

**Records of the
Louisiana Constitutional
Convention of 1973:
Convention Transcripts**

VOLUME VIII



Records of the Louisiana Constitutional Convention of 1973: Convention Transcripts

VOLUME EIGHT

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by

LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

Moise W. Dennery, Chairman
A. Edward Hardin, Coordinator of Research

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LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

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Thursday, October 18, 1973

ROLL CALL

[112 delegates present and a quorum.]

PRAYER

Mr. De Blieux Our heavenly Father, we thank Thee again for this beautiful day, the privilege of gathering here once more. We ask this, to be with us today, give us Thy guidance, wisdom, and charity. We ask that we may truly take conscience of what we are doing today because of the effect it will have upon our state for years and years to come. Let us truly be cognizant and knowledgeable about the subject that we are discussing this day, and of all the proposals to come before this body, that we may be wise in our decisions, charitable in our attitudes, and respectful of the attitudes of each and every one of the delegates. We ask all of this, Father, in Thy Divine Son's Name. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

PETITIONS, MEMORIALS, AND COMMUNICATIONS

[I Journal 634]

[Oath of Office administered to Corinne Maybuce. I Journal 634.]

REPORTS OF COMMITTEES LYING OVER

[I Journal 634-635]

Motion

Miss Perkins Thank you, Mr. Chairman.

Ladies and gentlemen of the Convention, I rise in order to make a motion that this Convention move into the Committee of the Whole. The purpose of this motion would be to allow testimony by non-delegates with reference to this most complex area of ad valorem taxes. Many of the delegates of this Convention are concerned in that some of us realize that we do not have the background, at this time, to fully comprehend the arguments set forth by the delegates and the end result of the proposal as set forth by the committee, and the amendments that are brought to the floor of this Convention. We feel that this is a most complex area and would like to hear testimony with reference to what the probable results of our actions. We feel that, in view of the complexity of the end result, we have been informed that many of these provisions would, for instance, affect the bonding capacities of our school boards, those of us that lack the background would like to have fuller knowledge of what the end result of our particular vote might be. We feel that we would like to hear discussion on the legal effects of the Bussie decision, what these provisions will do with reference to rural and urban interests. Needless to say, ladies and gentlemen, this issue is most important and our decision is most important with reference to the ratification of this constitution. We feel that we would like to have statistical information that may be available, at least to the probable results of some of the proposals on the floor of this convention. We feel that going into the Committee of the Whole would make us better able to answer to our people for the votes that we have cast, that in the long run it will save time with reference to the decisions of this convention because we will have delegates with more knowledge and more background to make decisions. The end result would be a better proposal for all peoples of Louisiana. There are two main provisions under discussion, the assessors' plan and what the effects of the local option plan would be. We are not in support of either of these plans, but would like to hear discussions of both plans. With this in mind, ladies and gentlemen, at this time, I move that this convention go into the Committee of

the Whole, and urge your support of this particular motion. The speakers would be limited to nondelegates; I would suggest that we limit each speaker to twenty or thirty minutes, and that we stay in Committee of the Whole until noon. Mr. Chairman, I so move that we go into the Committee of the Whole for purposes of hearing testimony of nondelegates for the period from now until noon.

Questions

Mr. Shannon Do you have some people in mind that you want to bring before this convention to hear?

Miss Perkins Yes, sir...Last night we had this under discussion because many of us were concerned. Some people that I know are available in the audience are Mr. Ed Steimel, Mr. Frank Simoneaux, Mayor Moon Landrieu, Mr. Prescott, Mr. Ed Olivier, and I would certainly be willing to reserve the right to any other individual that may want to testify before this convention. This is simply an effort to give background knowledge to all delegates.

Mr. Shannon Well, have not all these people appeared time and time again before the committee and their views have been publicized extensively in the news media all over this state?

Miss Perkins Yes, sir, I think that that is correct, but, as you are very well aware, Mr. Shannon, all of us did not serve on the taxation committee report, and we feel that these people's testimony is important enough, and our decisions are important enough to take time from this convention to see that all of us have sufficient background.

Mr. Shannon Thank you.

Mr. Mire Miss Perkins, are you going to ask that these speakers be allowed some time for questioning?

Miss Perkins Yes, sir, I'm sure...I'll be happy to say if you would like to allow them to speak twenty minutes and reserve ten minutes for questioning, that would be fine. I'm sure these gentlemen would be happy to answer any questions.

Mr. Mire Do you realize that we've had all of these people...or any that wanted to speak to the Revenue, Finance and Taxation Committee to speak to us, and in most cases, we didn't limit their time, and only with twenty people present and questions being asked, some of them stayed on the stand for an hour, an hour and a half. This would be awfully time consuming and confusing, I feel, very much so.

Miss Perkins Yes, sir...I would like to reply to that in that, I think in the long run we will save time by having a more knowledgeable delegation. I would also like to point out, Mr. Mire, that I am in favor of no particular plan, but the plan, as set forth by the committee, it would seem, if this is the best plan, then you would in fact like all delegates informed, and therefore casting intelligent votes for what would be the best for all peoples of Louisiana, and if your plan is, in fact, that I would see no objection to us listening to this testimony.

Mr. Roemer Lynn, do you have a time limit per speaker? I didn't hear that in the confusion.

Miss Perkins Yes, sir. I would suggest to this convention that we limit each speaker to thirty minutes--twenty minutes of speaking time, with the reservation of ten minutes for questions.

Mr. Roemer Do you have a finite list of speakers? I mean, is there a definite two or three that you had in mind? You mentioned four or five, but are we going to hear from all of those under your pro-

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posal?

Miss Perkins Yes, sir, I would hope so, and I think we have time if we limit them to a half hour total apiece, and reserve the right to any other individual that may want to testify before this convention until noon, in other words, until we come out of Committee of the Whole.

Mr. Roemer All right, one final question: would it be in your proposal that we hear from delegates who want to speak, or these are just outsiders?

Miss Perkins No, sir. This would be strictly as for nondelegates. The delegates will have the opportunity to express their views to this convention once we go back into discussion of the committee proposal.

Mr. Jenkins Miss Perkins, do you know I really appreciate your motion because even though I sat through the legislature three sessions that had to, in one manner or another, deal with this question, I really still feel that I don't have adequate information to make the decisions that we have to make? So, I think that I would be enlightened, certainly, by the opportunity to hear from these people.

Miss Perkins I did not know that, but thank you for stating it.

Mr. Burson Miss Perkins, do you think it would be appropriate possibly for us nonkey delegates, who did not get the benefit of the opinions of these gentlemen in the smoke-filled room at the mansion, to get a chance to hear what they have to say about this problem?

Miss Perkins I certainly feel that these gentlemen have a lot to contribute to the convention, Mr. Burson.

Mr. Rayburn Miss Perkins, are all the people that you read their names, are they all in opposition to the proposal?

Miss Perkins Quite frankly, I do not know. I do know...

Mr. Rayburn Would you read the list off again, and I believe I can tell you.

Miss Perkins Yes, sir. Well, thank you. If you know, then, I'm sure all the other more informed delegates know also. But, it is Mr. Steimel, Mr. Simoneaux, Mayor Moon Landrieu, Mr. Prescott, and Olivier, and we'll certainly reserve the right to any assessor or anyone else that would like to speak that is a nondelegate.

Mr. Rayburn I don't know who selected the list. I'm sure you just reached up in the air and got it, but I think most of them are opposed to it. So, maybe we could just hear from one of them, in a matter to save time.

Miss Perkins Yes, sir. I'd like to point out, though, Senator, that this would be an effort to give background first of all, with reference to ad valorem taxation, then the effects of the Bussie decision, along with what possible effects we might have on urban and rural interests. Thank you.

Mr. Henry I'm going to ask that you restate your motion, if you will.

Motion

Miss Perkins Mr. Chairman, I move that this convention move into Committee of the Whole for a designated time period lasting from this point in time until noon, for the purposes of hearing testimony from nondelegates, each individual giving testimony, being limited to a total of thirty minutes--twenty minutes time for testimony and ten

minutes for questioning.

Mr. Mire Fellow delegates, I rise in opposition to the motion, and it's very simply that I don't believe an hour and forty-five minutes can answer anybody's questions. I rise in opposition to the motion, mainly because this is in such an important issue. It's been listened to for such long periods of time, something like days, weeks, months, and now, in an hour and forty-five minutes, we're going to enlighten the people who have not taken the time to read and look into this very serious problem over the weeks and months that we've had it presented to the committee, and that it's been in the news media. I submit to you that it's going to only confuse you to the point of not knowing where to go...

Mr. Henry Will you yield to a question from Mr. Willis?

Mr. Mire No, sir...He's raising a point of order here, and I just...I submit to you that you're going to just be more and more confused on this whole issue, and if we were to, in fact, open this for anybody to come in and enlighten us, I think we should allow people that, maybe are not in this audience that might want to be heard. I don't think that just at one minute we can say well, there are three people that came here this morning and said they wanted to be heard. I think that you should allow all sides to put their arguments together, and O.K., let's go for a week or ten days, if you really want to be enlightened on this subject. But, an hour and forty-five minutes is not going to enlighten you, and I believe that our committee--to the man, if he really looks at it--will back me up on that specific point, and I urge you to defeat it.

Questions

Mr. Willis Mr. Mire, there are no lines of communication between these gentlemen or ladies who want to speak to us that have been intercepted by anybody, is there?

Mr. Mire Not to my knowledge?

Mr. Willis They've testified before the committee at length?

Mr. Mire Yes, sir, some of them twice and three times if they wanted to.

Mr. Willis Is what they had to say anything edifying or anymore edifying than what the delegates themselves from the committee who heard them, can say?

Mr. Mire I don't see how it could be, Mr. Willis.

Mr. Willis Then, it's a waste of time.

Mr. Mire Thank you very much, sir.

Mr. Anzalone Mr. Mire, how many members of this convention were on you all's committee?

Mr. Mire Twenty-three, sir.

Mr. Anzalone How many are in this convention?

Mr. Mire Twenty-three, I assume.

Mr. Anzalone I mean in this total convention.

Mr. Mire One hundred and thirty-two.

Mr. Anzalone In other words, we have a hundred and nine delegates sitting right here this morning who have not had the benefit of this testimony, and you want to deprive us of the right to hear these people that we have never heard before, and the only information that we have gotten up to now is secondhand information from the committee, and

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secondhand information out of newspapers, which at one time in my life I may agree with Mr. Chehardy.

Mr. Mire Mr. Anzalone, aren't you a member of a committee, yourself?

Mr. Anzalone Mr. Mire, I am a member of a committee which was the Executive Department Committee, which was the easiest thing in the world to write, and on two separate occasions this convention voted to bring this convention into a Committee of the Whole.

Mr. Mire That's not the point being discussed here.

[Motion to limit debate on the motion to resolve into the Committee of the Whole to 15 minutes. Substitute Motion to limit debate on the motion to resolve into the Committee of the Whole to 15 minutes and that each speaker be limited to one minute adopted: 75-41. Motion to reconsider tabled.]

Further Discussion

Mr. Jack Mr. Chairman, I can't say to the rest I'm wasting time. My time starts now. Let me tell you, this is a really ridiculous thing you've pulled here, and it's not the American way. Twenty something people on that committee; one hundred and thirty-two here. We all have our own committees; we couldn't be there. Now, we want to hear from these people. You are trying the people that didn't go to the committee the first or the second time. I've been to certain committees, and they didn't reach bills. Now, let me tell you, you just go do that kind of stuff, and the people are really going to think you are a bunch of lazy people, that are not willing to give up two hours of your time. You are trying the people that wasn't at the committee. You're trying us, who were at our own committees. I resent it, and I think if you vote this kind of thing, and not have this two hours, you're not doing it the American way. I'm sorry I'm limited to one minute, and that's not American.

Further Discussion

Mrs. Warren Mr. Chairman and fellow delegates, I support Miss Perkins' motion, and the thing that I would like to ask that these gentlemen that are going to speak, that their message would be put in the Journal so we can read over it after they have said it because all of us are going to take whatever anybody says with a grain of salt. We're intelligent enough to know what we want, but we do want to hear them; I didn't have a chance to hear them when they were to speak, and I want to hear them now, so vote with us. Thank you.

Further Discussion

Mr. Alexander Mr. Chairman and delegates, number one, I want to further emphasize one point that has been brought out. There were twenty-three members of the committee who heard and discussed this thing for six months, but the other hundred and nine members were in other committees. Now, somebody has said that, if we don't know it now, we'll never know it. Well, I submit to you that at one time I could hardly speak the English language. I think I can speak it a little better, and at this point, I do know the eight parts of speech, but I don't know all about English, and if I could get any additional information on any subject, I think it's going to help. So, anybody who says that information, additional information would not help us, I think you're just trying to mislead us, and I'm asking you to go along with the motion.

Substitute Motion

Mr. Smith Mr. Chairman, fellow delegates, I don't

need but one minute. I'm a member of the Revenue and Finance and Taxation Committee. I think we should hear these people, and we've given this to other people to do...the attorney general, and I think we ought to do the same thing...here we let the secretary of state; we went into open session, and I think, but I do believe that we should not open it for questions because I think we should give them a full thirty minutes, and so I now make a substitute motion that we let these speakers speak and go into a Committee of the Whole, but limit it to thirty minutes for the speaker, with no questions to be asked.

Further Discussion

Mr. Fontenot Fellow delegates, I'm on the Committee on Revenue, Finance and Taxation, and I guess, out of the whole twenty-three people on that committee, I know less about property taxes, than anybody on that committee, but I will admit to you, when I began on this committee, I knew little, and I have gained some kind of knowledge from being on the committee, and I've gained it through the assessors, but I've also gained it from the outside groups who came before us to speak. I don't think it's right that we should deny a hundred and nine people the right to get some of this outside information that I got while I was on the committee. I can't say that it's helped me that much, gaining all this information, I'm so thoroughly confused at this time, that I don't know which way to turn anymore. There are so many proposals coming up, and nobody really knows the solution to the problem. But, I do think that letting these people come before us, if it's going to help, and give some of these delegates who don't have as much knowledge as the twenty-three people on the committee have. I can't understand why--we've been listening to the assessors pretty long--I don't see why the outside groups should not be able to come in. As, if you remember correctly, the vote to send this proposal back to the convention floor was 11 to 9, and that's pretty close, as far as I'm concerned, and I think these interest groups should have a say-so, and I think some of these delegates here ought to listen to them.

Mr. Chairman, I move the previous question on the substitute motion, if that will clear up some of this confusion.

[Previous question ordered on the Substitute Motion: 69-47. Substitute Motion rejected: 32-86. Motion to reconsider tabled.]

Further Discussion

Mr. Roemer I think I have forty-three seconds left. I just want to say that I, too, am a member of Revenue, Finance and Taxation, and we heard all these speakers ad nauseam, I'm afraid; but I don't see how I have the right to deny you to hear them. I'm afraid that you're going to find out that most of these speakers generate more heat than they do light, and I think you're going to be as confused afterwards as you are before. However, I will vote for this motion because I think the issue is important enough to be heard for an hour or two hours because it affects the entirety of this state. With that in mind, I call the previous question.

[Motion for the Previous Question withdrawn. Motion to table the entire subject matter. Record vote ordered. Motion to table rejected: 26-92.]

Further Discussion

Mr. Burson I'd like to hear from these speakers. The objection, as I understand it, is from the assessors that they don't want to be confused with the facts. I asked some questions yesterday, and I haven't heard anybody give an answer to them yet. I asked, how when you take away ninety-eight percent of the homes in St. Landry Parish from the tax

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rolls, you're going to continue to support your public institutions? Will you break the farmers and businessmen who are left to pay the taxes, or will the state find the money when it's bankrupt now? Where is the deus ex Machina that's going to come down from heaven to bring the money? Maybe these speakers can tell us why this committee proposal here would ruin or put into difficulty so many parishes in this state solely to benefit those parishes who have created the problem that we have right now.

Further Discussion

Mr. De Blieux Mr. Chairman, and ladies and gentlemen, those of you who will listen just a few seconds, I would like to say this to you. There's nothing to come before this convention that's more important than the particular provision which we are considering now. If we don't hear from these people and get some information and pass these proposals as we have before us, you're going to have the school boards, your local governing bodies, and everybody else descend upon you, and it may have the effect of defeating this constitution. I ask you in all good graces, let's get the information and vote intelligently; let's don't do it in a vacuum. I feel like that I know as much as most of the people, but I still lack a lot of knowledge about taxes, and I would just like for you to know what we are doing, and I ask you to please let's hear from these people.

Further Discussion

Mr. Chatelain Mr. Chairman, and fellow delegates, I rise in support of Miss Perkins' motion for these reasons. Fact number one: This will make or break the selling of this constitution. Fact number two: The governor has had three meetings or so at the mansion trying to resolve this with a few select committees or members of this august body, and with no results. Fact number three: The District Attorneys' Association speaker was here before us as a Committee of the Whole; the secretary of the state spoke to us; the attorney general spoke to us before. Fact number four: This is the most important and most controversial of all issues that'll ever come before this group, and I urge that you support this. Fact number five: We adjourned last Thursday, and lost Friday and Saturday and Tuesday, trying to let the powers that be resolve this, and nothing has resulted from it. I say let's listen to these people today. Thank you.

Further Discussion

Mr. Winchester Mr. Chairman and delegates, I am opposed to Miss Perkins' motion. We on the committee heard many hours and hours of testimony. This motion of Miss Perkins was probably made in the interest of good government, but it is my opinion that it is political in nature. It is politics by the opposition to the plan that the committee voted out. If this was not so, Miss Perkins would have asked the opposition to what she is for, to supply the names of speakers, which we were not asked to do. I am in favor of Mr. Tapper's suggestion that we have...

Mr. Henry You've exceeded your time.

Substitute Motion

Mr. Casey Mr. Chairman and delegates, we're about to decide this week the most important issue of the convention, the issue that can make or break our constitution, and we may do it without full and proper information. Mr. Mire, I'm in favor of opening up the convention to get as much information as possible, and to hear from other witnesses this afternoon and tomorrow. I now offer a substitute motion to merely change that part of the initial motion to say that we will go into a Committee of the Whole for a two hour period rather than until

noon. Mr. Chairman, I so move.

[*Previous Question ordered on the entire subject matter: 100-13. Substitute Motion adopted: 87-30.*]

Recess

Committee of the Whole

Vice Chairman Roy in the Chair

[*Quorum Call: 108 delegates present and a quorum.*]

Motion

Mr. Rayburn I now move that we recess until 1 o'clock, and at that time we divide the two hours equal for the proponents or the opponents, if they desire that much time, and they shall be people that the side chooses. I talked to Miss Perkins, who made the original motion. She said she had no objection to letting each side choose their speakers.

[*Motion adopted without objection.*]

Recess

[*Quorum Call: 100 delegates present and a quorum.*]

Mr. Casey Mr. Chairman, since the convention has resolved itself into a Committee of the Whole for the purpose of hearing testimony from individuals who can offer us information on the ad valorem tax system in the State of Louisiana and individual parishes, it is my understanding that, as Chairman of the Convention, it may be your wish that we alternate people and hear one from one side....

Mr. Roy That's correct....

Mr. Casey ...if there are sides. I don't know that there are sides. But if there are...I might suggest some individuals. Maybe Senator Rayburn, or somebody else, may suggest some speakers.

Mr. Roy That's my understanding and without objection, that's the way we'll do it.

Mr. Casey In line with that suggestion, I'd like to recommend as an opener, Mr. Ed Steimel.

Mr. Roy The gentleman moves to hear Mr. Ed Steimel.

Is there objection?

Without objection, Mr. Steimel is recognized for the floor.

Now Mr. Steimel, as I understand it, you have twenty minutes and ten minutes for question. Right, Mr. Casey?

Why do you rise, Mr. O'Neill?

Mr. O'Neill Mr. Acting Chairman, as I understand it, the speakers are not going to speak for or against the proposal as it now stands. Is that correct? They are only going to supply information.

Mr. Roy The speakers will speak on anything they choose for twenty minutes, and be questioned for ten. Thereafter, Senator Rayburn name...nominate somebody to speak whichever way they are going to speak.

Mr. Steimel Thank you, Mr. Chairman.

I hope that I can take...get some of the help from the person called upon by Senator De Blieux this morning, some of the wisdom that is needed, I believe, to get us out of the problem we are in here. I'm going to try to give you some of the perspective of the impact of what you do here upon black people, upon poor white people, upon rich people, upon business, industry, and the economic future of this state. What you do on the property

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tax, more than anything else, I believe, will enunciate for all of the nation to see, the political and the economic philosophy of the people of this state for at least the next generation because tax policy, more than any other policy, enunciates the political philosophy of a people. So my plea with you is to look ahead ten years; look ahead twenty years; try your best to foresee what you may be doing to enhance or to foreclose the economic future of this state.

I don't believe anybody doubts that the philosophy of this state for some forty-five or fifty years has been one of "soak the rich and give something for nothing to the people of this state." It's an image of political instability, an image based upon populism. Is it not conducive to economic growth and I think I can sustain that.

How has this philosophy served us? For forty-five years of such a philosophy has resulted in a few facts that I want to enunciate for you now:

Fact 1. Louisiana, more than any state in America does, in fact, place the direct burden of taxes upon business for state and local government more than any other state...fifty-five percent. This is census information, not PAR information. Fifty-five percent of all taxes in Louisiana, state and local, fall directly on business. Let's look at our neighbors who compete for the outside industry and jobs. Mississippi it's thirty-four percent; Arkansas, twenty-five; Alabama, twenty-nine; Texas it's forty-one. They're our competitors.

Fact 2. Louisiana, more than any other state, taxes business on the property tax, higher than in any other state. Seventy-seven percent of all property taxes in Louisiana fall directly on business first; in Mississippi it's fifty-five; in Arkansas it's thirty-four; in Alabama it's forty-two; in Texas it's fifty-one. They are our competitors. This is United States census information.

Some related facts now, to these census facts.

