and if his tendency is to commit capital crime. If he is impelled to homicide, it is a dangerous condition of alienation of mind which should be stopped.

Mr. ANDERSON: Does not the same authority you quote upon responsibility for crime, in one part of his work, say that executing for crime breeds the commission of the same crime in the same community?

Mr. BROWN, of Highland: The principle he advances is that it attracts the attention of those criminally inclined and that the insane ego impels others to do the thing that is prevalent in the current expression of the day.

Mr. ANDERSON: Then the insane ego would have been dormant if it had not been for the exciting causes—

Mr. BROWN, of Highland: The suggested cause.

Mr. ANDERSON: Then does not your argument lead to this, that they should not be executed because you had better let that "insane ego" lie dormant in the community?

Mr. BROWN, of Highland: But there is a difference in the gradation of the criminal responsibility in mental diseases. Some of them are impelled to commit minor crimes and others are impelled to commit nothing but capital crimes, and they have been consistently divided in that way. The individual who is inclined to commit homicide ought to be dealt with.

Mr. ANDERSON: Is it not true that an alienist, when he goes in to examine the accused,—

Mr. FACKLER: I rise to a point of order. The discussion is degenerating into a debate between two members of the Convention.

The PRESIDENT: The member yielded to the gentleman from Highland and longer time was taken up than was anticipated.

Mr. ANDERSON: I have a lot of letters here from a number of governors. May I have unanimous consent to have them read?

The consent was given.

Mr. FACKLER: I move the previous question.

There were several seconds.

Mr. PECK: The gentleman from Mahoning [Mr. ANDERSON] has not yielded the floor. The secretary is to read part of his speech.

The PRESIDENT: I understood that he had yielded the floor, but unanimous consent having been given, we will allow the letters to be read before putting the question.

The letters were read as follows:

From Francis E. McGovern, governor of Wisconsin:

More than fifty years ago capital punishment was abolished in Wisconsin.

Abolition of Capital Punishment.

There is no movement here to restore capital punishment, the people being well satisfied with the present law. I am opposed to the death penalty in all cases.

My opposition to the death penalty is based on the fact that as a matter of morals it is degrading and unjustifiable, and as a matter of experience it is ineffectual and unnecessary. My personal belief is that society has no moral right to take the life of a human being as punishment for crime. In actual practice it has been found that capital punishment does not tend to prevent crime. An instructive object lesson is furnished by Wisconsin and its neighboring state. During the last half century Illinois has regularly inflicted the death penalty for certain crimes of violence; Wisconsin has not. The record of Wisconsin, however, even in respect to these specific crimes, has always been better than that of Illinois.

From Governor Stubbs, of Kansas:

Kansas does not inflict capital punishment. Three years ago capital punishment was abolished in this state, not because there was a demand for the abolition of it, but because there was such a positive objection to it that it never had been enforced during the previous forty years. We had a capital punishment law, which provided that sentences under it became effective when the governor signed the death warrant, but for nearly forty-five years no Kansas governor ever signed a warrant to execute a criminal. This refusal of the governors to do this was sustained by an overwhelming majority of the people. Practically 99 out of every 100 opposed capital punishment.

Under no circumstances would I want the death penalty restored in Kansas. It is offensive to the intellectual and moral development of the state.

My main opposition to the death penalty is this: It is a brutality that does not accomplish the purpose of its invention.

From Governor Aran J. Pothier, of Rhode Island:

Capital punishment was abolished in Rhode Island in 1852, and there is no pronounced movement at all in favor of its restoration. Personally I do not favor the infliction of the death penalty by state law.

The last Minnesota legislature, in response to the recommendation of Governor Eberhart, passed a law abolishing capital punishment in that state. This law has met with popular approval, and there is no likelihood of any movement to restore the former status. Says Governor Eberhart:

The experiences of this and other states, as well as the verdict of most criminologists, agree on the question of abolishing capital punishment, and I am firmly convinced that there would be more convictions for murder in the first degree if either capital punishment were abolished or imposed only in extreme cases, and then only upon the order of the court or the unanimous recom-

mendation of the jury. The old argument against its abolition on the ground that the board of pardons would frequently reduce the life sentence is amply refuted by the records of the state board of pardons.

I believe the interests of justice and humanity demand the repeal of the law and I am convinced that the state would secure more convictions in capital cases and that consequently crime in general would be reduced by the abolition of this antiquated practice in criminal procedure.

From Governor Lee Cruce, of Oklahoma:

Personally I am opposed to capital punishment. It would be very gratifying to me to see a law enacted in this state that would do away with this relic of more barbarous times.

I don't believe that capital punishment serves the purpose intended. It is certainly demoralizing to any community when a legal execution takes place, and it is contrary to and at war with every advanced principle of Christian government. The time will come, in my opinion, when every state in the Union will abolish this method of dealing with its convicted criminals.

Mr. WOODS: Whose time is being consumed?

Mr. DOTY: The time of the Convention.

Mr. ANDERSON: I asked unanimous consent and it was granted.

Mr. WOODS: I didn't hear it.

Mr. ANDERSON: You are thinking about those criminals.

The reading was continued.

From Governor Thos. R. Marshall, of Indiana:

Personally I am opposed to the infliction of capital punishment. My reason is that modern Christianity and statecraft each agree that the purpose of punishment is not revenge but the reformation of the lawbreaker. To take the life of a lawbreaker does not tend, in my judgment, to his reformation.