Fact 3. Louisiana has added industrial jobs at a slower rate than any other state of the South except West Virginia. Some don't call it a southern state. For the past twenty years, Arkansas with half as many people, has more people working in manufacturing. Mississippi with half as many people has far more people working in manufacturing. We're growing slower than any state in industrial jobs.

Fact 4. Louisiana has lost ground to every southern state...every southern state the past ten years, and the past twenty years in per capita income, whether or not you work in industry. Let's look at what this philosophy of taxation in this state and the political philosophy has gained for it. In 1940, ten states trailed us in per capita income; in 1950, eight states trailed us; in 1960, eight states trailed us; in 1970, five states trailed us; in 1972, four states trailed us. We don't have the 1973 information yet. Also, all of that United States Census Bureau information.

The projection of this information, not just by us but by the Council of Economic Advisors, including most of the economists, major economists in the State of Louisiana at our universities, says that "South Carolina will pass us." These are the four states behind us now. By 1975, South Carolina passes us, Alabama passes us in 1980, Arkansas passes us in 1985 with only Mississippi slightly behind. So how has our philosophy served us?

Perpetuating, or even worsening that economic picture is in our hands. I assure you that ten years from today, and twenty years from today, you, more than anyone else will get the credit or the blame for the course that you have plotted for this state by what you write here and on this particular issue.

Another key fact is that homeowners in Louisiana pay the lowest taxes on their homes today than in any other state of America. Fifty-six cents per one hundred dollars of value is the average in Louisiana. It is number 1, on the bottom. The average is one dollar and ninety eight cents per one hundred dollars. That, too, is United States

Government information...the Department of Housing...this is the book. I'll give it to you, anyone who wants to see it, published by the Advisory Commission on Intergovernmental Relations, page 134. Number one on the bottom today with no change in our taxes. This is further confirmation of the philosophy of "soak the rich" and giving something for nothing to the voters. But what is done in Louisiana for the real poor...for the black, and for the very poor whites? What has our system done for them? We've never really relieved the black on the property tax. The proposal before you does not do that. Fifty-three percent, another fact, fifty-three percent of the black in this state rent. There is no homestead exemption for them. The other forty-seven percent of the black, except for a very, very few, are already covered by the two thousand dollar homestead exemption. So what does expanding from two thousand to four thousand, or from a fifteen thousand dollar home, roughly, to a forty-thousand home do for the poor black? Show me which ones are helped by it. The poor whites are in the same category...Expanding the homestead exemption from two thousand to four thousand under the percentages proposed really means helping the middle and the upper income whites. I really don't know how we got so disjointed in our philosophy, but, here we have done so because we are now no longer interested in helping the white...the poor people. This information comes from the United States Department of Housing and Urban Development and the United States Census Bureau.

Remember, these people, these middle and upper income whites already pay the lowest taxes on homes in any state in America. Then who does pick up the increase when we make the shift that is now before you? Well, the direct shift is the first thing. But then, there's an indirect shift, too. What's the first? The direct shift. You've got to pick up the money somewhere, don't you, because you have to run schools, fire and police protection, sewerage, garbage and etc. Who's first? The renters, the real poor. They get part of the shift. Second, business and industry, utilities is another, land is another. That's all that's left. Well, who really pays when we go to the indirect taxation? Where does the thing finally land? It's nice to put this on business and industry, isn't it? If they just wouldn't put it back on us. But unfortunately, they do that. That's why you can't really soak the rich or else they ain't rich anymore, you see. They find a way to shove it back.

Let's look at a group of them. The utilities: electric, telephone, gas...right down the line. Twenty-six percent of all of the values on our property tax rolls is utilities...twenty-six percent. In some of your parishes it's over sixty percent. Do they absorb it? Or do they go to the Public Service Commission and get a rate change to include all of the costs of supplying you electricity. It goes back to the consumer...every dime that you put on the utilities. O.K. We didn't shift that away, did we?

Industry. Industry makes up sixteen percent of the total assessed values on the rolls. Some say it ought to be a hundred percent. Well, maybe it should. I'm simply saying what it is. It's sixteen percent. To that extent, possibly, you can shift some of it...Exxon, Ethyl, Dow...these companies make things and they have a market out in the country...out over the nation, and they can shift some of it to other markets, but that's only sixteen percent. Who else gets it? ...the grocer, the drugstore, the clothing store, other businesses and the farmers. They operate on a Louisiana market. Whether or not we like it, we finally end up paying for it all. So we have really been brilliant setting up an indirect taxation system. Now, let's look at what else it does, then, to us.

Today, those few of us who pay a little bit in property taxes, I pay a hundred and eighty dollars on my house, I've got a little piece of acreage, eighty acres. I pay twelve dollars a year on that. But I can deduct both of those today from my federal income tax. Therefore, I don't have to

pay about a third of it. The Federal Government pays it. But you take that off of my back and put it on the baker and the milkman, and I have a one cent increase in the price of bread, two cents a bottle in milk, three...five cents on a shirt. I do not, in any sense, then, have a way to deduct it. But the guy on whom we place it can deduct it. So we really don't soak the rich. They do charge off what they can and charge us for the rest.

I hope we are not so ignorant to believe that doesn't really happen. Do you really feel...really feel that an industry which has a choice of Mississippi, Arkansas, Texas and Louisiana, with the taxation percentages that I just gave you, and these are our perimeter states, that an industry would really prefer Louisiana with its tax policy of letting all the voters vote, but no voters pay, except industry and business. If you have some doubt about that, I have a list which I furnished to the governor in August of five billion, and I cannot show it to you, but you can go see him, maybe he will, five billion dollars in industrial plants that are coming into this state within the next three years, not one of them is going to the highest millage parish in the state...not one of them. Every one of them is going from West Feliciana to the mouth of the Mississippi. But not one is going to that high millage parish. If you don't think this has something to do with it, then take a look at such a list.

I ask you further, please to be concerned about how you may endanger the passage of future millage and bond elections, at the school boards and local governments, when the owners of real estate, other than homeowners, will bear the burdens. When they, combined with the renters, who will get the added burdens of any tax...and increase in the homestead exemption, how will they operate at the polls? They may well block the future bond issues and millage elections which have already become very, very hard to pass.

How about in New Orleans where sixty-two percent of all of the people are renters? They're going to get an added burden. Won't they love to pass the tax? Forty per cent in most of the parishes of this state. That's the average. They have no incentive to vote for millages any more if this goes through.

Finally, I urge you, not to vote a change just for the sake of change. The present law...the present law, constitution and statutes, on the property tax is sound. Its enforcement has been its weakness. I ask you to consider this: that if that law were reenacted and only the rollback provision were added, and a percentage so that we won't have eroded away the homestead, only those two things so that we would know...know tomorrow...that every person would know tomorrow what the property tax will do to him. You ask yourself, "Who has the property tax hurt?" The little guy...the big guy...anybody? It has hurt no one...not industry, not business, not the poor home owner, no one has really been hurt by the property tax in this state. If we adopt something that is very close to what we have, the people, I think, will know what the future is and will come closer to buying it. That is one alternative. No one is hurt today. But if you leave people in doubt, I'm afraid of what may happen. I don't want to see the constitution defeated.

But there is another approach. Another approach that actually says, "Let's keep pretty much what we have." That is a local option approach. It would also be very close to the present practice in that it would permit ten percent, or six percent in Jefferson, and twenty-five percent in Orleans. We have determined that it would be workable, that it would be constitutional. Such a plan has been written. We have not favored it. I'm speaking for PAR, now. We have not favored this. But after considerable urging, we have agreed to consider it, to look at it, look at the merits of it to see whether it can meet the tests of equity. We have found that it can. Therefore, we do not object to it if that is your will. Such an approach would also allay the fears of New Orleans, of the school

boards, of police juries. You'll hear more on that later, I am sure...particularly about bonds and on elections, on revenue sharing.

I plead with you, finally, you who have written thus far a document, that represents a very substantial improvement over the present constitution, I plead with you not to place in jeopardy all of your work and all of your hope by writing a provision on the property tax that is out of step with the nation, out of step with our neighboring states, out of step with the thinking of the people in this state. One that will bring, possibly, to defeat the whole constitution. The Louisiana taxpayer has not clamored for lower taxes. He has had no reason to. He has not clamored for higher homestead exemption. He has had no reason to. Only some politicians have clamored for these. I urge you to write a tax policy that expresses a political philosophy that will turn the tide of economic growth so that in 1985, we will not only be able to look back on Mississippi.

Thank you.

Questions

Mr. Slay Mr. Steimel, in your statement about your eighty acres of land with only twelve dollars of taxes, I'm assuming that that is timberland? Is that...?

Mr. Steimel I don't know what kind of land it is. It is some hill land out there by Norwood. It has some trees on it.

Mr. Slay Now, are you suggesting that we not use "use value" for assessing land? Is that what you are saying?

Mr. Steimel No.

Mr. Slay I didn't get your point then.

Mr. Steimel I didn't think...I wasn't trying to make a point. I simply said I do pay a little taxes I can now deduct them from federal income tax.

Mr. Slay Well, let me ask you then, the question, since you are here to explain it, are you in favor of using "use value" on land?

Mr. Steimel Yes, sir.

Mr. Slay Now, the next thing, you are here representing PAR, the head man of that organization this year has a fifty-five million dollar exemption. Now, if I applied that same thing for ten years to my home at thirty thousand, I'd have to live to be eighteen hundred and fifteen years just to catch up with that company? Is that not right?

Mr. Steimel Well, no, it is not right. I don't know who you are speaking of as the head man...got a fifty-five million dollar exemption? That just isn't true. I don't know where you got the information. I just say categorically, it is not true.

Mr. Avant Mr. Steimel, you had made a statement when you mentioned four states, I think Louisiana, Texas, Arkansas and Mississippi, which implied to me that you were of the opinion that ad valorem taxation was a significant factor in the location of industry. Did I understand you correct?

Mr. Steimel No, sir.

Mr. Avant You do not feel that it is a significant factor then?

Mr. Steimel I did not say that. I said, frankly, that no one is unduly burdened by the taxes in this state. I was saying that a philosophy of putting the burden of total taxation and of property taxation on one segment of the population, was the kind of philosophy that frightened industry. I

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then followed it up by saying that no one pays undue taxes in this state, especially on the property tax.

Mr. Avant Well, are you aware...or are you aware that in the project to the proposed constitution that was drawn by the Louisiana Law Institute under the supervision of Doctor Kimbrough Owen, that the specific point was made that of sixteen factors that might be considered by an industry in choosing a location, ad valorem taxation was number twelve... way down the line.

Mr. Steimel I don't question that. I was speaking of a total tax philosophy and ad valorem taxes being a part of it.

Mr. Flory Mr. Steimel, I know you are here to plead the case of big industry, but you made the statement that "industry and business in this state pays fifty-five percent of the total revenues and taxes collected in this state." Is that correct? Is that what you said?

Mr. Steimel I said fifty-five percent. I'll read it from the publication so that there'll be no question. The Advisory Commission on Intergovernmental Relations using census information reports that "the direct burden of taxes on business in Louisiana is 55.3 percent ranking Louisiana number one as compared to thirty-three percent for the nation as an average.

Mr. Flory I have here in my hand the tax revenues collected for the Louisiana '71-'72 fiscal year by category. I don't see where industry pays anywhere close to that. Doesn't the latter part of your statement adhere more closely to the truth in that you said, actually the consumer wound up paying it anyway?

Mr. Steimel Consumers wind up paying almost all taxes somewhere. There isn't any question of that now. The direct burden, I said, upon, and I used the word "direct", upon business is 55.3 percent in Louisiana. This is their figures, not PAR's.

Mr. Flory But that's not even correct, is it?

Mr. Steimel What...oh, yes, it is. The direct burden. They, then, pass it on. I don't question that. I said that in advance.

Mr. Flory Not according to the statistics put out by the Department of Revenue in Louisiana it's not correct.

Mr. Steimel Well, I'm sorry. Those statistics of the Department of Revenue do not say what you just said they said.

No, they do not. I've seen the Department of Revenue's figures. They do not say what you said. You cannot categorize them and show that this is false. There's no way you can do it. You'll have a chance to demonstrate that.

Mr. Abraham Mr. Steimel, you mentioned that, though this was not PAR's position or anything, that you had spoken of a local option for property taxing. But, does not this in itself bring in some inequities and some real problems that if you allow the local assessors to assess at whatever rates they want, or to place fair market value at whatever value then want to place, that you will have sixty-four parishes in this state all doing it differently and then you are going to create an atmosphere in which a person would not want to bring an industry in here because he says "I don't know what I'm going to have to live with from one year to the next, or from one parish to the next"?

Mr. Steimel If you had no controls whatsoever on it, I think there would be no question about that except that that is, in fact, what we have today. You know...that may be one of the problems. But

I think there's, in fact, I don't think, I know, there can be ways in which that can be worked out. There will at least be some opportunity for over-riding the percentages if local government wants to do so.

Mr. Abraham Well, wouldn't you think that the atmosphere of the climate we need to create is that there is going to be some uniform method of evaluation, statewide, and some uniform method of taxation statewide?

Mr. Steimel Well, I can say that our...we have advocated that all along. When I introduced the local option, I said we did it at the request of others who studied it. It is not our first option. We say that it is simply a second option that can be made to work. It is not what we propose.

Mr. Abraham One other question.
Does PAR have a proposal...what they think should be a...

Mr. Steimel Well, we published, yes, we published one in the report that we issued on August 3, recognizing that many people wanted to go in other directions. We have participated with others in trying to modify that. The local option has been one of those approaches. A local option plan and a state plan, that is a considerable modification of what we propose. Yes.

Mr. Winchester Mr. Steimel, when you appeared before the...our Committee on Taxation and Revenue, after you had presented your program, you were questioned. Did you not say, or it was my recollection that you did, that PAR's plan and the assessor's plan were not very far apart.

Mr. Steimel I said...I think part of that was maybe not, maybe I was a bit facetious, but I did say that I had, in fact, taken the assessor's plan and had made certain changes in it, and it did not amount to a great number of changes and that it was a very satisfactory plan. I did say that.

Mr. Winchester Thank you.
Do you now think that PAR's critical and adverse position has contributed to the loss of...contributed to Louisiana's negative growth as you so state?

Mr. Steimel I'll just have to say, "No, I do not agree with that at all."

Mr. Winchester All right. You were a referee on the suit, I understand, and you took...

Mr. Steimel A what?

Mr. Winchester ...the position that things should be equalized all over the state. Now, you are coming back and are advocating this local option. Isn't that what the suit was all about... was local option? We assessors were doing it on local option. We were doing it like the people wanted, but it did not exactly adhere to PAR's principles or some other people's principles. Now you are changing your attitude on that?

Mr. Steimel Well, Mr. Winchester, I don't believe you understood me. I said we did not advocate local option. That we had resisted it time and time again. We have been asked, though, by many people, including the governor, to look at this approach. We did so because of the request of many people. I still maintain that we favored the uniform, across the board. But what we do favor more than anything, is uniformity of the levying of taxes. The Bussie suit, in my estimation, although others can speak much better on it, does not deal with the necessity of uniformity statewide in valuation, but uniformity in the application of taxes.

But please understand, I am not advocating the local option plan. I simply said that I have

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examined it, and I have found that it is...meets the test of equity.

Mr. Winchester It is...is it your understanding that all of this that we are doing right now is advocated by the people who are backing the local option plan?

Mr. Steimel No, sir. There are some people, I am sure, involved in this who are in favor of any number of kinds of plans. In fact, that may be one of the problems is that there can't be enough agreement among people as to what is an adequate plan. I think I told you what I preferred. That is the present law with the minimum of changes toeing in the roll-back feature and putting a ceiling on the percentage so that you protect the integrity of the homestead exemption. That's all. Don't put anything more. That's a beautiful way of solving it. That is one way. I just simply said the local option was another.

Mr. Winchester In reference to homestead exemption, what did PAR advocate in part? Wasn't it my understanding that PAR said "everyone should have a total exemption regardless of the value"?

Mr. Steimel That everyone should have a total...

Mr. Winchester Total exemption.

Mr. Steimel ...That we said that?

Mr. Winchester Well, what was the seventeen thousand you were talking about?

Mr. Steimel The what?

Mr. Winchester Seventeen thousand you said that the average home of seventeen thousand, but that you advocated that every homeowner should be fully exempt.

Mr. Steimel No, what we advocated was that the average home, which is \$14,600.00 in 1970, Census Bureau information, that that home and all homes up to that level be totally exempt. That means half of all homes would be taken completely off the rolls. That is what we advocated. That was a break point. We said go ahead to fifteen thousand of full value and give that to everyone. That would exempt at least fifty percent of the homes of the State of Louisiana totally, and exempt fifteen thousand of everybody's home. This is what we advocated which is slightly an expansion of the present. We have done a study to determine that in sixty-six percent of the cases, homes begin paying property taxes above the two thousand dollar exemption--in sixty-six percent. This is using a sampling of fifty-eight percent. There are some parishes, including, I would think, Jefferson, where it goes as high as thirty to thirty-five thousand dollars before you begin paying homestead exemption. But on the average, you start paying about fifteen thousand today.

Mr. Rayburn Mr. Acting Chairman and fellow delegates, I'm really not here to try to sell you on any plan because I have some misgivings about the so-called plan that we have, and other plans that have been discussed during our committee hearings.

I, like you, will have to make a decision. I hope I make the right one. I feel, though, I'd be derelict in my duty if I did not come to this microphone and try to say a few good words on behalf of the great State of Louisiana which I live in and which you live in. I don't know where Mr. Steimel hailed from. I came from Mississippi to Louisiana. The reason I did, I was starving to death up there. I was looking for employment. I don't know what he was hunting when he came here. If this great state is as bad as he'd have you to believe it is, I don't know why he is staying here.

Yeah, I just want to say this. When you look at the tax that we are paying this state, you've

got to look at the benefits the people are receiving. You haven't heard anything about that. I'm joined by that great state of Mississippi on the east and on the north. Go up there and ask some of them how much taxes they are paying compared to their neighbors right across the line. Then while you are asking, ask a little about the benefits they receive.

I was bird hunting up there a couple of years ago...it won't take but a minute to tell you this...with my judge. Had my cousin with me. He's still up in Mississippi. The dog pointed to a covey of birds and we walked over there. About the time we got ready to shoot them, here came an old man. His name was "Bear" Watkins, lived at Seminary, Mississippi, R.F.D.

He said, "Don't...don't...don't shoot those birds."

Well, the judge, being a persuasive man, says, "That's my dog pointing. Could I just shoot the bird and then we'll leave?"

"No, don't shoot the birds."

So we didn't.

The next year we were back up there with my cousin...whose name is Quin Rayburn...and we got pretty close to the same place. The judge said, "Listen, Quin, please don't let us get on old man Watkins's land again. I don't want to have to look down that single-barrel shotgun."

He said, "Judge, you don't have to worry about old man Watkins." He said, "He got sick. He had a son that went to New Orleans and got a job. His son come got him and put him in the Charity Hospital down there. When he got out, he got on the Old Age Pension and ain't been back."

A few years ago I made a little study of the roads they maintain in Mississippi compared with us. We had them doubled. Texas only maintained fourteen percent, while Louisiana at that same time maintained fifty-one. They have no charity hospitals in Mississippi. If you get sick over there, you either pay or just come to Louisiana, I reckon, to get any charity.

But I just hate to see someone try to down-grade [downgrade] a state that I've been part of the activity for the last twenty-some-odd years. We've got a good state. I don't think that we are going to do anything to hurt it regardless of what proposal we adopt or don't adopt. I think we represent the people...you and I. I think we are coming up with something that will help and not hurt. I sincerely hope we do. But to be able to say that we're the highest business...is the highest tax in this state of any of our neighboring states, on the other hand, what do we do for business in this state? We've even got some students in our trade school, learning a trade today, from Mississippi, to go back and go to work for the industry over there. Because they're here in Louisiana...because they have no place to go in Mississippi. That's why they're here. We've got the best skilled, trained labor in Louisiana of any southern state because we provide for them and we train them. Does that help industry? Yes, it helps industry...and labor...it helps them both. We need them. But on the other hand, they need us. They couldn't pay those taxes if they didn't have them little devils like me out there working for them. It wouldn't make enough money to pay it. We train them and we help them. I'd be the last man to stand in this convention and do anything to hurt industry because we need them. I've made a livelihood for myself and my family working for industry for thirty-some years.

But on the other hand, they are doing pretty good, too. I just want to set the record straight on that. You vote your convictions on these proposals. I'm sure you'll vote right.

Questions

Mrs. Brien Senator Rayburn, you know how much the Americans like to jump in the car and go places...they like to go. Can you tell me how many states selling the license plates for three dollars?

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Mr. Rayburn I know of none.

Mr. Goldman Senator Rayburn, Mr. Steimel mentioned the services provided for the homeowners taxes. Among those services he mentioned garbage and other things like that.

I'd like to know how many communities in the state now assess over and above the taxes for garbage collection, and how many are contemplating doing that? I've heard many of them are contemplating doing that now.

Mr. Rayburn In my home town that I live in. We have a garbage assessment...we have a garbage tax. The parish now has a plan under study. They intend, I think, to submit to the people a millage for parishwide garbage disposal.

Mr. Willis Senator Rayburn, I could not commend Mr. Steimel for his great ability to make peaches, bananas, and apples look like the fruit of paradise, because--and I commend him for that--because his criticism was more capable than his craftsmanship in presenting us with a final proposal. Did he not appear before the committee with a number of proposals? Did you not dissect and analyze all of them?

Mr. Rayburn He appeared there, yes, sir.

Mr. Willis Did he ever present a final proposal encompassing all those peaches, bananas, and apples?

Mr. Rayburn I didn't see one of that magnitude; no, sir.

Mr. Willis Thank you.

Mr. Burns Senator Rayburn, I wanted to ask Mr. Steimel this question but the time ran out. I understood him to say--in answer to a question from Mr. Winchester--that he took the committee's proposal and with a few minor changes that he made, it was acceptable to him. Do you know if this convention could be furnished with a copy of that memorandum that he made?

Mr. Rayburn We have a copy of his remarks, Mr. Burns, that were made when he appeared before the committee. But, I don't know if he had any...he did not offer any alternative proposals to the best of my knowledge at that time.

Mr. Burns Well, you heard him state from that microphone just now, that he took the committee's proposal and with a few minor changes that he made, it would be acceptable to him and PAR.

Mr. Rayburn He said something along that line. But, his last remark, I believe, was he kind of liked what we had. I guess he has had a change of heart. I thought he was one of the advocates that we needed a new constitution.

Mr. Burson Senator, in all seriousness, I have been asking three questions in connection with the situation as I understand it in my home parish, since we began this discussion. Can you tell me, in all candor, where you can see we could finance and continue to pay off bonds on hospital districts and so on in our parish if we took over ninety percent of the homesteads off with no big industries that everybody is talking about shifting the burden to to pay the tax?

Mr. Rayburn Mr. Burson..I'm sorry, Mr. Burson, I have the same problem and I talked to my assessor this morning. I was informed that the reforestation contract which says "Land will be assessed at three dollars an acre"--which makes up a large portion of one of my school districts--will expire in two years from now, and they will have a place to make it up. But, right now, they are going to have to do some hard looking with that three dollar an acre land.

Mr. Burson You do see that in a prairie area like ours where we don't have any trees, we've got an even worse problem.

Mr. Rayburn Well, I'm sure you've got some exemption, if you've got any industry, because they are pretty good at finding them.

Mr. Alexander Senator Rayburn, we are primarily interested during this time in information. I would like to know, therefore, if the statistics quoted by Mr. Steimel from the census facts were true or false or whether they can be authenticated...you know, whether the ratio of taxes on industry and on individuals, etc. as indicated there are true or false?

Mr. Rayburn I'm sure that Mr. Steimel can verify those figures. I imagine Mr. Bussie could give you some that would offset them. You will just have to believe what you want to believe, Reverend; I really don't know. But, let me say this in closing, I can only speak for my area that I know. If you had an actual cash value without exemptions, an actual cash value and treating everybody equal--and the only way I know how to treat them equal is be equal and you can't treat me equal, if I've got a fine fat exemption and you don't have it; there is no way to treat me equal. But, if you treat everybody equal and you assess land at a fair market value--or anything else in that parish--and you applied a two percent factor on it, your school boards and police juries would have to meet twenty-four hours a day to know what to do with the money.

Motion

Mr. Casey Mr. Chairman, I would like to request the appearance of Mr. Frank Simoneaux, who was one of the attorneys in the Bussie suit.

[Motion adopted without objection.]

Mr. Simoneaux Mr. Acting Chairman, members of the convention, I didn't ask to speak today. I don't want to impose my time on you; someone invited me to appear, and I hope you take it in that vein. I said a lot in the early stages and then I kept quiet. I was going to be quiet the whole time, but someone did ask that I come forth and talk about particularly the Bussie suit. I don't speak for or against a particular plan, but, I would like to mention some of the primary factors, I think, that would be present in any plan that you may consider. But, first of all, I would like to analyze the Bussie suit for you. To understand the suit, you must understand how taxation works in Louisiana. You start off, in our basic laws it's provided that the assessor shall list all taxable property at cash value. His judgment is reviewable by the tax commission. So, one factor you have in the formula is cash value of taxable property. Secondly, the present laws authorize "the local taxing authorities", and that's the exact wording in the statutes. Who are the local taxing authorities? I really don't know precisely; it's never been litigated, and we don't know exactly what a court would say. But, nonetheless, the local tax authorities are then authorized to select a percentage of cash value--that's the second step. So, if you take cash value, multiply it by a percentage of value, you then come up with a so-called assessed value--that's just half of the formula. You then would determine the number of mills that are authorized by law or that have been approved by your voters in your local taxing districts. So, you would take your assessed value, multiply it by mills, that gives you your tax dollars. So, you see, it's a two step formula. Now, please understand as clearly as possible, that in the Bussie litigation the only factor, the only factor, that was at issue was the question of cash value--the initial factor--that is the valuation standard that we use in Louisiana--and that is used, incidentally, in all of the fifty states--either cash value or market value. What was at issue then in the Bussie

suit? At issue in the Bussie suit, was the lack of compliance with the laws requiring cash valuations by the assessors. So, obviously, if you have a formula where you have cash value here times percentage of value equals assessed value and then you come back and you have assessed value times mill equals tax dollars--if anyone of these factors are improperly applied, it means that you will have an illegal and probably unconstitutional system in practice. The Bussie case said not that our laws were unconstitutional, but it said the practice of the assessors, and using something else other than a uniform standard was unconstitutional--unconstitutional under the Fourteenth Amendment of the U.S. Constitution, as well as our own state constitution which has a similar clause. So, Bussie does not involve--the case does not involve--percentage of value, does not involve millages, does not involve the actual tax dollars collected, except, that if you arbitrarily apply the first factor then, of course, you are going to arbitrarily affect tax dollars and it will be unconstitutional. In essence, the decision in the Bussie case says that, no matter what, any taxing system must have a standard which then the assessors, who are ministerial officers, must apply uniformly to all property. Put an other [another] way, if we wrote a law that authorized Joe Traigle to review one of your returns--Harold Toca, for example--and he said "Well, I know Harold and Harold has had problems," so he said, "large family, illness and what have you. So, I'll just, you know, arbitrarily give him a break this year. I know the other gentleman, he has had a fine year; I'll give him up a little higher." None of us would stand for this. This is what was declared unconstitutional in the Bussie decision, is the lack of a uniform standard being applied--the standard is there, the law, but it was not being applied. I would like to, also, say that as I read the Bussie opinion it says that "in no way can a state authorize an assessor to use his judgment in selecting a percentage of value." The Bussie opinion cites a three judge federal court in Alabama which says that "taxation is peculiarly a legislative function, not a ministerial function, not one officer's function". So, if you were to adopt a provision here, in my opinion, that says "The local assessor may select a percentage of value, or he may determine how he is going to value property," it's going to be unconstitutional. You have to put the guidelines down as concretely as possible. I know, of course, that assessors would like to have the discretion they have had in practice for years--not the present incumbents, they have inherited this system of not complying with the law, but it is unconstitutional and they must comply with it. There is one factor I have to say and add, that's this--if you are going to have to apply the uniform standard of valuation to all properties, it ought to be probably an annual valuation. I would suggest to you that if it's ten years, or five years, or eight years, or whenever the assessor feels like it that he is going to revalue property, that probably some court is going to say "No, values change more," and unless you catch it when it changes, then you are going to cause somebody to pay more than he is supposed to on his property. Now, leaving the Bussie case for just a few minutes, I want to say that, personally, my opinion does not involve the Bussie opinion--please understand that--I would hope that you would avoid classification of property. The first time you classify a given property for a given percentage of tax, and give that type property a break, you are going to invite somebody else, some other owner who owns a different type of property to say "Me, too. Why not give it to me?" Probably, it's going to be very difficult not to give it to him--Minnesota went that route and went up to some sixty classifications, I understand. Their commissioner of revenue said "For God's sake don't do it." Now, on the other hand, I think that if you avoid classification all together--tax property uniformly, that is, value it all according to the same standards, don't use a percentage. I think that you ought to repeal the industrial exemptions,

because then, of course, everybody will be on the same footing. I think that is what our state ought to be for. We ought not to be up here, it seems to me, writing in the constitution, benefits, exemptions and whatnot that are only going to cause more trouble. So, I say if you can, put them all in the same ratio of value, repeal the industrial exemption and then, hopefully, state government, the legislature, will require the assessors to follow the law so that nobody will have a complaint that he is not getting fair treatment. Nobody, whether it's an individual or industry or business would have a right to complain then. I think the percentage, frankly, the percentage factor that we use in Louisiana is an "oddball." Most states have not used it; it confuses the voter, the taxpayer--maybe the voter too. But, consider, for example, if we went about and elect...each taxing body select a percentage of property on which you would apply millages, my God, how many would you have in the state? Well, what does it do to the taxpayer--to the individual who is determining how does he stand; it confuses the dickens out of him. The only way that a tax system will work is to make it simple. I suggest to you, make it as simple as possible. Don't feed in all sorts of factors into it. You could even provide to simply put in "at market value" and then reduce your millages, accordingly. You could provide that for the taxing year coming up, you would multiply all of your taxable property into the dollars of taxes you collected last year, and that would give you reduced millages. The controlling factor then would be the amount of taxes you collected; it wouldn't go up and it wouldn't go down. I know this is revolutionary to some of you; it's too simple, I gather. But, by golly, the taxpayer would understand that, because then he would be voting on millages alone and it wouldn't be a confusion about percentages of value. I think regardless of what you do, that you ought to make sure that some provision is in your plan that would provide that no taxing district will lose revenues because of your plan. Don't provide it so that some taxing district now has to come begging to the local government, or has to come begging to the legislature; the money is not there, it simply isn't there. If you force the legislature to provide it, the legislature is going to enact another tax and come back around and put it on your voters; the money doesn't come out of thin air. Government costs are not going to go down, so if you want to reduce taxes, you've got to reduce spending. For us to say, as public officials, blatantly that we are going to reduce the taxes here, but not reduce spending, is ridiculous; it's just simply demagoguery, that's all I have to say. I, again, ask you to make it as simple as possible. It's even my opinion that you could avoid putting any kind of plan into the constitution. You could leave it as it is, so far as taxation is concerned.

Thank you, Mr. Chairman.

Questions

Mr. Mire Mr. Simoneaux, do you agree that the actual cash value and the fair market value is basically the same?

Mr. Simoneaux Yes, sir, no problem about that...

Mr. Mire Yes, sir.

Mr. Simoneaux Either one would be certainly the same.

Mr. Mire Yes, sir. You also agree that the judgment in the Bussie v. Long case specifically requires a statewide, uniform assessment system?

Mr. Simoneaux It requires a uniform valuation system and, of course, when you say "assessment," that might mean something slightly different. I'm...the Bussie suit means that to start off you must use the same standards, yes.

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Mr. Mire I'll agree, I'll agree with that. Now, can you, as an attorney in this case, join Mr. Steimel's feeling that a local option plan could be constitutional, considering the fact that we have got an order to live by now, considering the fact that we have a court order to live by that has not been changed by any court yet?

Mr. Simoneaux Well, Mr. Mire, I ought to ask, in all honesty and sincerity, what is your impression of a local option? I have read the reports and whatnot, but I'm not sure I understand what you mean when you say "a local option."

Mr. Mire Well, it's not what I mean; it's what Mr. Steimel said would basically let people do what they are doing now.

Mr. Simoneaux Well, no. If "local option" means let the assessors do as they are now, of course not; then it would be unconstitutional. But, if you mean by "local option" whether it is possible that the parish governing authority might be able to select percentages of value, it is my opinion that might be constitutional, though I think it is not a good system. I think it is a terrible system to put on, but it may be constitutional, insofar as the opinion in the Bussie case is concerned.

Mr. Mire You would also agree that multi-parish districts, those taxes imposed by any taxing authority in a multi-parish district, regardless of whether it be local option or state option, would have to be uniform?

Mr. Simoneaux Yes. Well in that case, of course, in multi-parish districts, Mr. Mire, I assume that you'd then have to take it with your millages, so that like properties produced like dollars. That would be difficult, really, to write in, but I'm assuming you know all sorts of little things like this.

Mr. Mire Do you also realize that in the Revenue, Finance and Taxation plan, the one that is in front of the convention presently, does have this millage rollback provision--such as you mentioned--very much like you had offered....

Mr. Simoneaux Yes, yes. As a matter of fact, it tracks very much the language that was in a bill that I sponsored in '72...very definitely, I think it's a good provision. I commend you on it, and hope you will keep it.

Mr. Casey Mr. Simoneaux, Mr. Mire has apparently already touched on the question that I had. But, I want to clarify this point--one of your answers was or was it not, that a local option plan could be devised and if a local...and it [if] the convention decided to go with a local option plan...would this be prohibited by the Bussie suit, or is it unconstitutional?

Mr. Simoneaux Tom, if we mean by "local option," that the assessors would nonetheless have to value property with a uniform standard, but that the local option would be the option of selecting a percentage of value, then I think it is possible that you may work it out. But, I think to work it out, the intricacies would be such that you would again confuse the taxpayers. We would probably lapse into what we have been doing now for about twenty-five or fifty years. The public confusion permits the assessor, basically, to continue not enforcing the law; he ignores it and not in all cases, obviously, but in many cases it is so. So, I think the local option would bring you back into that kind of confused area because of the intricacies you would have to bring about in order to have local millages.

Mr. Casey Now, under a local option plan that would be permissible, if properly devised, to have different percentages from one parish to another

as long as within the parishes...within each parish you had proper and uniform standards. Is that correct?

Mr. Simoneaux Yes. That is correct, Mr. Casey. Of course, as long as in multi-parish districts you accounted for that problem too.

Mr. Casey I understand that's a different situation.

Mr. Abraham Mr. Simoneaux, I'm still not quite clear on this particular point. Does the decision in the Bussie case say, in effect, that "You must be uniform in setting the percentages or the actual cash value within a parish," or does it say that "You must be uniform in setting these statewide"?

Mr. Simoneaux You remember now, in the Bussie case the position you have is a--what we call a unitary statewide taxing system--where the laws apply statewide and are administered by a central tax body, the tax commission. So, the Bussie case is only enforcing our existing law and it provided that since the current law provided for cash value as the uniform standard statewide, the assessors must comply with it--that's all the Bussie case means. Now, what other standards could you have, even if you went to local option, what other standard could you have, except cash value and market value?

Mr. Abraham Well, I just don't quite understand it. Let's assume that every assessor was using cash value. Does it still leave the door open for different percentages to be used in different parishes?

Mr. Simoneaux Yes. The answer is yes, in my opinion. The Bussie opinion would leave the door open for different percentages in different parishes, provided you could take care of the problem that you have in multi-parish districts.

Mr. Abraham Well, let me ask this, then would not....

Mr. Simoneaux Levee board, for example.

Mr. Abraham All right. Would not there have to be some uniform method of determining cash value, statewide, from parish to parish?

Mr. Simoneaux Well, of course, Mr. Abraham, cash value would be interpreted by the courts as being roughly what, you know, an appraiser uses--real estate appraiser.

Mr. Duval Mr. Simoneaux, as I understand your position, you say that the Bussie decision does not require uniformity in the percentage of assessment, but you think it's a good idea to have uniformity in the percentage of assessment. Is that right?

Mr. Simoneaux Yes, sir. That is correct, only because the taxpayer will then know. It will be one that is publicized statewide and hopefully he will be more informed.

Mr. Duval Now, the committee proposal does present a uniform standard of percentage of assessment, but you don't--as I understand it--you don't think the specific percentages in that plan are necessarily workable. Is that correct? Does that properly state your position?

Mr. Simoneaux Well, now, of course, you have gone to...aside from the legality of things, and asking me a personal opinion, and I'll answer it. I would favor no classification. I would favor, simply, use market value, at times reducing mills, or use one percentage of market value for everybody.

Mr. Duval One more question. Wouldn't that though...would that apply equally...don't you

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think all parishes are a little different and that perhaps it might be better for a percentage... different percentage assessment for each parish?

Mr. Simoneaux No, because, Mr. Duval, I would advocate you retain the millage adjustment clause that you have, so that always, whatever you do, you ought not to cause any taxing body to lose money simply because of what you are doing here today; the court decision doesn't require that.

Mr. Stagg Mr. Simoneaux, you said that the tax assessor should perform a ministerial duty--that of obtaining the values of every item of taxable property in his parish.

Mr. Simoneaux Yes, sir.

Mr. Stagg And that is what...

Mr. Simoneaux This is what the Bussie opinion held.

Mr. Stagg Then, shouldn't he ideally be a trained professional in appraisal of property? One final thing to add onto the question, then, should this man not be an employee of the tax recipient agencies, rather than an elected official, in your opinion?

Mr. Simoneaux Mr. Stagg, of course, you have hit the can of worms and I guess, regardless of what I say it wouldn't make a bit of difference, but the trend is, nationwide, for professional assessors, nonelective. I think it would be better, too.

Mr. Burson Mr. Simoneaux, the practical aspects of this thing, in the present situation, because of the wide deviations that we have, give us great difficulty, as it is obvious so far, in arriving at any one percentage that is not going to hurt somebody. I was wondering what your opinion would be in regard to Mr. Steimel's statement that as long as you put a ceiling in the constitution to allay the fears of those who are worried about a hundred percent of actual cash value on homes--let's say twenty-five percent just for discussion purposes....

Mr. Simoneaux Excuse me. What you are talking about now is nothing more than a red herring that's been given to the people of Louisiana.

Mr. Burson I understand.

Mr. Simoneaux You know, and everybody sitting here knows, that cash value with reduced millages can produce the same dollars. This thing about a hundred percent assessment being the fear of every homeowner is a hoax that we have put on the people of Louisiana; it's a pathetic thing but it's been done. We ought to be able to reverse it.

Mr. Burson This is a fear that's never been expressed to me by a single person in my district; by the way, I agree with you. But, what I want to ask you is, he said two things; he says "If you must put a ceiling in there," but in the second place "Just provide for the rollback," that you have referred to in your remarks to make sure that you don't get any windfall income to school boards or police juries and so on. If you do that, is there any reason why you have to put anything at all in the constitution about a certain percentage, since you all have passed in 1972, according to...

Mr. Roy Mr. Burson, you all...he has gone twelve minutes now. I'll have to cut you off. I thought you would get your question out right soon.

Mr. Burson Let me just ask him what's in this statute; I think it's important because nobody has brought it up. In Louisiana Revised Statutes 47:1989, don't you all provide for the lawful au-

thority of the parish to pick, in effect, the percentage of actual cash value that they will assess that?

Mr. Simoneaux Yes.

Mr. Burson But, you require multi-parish districts to use the same percentage overall?

Mr. Simoneaux Yes. It's my understanding it's never been done in practice, but the law is there and it authorizes the local taxing authorities to select a percentage of cash value. Yes.

Mr. Burson If that were done, you wouldn't have a problem?

Mr. Simoneaux Yes. Thank you, gentlemen.

Motion

Mr. Rayburn To request that Mr. Mire be the next speaker.

[Motion adopted without objection.]

Mr. Mire Thank you, Mr. Acting Chairman, fellow delegates, I'm going to try not to be repetitious and repeat what you have heard from me, but I do want to bring out a few facts. I have in my hand a Time magazine and it's October, 1973; it's now; it's today just like we are using...looking at this situation. I have another magazine in my hand, the Legion magazine, which is October, 1973; it's now; it's today. Some of the facts that we have brought out to you in the earlier question was the high cost of construction, the high cost of land. I would like to just...with your liberty, read you just a couple of little spots in this particular magazine. The Time magazine says "The New American Land Rush," and it says here in one sentence "The average price of land under a house, a federal housing administration insured mortgage is now up to fifty-three hundred dollars, up eighty percent since 1963, while the average plot size has shrunk from eleven thousand square feet in 1965 to seven thousand square feet today." I'm only bringing these points out to justify to you what we are talking about increase...when we talk about increase in value. I would like to point out one tract in Orlando, Florida: A grove owner sold thirty acres of land fifteen miles from the Disney World last spring for two hundred eighty-five thousand dollars; two weeks later, two weeks later, the buyer resold for three hundred and seventy-five thousand dollars; one week later, the subdivision developer paid five hundred and twenty-five thousand dollars for it. Several months later, the developer turned down seven hundred fifty thousand dollars for it, and he is building...constructing apartments on it. I'd just like for you all to...it's a long series, and I would just like for you to get the Time magazine and read it. It comes down to some local things even in Louisiana. In the Legion magazine, it's what happened to lumber; this is what they are talking about--construction costs of homes. Since last January--this is 1972 it speaks of--look at where the price of one thousand board feet of southern pine two by fours was in some sample areas in early summer of '73--this is in six months and it mentions the climate; it mentions Kansas City, but it says in New Orleans; it says in New Orleans it was up nearly thirty-two percent, from a hundred and forty-eight dollars to one hundred and ninety-five dollars. Now, in another paragraph it says "From a nationwide survey, this summer, we find that along the mid-southern Atlantic seaboard the cost of a three bedroom house has risen an average of five thousand dollars in the last three years." In one area, the survey showed where a home that cost twenty-one thousand dollars in 1963, fetched forty-one thousand dollars last year and are now going at forty-three and forty-five thousand dollars. I just point those things out and they are documented. These are, certainly, creditable periodicals, and I'm sure that they are

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not making up these figures--and just to verify some of the figures that we have brought to your attention. Now, I would like to attempt to answer the St. Landry Parish dilemma. This dilemma is not just in St. Landry Parish, it's in every parish in this state and nowhere or at any time have you heard an assessor, or particularly me, representing the Assessor's Association, ask for any sort of homestead exemption that would not, in fact, be reimbursed to the local tax recipient--at no time. I would like to just bring out one point. One of PAR's main cries is that the tax burden will be shifted from business and from homeowners to business and industry. I submit to you, that this is not true. I'm going to try to prove it to you. Business and industry usually can pass additional taxes to its customers, just as Mr. Steimel told you. You know that the taxes collected under the old property tax relief fund is still being collected; it's being collected today. These taxes were to reimburse those moneys lost by local government because of homestead exemption. I quote from the revenue receipts as compiled for us by the convention staff for the fiscal year 1971-72: "That portion of the alcoholic beverage tax that when [went] to the property tax relief fund was ten million five hundred and twelve thousand dollars. That portion of the income tax collected that went to the property tax relief fund was a hundred and twenty-one million dollars. That portion of the public utility tax that went to the public tax relief fund was over six million dollars." Now, the property tax relief fund share of interest earned through cash management was another two or three thousand dollars. All of these receipts totaled a hundred and thirty-eight million dollars for the fiscal year 1971-72. I submit to you, that '73-'74 will be higher because of higher wages. So, all money that's being collected to reimburse a meaningful homestead exemption, it's going to have to be done legally; we are going to have to meet that challenge, but it can be met. Now, I understand that seventy percent of the income tax collected in the state is from payroll deduction. Don't business and industry have the loopholes when it comes to income tax? As a matter of fact, until the present administration, some did not even file returns. Isn't it a fact that the business and industrial executive can charge off his dinner, lunches, including martinis, which the majority of the homeowners--even though they might only have sandwiches in their lunch boxes--cannot charge this off. Let's really see where it's fair and what is really fair to the people. Let's try to put a system that will give back to these taxpayers a little of their money through a meaningful homestead exemption.