Life comes in a strange and mysterious way, we know not how. My blind belief is that He alone who gave has the right to take, and that the violation of this law by the individual does not justify the state in likewise violating it.

From Governor Oswald West, of Oregon:

Oregon has capital punishment, but a bill is being framed for submission to the people in November next to abolish capital punishment.

I do not believe in capital punishment, for the reason that it is wrong, and two wrongs can never make a right. Capital punishment is homicide, and homicide is murder, and it is just as wrong for a state to commit murder as it is for an individual. Capital punishment is not a deterrent of crime, but it is a deterrent of conviction. Besides, the theory of our law is not based on vengeance and vindictiveness, but upon the theory of reformation and the betterment of society. Capital punishment

Abolition of Capital Punishment.

is a relic of barbarism handed down from the dark ages and it debases instead of uplifts society.

These are a few of the reasons why I am opposed to capital punishment.

Governor Wm. C. McDonald of New Mexico, is entirely opposed to such a law, "for the reason that it is a barbaric and glaringly inconsistent method of meeting out justice. In the execution of the death sentence the state commits it seeks to wipe out or prevent."

Mr. WOODS: I rise to a point of order. The gentleman's time expired, and it takes the suspension of the rule to give him more time and that takes two-thirds. It looks to me like we are spending a lot of time listening to extracts from some governors' letters.

Mr. ANDERSON: There are only a few more sentences.

Mr. HARTER, of Stark: If there is any question about it I move that Mr. Anderson's time be extended.

The reading was then concluded.

From Governor Eugene N. Foss, of Massachusetts:

I do not believe a law requiring the death penalty has any deterrent effects. This is a relic of barbarism; the state has no power to take away what it can not restore; we have no right to do collectively what we are forbidden to do individually.

The PRESIDENT: The question is on the adoption of the motion for the previous question. Shall the main question be ordered?

The yeas and nays were regularly demanded, taken, and resulted—yeas 60, nays 29, as follows:

Those who voted in the affirmative are:

Anderson,	Fox,	Nye,
Antrim,	Harris, Hamilton,	Peck,
Baum,	Henderson,	Peters,
Beatty, Morrow,	Hursh,	Roehm,
Beatty, Wood,	Johnson, Madison,	Rorick,
Bowdle,	Kehoe,	Shaw,
Brattain,	Keller,	Smith, Geauga,
Brown, Highland,	Kilpatrick,	Solether,
Cassidy,	King,	Stalter,
Collett,	Kramer,	Stamm,
Colton,	Leete,	Stevens,
Crites,	Leslie,	Stilwell,
Cunningham,	Ludey,	Stokes,
Doty,	Malin,	Tallman,
Dunn,	Marriott,	Tannehill,
Fackler,	Mauck,	Thomas,
Farnsworth,	Miller, Crawford,	Ulmer,
Farrell,	Miller, Ottawa,	Weybrecht,
FitzSimons,	Moore,	Wise,
Fluke,	Norris,	Mr. President.

Those who voted in the negative are:

Cordes,	Holtz,	Read,
Crosser,	Johnson, Williams,	Riley,
DeFrees,	Jones,	Stewart,
Donahey,	Kunkel,	Taggart,
Earnhart,	Lambert,	Tetlow,
Hahn,	Longstreth,	Wagner,
Halfhill,	McClelland,	Walker,
Harbarger,	Miller, Fairfield,	Watson,
Harter, Stark,	Partington,	Woods.
Hoffman,	Pettit,	

So the main question was ordered.

The PRESIDENT: The question is on the adoption of the proposal and the secretary will call the roll.

The yeas and nays were taken, and resulted—yeas 57, nays 37, as follows:

Those who voted in the affirmative are:

Anderson,	Hahn,	Miller, Crawford,
Antrim,	Halfhill,	Miller, Ottawa,
Baum,	Harris, Hamilton,	Moore,
Beatty, Morrow,	Harter, Stark,	Nye,
Beatty, Wood,	Henderson,	Peck,
Bowdle,	Hoffman,	Pettit,
Cassidy,	Holtz,	Read,
Cordes,	Hursh,	Smith, Geauga,
Crosser,	Johnson, Madison,	Solether,
Davio,	Keller,	Stamm,
Doty,	Kilpatrick,	Stilwell,
Dunn,	Kramer,	Taggart,
Earnhart,	Kunkel,	Tannehill,
Fackler,	Lambert,	Tetlow,
Farnsworth,	Leete,	Thomas,
Farrell,	Leslie,	Ulmer,
FitzSimons,	Ludey,	Weybrecht,
Fluke,	Malin,	Wise,
Fox,	Marriott,	Mr. President.

Those who voted in the negative are:

Brattain,	Kehoe,	Roehm,
Brown, Highland,	King,	Rorick,
Brown, Pike,	Longstreth,	Shaw,
Collett,	Mauck,	Stalter,
Colton,	McClelland,	Stevens,
Crites,	Miller, Fairfield,	Stewart,
Cunningham,	Norris,	Stokes,
DeFrees,	Partington,	Tallman,
Donahey,	Peters,	Wagner,
Elson,	Pierce,	Walker,
Harbarger,	Riley,	Watson,
Johnson, Williams,	Rockel,	Woods.
Jones,		

So the proposal, not having received the required majority, was lost.

Mr. Leslie arose to a question of privilege, and asked that his vote be recorded on Proposal No. 249 by Mr. Tannehill. His name was called and Mr. Leslie voted in the affirmative.

On motion of Mr. King the Convention adjourned until tomorrow morning at 10:00 o'clock.