Thank you, very much.

Questions

Mr. Anzalone Mr. Peg, I'm going to try to be a little bit friendlier than I was the last time because I, like a lot of people, are looking for information. Are you convinced that the local option plan that we are beginning to hear something about now is unconstitutional?

Mr. Mire Yes, and of course I can only say what attorneys, and including the judge, in this particular case, in the personal conference with them told me.

Mr. Anzalone Now, Mr. Peg, if this were proved to be a constitutional matter, would your position remain the same or would you change it a bit?

Mr. Mire I would certainly have an open mind on it, if it would be constitutional.

Mr. Anzalone Then the great problem that you are having, then, is that of the fact that this plan--so-called local option, which I haven't even seen yet is an unconstitutional law?

Mr. Mire That's correct.

Mr. Goldman Mr. Mire, I tried to ask this question of Mr. Simoneaux, and I was too far down the line; I wasn't able to do it. I asked it of him privately, and I didn't get a definite answer. I can only assume that his answer would have been the same as my answer, but I'm going to ask you the question. Even though the Bussie decision would still permit, as of now, a local option plan on a percentage of fair market value as an assessment, if that should be put into the constitution or into legislative law, wouldn't that, in your opinion, immediately institute another suit--the same as the Bussie suit--to declare that unfair and unconstitutional?

Mr. Mire I believe as long as there's any sort of reimbursement program to local governing authorities from a state level, it would positively call for another suit.

Mr. Winchester Mr. Mire, Mr. Simoneaux, in his talk, stated that when a property holder or property taxpayer--not a property taxpayer, but a taxpayer--was in difficulty, he stated that he didn't think Mr. Traigle should give him any relief. That if he had a good year or a bad year, that should not enter into it. When I was an assessor, if a taxpayer was in difficulty, came to me and brought me his balance sheet and showed that he needed help, I gave him relief on a year to year basis. Do you think this is wrong?

Mr. Mire I don't think it's morally wrong, I just know that the court and the decision in the Bussie v. Long case would not allow it. But, I don't think it's morally wrong, no.

Mr. Winchester Do you know that you can't get relief from your sales tax, you can't get relief from your income tax--that the assessor is the only taxing authority that can give you any relief when you need it?

Mr. Mire Yes, sir. Again, I say morally I don't think it's wrong, but legally, from the court suit, this...it is.

Mr. Winchester Thank you.

Mr. De Blieux Mr. Mire, when you are speaking about the local option, are you acquainted with the Section 198B of our Revised Statutes that give each local governing authority the right to set the percentages of taxation?

Mr. Mire Yes, sir, I am. But that particular provision is based on a statewide uniform base or on actual cash value.

Mr. De Blieux Yes, well, if they have...regardless of what might be the value of the property, if the local subdivision has the right to set the percentages or the millages--because that same section gives them the right to set the millages also--wouldn't that be local option?

Mr. Mire Yes, sir, but again I say that that particular section is based on a hundred percent assessment. It's based on actual cash value being the assessment that we would put on the tax roll.

Mr. De Blieux Well, now the...isn't that related to whether you use actual cash value or fair market value? Isn't the percentage the same thing what we are proposing...that is, what the assessor is proposing in this? Isn't it exactly the same thing except we're trying to set the percentages rather than allowing the local subdivision to set the percentages?

Mr. Mire Either one, with the fair market value or actual cash value, would be the same base. It's just that, I believe, the people are deathly scared of a hundred percent--and, I mean, maybe we're all responsible, a little bit, for some of that, as Mr. Simoneaux said.

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Mr. Denney: Well, sir, the percentage which is assessed on the homestead is not based upon a percentage of a hundred percent.

Mr. Mire: That's correct.

Mr. Zervigon: Mr. Mire, what is your reaction to the suggestion that the solution to the problem would be assessment of all property at actual cash value without any exemption whatsoever?

Mr. Mire: Well, of course, our proposal was that very thing, and we would have to have evidence of fair market value on the title, and then we would have a concern of that if our proposal is accepted, would you rather put a lien on my bankroll out there, that's correct?

Mr. Zervigon: No, that wasn't my question. It has been suggested, as I understand it, that all property in the state be assessed at actual cash value, and that all exemptions thereafter be eliminated. I'd like to know what your reaction is to that suggestion?

Mr. Mire: Well, I think that suggestion was a little bit out of a sudden. We've been talking of the whole concept for some nine months, and I'd like to have a little time to consider that before I'd give you a definitive answer on it.

Mr. Zervigon: Mr. Mire, one of the things, I think, that is confusing us is trying to sort out and understand the difference between fair market value, actual cash value, and a hundred percent assessment. Can you help clear that up for us?

Mr. Mire: Well, no, sir. I don't think that there's one bit of difference in all three. Absolutely none.

Mr. Zervigon: Now, the choice we have is whether or not to list that amount on the rolls or whether to keep it off the rolls and the homeowner or the businessman, when he goes in there to look at it, doesn't exactly know what he's looking at. Is that the choice we have?

Mr. Mire: Well, it's not because we would have to have evidence of fair market value in our office, when the homeowner, with the right to inspect his tax roll, could, in fact, ask where we got this percent from, and we'd have to show him evidence of it.

Mr. Zervigon: Well, isn't it a fact that Proposal No. 2E doesn't require that that be listed on the roll?

Mr. Mire: You're right, it doesn't. But...

Mrs. Zervigon: And that when people suggest that it be listed on the rolls, we get some kind of strong reactions from the floor, sometimes, from some of your fellow committee members saying that it's a hundred percent assessment and trying to scare us all to death. But, isn't it a fact that if we don't know what a hundred percent is, we can't judge whether our fifteen is fair or not?

Mr. Mire: Well, it's a fact that we have to know what it is, but if you put it on the roll at the will of local governing authorities to take any portion of it, then, of course, you are putting your whole bankroll out. This has not been my particular tactics or any, I don't believe you can blame any one person, but over the last three or four years there's been a fear that maybe they would have to put all of that bankroll out, and I'm afraid the people wouldn't buy it.

Mrs. Zervigon: Well, regardless of whether we list the ten or fifteen percent in the constitution or whether the local governing authority sets that ten or fifteen percent under some kind of a ceiling we might set, it would have to be a percentage of

the fair market value, and we'd have to know what base we were working from. Isn't that correct?

Mr. Mire: There's no question about that you have to know the bases that you are working off of, and you have to arrive at fair market value. But, you will not be putting on the line more than ten and fifteen percent of it, according to our proposal. This is how much you will be putting on the line.

Mrs. Zervigon: But, you, personally, have no objection to disclosing that amount--the fair market value--so we know exactly what it is we're dealing with, and we're not dealing in the dark.

Mr. Mire: Positively not.

Mrs. Zervigon: Thank you, Mr. Mire.

Mr. Denney: Mr. Mire, relative to Mr. Goldman's questioning to you, do you agree that...are you taking the position that every parish should have the same millage?

Mr. Mire: No, that's impossible.

Mr. Denney: So, therefore, you will agree that at least to the extent of the percent that is to be applied to whatever is assessed, you have to have local option? The millage...in other words, the millage rate has got to be based on a local option theory.

Mr. Mire: Well, yes. Whatever the people in that local area want to tax themselves.

Mr. Denney: Now, is there a distinction between the two? Is there a distinction between a percentage which is fixed by the parish and a millage which is fixed by the parish, 'cause you're going to come out with the same dollar end in the long run?

Mr. Mire: Well, of course, you're answering your own question, but...

Mr. Denney: Well, I'm asking you, do you conceive that there is a distinction between the two or is it a difference with...a distinction without a difference?

Mr. Mire: No matter what percent you use, as long as you can adjust millage one way or the other, you can come out with the same dollar. No matter what you use--ten percent, twenty percent, forty percent, a hundred percent.

Mr. Denney: My question to you, sir, is that since you agree that you can have local option as to the millage, how do you disagree that you cannot have local option as to the percentage?

Mr. Mire: Because if you're going to have a meaningful homestead exemption reimbursed on a statewide basis, from a collected pot, it's got to be on some sort of measurement on a statewide basis and not on a local basis.

Mr. Denney: In other words, you're...the whole argument, then, is based upon the reimbursement by the state to the individual parishes on the homestead exemption.

Mr. Mire: My whole argument is whether we want a meaningful homestead exemption or not.

Mr. Denney: Thank you.

Mr. Lowe: All right, Mr. Chairman.

Peg, this really isn't very pertinent. I don't guess, but there was a comparison made with Joe Traigle giving some relief to a taxpayer that had a bad year, as compared to an assessor giving some relief to a taxpayer that had a bad year. Isn't it true that built into the income tax system, there are provisions that give relief when there is a bad

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year because if you don't make any money, then you pay no taxes. Also, if you lose money, you can carry the loss back three years and follow back or carry it, well, in the state, we don't have that, but in the federal system, we do. But, actually, isn't it a fact that if you have a bad year you get relieved of taxes? So, I don't believe that Representative D'Amore made a very good comparison, do you?

Mr. Mire: You're positively right. Very, very true.

Motion

Mr. Daley: Mr. Chairman, I'd like to request that an invitation be extended to Moon Landrieu, the mayor of the City of New Orleans, who is present with us today.

Chairman: I will accept the motion.
The motion is carried.
[Mr. Landrieu.]

Mr. Landrieu: Thank you very much, Mr. Acting Chairman and delegates. I long since learned that there are very few people who are experts on any particular subject matter, and I do not come before you today, suggesting that I'm an expert on property tax. I do think I know something about the problems of the city of New Orleans, and, perhaps, as I relate them to you, you would find that they have some relationship to the problems which you face in your parishes. I do not suggest to you that I know half as much as you know about the affairs of your own particular parish. I do say, however, that I know something about the affairs of that city of which I am the mayor and have served as a city councilman and as a state legislator. The calling of this convention, I think, was a landmark in the history of Louisiana. I know of no one that greeted that call with greater enthusiasm than I. Having proposed two major constitutional packages within the last four years, and stumped the state on their behalf, and having lost all of those constitutional amendments, I felt that the only solution to the salvation of that city was the Constitutional Convention. I was warned by many that Louisiana had not reached a state of maturity where we dare put before the public and before elected representatives, certain sacred constitutional rights which were embedded in the 1921 Constitution. I had been told since childhood of the divisive days of the '30's, and I lived, myself, through the days of the '40's, and the anti-Long, anti-Morrison, anti-city of New Orleans, anti-State of Louisiana periods. But, the 60's were somewhat different--at least the late 60's. We developed the state administration that began to show some sensitivities to the overall problems of the state. Things began to happen that made the State of Louisiana and the city of New Orleans come together. A new spirit of cooperation began to be developed. Despite the warnings of those associated with many of the constitutional boards and agencies, I actively supported and have been in praise of what you have done up to this point. It hasn't been perfect, but it has been a well thought-out, hard-fought document, up to this point. Now, we reach the most critical issue that you are going to face. That is, what to do with the most volatile issue in the United States, today--the property tax system. I do not have a total answer for you. I can only tell you what the impact of what is proposed has on the city of New Orleans. I don't mean to be parochial or provincial about it, but I do represent those six hundred thousand people, and I do speak, I think, sincerely on their behalf.

Let me tell you about the city, and where we stand today, and where we were just a few years ago. I've heard many people say, just four or five years ago, that the city of New Orleans was dead--it was a dying city, abandon it. As a matter of fact, in the last ten years some thirty-five thousand people did abandon that city. The figure is only thirty-five thousand because others moved

into that city. That that left were the middle income and upper income families. They that entered the city, a lot of them had come from Boston, and Philadelphia and St. Louis, and every other major city in this country, were there who hoped to find a little better life either because they had been displaced from the farm--and here they had no jobs and they saw it a little better life in the city, but they never really found it. So, the tax base of that city, a very, very poor major city of the country, became larger and wealthier and smaller. But, the city's tax base became smaller--they continued to increase because now that city supports the services for one-third of the state. A city of six hundred thousand people supporting the basic services for a million, one hundred thousand and, in the immediate metropolitan area, and probably a million five, in the area surrounding that city. What does that mean in the terms of the burden on our tax base? It means, to my knowledge, that we provide the only major recreation park in the entire area--five miles of waterfront development, the only opera house, the only symphony hall, the only zoo, the only airport--and we continue to do that with a population that is four-eighth from the bottom, in the state, with respect to annual income. It's surrounded by a metropolitan area of three parishes that rank one, two, and five--the highest parishes in per capita income. Let me think New Orleans hasn't tried to support itself and to support its services, let me read to you a list of what that city has done in the last eight years. We imposed a one cent sales tax for general purposes. We imposed a one-half cent sales tax for general municipal purposes, another one-half cent sales tax for general municipal purposes, a garbage collection charge, a tax on gas, a tax on electricity, and a tax on telephones, an increase in the transit rate, and an increase in the property tax. We actively supported and aided the state in passing--which we pay a large share of--a one-half cent sales tax, a cigarette tax, the elimination of the exemption of state income tax or federal income tax from the state. We imposed, in addition, again, a sewerage service charge, an equality control charge, increased the water rates, increased the gas and electricity rates, and another sewerage service charge. We went to the public for millage increases, for general municipal purposes, for drainage and for flood protection. We asked for a metropolitan earnings tax. We asked for an increase in the franchise tax, and the right to generally govern the affairs of that city--and were denied those rights. It isn't that we seek to favor any one particular taxpayer. I think you can see that the tax package that that city carries contains the three taxes in substantial amounts that any city must have in order to survive--the sales tax, property tax, we lack, but have asked for the income tax. Oddly enough, with the change in national posture, with the breaking of the homestead exemption relief fund which was crippling that city, and with a new image, the city is now gaining, once again, a national reputation, and people are beginning to build, once again, in that city. We had not built a new office building in thirty years in that city. Now, there is more than one billion dollars of downtown construction planned for the city of New Orleans. Just as we are now experiencing that development, along comes a tax plan which seeks to tell us you can't tax the properties, you'll have to find some other method. By the way, when we prevent you from filing the taxes on those who are most capable of paying, we're also going to write in the constitution that you can't impose an earnings tax or an income tax, and by the way, dare not try to impose a sales tax because Orleans Parish is now at six percent, and everywhere else that I know of in the state, particularly those in the surrounding parishes, are at a five percent. Even if we had the authority to impose another cent sales tax, if we did, we wouldn't sell one item in Bernardine in that parish. Now, I ask you, if you had the responsibility to provide the services for six hundred thousand people, where would you get the

money from? I don't expect everybody to adjust their situation to the city of New Orleans, but I don't think it's too much of me to come ask you that on behalf of those people, for you to understand our problem and try to develop the system that doesn't hurt anyone else in the state--but one that doesn't cripple that city which is now just getting off the flat of its back and is on its knees and starting to crawl again. But, that's precisely what this tax system does. For the life of me, I can't understand the reason. It isn't that anyone in that city is overly taxed, even though I think we pay more effective taxes and higher taxes than any other parish in the state. It isn't that anyone feels that he is overburdened because the assessors have the books open every year between August 15 and September 1, and rarely does anyone, now, go up there to ask for a reduction, and if they are told no, rarely do they complain because they don't mind paying some taxes. Apparently, what we have begun to forget is that everything doesn't come for nothing--somebody ultimately pays the bill. One of the privileges of living in this country, and indeed, one of the rights is to pay your fair share. That's what makes a good citizen. I've heard those in this hall say it time and time again--the tax-paying citizens. I'd like to know where the tax-paying citizens are going to be when you pass a law that, in my city, now virtually exempts everyone from paying property tax. Let me tell you what the net result of this plan is going to be in the city of New Orleans. Right now, on a ten thousand dollar home--average market value today--whether it's a new home or an old home, I'm talking about the average. That individual pays no property tax because it's exempt by virtue of the two thousand dollar homestead exemption. On a twenty thousand dollar home, they pay the grand total of eighty dollars a year to support the public services of that community--eighty dollars a year on a twenty thousand dollar home, average. On a thirty thousand dollar home, current market value, average, they pay a hundred and sixty dollars in taxes in support of the services. By and large, outside of Shreveport, or perhaps one or two other places in the state, that's more than anybody else in this state pays on their homesteads. On a forty thousand dollar home, which is now the level that seeks to be exempt, the property owner pays two hundred and forty dollars, so we save him two hundred and forty dollars on a forty thousand dollar home--which let me tell you, in my parish, is a pretty nice home--he pays zero. Now, let's talk about the fellow who's in the fifty thousand dollar home that is now paying three hundred and twenty dollars a year taxes, and not complaining about it. He saves two hundred and eighty dollars, and he pays forty dollars a year on a fifty thousand dollar home--and we've got a number of those. Let's go to the sixty thousand dollar house. Right now, he's paying four hundred dollars a year in taxes. Under the assessors' plan he's going to pay the grand total on a sixty thousand dollar home of eighty dollars. That means he saves three hundred and twenty dollars. Now, I'll give you one last example: the one hundred thousand dollar home--and we have a number of those. Right now, he pays seven hundred and twenty dollars a year in taxes. Under the assessors' plan, he'll pay two hundred and forty dollars a year in taxes. He saves four hundred and eighty dollars. Now, whom are we trying to serve in this state? If we begin to exempt from taxation or reduce to an absurd amount the bills of those who can afford to pay, who are not complaining about it, and shift the burden to those who can least afford to pay because the fellow with the ten thousand dollar home saves zero under this plan--he's paying nothing now. The fellow with the twenty thousand dollar house saved a grand total of eighty dollars--if, indeed, he's paying that much, and I suggest to you that he's not. But, the big guy saves four hundred and eighty dollars. Now, let me go to the commercial property and tell you who gets the savings under this plan. Your parish may be different from mine, and you could very well argue with me about your parish,

and I'll concede that you're right, whatever you say, but I know what they're paying in my parish. Take a new Shell building that goes downtown--forty million dollars. That building is going to go on the tax roll at not less than twenty-five percent, not a cent less than twenty-five percent. Now, they are going to go on the tax rolls at ten percent. Land is going to go on at ten percent, land is going to go on at ten percent and the building at fifteen. Now, that is going to be minimum one-half of what they are assessed for now. That means in order to make up for that difference which that owner is paying--and they're the first people to tell you that across the United States, New Orleans and the State of Louisiana has the lowest tax rates in the United States--it means that somebody else has to be doubled. So, when you raise the millage to make up for what has been reduced from that building to raise it back up to where it was, somebody now is going to end up paying twice what they were paying before. Who is it that's going to end up paying twice? The small store owner, the barber, the little restaurant, the little cleaning shop, the small business, and there's sixty percent of the people in the city of New Orleans who rent--most of whom rent not because they don't have the same desires of you and me to live in our own home, but because they can't afford to buy their own house. Not being able to buy their own house, then we shift the burden to them so that we can give the break to the guy who owns one Shell Square or the Canal-LaSalle Building or the Lykes Building or the Marriott or new Pan Am that's going to go up. I don't ask you to tax in your parishes what you don't want to tax, but I plead with you not to force me to take the taxes off of those people and put it on the backs of the people who can't afford to pay. I further suggest to you that when you do that, you will destroy the possibility of floating bond issues in the future, you will reduce the tax base of that city to the point where we will, indeed, become wards of this state. We can't do anymore than what we have done. All I can do is come to you with what I think is an honest plea. I don't care what Jefferson Parish assesses at. I don't care what Tangipahoa assesses at. I did care at one time when there was a homestead exemption reimbursement system that said: we pay you for not taxing, and if you assess low and keep raising your millage, it makes no never mind that your tax owner is not paying anything...tax... property owner is not paying anything because the state will reimburse you and you keep getting out of the state treasury. I entered into the Bussie suit because I thought that was an unfair system at the same time we filed the suit to break the back of that unfair and inequitable system. When the governor decided, after the suit which we filed, to break the back of the property tax reimbursement system because for twelve years I tried in the state legislature to get it changed--to say make it equitable, give everybody back the same thing--and I couldn't convince enough legislators that they would have more money than what they would know to do with if they simply treated everybody fairly. When the governor decided that the state would get out of, and the legislature pull the state out of the five and three-quarter mills, I directed the attorneys representing the city to withdraw from that lawsuit because I did not want to dictate to any other parish what their assessment or tax practices should be. We withdrew from that lawsuit after the reimbursement system was revoked for that one simple reason: let that parish do what they want to do because they no longer affect us. If they choose to exempt every home in their parishes, let them do it. So, I don't stand before you with an inconsistent position, although if you had asked me what I thought from a textbook standpoint, I would have agreed with the lawsuit. But, it no longer became our political problem, and I didn't seek to thrust my nose in other parishes business when they felt they knew best how to solve their business. So now, we have a system which, at least, is working

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equitably. Instead, now, of correcting a bad system and improving it, we now proceed to worsen that system. We don't accommodate ourselves to the best that the state has done, we accommodate it to the worst that the state has done. I don't ask, in most instances, to be treated any differently than anyone else, for that city. But, I don't want, either, to be forced to meet the lower standard. We will meet the average and pay our way no matter what that average is, but I suggest to you that to force us to reduce our millage--at least to reduce our assessments that are at a reasonable level--down to a ten percent level, not doubling the homestead exemption but quadrupling it, in my parish, because when you reduce the percentage of assessments from twenty to ten and increase the homestead exemption from two to four, you have quadrupled the homestead exemption--not just doubled it. Gentlemen, I can tell you that from my standpoint, I couldn't speak to you with greater sincerity than I do. The state is now coming together. I want this constitution passed worse than anyone in this room, but not if it's going to destroy, at this point, any hope of survival for that city. I'm convinced there is enough wisdom and enough goodwill in this body to work out a reasonable, fair solution even though it may not satisfy everybody. But, it can't be done on emotion, and it can't be done on bad facts. I ask you to review what I have told you today. You certainly have enough research staff to do that, and adopt a plan that is going to at least give us a chance of survival. Thank you, Mr. Chairman.

Questions

Mr. Burson Mayor, using some housing statistics from the U.S. Bureau of Census, which we've been given by the staff, it appears to me that in New Orleans, if at the present, homes of ten thousand dollars and below are exempt from paying any property tax. But, under the present system you would...the system proposed by the assessors' plan you raise that to forty thousand. It would have the net effect of changing your status to one from which, at the present, about eighty percent of the homeowners pay some property tax, to one where eighty percent of the homeowners would pay no property tax. Would that be approximately what your staff has told you about your situation?

Mr. Landrieu I wouldn't be able to verify those exact figures, but that would be my judgement, yes, sir.

Mr. Burson Now, under such a circumstance, would you agree with me that the only two possible alternatives you would have to replace the revenue that you would lose thereby, would be either to drastically increase the millage on those people left or to ask the state to give you the money?

Mr. Landrieu I know of no other alternative, sir.

Mr. Womack Mr. Landrieu, in the most recent constitutional election in which many amendments were submitted, and some twenty-five or thirty percent of them were directly affecting New Orleans, and amendments that would have given the city of New Orleans more leeway to raise funds and, so to speak, get them out of the noose that they were tied in because of constitutional prohibitions, those amendments were defeated locally, even with the support of the mayor and the city of New Orleans behind them.

Mr. Landrieu Yes, sir.

Mr. Womack The question is: What have you done or what do you anticipate the city of New Orleans doing that would offset that, if these corrections are made in the proposed document that we are considering at this time?

Mr. Landrieu I'm not so sure that I understand, Mr. Womack.

Mr. Womack Well, if the proposed amendments that were submitted which gave Orleans, the city of New Orleans or the parish of Orleans, more leeway to function and raise their own money and operate, if they were defeated--which they were in the last constitutional election--if we resubmit them as proposals in this document that we are considering now, what have you done or what do you propose to do that would change the attitude of those people and keep them from killing the whole document again? It's just that simple.

Mr. Landrieu Well, let me remind you, sir, that the people of the city of New Orleans are no different from the people anywhere in this state. Those amendments lost every place in the State of Louisiana, and I take it that if a reasonable document is submitted to the people of the state, they are going to adopt it. People voted against the constitutional amendments for many reasons. One, I think the well was poisoned and people couldn't understand them. It's difficult enough to place one issue before the people which causes them to raise their own taxes and ask them to vote on it to pass that, without combining it with fifty other amendments and a great deal of confusion. Gentlemen, it takes no difficulty whatsoever to defeat a constitutional amendment or to defeat a convention that produces a document. That's easy to do, frankly, as many have shown in bond issues and in constitutional amendments across this state. It's difficult to pass one, and we reacted just like anyone else. It only took one individual to kill that whole package of amendments.

Mr. Womack One final question: Do you have at your fingertips the average percentage factor of industrial assessment in Orleans Parish at this time, whether it be twenty or thirty or forty percent? Do you have those figures?

Mr. Landrieu No, sir, I do not have the exact figures on the industrial exemption. The best I can tell you is that our property tax base is predicated on something somewhere between seventeen and twenty-two percent on the present market value. Some homes are going on the books at one-third, some at twenty-five percent, and some have never been reassessed or reappraised and are on the books at twelve percent. But, the average is above seven-teen; I think it's below twenty-two.

Mr. Duval Mayor Landrieu, the great majority of us are really interested in having this document passed also, as we think it's vital to Louisiana. I'm particularly interested in what you feel is a solution for this. First, let me ask you: do you think the primary problem in the committee proposal is the large homestead exemption? Do you think that is the primary problem since there's a sliding scale on the millages?

Mr. Landrieu The homestead exemption figure itself is really meaningless without discussing the assessment ratio. It's the combination of those two that produces the...plus the millage that produces the effective tax rate. Now, you solve the millage problem when you let everyone raise it or lower it, but that combination of the four thousand dollars and the ten percent is what produces the drastic results in this plan.

Mr. Duval Well, I'm looking for some kind of constructive solution to the problem. Do you think that the local option plan would be the best thing for this convention to do?

Mr. Landrieu As I said, I'm not an expert. We certainly could live with a local option plan. I daresay Mr. Chehardy could live with a local option plan. I think that there are many people who could live with a local option plan. The question in the local option plan is who is going to set the ratio? Who is going to govern the parishes? Will it be those people that have the responsibility to provide the services, or will it be the assessor?

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In Orleans Parish we have seven assessors. If they're willing to assume the responsibility for paying the policemen and the firemen and the sanitation workers, then I suppose they ought to have the right to say how much taxes are going to come in. If I have to have that responsibility, as I am now presently vested with it by the constitution, I think that my legislative body ought to have a voice in what the level of taxation is going to be. I speak only for Orleans, and not for any other parish. Just recently we undertook the reevaluation of our downtown real estate. We have now placed every piece of land in the central business district of New Orleans on the books at thirty-three and one-third percent of its current market value as established by appraisers of the New Orleans Real Estate Board.

Mr. Winchester Mr. Mayor, how much of the revenue sharing fund does the city receive, please?

Mr. Landrieu Something less than our population per capita. I think we've got 16.2 percent of the population. I believe we've got 14.9 percent of the money.

Mr. Winchester Well, someone said 13.1 million. Would that be correct?

Mr. Landrieu Possibly, sir.

Mr. Winchester Well, how much is that over that it took to satisfy the homestead exemptions?

Mr. Landrieu Probably five million dollars.

Mr. Winchester Does not the city taxes in New Orleans...aren't they covered by homestead exemption, which is very peculiar and not in any other instance in the state?

Mr. Landrieu That's true with respect to any other city, if you look at New Orleans as a city and not as a parish government, but we're coterminous, and even with that homestead exemption the average tax...average property owner in the City of New Orleans pays far more than the average property owner in any city, other than perhaps Shreveport or one or two others...even with that exemption.

Mr. Winchester Now, I hate to contradict you, but that's not so.

Mr. Landrieu Would you state your figures. I don't mind being contradicted by the figures.

Mr. Winchester Well, you have about forty mills in Orleans, and that takes care of city and state and all taxes. In the town of Franklin we have a seventeen and a half mill that is not exempt plus thirty-five mills or so on the state roll, and only a certain amount of that is exempt, and that's every town that has...some towns have twenty-some-odd mills. So, I would say your figures are incorrect, but let's....

Mr. Landrieu No, sir. May I respond to you? I don't mean to breach the rules by arguing with you, but those figures are absolutely meaningless. The only thing that has any meaning at all is what is your effective tax rate. Now, tell me what your assessments are in that parish.

Mr. Winchester My assessment is about twenty, twenty-five percent in St. Mary Parish.

Mr. Landrieu Well, I'm going to suggest to you, sir, that there may be one or two or three, at the most, cities--not parishes--cities that are paying higher tax rates than the city of New Orleans, but indeed those are very rare.

Mr. Winchester Let me ask you this: the Shell Building, you say, would be reduced, but under the tax plan the millage would automatically be increased, and the Shell Building would pay approx-

imately the same amount in taxes. Is this not so?

Mr. Landrieu No, sir. It is not so. You see, the fallacy in that argument--and it's very easy to make that mistake--is that that is true with respect to the tax base as a whole. No one could say that if you reduced the assessments from twenty percent to ten percent and then increased the millage from forty mills to eighty mills that you don't come out with exactly the same dollars. There is no question about this. The city of New Orleans under that proposal, if you did that, would not lose one cent in taxes. That doesn't mean we wouldn't be hurt in the future in terms of bonds and public attitudes and new tax rates, but I'm talking about that immediate adjustment which could be made that way. But, that doesn't take care of the individual properties. For instance, one staff report that we have made says that if we went to the assessors' plan, it would take us a twelve mill increase to get up to the level where we presently are. If we're on forty mills now, you can see that that twelve mills is nowhere near a doubling of the millage in that city. Now, when you relate that to an individual piece of property--for instance, let us go to the person in the fifty thousand dollar home. Right now, he's paying three hundred and twenty dollars. Under the assessors' plan he would be paying forty. If I wanted to get that fellow up to where he was before, I couldn't do it with twelve mills; I couldn't do it with forty mills; I would have to add eight times forty to get him up there. So, when I increase twelve mills, that fellow's tax is going to go up from forty dollars, which it will be under the assessors' plan, to probably forty-five dollars. The same thing is going to happen to the Shell Building. When I go up twelve mills, the two hundred thousand dollars in taxes, and I'm pulling that figure out of the air...that they would be reduced is not going to go back up two hundred thousand dollars. It's only going to go back up whatever that twelve mills will produce.

Mr. Winchester The plan will take care of the increase that is necessary, and for you to say otherwise, I think, is somewhat in error. In other words, you're playing that you want to protect certain ones and not others...

Mr. Landrieu If you heard me say that, then I apologize for not being very articulate on the point.

Mr. Roy Thank you, Mayor Landrieu. We appreciate your coming.

Mr. Chehardy Mr. Chairman, fellow delegates and sister delegates, I believe that at this time we have listened to a lot of the opponents of the plan presently on the floor, and I'd like to sort of regroup the whole problem that faces Louisiana, that faces this convention, and just where we stand at this moment in history. We are presently under a court order, the assessors of Louisiana, to redo the entire system. The order states that we are to list all property at actual cash value, and contrary to what anyone tells you, the effect of that judgment will be for all property in this state to be reappraised, revalued, and put upon the books at actual cash value. Each of you can examine within his own knowledge what he owns, what he knows of, and then relate it to the new value. That's what goes on the assessment rolls. Now, what are the problems wrapped around that particular move, if it is made under court order. Number one: the court anticipates that in doing this, the various communities will levy the necessary amount of millage against that total wealth put on the books in an amount sufficient to run the various communities. Now, what you have to next examine--and this has not been brought out to you enough, and follow this carefully--under the existing law which provides for the homestead exemption, if you will read it, in the existing provision, which was passed last year, it is...states that the people have a homestead exemption to the full amount of two thousand of the assessed valuation--

of the assessed valuation--not of the total valuation, of the assessed valuation. Now, when under this judgment, the assessors are required to put the property of the people of this state on the rolls at actual cash value; so your home at forty thousand dollars--and I'm not trying to put a scare or a fright--that is the effect of the order. Now, that does not mean that you will pay the same hundred mills, for example, against that because there will be a millage adjustment. Later I will show you there has never been a millage adjustment in any historical situation to offset the damage caused to the people where this plan has been put into effect. But, what you have to note that once that house is put on there at that valuation, your homestead exemption will apply, of that forty thousand dollar house, to the two thousand at the top. Once we make the assessment rolls with the full valuation, the two thousand assessment is worth nothing--a zero. What this points up is the absolute need for this convention to take care of this situation before this judgment has to be implemented. The assessors, prior to the convention and for a long time, for many years, have been concerned with the problem. I have made it almost a personal task for eight years to try to figure what was the solution to all of the issues facing us. The assessors considered the problems of sixty-four parishes so that we might satisfy this judgment. We're not here suggesting a plan just to have something different, just to have something new. We're under court order. If that order is followed, please remember, number one, your homestead exemption as we know it is destroyed. That has to be stopped. We had sixty-four sets of different problems. Now, they talk about a parish by parish plan. To set your minds at rest, to know that we are not narrow-minded--and I don't say this with any... in a sense of pride or anything--I originated the parish by parish concept, and most of those promoting it around the floor have used copies of the original plan that I had proposed to the assessors, and which some assessors, among many plans... that the assessors considered. Because of the problem of constitutionality, we put aside the parish by parish concept, and also that in the hope that by so doing we would achieve statewide uniformity. Today we are imposing under this plan a set of definitive rules, which yesterday was narrowed in scope to two percentages--ten and fifteen percent. Now, what has never been said, and which is always neglected in all of the anti's--those who would raise your taxes--they fail to state the effect of reassessment. Reassessment traditionally, in every area of American without exception, has caused panic. The reason--and I repeat to you--that I gave you clipping after clipping from Boston, from Illinois, is to show you the historical effect of our action in this convention should we not prepare for the day that the property of Louisiana is reassessed. This is not speculation, either under court decision or by action of this convention, we will reassess the property. Property--as Senator Rayburn pointed out--at true valuation, only two percent, will have the spending arm of government wallowing in money. There is no conceivable way that they will be able to spend ten percent and fifteen percent of the wealth, despite the miserably small homestead exemption that so many are suffering over. Now, in the city of New Orleans, and I believe--and this is an aside--that not only New Orleans, but the State of Louisiana is indeed fortunate in having a man run that city who is doing a magnificent job. So, nothing I say is meant as detrimental to the work of the mayor of that city. I think he is doing a splendid job, and he has a hard job, but I feel that the assessors of that city, through their representative, Dr. Claude Mauberret, has sat on the Constitutional Convention with us and have weighed the problems of that community. Although the central business district has been reassessed, there are vast areas of commercial alone, in that city, which has not been reassessed, generally. For example, I'll name them: Canal Street from Claiborne back to the cemeteries, to my knowledge,

has never been reassessed, and that is several miles of property probably ranging in value from twenty dollars to maybe eighty dollars a square foot. We've got Tulane Avenue in New Orleans, which has never been generally reassessed for maybe forty from Claiborne back--not to my knowledge. You've got Claiborne Avenue running for miles of commercial that has never been reassessed. You've got Carrollton Avenue. These are vast areas of commercial. What is being overlooked is any taxing district, when this reassessment takes place--and I don't care how many experts go to that computer--when you reassess all that wealth, it's going to show up. Unless this convention puts protective measures, we're going to face disaster among the property owners of this state. Now, to tell you concretely, even though I've given it to you, in 1972 in U.S. News and World Report, on page 23(b) of what I sent you, these are remarks of some of the governors of some of the states made as a result of the aftermath of general reassessments and only percentage increases. For example, Ronald Reagan of California said, "Several tax reforms we have long been seeking are part of the revenue package you adopted. This will help our senior citizens keep the homes they worked for most of their lives." Rockefeller of New York says, "The burden of financing the local share of education is overwhelming the real property taxpayer." William Milliken of Michigan says, "This must be the year to accomplish property tax relief." After the horse is out of the barn and after you've let the suffering come upon the people, then you're going to call the legislature and you're going to beg them to do something... when you face the panic. Let's see what... we'll go to Massachusetts. "Our tax structure totters under an inequitable burden. Cities and towns export insolvency, and the individual property owner contemplates real estate taxation approaching the confiscatory. We can wait no longer. Comprehensive tax reform is mandatory and urgent." Remember, we're trying to stop this from happening. Then we go to Illinois, for example. The governor says "We are making a new commitment to the elderly, and as part of this program, I've earmarked sixteen million dollars for relief from excessive property taxes. The tax relief program will be in the form of grants for those over sixty-five"... and on and on and on--Kansas--no matter where you go. Yet, had they stopped and had the foresight to recognize that property has not today on the rolls at true value--not by any stretch. I don't care what percentage the assessor in your district is using. Now, we are obligated to put you on at true value. For God's Sakes let's make sure that when we do, we do not have percentages that will wreck homeownership, will destroy the right to own property. These are the facts. I'm not making this up. I've given you the evidence to look at. We have protection for cities, for those areas where the problem is such that they may need more money because they're getting less under the plan. We have automatic millage rollbacks. We heard the gentleman on the other side admit that it was a good provision. We have also made it automatic. No other prohibition will stop the city, for example, from raising the millage, if they lose in a particular district. This is not shifting it to the renters. It is not shifting the burden. It is preventing a burden from falling on all classes. How can a renter pay more when today he will be assessed at ten percent, his landlord, and when admittedly in some of the cities, they are assessed today at twenty-five percent. I don't know how an assessment at ten percent will be more than twenty-five percent. But, let's assume that that property rises in reevaluation, then that ten percent may be equal to twenty-five. I doubt it will be more. I feel in this plan we have tried to consider the problems. This represents the collective thinking of the assessors of sixty-four parishes. It may not... if there's dissent, it would be less than four or five assessors. If you think you know more about the subject, then all we have to do is let's go ahead, but bear the responsibility in your own

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heart because I'm telling you that if we touch these percentages which already at ten and fifteen, in my opinion, are as high as they can go. The homestead exemption is miserably low at even five thousand. So, with that I hope you'll understand that we've done everything to bring a decent plan, and I hope you all stick by it.

Questions

Mr. Stinson Mr. Chehardy, you referred to Claiborne Avenue and said it had never been reassessed or reevaluated. I believe you said the valuation there was about eighty...twenty to eighty dollars per square foot.

Mr. Chehardy No, I said on Canal Street...starting at Claiborne back, it would range probably from eighty to twenty dollars a square foot.

Mr. Stinson If it was reevaluated?

Mr. Chehardy I would imagine so, yes, sir.

Mr. Stinson Well, what is it assessed for now? Do you know?

Mr. Chehardy Well, I don't know. All I know is there's been no reassessment, so you might assume some pieces have been on there since 1938, 1940. They may be assessed at less than...oh, maybe a valuation of one percent of real value, or two percent. That's no reflection on the assessor because there's been no general reassessment anywhere in Louisiana to this point, other than in the CBD that...

Mr. Stinson But, your statement was that if it was reassessed or reevaluated, that it would go up more than likely than what it is.

Mr. Chehardy Yes, sir. It's going to go up terribly much.

Mr. Stinson And that would increase, naturally, the revenue.

Mr. Chehardy Increase the income tremendously.

Mr. Stinson Now, you cited some different states, but I believe the State of Florida was the first one that had a federal case. What happened there? Do you know the history of that?

Mr. Chehardy Yes, in Duvall County, which is the historical example, in the first year--I guess in gatherings like this--they told the people, "do not worry; we're going to bring equalization; everyone is going to pay equal taxes; we're not aimed at raising more revenue; we just want to establish equality." In the very first year after reassessment, whereas in the year of reassessment, they had collected twenty-nine million in taxes. One year later they collected forty-nine million. Metropolitan Miami, for example, Dade County, you could pick the headlines up everyday; there's one element of conversation: how the city manager has now increased the budget another five million, another four million, property taxes rising. New Jersey, same story.

Mr. Stinson You mean, they didn't reduce their millage when they got more money? The argument's been all the time these local bodies would reduce the millage.

Mr. Chehardy They reduced the millage, and even with reduction, even with reduction, they've managed to keep up other maneuvers, either more assessment or reappraisals, and a man is paying more than he ever paid in his life. I've given you an example of New Jersey, a ten year history of a piece of property--it's in the last pages of the brochure I sent you--where this man started off with a thousand dollar assessment, the millage has gone down, you know, moved it around and everything. Today

it's assessed at...two years ago at fourteen thousand, I believe, and his taxes have gone up over three hundred percent. You have only to look in there to see the actual history. All of this points up--there's no difference here than any other area--if we're not careful in reappraisal, reassessment, if we do not put in safeguards, we will destroy the right of homeownership just as they have, I'd say, in half of the states in the country.

Mr. Stinson Well, what was voted yesterday--I didn't vote for it--ten, fifteen and ten, in your opinion, is excessive?

Mr. Chehardy Yes, sir. If it wouldn't be that, the only other alternative is a hundred percent assessment; I wouldn't give into that.

Mr. Anzalone Mr. Chehardy, do you have any idea what it would cost the Parish of Tangipahoa to reassess all of the property located within the confines of that parish? We're about sixty-eight thousand people.

Mr. Chehardy Right. I would say this, that you're going to have a tremendous cost involved. I believe now that the system is...this is what everyone wishes. One of the things that you have to look to is increased budgets for this to be done. I know of no other way except to have more help to, you know, to do the job--depends on how much time you give us. But, let's say that I have to go out and reassess with my staff of about forty some people; let's say seventeen can work the streets, and we've got a hundred and seventeen thousand parcels; do you recognize...you know, that should answer the question for you.

Mr. Anzalone Well, could you guesstimate as to how long it would take, without an additional appropriation of money, for your staff to do this?

Mr. Chehardy Well, I would say that if in a four year period...in a four year period if we could have...establishing like we have--we have gone principally on sale, on the sale price--so, I...and for eight years we have brought everything; every purchase is based on actual cash value. My parish has that advantage; we have done that. Now, I would say that within a four year period, I would have my parish completely updated.

Mr. Anzalone So, actually, it would take four years to revamp the property taxes in Louisiana according to the assessors' plan?

Mr. Chehardy Well, under the assessors' plan, under any other plan or any plan, it would entail the same thing. It doesn't matter whether it's the assessors' plan, and I would say even...and to do it in four years, we're still going to need some help.

Mr. De Blieux Mr. Chehardy, you named several states in which you quoted some figures from or something about it. Do you know what the average taxes is on a twenty-five thousand dollar home in California?

Mr. Chehardy In California, right now?

Mr. De Blieux Yes. Monterey, which you spoke about.

Mr. Chehardy Well, I could give it to you if I get my chart out. Off hand, I don't recall it. I could give it to you, for example, in Boston.

Mr. De Blieux Alright. Let me compare your figures then; I have some figures from Boston too.

Mr. Chehardy Boston, as of two years ago, an average suburban home in Boston, valued at twenty-five thousand dollars, was paying around twelve hundred dollars a year.

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Mr. De Blieux That's about right. It's about eight times what ours is.

Mr. Chehardy You want it where else?

Mr. De Blieux It's about eight times what our average twenty-five thousand dollar home is paying.

Mr. Chehardy Right, and we're not going to let that happen to the people of Louisiana, Senator. That's exactly my point. Do you know that they're leaving Boston in masses? That's a play on words, isn't it? Senator, in answering your question...

Mr. De Blieux Just to give you some examples, and I don't know how long this rate has been into effect, but for the states that you have named, California pays twelve hundred and fifty dollars on a twenty-five thousand dollar home--Monterey. Massachusetts is eight times what our rate is; Illinois, six times; Michigan, five; and Florida, four. Those were the states you mentioned. Now, New Jersey, which you mentioned, pays seven times our rate. I might let you know that the assessor of West Baton Rouge Parish reappraised all of the property within his parish within two years time without any additional cost.

Mr. Chehardy Well, that's beautiful if that could be done. I'm glad they have that knowledge. Now, correct that, Mr. Anzalone, two years for Baton Rouge.

Mr. Burson Mr. Chehardy, you've been hearing me ask my little question about St. Landry Parish. Now, if you accept, for purposes of discussion, my hypothetical that if you exempted all homes of thirty thousand dollars on down from taxation, in my particular area, that you'd only leave about ten percent of the homes in, would you agree with me that there would be only two places that we could come up with that money? We'd either have to increase the millage on what we had left, or we'd have to get it back from the state through some sort of relief fund or other means.

Mr. Chehardy Well, I can't agree with you. Only one thing that you're not taking into consideration is when we reassess, Mr. Burson, don't you feel that you won't have the same percentage off the books?

Mr. Burson No, sir. I'm going by two things, primarily...well, three things. I'm going by my own knowledge as a lawyer of what property sells for, discussion with my assessor and other people that know about those things, and also by the statistics that we've been given on the census. Now, my next question would be this: Would you personally, in your situation, have any objection to some sort of local option plan which would maybe put a ceiling on what you could do anywhere, but would leave the rest up to the local unit?

Mr. Chehardy Now, let me just answer you this way. I feel that the plan that is presently before this body is more constitutionally motivated, is actually going to satisfy for almost any federal question that arises, any issue of disparity. To me it creates wonders. I believe that with the millage adjustment, we're going to face the problems. Now, provided...now, you asked me could I live with the other one. As I told you--and I'm going to say it without fear of contradiction--I originated the concept of parish by parish, seeing the very problem we're facing here, but after discussion, realizing the other way is better; but I could live with it under certain conditions.

Mr. Roy You've exceeded your time. Thank you very much.

Mr. Casey Mr. Chairman, I'd like to request the appearance of Mr. Jimmy Prescott, President of the Louisiana School Boards Association.

Mr. Prescott Mr. Chairman, ladies and gentlemen of the convention, I'm James Prescott, Executive Secretary of the Louisiana School Boards Association. Those of us who represent school boards are certainly cognizant of the difficult problems which have confronted all of you...

Mr. Roy Mr. Prescott, just a minute. Let me get you a little order.

Mr. Prescott Thank you, Mr. Chairman. As I was saying, those of us who represent school boards are cognizant of the difficult problems that confront you in the drafting of a new constitution, particularly the property taxation problem now before you. For the past few weeks, we too have been attempting to determine, as precisely as possible, the effect of Committee Proposal No. 26. Our primary concern, of course, is the effect which this proposal would have on public school systems. We therefore solicited from each system substantive data or comments to guide us in our deliberations. Our survey reveals that Committee Proposal No. 26 as referred to the convention from the Committee on Revenue, Finance and Taxation, poses two possible problems for school systems. The first of these involves the potential reduction of the bonding capacity in some school districts. In our present constitution, and in the proposals for our new constitution found in the report of the Local and Parochial Government Committee...

[*Quorum Call: 24 delegates present and a quorum.*]

Mr. Prescott In the present constitution, and in the provisions for the new constitution as proposed by the Committee on Local and Parochial Government, the limitation on bonded indebtedness for school boards is twenty-five percent of the total assessed value. A reduction of the total assessment rolls would therefore reduce the bonding capacity for a school system. Information supplied to us indicates that several systems feel that they would thus be adversely affected. Among these are Bogalusa, Bossier, Caddo, Calcasieu, East Carroll, Jefferson Davis, Morehouse, St. Landry, St. Mary, Washington, Webster, and West Baton Rouge. The anticipated problem in these parishes could be solved by an increase in the assessment ratios proposed in Committee Proposal 26. We know that it is virtually impossible to determine the precise effect which any given ratio may have, but we believe that the ratio should be between fifteen and twenty-five percent, and that the reappraisal requirements should be maintained. The second problem envisioned for school boards by Proposal 26 is the potential amounts that may be lost by the application of the increased homestead exemption. No longer does the property tax relief fund insure against such losses. Instead, revenue sharing is presumed to provide sufficient funds to offset losses for exemptions. The increase from two thousand to five thousand in Committee Proposal 26--or even four thousand, as reported in the newspapers--places substantial additional amounts of property in the exemption category without any guarantee that the legislature will appropriate revenue sharing funds sufficient to cover statewide homestead exemption losses, without any guarantee that homestead losses will have first call on whatever revenue sharing appropriation is made, and without any guarantee that the individual parishes and tax recipient bodies within the parishes will receive funds sufficient to cover their homestead losses, many school boards see the proposal, as now written, to be detrimental. East Baton Rouge Parish, for example, estimates that an increase in the homestead exemption, from two to four thousand dollars, would transfer fifty million dollars to the exempt status. With the operational millage now levied, more than five hundred thousand dollars would then be added to the amounts to be offset. Solution to this problem, of course, could be the reduction of the proposed homestead exemption, an increase in the revenue

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sharing provisions, or a combination of the two. At the very least, we would hope that this convention will assure, constitutionally, that revenue sharing funds are distributed so that the first call on these funds at the local level will be to offset losses sustained by application of exemption. We also hope that you will provide constitutionally sufficient funds to do this. We've talked with Mr. Camille Gravel this week about amending the revenue sharing section of Committee Proposal 26 to accomplish this. He assures us that he will work with us towards this end. In conclusion, let me commend the committee for inclusion of the rollback and rollforward features contained in the proposal. These provisions assure governmental entities that they will neither profit nor lose solely by a change in the method of assessing property. Such provisions should remain in any property taxation proposal adopted. Thank you for giving me the opportunity to appear before you today. I know that you will remain sensitive to the effect which any tax proposal has upon public educational system. Thank you.

Questions

Mr. Rayburn Mr. Prescott, you mentioned my city school system and, I guess that Washington..was it the parish school system of Washington?

Mr. Prescott Yes, sir.

Mr. Rayburn I've been deeply concerned about what this proposal, as written, would do to them as we have seven special school districts in the parish of Washington, outside of Bogalusa. The millage is different in all seven of them.

However, in all fairness, I'd like for you to answer this question for me. My property that I own...two hundred acres...is now assessed for eight dollars an acre. I enjoy that same assessment as my neighbors and my friends in the same community...roughly eight dollars. I recently purchased at a public bidding from the school board, ten acres of land adjacent to my land, some five or six months ago...or seven months ago. I paid five hundred and fifty dollars an acre for that ten acres. The land adjoining me on the north sold less than six months for seven hundred and fifty dollars an acre. Some across the road in front of me recently sold for a thousand dollars an acre.

Now, if you use the fair value assessment, I am of the opinion that the assessors are going to have to use a figure that the property has been selling for in the recent year or two adjacent to mine. If they do, it's going to be a minimum of my property, or five hundred dollars an acre. When you put ten percent of the five hundred, you've raised my assessment from eight dollars an acre to fifty dollars an acre. Is that going to bring in enough additional revenue to offset the loss you say we are going to have?

That's my question.

Mr. Prescott Senator, I would react to your question, rather than answer it, in this fashion. There are many who believe that the reappraisal, the reevaluation of property will more than offset the reduction in percentage. This may be. We certainly have no way of knowing precisely whether or not that will occur. To do so would be to speculate.

Our point is, however, that although that may be right, we can't afford the luxury of being wrong. Hence, the request...the recommendation for at least fifteen percent.

Mr. Rayburn Well, I think, Mr. Prescott, maybe you disagree with me, but even if they valued my property at two hundred and fifty dollars an acre, my taxes are going to be increased from eight dollars an acre to twenty-five dollars an acre. The millage will apply to the twenty-five...even if the assessor's real good to me...which I hope he is. I think that ten percent is going

to bring in far more if you get a fair appraisal value...assessed at a fair appraisal value than you people think it is. I could be wrong.

Mr. Prescott Yes, sir. Let me make one further statement, Senator. That is, if you are referring to the school...two school systems that I named, both of which are in your district, their concern had to do with the bonding capacity. That is, the total...the possibility of the reduction in the total assessment rolls. Then when the twenty-five percent is applied to that, it would be less than what that limitation now is.

Mr. Rayburn Mr. Prescott, we have the language in the bill to provide, and the bonding attorneys prepared it for us, that the homestead exemption amount shall be considered in the bond base. That will be spelled out in the constitution if it is adopted.

Mr. Prescott Yes, sir, I know that. We appreciate that. But that's not the problem to which I'm addressing my remarks. It's not determination or exclusion of the amount of homestead, it's the determination of the limitation, the twenty-five percent limitation, for bonded indebtedness. That limitation is determined both in the present constitution and as proposed by the Local and Parochial Government Committee in the new constitution to be twenty-five for school boards...twenty-five percent applied to the total assessed value. Now, granted that would include homestead exemptions, and we appreciate that, we hope that it continues that way because, as you so well know, we do have a problem at the moment...

But this is in addition to that problem. Many systems believe that, with these ratios in Committee Proposal 26, that their total assessed valuation, including that subject to homesteads, will be less than what it now is. Those were the parishes I was citing that had indicated by letter to us of their concern.

Mr. Rayburn You mean the Bogalusa School Board advised you that they felt with a ten percent on land and fifteen percent on other properties, that the total assessment would be less than it is today? Is that what you are saying?

Mr. Prescott Yes, sir. I'll be glad to....

Mr. Rayburn Well, let me tell you, Jimmy, they're just as bad wrong as they've ever been.

Mr. Prescott I'll share this with you later, Senator.

Mr. Schmitt Are you aware that with reference to Senator Rayburn's land, the agricultural land, that it would not be put on the books at a percentage of fair market value, but according to the amendment which we adopted yesterday, that it would be placed upon the books at a percentage of "use value" which would be substantially less than that of fair market value?

Are you aware of that?

Mr. Prescott No, sir, I was not.

Mr. Schmitt Therefore, it would be very hard for you to determine what the effect would be other than that there would be some type of an effect.

Mr. Prescott Yes, sir. I don't presume to be an expert in the matter of application of homesteads or taxes.

Mr. Winchester Mr. Prescott, I was concerned about the bonding base of St. Mary Parish. Over the weekend, I spoke to our school superintendent. After this discussion, I realized that with St. Mary losing assessment, the bond base could be adversely affected.

I got over here yesterday. I called a bonding attorney in New Orleans. I'm sure he would have

no objection to me using his name, Mr. John Cox, Mr. Cox. I suggested to him that very possibly the twenty-five percent limitation on schools could be increased from twenty-five to thirty, thirty-five or forty percent. He also told me that in a number of states, they had no limitation on school bonds. Is that correct?

Mr. Prescott I don't know that for a fact. No, sir.

Mr. Winchester But you do know that twenty-five ...raising from twenty-five could take care of the problems?

Mr. Prescott Well, let me say this, Mr. Winchester, that there is no doubt but what, if this proposal is adopted in this fashion, when the Local and Parochial Government Committee Proposal is before you, we would seek an amendment to the section in that proposal dealing with bonded indebtedness. We would seek an amendment to eliminate the twenty-five percent and increase it to something beyond that. We've not determined what that amount would be. Certainly this would be one way of insuring that the bonding capacity was not adversely affected. Our only question at that point would be, what that would do to the marketability of the bonds themselves.

Mr. Winchester Well, I think at that time, then, we should have an expert to tell us 'cause I think that's beyond your and my ability to say how the bonding sales would be affected.

Also, did you not assure me that you were working to the best of your ability, and cooperating with Mr. Gravel on the revenue sharing fund, to have it increased and part of it could be bonded? That would solve a lot of these problems.

Mr. Prescott I so stated in my remarks.

Mr. Slay Mr. Prescott, if the Chair will excuse me, I want to point out first to the delegation that you and I worked together for some twenty to twenty-five years. In fact I was on the board of directors at the time you assumed this position. I want them to know that you are probably more informed on this subject than anybody, I would say, outside the assessors.

Jimmy, as I understand it, one of the things now is the amount that would be lost by revenue sharing from the tax base. Now, if that can be corrected, that will remove one of your objections. I want you to know that we have worked on that. So, once we can get a provision in that will allow the homestead exemption to stay in the tax base, and the revenue sharing will be used to retire those bonds, we'll be pretty safe on this.

Then the next thing that I had come up with, Jimmy, in checking the different parishes, and I started with Rapides, I find that our land is assessed at an average of ten dollars an acre. In going on to the parishes, and I'm not going to call their names, that are assessed at a high percentage, I find that they range from thirteen, fourteen, fifteen, and twenty-two dollars an acre. So in looking at that, wouldn't you say that that's an extremely low assessment on land? So we're not going to lose as much as you think under those values that we are now using.

Mr. Prescott You and I have discussed this before, Mr. Slay. I appreciate your view and certainly accept your judgment about it. I know that the school officials in Rapides accept your judgment. However, we have on record several letters indicating that the school officials in these parishes feel that that will not necessarily occur in their parish; hence, our concern on that point.

Mr. Slay Yes. Now, that brings me up to my final statement or question. Don't you think that the only place that a delegate can find out what is going to happen in his parish, then, is to go to his assessor? Maybe it is going to affect

him wrong, like you say, but that's about the only source we're going to ever get it because these figures are not available anywhere else, are they?

Mr. Prescott Yes, sir.

As a matter of fact, in our request for information, we included in it a suggestion that the local school officials confer directly with their assessors. We believe that that kind of dialogue is an absolutely necessity, not only at this point, but henceforth...

Mr. Champagne Mr. Prescott, do you...are you aware that in our parish of St. Landry we had a meeting with the members of the police jury, members of the school board, superintendent, and delegates, and assessor, and that we determined that the biggest detriment to collecting some of this money was the problem of too great a homestead exemption; because once that applied, do you agree that that is absolutely dead unless you have a system which says everything you give you are going to get back?

Mr. Prescott Well, first of all, I was not aware of the meeting. But I did receive a copy of the telegram that I think resulted from that meeting.

Secondly, we have attempted in every possible fashion to determine what the impact of this proposal would be on school systems, both collectively and individually. We've also attempted to look at it solely from the view of what it would do as far as that school system and its financial capabilities were concerned.

In that regard, when we began to look at the effect of the homestead exemption...increased homestead exemption as included in the proposal... we then related it to the possible loss of revenues to school systems...possible loss because of the application of these increased exemptions. Once we did that, it became necessary for us to look at the revenue sharing fund. If...if it were possible, we hope you address yourself to this, but if it were possible....

Mr. Roy Wind your comments up, Mr. Prescott.

Mr. Prescott ...to, one, include in the constitution a procedure by which the funds, the revenue sharing funds, get first call at the local level to insure against losses; two, you set up a large enough amount in a revenue sharing fund, there will not be that detrimental financial impact.

Motion

Mr. Rayburn To request that we now hear from Mr. Bussie.

[Motion adopted without objection.]

Mr. Bussie Mr. Chairman, ladies and gentlemen of the convention, first I want to express my appreciation to you for the opportunity of being here and to represent the Louisiana AFL-CIO's views on this extremely critical issue.

I speak, representing a hundred and eighty-four thousand workers in this state. If you take the norm for a family of three, that's slightly more than half-a-million people that are vitally concerned in the actions which the Louisiana AFL-CIO may take in saying that it represents them. We have considered this proposal before our convention for a number of years. Three years we considered it before we filed the so-called Bussie suit. While the suit was filed in my name, it was the instructions from convention after convention that this be done. Our primary concern was not to disrupt any legislative body or any governmental unit in the state, but to see to it that the laws of Louisiana were fairly and equally administered, subject, of course, to what those laws said. It did not matter whether we agreed with them or not. It was simply that property was being assessed, taxed, and taken away from people based upon what

those laws said. The laws were not being obeyed. We were not at odds with any elected official, whether it be the assessor or some other official. We simply felt that everyone should adhere to what the laws were. If the laws proved to be incorrect, the legislature then had an obligation to change those laws, but so long as they remained on the books, they should be enforced equally upon all the citizens of the state. This is the way that we felt it should be done and consequently, for that reason and that reason only, the so-called Bussie suit was filed. We have been in court now in excess of six years in order to attain that. We do not believe that this convention can possibly have all of the knowledge that it needs in order to insure passing a law which will be fair and equal to everyone. We have not gained that knowledge in more than nine years of studying the property tax; Mr. Steimel does not have that knowledge, nor do all of the assessors have that knowledge, because so many of the political subdivisions and taxing authorities of our state vary in the influence and the effect which they will have upon the various taxpayers of the state. So, if you wait until the day that you have all of the knowledge and feel that what you pass is going to be fair and equal to everyone in the state, you surely will not present this document on time. So you can do only what your judgment tells you to do. I believe, up until this point in this section, you have adequately covered many of the problems that we have in the state. The farmers who are so well represented by Mr. Roemer and others have secured the relief which they justly deserve in the new document. Business and industry has secured relief by virtue of the fact that whatever the assessments may have been in the past in any area of the state, they can be assessed in the future at fifteen percent. Homeowners, up until this time, are to be assessed ten percent. So long as you maintain that it shall be done statewide, I do not believe that any court in the land can find fault with that. But if you attempt to change that scheduling, I do believe that there will be serious doubt as to the constitutionality of that process and that program.

Bear in mind that industry today receives a ten year tax exemption. The homeowner does not receive that ten year tax exemption; he receives a small homestead exemption which applies to the new home in a more drastic form than it does even to the old home, while industry receives the ten year tax exemption upon the new plant which it builds. It also receives consideration for any addition made to that plant. The homeowner does not receive a comparable discount for that. Business and industries usually are not located within the city limits, with the exception of some of the retail industries. Consequently, they are not subject to the local taxes such as the homeowners are. They are subject to the taxes which exist outside of the incorporated city limits of our state in most instances. There are few people in this state, if any, qualified to adequately assess an industrial plant, to determine the fair market value of an industrial plant. There are many people qualified to determine the value of a home. In most cases, when an industrial plant, after enjoying the ten year tax exemption does go on the rolls, it goes on at a depreciated value and not an actual value. The depreciated value, if applied to a homestead, could mean that, in most cases, in five to ten years the home no longer would have any value at all and consequently, would not have to pay any taxes. The industrial plants and the big businesses can adequately protect themselves through the employment of legal counsel and special tax consultants; few homeowners have that opportunity and those resources.

The industrial plant and the business has the opportunity to pass on additional costs in the form of taxes and other considerations; homeowners do not have that opportunity. Big business, generally, is assessed in its major form upon its inventories. Those inventories generally come from the reporting officials of that business and not from a true and

correct inventory by the taxing authorities. There is very little way that an assessor today can actually inventory big business. He is not equipped with the proper staff, and especially with auditors, to find out what the actual value of that inventory [inventory] is, so he must, of necessity, accept the word of the company generally who makes that inventory. Again, big business has the opportunity to hire legal counsel and special tax consultants to see to it that they are not over assessed or overtaxed and they can pass on the additional taxes which may apply to them.

The homeowner's in a very unique position. He occupies that part of the city of the parish which is a nonrevenue producing piece of property. It's simply a place in which he can live; he cannot pass on to anyone additional taxes which may be imposed upon him; he does not receive a ten year total tax exemption. Most of the homeowners live on a fixed income and regardless of what the tax load may be on that home, that income seldom will change, and certainly will never change because of any additional taxes which may be levied. Few homeowners can hire attorneys and tax consultants to see to it that they are properly treated. In fact, most of them have no idea how to find out whether or not they are properly treated, and would not have the time to spend in filing the appeals and going through with those appeals, even if they knew how to do it. They certainly cannot pass on to anyone those additional charges.

In contrast to determining the value of an industrial plant or a large business inventory, it's very easy to determine the value of the home. The assessor does not have to take the homeowner's word for what it may be valued. They can value it on their own very easily. All of them have qualified people on their staff, or people who are available to them, who can readily make that determination. Consequently, in the long run, the homeowner under the plan of ten percent of the actual value, or whatever words you may choose to call the actual value, is going to be faced with that ten percent of what that property is actually valued at. But the big businesses and the big industries will not be faced with that because we simply are not qualified to determine what those values will be. The value of a home is determined when the time comes for it to be sold, as to what a willful buyer will be willing to pay. Industries and big businesses are seldom sold and consequently there is very little comparison or criteria to make that judgment upon.

The added cost of construction today has increased the cost of the home by one-third in the last ten years. A home that was assessed or valued at twenty-five thousand dollars ten years ago will come close to the forty thousand dollar mark today if it's reevaluated. Those who testify that homes are of today on an average of twenty or twenty-five thousand dollars simply have not had those homes reevaluated. Under the system which you have said we will follow in the future, if you raise the percentage of assessment at more than ten percent, or if you disallow the four thousand dollar homestead exemption, you will be adding to the tax burden of the homeowners of this state instead of taking away. While it's true, you may be eliminating many of those homeowners from paying parish taxes, you will, with the exception of Orleans, substantially increase the tax burden to that homeowner once that property is reevaluated and assessed at ten percent of the actual value. Unless you give that homeowner some break in his parish taxes, you are going to discourage homeownership...homeownership in the future, rather than encouraging it, as all of us hope that you will do.

Of the hundred and eighty-four thousand workers that I'm privileged to represent in this state, more than one-third of them are black. I have been elected each year since 1956. I'm not like the mayor of New Orleans, or the assessors, or anyone else who enjoys a four year term; I run each year. In that period of time, the black workers of this state that I'm privileged to represent, have never

failed to vote for me...have never once uttered discontent about the programs that we are sponsoring in the property tax field...nor have the white workers. We are trying to encourage homeownership of the people that we represent, because it makes better citizens of them. It gives them additional pride in their community and in their state. But if we take action in this convention which is going to discourage homeownership in the future, what we are going to do is drive more and more and more of them into rent properties rather than give them the opportunity of ownership of their own home. I do not believe in the main that the American system should be to encourage people to rent property rather than attempt to buy homes, particularly the poor people of our state. They are the people who have not enjoyed all of the privileges that we have. They are the people who should the opportunity to at least hope for homeownership in the future, but the additional tax burden which some would have you place upon homes, and particularly those within the cities, would be very detrimental to any hope that they may have of owning homes in the future.

So far as the school boards are concerned, I am persuaded that adequate plans are being made to take care of their needs. If this were not so, I say to you, representing the AFL-CIO in this state, that we would oppose any provision in this constitution which did not and in the final analysis would oppose the constitution itself if the school boards of this state were threatened in any way. We stood and fought for public education when it was not easy to do that, back during the social upheavals that we had in the state. We spoke out for public education and fought very hard to maintain it and to protect it. We have not changed those views and we will not change them. We believe that adequate protection can and will be spelled out in this constitution without doing violence to the things that we are seeking to protect the little homeowners of this state.

The reassessment of property itself, at the ten percent value, will bring in far more than anyone can now realize because more than fifty percent of the taxable property in this state today is not even on the tax rolls at all. More than fifty percent of the taxable property of this state is not on the tax rolls at all. Up until you adopt this constitution, if you do, millions and millions and millions of dollars in stocks and bonds, legally taxable in this state, have never been taxed. Why shouldn't they be taxed? If I put my money in stocks and bonds, and you put your money in a home, we both own property. Why shouldn't I pay taxes upon those stocks and bonds in you have to pay taxes upon that home? The same thing is true with any other property that we may own. I realize, of course, that if you adopt the exceptions that are listed in this new, proposed constitution, stocks and bonds will not be taxable in the future. I buy that. I'm not objecting to it. But I say, do not place the additional burden upon the little homeowner by refusing him an adequate exemption for that home. Otherwise, you are going to do violence to what you really want to do.

Local option cannot work. It cannot work because business and industry will not locate in the parish that has a high percentage in correspondence to the parish that has a low percentage in assessment. What will happen in the future is that the parish that maintains the low assessment, or adopts the high assessment,...excuse me, the parish who adopts the high assessment will be a low, slow-growth parish and the state will have to continue to provide additional funds and supplemental appropriations and other means in order to assist those parishes. The parish that adopts the low will get all of the industry in the state in the future.

We honestly believe that the program that has been presented to this convention by the majority of the committee that considered it will, with a few modifications, adequately take care of the needs of this state. We urge you, we implore you, do not raise the percentage of assessments upon homes beyond ten percent of the actual value of that

property. Do not set the homestead exemption at below four thousand dollars.

Thank you very much.

Questions

Mr. De Blieux Mr. Bussie, at the present time, would you agree that the most of the homes are being bought by those, you might say, between the ages of twenty and thirty at this particular time?

Mr. Bussie Absolutely. They are the people today who are paying the heaviest percentage of the property taxes in this state. The young couple that's struggling to get along, whose property has been reassessed or reevaluated where those of us who may own homes that are twenty or twenty-five years old, even though greater in value, have not received that reevaluation and consequently are paying less taxes.

Mr. De Blieux Yes. That's the point I wanted to bring out, that those are the ones who are suffering now as a result of our present system of taxation.

Mr. Bussie Absolutely.

Mr. De Blieux Now, another question I want to ask you--you spoke about the difficulty of evaluating industrial plants as contrasted to homes. Of course, under this new proposal we have, you recognize the fact that those plants would have to go on the rolls at fifteen percent if the assessors performed their duties. Now, do you...

Mr. Bussie Fifteen percent of what, Senator? This is the thing that worries me.

Mr. De Blieux Fifteen percent of the fair market value. Now, what I'm going to ask you is, if you have any suggestions how we can achieve that fifteen percent of market value.

Mr. Bussie No, sir. If I did, if I could tell you truthfully and honestly that I had a formula which would tell you how to determine the actual value of Exxon Oil Company out here, I wouldn't be the president of the Louisiana AFL-CIO, or the president of the AFL-CIO, I'd push Nixon out of the way and be president of the United States.

Mr. De Blieux Do you know that the present laws contain the machinery by which the assessors and the tax commission both can get that information? The present law contains that provision.

Mr. Bussie The present law provides that the Tax Commission, through the Income Tax Section, can secure certain figures which have been furnished to the Income Tax Division, but which do not necessarily reflect the actual value of that industrial plant. No, sir. They do not have those figures available to them.

Mr. De Blieux Well, it's in the law at the time, it's just not being utilized; it's just not being followed. I think that was one of the things that we were talking about in the suit that you are enforcing the law equally on everybody.

Mr. Bussie Well, at the present time, Senator, as you know, the only part of the property tax laws which are fairly and equally enforced is that section which says if I fail to pay the tax which has been illegally levied against me, they'll seize my property and sell it. That is fairly and equally enforced. But that's the only section.

Mr. De Blieux Now, do you know any part of our law as presently written which is unfair, it it was equally enforced, against anybody?

Mr. Bussie Senator, I am hopeful that if this Constitutional Convention does not change the process or if the people do not adopt this consti-

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tution and if we win the lawsuit that we are interested in, that time will tell us whether or not the present laws adequately protect everyone. If they fail to do that, the legislature then would take consideration of that and make changes.

I do not know of any section of the law now that would be unfairly administered equally to everyone except for the fact we have had no experience in administering those laws to find out what the practical aspect would be. I am hopeful they would be fair and just. If they're not, they can certainly be changed.

Mr. De Blieux Two short questions.

I'd just like to ask him if Senator Rayburn is still a member of the union, and if the plumbers...excepting for the plumbers, if any of the union members own homes over forty thousand dollars.

Mr. Bussie Senator Rayburn is still a member of the union. I have no idea as to what kind of property he owns. We don't make those kind of inventories upon union members.

Mr. Lennox Mr. Bussie, you didn't mean to imply that ad valorem taxes paid on residential property were not deductible from federal income tax, in your remarks, did you?

Mr. Bussie No, I did not, but I did say that the home today is not totally exempted for ten years, once it's built, like industrial plants are. In fact, the new home is the one that's unfairly assessed and unfairly taxed, but the new industrial plant...

Mr. Lennox Well, you commented on the homeowner's inability to pass on taxes assessed on residential property, and I didn't think you wanted to imply that they were not deductible, as from federal income taxes.

Mr. Bussie Of course, they are deductible. If you're in the twenty percent category, you receive twenty percent of the credit, but you don't receive it all.

Mr. Lennox One other brief question, if I may...

Mr. Bussie ...Let me finish answering it.

Mr. Lennox I'm sorry.

Mr. Bussie ...like the merchant receives when he passes on all of the additional cost. The twenty percent I save by deducting from my income tax, plus the eighty percent which I cannot save from anywhere.

Mr. Lennox Can you conceive of any situation whereby an annual tax, gross tax of two hundred dollars, more or less, on residential property with a fair market value of from fifty to seventy-five thousand dollars could be considered confiscatory? If so, would you please outline them...

Mr. Bussie With a fair market value of what?

Mr. Lennox Fifty to seventy-five thousand dollars.

Mr. Bussie No, sir.

Mr. Lennox A gross tax of two hundred dollars would certainly be something reasonable in your opinion, would it not?

Mr. Bussie I firmly believe that if a man owns a home valued at more than forty thousand dollars, he should be in the position to pay a fair tax upon that home because generally he uses it for entertainment purposes for his business to some extent, or for other related fields. The man who owns the small home, simply lives there, but then does not do that.

Mr. Lennox I assume you agree with me that we

should all, assuming the twenty thousand dollar figure you used, we should all share in the responsibility of the cost of government in the State of Louisiana.

Mr. Bussie Yes, sir, and that homeowner who would enjoy the ten percent assessment in the four thousand dollar homestead exemption, today pays one of the heaviest taxloads of any person in the state in comparison to his wages. We have high sales taxes in the state. We have high gasoline taxes, high cigarette taxes, high liquor taxes and high taxes on beer. None of those things bother me except the tax on gasoline. The rest of them doesn't bother me, but the consumer pays it, the little homeowner, and he has an excessive rate of taxation in those fields.

Mr. Burson Mr. Bussie, I have listened to your testimony on reappraising property, and a lot of other people. Would you be willing to accept for purposes of discussion the fact that in eight years of practice of law in St. Landry and Evangeline Parish, that I haven't seen ten sales of residential property for forty thousand dollars in homes, and that, in accordance with the census data, and what I can learn from my assessor, that if you set this exemption at forty thousand dollars, that you will in effect, take at least ninety to ninety-five percent of the homesteads in our parish off the rolls?

Mr. Bussie I have no basis for quarreling with what you say, other than to say that the homes which I have been discussing primarily are within cities. The homes which you are discussing primarily are within the parish. Those homes have not been actually evaluated for tax purposes in the manner in which this constitution requires, and I would imagine that once they are reevaluated, that they'll come much closer to forty thousand dollars than you and I think today.

Mr. Burson Now, I think in your answer, you've touched on a fact. Isn't it true that most of your position emanates from a position which might make sense in a high industrial area, such as Baton Rouge, but where the logic might not apply at all with equal force in an area such as the one I come from where we don't have all these industries with the ten year tax exemptions, but have small homeowned businesses instead?

Mr. Bussie I represent several thousand people in your parish. I represent over sixty thousand in the city of New Orleans, which the mayor spoke about here today. The people which I represent are scattered throughout the state, and consequently, many of them live in the rural areas, but they have unanimously time and time again, supported what we are talking about here today, through their elected representatives.

Mr. Burson All right. It's true, is it not, that the object of your lawsuit was to obtain equitable property tax payment in the state? Isn't that right?

Mr. Bussie The object of our suit was to obtain enforcement of the laws which are on the books. If those laws were found to be in error, or if they did not give equal treatment, we hoped that the legislature would change them, but our purpose and our suit says, that "we are suing to compel the Tax Commission and the assessors to obey the laws of Louisiana." That was our purpose.

Mr. Burson Do you think that that law should treat everyone fairly, isn't that right?

Mr. Roy Mr. Bussie, you've exceeded your time. Thank you very much, sir...

Mr. Bussie I have no objection to answering anything you ask if the Chairman permits it.

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Mr. Roy I understand, sir, I've let you all,--not you--but a lot of people got at liberty, and I just think we ought to call this to a head. We've gone way over two hours in any event.

Mr. Bussie Thank you for permitting me to come.

Mr. Roy Thank you, Mr. Bussie.

[Motion to rise adopted: 92-13.
Convention Business Resumed.]

Chairman Henry in the Chair

Personal Privilege

Mr. Rayburn Mr. Chairman, and fellow delegates and Senator De Blieux, since you did not see fit to ask me the question about what type of home I lived in, I want to clear that up in your minds. I live in a home that was built sixty-seven years ago by the Great Southern Lumber Company; it's located on 606 Avenue B, in Bogalusa. We have B, C, D, E, and F, which they were all built sixty-seven years ago by the Great Southern Lumber Company; they are commonly known as sawmill quarters. I purchased that house seventeen years ago from the Bogalusa Paper Company for four thousand seven hundred dollars; they allowed all the employees to buy them when they decided to get out of the rent business. I gave forty-seven hundred dollars for it, Senator De Blieux. It's on the assessment rolls for seventeen hundred and fifty dollars, and if there's any other thing you want to know about my personal life, I'll be glad to tell you.

Personal Privilege

Mr. De Blieux Senator Rayburn, and ladies and gentlemen, I don't think that Senator Rayburn fully caught the significance of my question. I know now, of course, I know that he is a former plumber. That's the reason I asked the question if he still belonged to the union because everybody knows that the plumbers are in that high category insofar as wages are concerned. When I asked Mr. Bussie the question, I excluded the plumbers because I figured that all the plumbers lived in the forty-thousand dollar homes; it was just the other people that I was talking about that Mr. Bussie represents. I was just trying to poke a little fun at Senator Rayburn; I wasn't serious about questioning his home or anything, and if he caught it otherwise, I seriously apologize because I did not want to throw any reflection on it whatsoever.

Mr. Henry Senator Rayburn said he had never been a plumber; he's been a plumber's friend, Senator De Blieux...

Personal Privilege

Mr. Burson Mr. Chairman, fellow delegates, I have one brief point to make. I wanted to make it on a question, which I was not permitted to ask, 'cause Mr. Roy has a hard time seeing me in the front row, and I didn't get to ask my questions until last. I was going to ask, since the object of all of this is supposed to be fair and equitable treatment, and I wish you'd listen to this question because I think it bears a little bit of pondering. I've learned a lot from this discussion today in the exchange of ideas, but in the community that I come from there are many wage earners who work offshore and other places--my father was an oil field worker all his life; I've worked in them myself--who earn pretty good wages by Louisiana standards, and I want you to think about this question that I didn't get to ask. Is it fair and is it equitable to remove ninety-five percent of the homeowners, of which a high percentage will include these wage earners who earn good wages, and who, in my district--and believe me when I tell you not one of them has asked me to be relieved of the property tax he's presently paying--we're being given this gift whether we want it or not under this plan. But, is it fair for this man who may

earn twelve, fifteen thousand dollars a year to be totally relieved from the obligation of supporting his public institutions and to place that burden on the back of a small grocery store owner, or restaurant owner, who may be having a heck of time making five or six thousand dollars net a year on his little business because if you take all these homeowners with forty thousand dollar homes off of the rolls and put all that tax on the business or on the small farmers, that is what you are going to be doing. If that's fair, I'll take vanilla.

Personal Privilege

Mr. Schmitt Mr. Bussie requests fair and equitable treatment for all, then why is it that union halls are exempt from property taxes in the State of Louisiana? He further states that stocks and bonds should be taxed. What about the retirement funds from these unions, specifically the AFL-CIO which has hundreds of millions of dollars tied up in retirement funds? This is the type of institution which can afford to switch its assets from the State of Louisiana, and I can assure you that very few of them maintain their stocks and bonds in the State of Louisiana right now. Most of them are operating outside of New York City. I presently have a suit in the eastern district of Louisiana in which we are attempting to get equity for a widow of a union member of the AFL-CIO who allegedly was defrauded out of a certain part of her funds by that particular union. They came into court, and they claimed that they were from New York, and the union itself is active in New York, and just because this widow is from Louisiana, they don't have to be subjected to the jurisdiction of the courts of this state. Let's get to the issue of stocks and bonds. If they want to be so fair and equitable and have this apply to all stocks and bonds, let's let these unions have their stocks and bonds recorded in this State of Louisiana, and at least, pay the franchise tax to the State of Louisiana; they're not even doing that right now. They have transferred the stocks and bonds outside of the state so they would not be subject to the taxing jurisdiction of the state. This is hundreds of millions of dollars, perhaps billions of dollars, which are being transferred outside of this state. What's good for the goose is good for the gander. Let's have equity in this state. Let's require the unions to have their assets, their stocks and bonds recorded in this State of Louisiana. At least we could get the franchise tax, and if they want it to apply to stocks and bonds, fine, but they're only hurting themselves; they're only hurting their own retirement fund. Thank you.

Personal Privilege

Mr. Womack Mr. Chairman, fellow delegates, somebody suggested that when House Bill 2 left the House of Representatives headed toward the Senate, it carried a provision that no elected official will be permitted to serve. It's been suggested that had we done the act up right, we also not only would have left it in that shape, but we would have prohibited anyone who served on this convention from holding elective office for the next twenty to twenty-five years, and then we really would have had a people's convention.

Personal Privilege

Mr. Flory Mr. Chairman, delegates to the convention, I rise just to set the record straight. There are no pension funds in this state to my knowledge that own stocks, bonds, or otherwise. If we did, then I think they ought to be taxed accordingly, but as a nonprofit organization we enjoy the same privileges of any other nonprofit organization, but I might remind you that most of the pension funds in this country are controlled solely by management, and not by the unions in this country. I started not to get up; I started just to consider the source of the remarks and forget it, but I think

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that I must set the record straight insofar as these remarks that were made.

[Motion to revert to other orders of business adopted without objection.]

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter In Regular Order No. 1 we have under consideration:

Committee Proposal No. 26 introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance, and Taxation, and other delegates, members of that committee.

A proposal which makes provisions for property taxation. The convention presently has under its consideration Section 1 dealing with assessment of property, classification, assessors, and rights of the taxpayers. To date, Mr. Chairman, two amendments have been adopted to that section, one affecting on page 1, lines 23 and 24; on page 2, the second amendment affects line 4 on page 2 would change the word "may" to "shall". There are presently pending some, I presume, seventeen or eighteen amendments to this particular section.

Amendment

Mr. Poynter The amendment reads as follows, by Delegate Arnette:

Amendment No. 1. On page 1, delete lines 13 through 25, both inclusive, in their entirety and insert in lieu thereof the following:--it would knock out the (A) and (B) in the proposed committee proposal.

"Section 1. (A) All property subject to ad valorem taxation shall be listed on the assessment rolls at its assessed valuations which shall be the percentages of its fair market value that are applicable to each taxing district in which the property lies; for each district in which the property lies, each percentage of fair market value shall be uniform throughout each district upon the same class of property. (B) Percentages of fair market value"--that word's misspelled there, Mr. Arnette; we'll correct it up here--"and classifications of property shall be set by the local governing authority and may be changed by two-thirds favorable vote of that governing authority unless a home rule charter provides otherwise. Percentages of fair market value and classifications of property for multi-parish districts shall be set by the Louisiana Tax Commission. Percentages of fair market value for each classification shall not be less than ten percent or more than twenty-five percent."

Explanation

Mr. Arnette I'd like to have your attention because this really is quite a change from what the committee has proposed regarding statewide percentages for each parish. What this does is, is called by the popular name around the convention the "local option", or a "local option plan." Now, what this would do, it would allow each local governing body to set their own percentage of fair market value to which they wish to carry their property. It's a very simple plan. It's approximately what we have now. Right now the assessors are setting what percentage they evaluate fair market...percentage of fair market value that they evaluate the property in that particular district. It's exactly what we've got now in that respect, but it is constitutional because it provides that the percentage shall be the same in each district. It shall be the same for all property in the district of that particular class. Now, some problems have come up with multi-member districts or multi-parish districts, rather. A multi-parish district would have the same percentage throughout that district as it applies to those taxes levied by the multi-parish district. To make it clear, suppose you have two parishes: one for their local ad valorem

taxes, that are at five percent assessment; another is at ten percent assessment. The Louisiana Tax Commission would come in and say "Well, for this levee board that takes in these two parishes, on the taxes collected, that go to this levee board, we're going to use a figure of eight percent in both parishes." Now, what this means is, you might have several percentages, or several assessed valuations, depending on what district each particular piece of property was in. You would have one percentage, say, for a municipal district, one percentage for a parishwide district, and one for a multi-parish district. But, what this would do, it would bring it home to the local parish governing authority or the local municipality, the power to set its own percentages. In this way, no one in this state, no parish, no municipality will be hurt by what we're doing. It won't greatly change what is now presently happening in our parishes and municipalities. I think we'll be making a grave mistake if we would decide in our infinite wisdom--and I use that word rather facetiously in this case--that we would decide that flat percentages are going to work throughout the state because I don't believe they will. I don't believe there's any percentage that anybody could come up with, or any classes, or any class in percentage for different classes, that anybody could come up with that would satisfy all the people of this state. So, why not let them set their own percentages? These are local taxes; they're paid locally, collected locally; they go for local things. Why not let the local people set what percentage they want? It seems utterly simple and reasonable to me. Now, this amendment does not affect any of the other paragraphs, (C), (D), or (E). It doesn't affect homestead exemption, so we're not fighting that battle now. But, consider what this does. It takes flat percentages across the board for all parishes out of the constitution and allows each parish to set their own, which obviously, to me at least, seems the way it should be, and I can see no reason that anyone would oppose such an idea. Now, I reiterate again, this says that one parish can have ten percent assessment if they want it--ten percent across the board. Another parish can have twenty-five percent across the board, and one does not affect the other. It does not affect the other in any way at all, and that is why I think this particular provision ought to be accepted and adopted because it does not rock the boat. It lets you set your own local percentage the way you want to. Now, remember, it doesn't affect homestead exemptions; it doesn't affect land use as a basis for evaluation; it doesn't affect any of this; all it does is take set percentages out of the constitution. I'll answer any questions.

Questions

Mr. Duval Mr. Arnette, from the dialogue we had in the Committee of the Whole, it seemed like one of the bugaboos for the local option plan was the constitutionality as raised by Bussie v. Long. Isn't that correct?

Mr. Arnette Well, I thought it was mentioned, yes. I wouldn't say it was a big problem.

Mr. Duval Well, do you know that dated October 10, 1973, there's a memorandum from the research staff to Mrs. Duncan, and this memorandum states, after reviewing the Bussie v. Long case, that it is submitted that, if there were no state involvement in the property tax field, whether manifested directly or indirectly through political subdivisions, the courts could not consider the state as a taxing jurisdiction, so that uniformity would be required only within each parish or multi-parish taxing jurisdiction. Thus, if property taxation were left solely to local political subdivisions, it would be permissible to have assessment ratios of varying percentages among the parishes. Did you know there was such a memorandum?

Mr. Arnette Mr. Duval, yes, I do know about that.

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I read it, and I definitely agree with it. I think it is just obvious to anybody that if everybody is taxed the same in each taxing district, I don't see how it could possibly be unconstitutional. You can't get more equal protection than that, if everybody's taxed the same percentage, and this is exactly what this particular provision does. Now, it also has a provision for multi-parish districts. It solves that problem too. So, that is not unconstitutional. This is a constitutional way out of setting definite percentages in the constitution, which obviously will not work. It is just obvious they will not work. You had two or three people saying that, "Well, we can't have this low evaluation" and two or three others saying, "Well, we can't have a high evaluation," so, this it seems to me to be the only solution. Are there any other questions?

Mr. Tobias Greg, I'm reading your amendment. If you tack on the problem of the homestead exemption, does that not, in effect, vary from parish to parish, or taxing district to taxing district, the assessed valuation? Would that not be unconstitutional under the Bussie v. Long decision?

Mr. Arnette No, it wouldn't be unconstitutional at all, Mr. Tobias, for the simple reason that the homestead exemption is the same throughout each taxing district. It might be different from one taxing district to another, but that makes absolutely no difference within the taxing district, which would be the parish.

Mr. Winchester Mr. Arnette, would not this system, would not this plan, hurt the market of bonds where the governing authority of the parish could change the percentage from year to year?

Mr. Arnette Well, Mr. Winchester, I don't think it hurt it any more than the way that the assessor can now change the percentage from year to year.

Mr. Winchester But, we are writing a new constitution, and you want...

Mr. Arnette Mr. Winchester, the assessor alone, as it stands right now, has done in the past, and I'm sure, will do in the future, change the percentages on his own. On his volition, without authority from anyone, he can change the percentages, and I think this would be a little bit better because this assures that the governing authority would have to change the percentage.

Mr. Winchester Mr. Arnette, is it possible under your plan for the school board to have one percentage, the police jury to have a percentage, the water district to have a percentage, and then the municipalities to have a different percentage?

Mr. Arnette No Mr. Winchester, would not allow different percentages for different districts within, say, a parish, for example. The parish governing authority would set a percentage that everything in that particular parish would be listed at a certain percentage. Now, you would have different mills for the police jury, different mills to the school board, different mills for a water district, or whatever. But, the percentage would be the same. Now, there is a possibility that, say, you would have a municipal tax, well the municipal authority would set the percentage for the property within its municipality, and you could possibly have a different percentage there, but, no, there is no possibility that you would have different percentages in the same general area. No.

Mr. Winchester Well, do you think, then, that the police jury who is the governing authority should dictate to the school board what percentage should be used, and that's what your amendment would do?

Mr. Arnette Well, I think it's very obvious that they would use the same percentage that every

district within the parish uses, and I think this is fair. If they want to have a higher tax, let them pass a two or three mill tax. It's very simple; that's what we do now.

Further Discussion

Mr. Slay Mr. Chairman, fellow delegates, I'm not going to take a lot of your time on this amendment because I hope we can vote on all of them rather fast this afternoon. Let me just point out to you that this would leave it to the police jury to set the classifications and the percentages, and other states that have tried that and left it to the legislature, and one state that tried it in thirty-one years, they had thirty-one classifications and thirty-one percentages. Let us not fall in that trap here in Louisiana. We want a system for the whole state, and I urge you to reject this amendment. Thank you.

Questions

Mr. Newton Mr. Slay, under this proposal, as I appreciate it, the police jury, or whoever it is could set the percentage rate at ten percent, and then the next year, if they needed a little tax money, they could just double the people's taxes, without a vote of the people, just simply by raising it to twenty percent. The next year, it'd go up another five percent. Is that correct?

Mr. Slay That's correct, and they could change the class. If you had a police jury that was sympathetic to landowners, they could lower that percentage this year, and next year they would be opposed to landowners, they would raise it. No one would know where they stood under this...

Mr. Newton Mr. Slay, I have another question. Isn't any homestead exemption under this plan, isn't it really a "pig in a poke"? If they set a homestead exemption, if we adopt a four thousand dollar homestead exemption, and the police jury puts a ten percent assessment, that's a forty thousand dollar homestead exemption. If they raise the ratio to twenty percent, that's a twenty thousand dollar homestead exemption. Isn't that right? If they go to twenty-five, it's even less than that, isn't it?

Mr. Slay I agree with your thinking.

Mr. Newton The people don't know what they're going to have with it.

Mr. Slay That's right, Mr. Newton. I agree.

Mr. Flory Mr. Slay, following up on Mr. Newton's question he just asked you, wouldn't that in itself render that plan totally unconstitutional?

Mr. Slay I would feel so, and I believe Mr. Bussie expressed that opinion when he was talking.

Mr. Flory My next question is: under this amendment, you wouldn't even need an assessor in the state, would you?

Mr. Slay No, you'd leave it to the police jury.

Delegate Tobias in the Chair

Mr. Champagne Mr. Slay, the problem I have here--and I wanted to ask it to the man...Mr. Arnette, this question--he says nothing about the homestead exemption at all here. So, in other words, we don't know if we have one, if we're going to have one, how we're going to apply it, but if we applied it equally all over the state, that being an inequity here, according to the Bussie decision. Would that not be?

Mr. Slay I would sure think so, because in my parish, my homestead might be assessed on a ten percentage, and in yours it might be twenty or

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twenty-five.

Further Discussion

Mr. Alario Mr. Chairman, fellow delegates, I personally am not opposed to a home rule type of setup in assessments. I don't really see any problem with that theory if we could work it out to make sure that we are not hurting any other parishes at the same time, or those residents in the particular parishes. What Mr. Arnette's amendment does here is to allow, each and every year, the governing authority to raise the taxes that an individual homeowner would be paying. The homeowner would go to the polls in one year and vote for a particular bond issue with the understanding that his assessment rate might be at fifteen percent, and the millage that he would be told at the time would maybe be two, three, four mills. He would figure then that it would cost him X amount of dollars.

Lo and behold then, the next year, the parish governing authority may then decide that they need additional revenues, and all of a sudden, here goes the assessment from fifteen percent to twenty-five percent. That's raising his taxes. I don't think we ought to jeopardize the homeowner's right to decide just how much he's willing to pay in taxes.

I don't understand, also, in the last sentence where he says that "percentages of fair market value for each classification shall not be less than ten percent." Well, if a parish governing authority is going to set the percentage, if that's the theory we're going to go under in letting each parish decide what percentage only they want to set, why do you say that they can't be less than ten percent? If Jefferson Parish can get by with six percent, then that's what they ought to be able to do. If New Orleans decides one day they can get by with three percent, I don't know why we shouldn't allow them to go down to that level... don't know why he wants to put a minimum? I can understand the maximum figure. That's good thinking to allow it at that point, but I don't think it's good that we would allow that much flexibility to allow these local governing authorities from one year to the next to raise any taxes.

Questions

Mr. Lanier Mr. Alario, is it not true that under the present law that the governing authorities of each taxing subdivision has the authority to set the assessment percentage?

Mr. Alario That's true, Mr. Lanier, but what we are discussing here is amending this...the Proposal No. 26 before us. Proposal No. 26 sets those percentages. That's what I'm debating here: whether we should go along with the proposal as is, or with the Arnette amendment.

Mr. Lanier Well, didn't you bring out the fact in your argument that the governing authorities could change it from year to year, etc.?

Mr. Alario Yes, sir. That's why I've been fighting for the Committee Proposal No. 26, so that we might change that concept.

Mr. Lanier Hasn't that been the law in the State of Louisiana for years?

Mr. Alario I don't know.

Mr. Lanier Are you familiar with Revised Statute 47:1989 as amended by the legislature in 1972?

Mr. Alario Yes, sir.

Mr. Lanier Isn't this an amendment and reenaction of the existing law in the State of Louisiana concerning the authority of local units to fix their

Mr. Alario That's right, Mr. Lanier. Obviously, I feel like we've made a mistake in adopting that and am trying to protect the homeowner now by going along with the plan as is.

Mr. Lanier But the point I'm getting at is, is it not true that even though this authority has existed in the law for years, that these governing authorities have not changed these percentages up and down the scale? Is that not true?

Mr. Alario That's true, Mr. Lanier. I just don't know if it's been brought to their attention in the past.

Mrs. Zervigon Mr. Alario, I'm trying to find out a little bit about your fear that police jury ...is going to raise and lower assessments all the time and thereby double the people's taxes and that sort of thing. Don't police jury members pay real estate taxes?

Mr. Alario Yes, they do, Mary.

Mrs. Zervigon Don't they find themselves in double jeopardy that not only would they, if they doubled taxes, have to pay double taxes themselves, but have to face an angry electorate at election time as well?

Mr. Alario Well, that's true, Mary. Of course, they get...they also get to raise their salaries to take care of any taxes they might have to pay.

Mrs. Zervigon But don't they have to face an angry electorate as well?

Mr. Alario They sure do.

Mrs. Zervigon Well, isn't that some kind of protection on the people?

Mr. Alario Well, of course the only problem is once they've put the taxes on them, they are there to stay. It's not a matter of facing the electorate every four years. Some people, it's obvious to me, just come around to make sure they take of special interests and then are gone after four years. Those are they type of individuals I'm concerned about.

Mrs. Zervigon But, Mr. Alario, didn't you say they could raise and lower taxes and we didn't know where we stood, so that if they were thrown out of office, the succeeding folks could lower taxes as well?

Mr. Alario That's true. But if they raise them in the first year, the people certainly would suffer for four years in having to pay those taxes and couldn't take them out until that time.

Mrs. Zervigon Well, have we had that happen in the past?

Further Discussion

Mr. Burson Mr. Acting Chairman, fellow delegates, I rise in favor of Mr. Arnette's proposal, not because I think that it is fault free--there are obviously some difficulties with it that have been raised that need to be worked out--but primarily because I sincerely believe that the only answer to this problem is going to be some variation of a local option plan. If there's anything that has come out of the discussion so far, it seems to me it is that.

Now, I submit to you that absolute equity is not required by the Fourteenth Amendment, but fundamental fairness is. I further submit to you, as I said earlier, that it is not fair in my community for a man with a fifteen thousand dollar a year income from wages to be totally exempt from supporting his public institutions, while a small businessman with depreciable property, home-owned, without the ten-year exemptions that have been talked about enjoyed by big industry, pays

for all the public improvements in my little town. It is not fair for the small farmer with a hundred or two hundred acres, who still exist in great numbers in the area that I represent, and for whom, in many, many years within my lifetime, a ten or fifteen thousand dollar net was a very welcome income, to have to pay for all the public improvements while the other people who are enjoying them, the other ninety-five percent of the people, don't pay anything for them. That simply is not fundamentally fair.

I submit to you that if we adopt any variation of this ten percent valuation and three or four thousand dollar homestead exemption, that whatever you do in the rest of the state, that's what you will be doing...take it from me--in the area that I represent. Now I recognize that we can't forge a statewide solution to take care of Eunice and take care of Jefferson Parish at the same time. That's why, to me, there is no other way out but some variety of local option.

I submit to you that one of the basic problems that we encounter here is that what is a forty thousand dollar home in Eunice may be a sixty thousand dollar home in Baton Rouge...that you have tremendous variations. I wouldn't be surprised if you had a twenty percent variation in real estate values between the small community such as the one I come from, and communities such as Baton Rouge and New Orleans. So, if you take a given homestead exemption figure, such as thirty thousand or forty thousand, while you may be retaining an acceptable base in a community such as Baton Rouge, you may be destroying the base entirely in some of the smaller communities across the state. I submit to you that, again, fundamental fairness requires you to think of such considerations.

Now there have been raised the possibilities that revenue sharing is going to take care of the deficit in the local tax base. Well, revenue sharing presupposes some revenue to share. I submit to you that, for instance, in the area of education, that the severance tax which is dedicated to education in Louisiana is a diminishing source of revenue. The state is going to be hard pressed to continue to support public education as well as it has without the additional burden that would be imposed upon the state government by diminishing the sources of local revenue such as I contend, I can prove to you, this plan that is proposed by the committee would do in my community.

So, if the state can't provide it out of funds dedicated to education, I don't know any other way for the state to raise revenue but by taxes. What kind of taxes are we talking about? It's got to be either a sales tax, liquor tax, cigarette, gasoline tax; those are the basic taxes I know about in Louisiana, since we've done away with the property tax on a statewide level. I ask you: is a sales tax more or less regressive as far as the wage earner is concerned than the property...the small property tax he's paying on his home? I think it's more aggressive. I've read where Mr. Bussie, who state his position here today, is one of the most articulate opponents of the sales tax for that very reason--because it is a regressive tax on the wage earner. I submit to you that in the end, if you depend upon revenue sharing to provide the deficit for destroying the local tax base, that you are going to be substituting for it a tax more aggressive on the wage earner.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, although I'm not exactly in accord with all of the way that this particular amendment is written, I must say that it would be much better than what we have in the present proposal. At the present time, the present law, as Mr. Lanier called to the previous speaker's attention, provides for the local governing body setting the percentage of assessment. What has happened over the years has been that the local governing body has taken the assessment of the assessors and

used that as a percentage of assessment. They have relied upon the assessors to furnish them that information. As a result, we have gone into that practice.

But this law has been on the books allowing the local governing body to set the percentage of assessments for years and years and years. In fact, the business, I believe, was first enacted around about 1900...I mean 1898. I might just read from the act, as it was reenacted in the 1972 extra session of the legislature, pertaining to that particular portion of the law. This is what we are going to repeal if we pass the present proposal:

"The lawful authorities of each parish or other subdivisions levying, assessing, and collecting taxes shall have full liberty to levy taxes on, and fix valuations at less than actual cash valuation as they deem fit. Provided further that for local purposes, the percentage shall operate equally and uniformly on all taxable property within the parish or other local subdivision on the basis of actual valuation fixed by the Tax Commission."

Now, if we pass the proposal as introduced in this legislature, we are going to have the effect of repealing that provision. Now I ask you, would it be better to let the local governing body, who is also subject to election, determine the amount of your assessment--that is, the amount you are going to pay taxes on--or is it better to let one person do it? That's what we, you might say, we have before us to a certain extent. The present provision is going to repeal this particular provision of your law. The Arnette amendment would preserve that. I think that as long as everybody is taxed upon an equal and uniform basis, that's what we are striving for. When you put the members of a police jury together, even though sometimes they may not go what we would consider right, you have a much better chance than where you entrust that to just one individual all the time. I would say it's better than even if you'd trust it to the Tax Commission which has only three individuals. I believe in having as much local autonomy as we possibly can grant within good reason.

I would ask you, let's adopt the Arnette amendment and do not do violence to your present law with reference to tax assessment. There's nothing wrong with the law. It's just not being followed. That's all that's wrong with it. I ask you to go along with the Arnette amendment, and maybe we can clean it up after we get it adopted.

I'll answer any questions, Mr. Chairman.

Mr. Tobias Are there any questions?

No questions.

Further Discussion

Mr. Leithman Mr. Acting Chairman, members of the delegation, I've got to rise in opposition to this amendment. There are some concepts of this amendment that do appeal to many of us here. We've discussed it within a group, and there are some facets, as I say, are attractive. However, if you read this amendment very closely, you will find many things taking place. One, you are virtually eliminating the responsibility of your assessor. You are eliminating the duty to which he was elected. You are transferring that responsibility to seven members of the council in my particular parish. In your parish, if you have a police jury or any other form...consummative [sic] form of government, you are transferring that responsibility to arrange for a fair market value to those members of that police jury or consummative [sic] form of government.

In line 2, I feel that perhaps there may have been an error in this amendment for which I further oppose. Line 2 states that the percentages of fair market value and classifications of property shall be set by the local governing authority. The local governing authority sets this fair market value and may be changed by two-thirds favorable vote of the same governing authority, which doesn't really make any sense at all. So I

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think, perhaps, the amendment in that respect was made in error.

As to the classifications, there are unlimited amounts of classifications. What you now have is this--if this amendment were adopted--seven members, or four members of a seven man council or police jury, could change any classification of business through political means and upset any business or any homeowner in that parish.

For those reasons, I feel we certainly should object and reject this amendment.

Chairman Henry in the Chair

Questions

Mr. Lanier Delegate Leithman, are you familiar with Revised Statute 47:1989 which was amended and reenacted in 1972 by the Louisiana Legislature?

Mr. Leithman Not in its entirety.

Mr. Lanier Do you know that it authorizes local governmental units as well as other political subdivisions to fix the assessment base?

Mr. Leithman That may have been done in error as Mr. Alario has mentioned.

Mr. Burson Mr. Leithman, would you have any objection to the concept of local option if, for instance, in the case of one of your objections, the assessor was involved in the process of setting the percentage.

Mr. Leithman I would not object. That is not... don't misunderstand. The percentages aren't particularly getting my particular issue. It's the other facets that you are virtually eliminating the duties of an assessor and transforming to a council or a police jury for which these people have a function and a duty to perform.

Mr. Burson In other words, you would want your elected assessor involved?

Mr. Leithman Yes.

Mr. Burson I agree with you.

Mr. Flory Mr. Leithman, do you believe that we could pass this constitution if the people realized that we are granting to the local governing authority that authority to raise taxes by a hundred and fifty percent without a vote of the people?

Mr. Leithman I appreciate you bringing that fact up and I meant to bring it out.

The local governing authority need not pass any taxes again in the history of their parish. All they have to do is play games with this amendment. They can arrange for any increase in taxation to any extent that they desire.

Mr. Derbes Mr. Leithman, let's get down to the nitty-gritty. Now you...you talk about the duties and functions of the assessor. Now tell me what you think the duties and functions of the assessor should be.

Mr. Leithman To place the market value on property.

Mr. Derbes Now, don't you think that the local governmental subdivisions are just as capable of judging what this...what the rate of valuation should be as the assessor is...particularly since they are the ones who have to provide the services based on the revenue generated?

Mr. Leithman Jim, I can't see any relationship to your councilmen who have to perform their function. You have councilmen in the city of New Orleans. We have councilmen in Jefferson Parish. I just can't see these people having anything to do with establishing the fair market value and classifica-

tion of my business or my home. I'm sorry. I disagree. Maybe I am missing the point.

Mr. Derbes What uniquely qualifies the assessor to do that, and what uniquely disqualifies the legislative....

Mr. Henry Mr. Derbes, I'm sorry, but the gentleman has exceeded his time...or you have exceeded his time....

Further Discussion

Mr. Casey Mr. Chairman and delegates, one of the most important things we can do, as I've said on many occasions before, is to make our new constitution as flexible and as acceptable as far as possible. Why anyone...why anyone would be against a local option plan giving to local governing authority the option to fix its percentages, I'll never know. You are giving to local government, people who are chosen to elective office, who are voted into elective office by their people, the duty and the responsibility to fix tax percentages, or rather to fix percentages on which real estate taxes to pay will be paid. Why we would be against that, I'll never understand.

Today...today under present laws...let's face it, the assessors are the ones that have that duty and responsibility right now. They have not abused this to the detriment of the people. In fact, quite to the contrary. The criticism that is levied at them is that really--and naturally they are politicians--that they wish to assess property as low as possible. That is why many local governments are having difficulties, because proper assessments and proper percentages are not fixed by this one individual. I don't criticize any particular assessor, because he is a politician elected by the people. Naturally, he wants to serve his people in the best interest that he possible can. All we are doing is really switching that responsibility, not to one person, but to a group of people, the local governing authority. It just doesn't make good sense why you would be against that switch. There's this big hue and cry, the big cloud that's thrown up here today: well, if this goes into effect, you don't need an assessor. Well, you know and I know that that is absolutely ridiculous. You need an assessor under this plan, or the plan we have today that the committee is submitting to us, or any other plan. You need your assessor. His job is to value property and affix valuations, determine the market value, and he won't be anymore out of a job, then, than he is now. You know that very well that that's absolutely correct. He'll have the same duties and responsibilities under this plan, which he ought to have, that he has today.

Somebody asked, "Well, isn't this unconstitutional?" Well, during the Committee of the Whole hearings where testimony was received, we had one of the attorneys who made the statement that under no circumstances under the Bussie suit, or under the constitution, would a local governmental plan properly devised be unconstitutional. I submit to you, and we had as one of our speakers--Senator De Blieux, I think, indicated that it would not be unconstitutional. We cannot take away from local government possibly the one thing that it has left to raise revenues. It is difficult to do it on sales taxes. We can't raise much more money through sales tax because that's a very regressive tax. It's way out of kilter because most of the poor people pay sales tax--granted the wealthy people do, also--but the poor people pay a greater percentage of the sales tax when you consider their income. You can't levy an income tax because income tax, as apparently under the committee proposal, will be prohibited.

So what do you have left to finance local government? You have real estate taxes. By golly, there ought to be some tax; there should be some means or some method by which local government is going to govern itself, raise its own revenues, finance its own government, determine how or what

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will pay its own fire department and police department. For goodness sakes, we have to help local government some sort of way.

I would submit to you, ladies and gentlemen, that this apparently is the only means that we have left to properly finance local government. If anybody has a better idea, please let me know.

Questions

Mr. Alario Tom, if we are going to let the local governing authority set the rates because we believe that's where it ought to be, why should we say that "they shall not be less than ten percent"? If a parish can get by with five percent assessment on certain classifications, why wouldn't you allow him to do that if they are going to make the decision?

Mr. Casey I have personally...I'm not opposed to that concept at all. I guess the question I would have, if they could go down a five percent, would you vote for this plan?

Mr. Alario If it went down to zero, Tom, and about three other changes, I probably would.

Mr. Casey I didn't, Mr. Alario, I didn't draw the plan. I'm in favor of this concept. I think it's very important that we adopt it. If we wish to amend it at a later date, that's certainly your prerogative to do so. But today, we are determining: are you in favor of the concept of local option, or are you not?

Mr. Fontenot Mr. Casey, some of these questions about the local governing authority increasing the percentage and therefore raising the taxes on people without giving them a chance to vote, under the present system--in my parish, for instance--my assessor says he assesses at ten percent. Suppose he decided tomorrow to raise all the assessments to twenty percent, wouldn't that be the same thing right now...the assessors can do right now?

Mr. Casey Mr. Fontenot, that's a very appropriate question. That's what I've already pointed out...

Further Discussion

Mr. Goldman Mr. Chairman, fellow delegates, I've only been up here four times in the last two months. I haven't wasted much of your time, and I don't intend to waste much now. It'll take me about thirty seconds to say what I have to say.

I rise in opposition to this amendment. We're here to cure an ailment. That ailment is the unfair method that we've been using in order to tax property owners. This amendment will not cure that ailment. This amendment is like giving a person a bottle of castor oil to cure a broken leg. All of you know what a bottle of castor oil will do and you also know that it won't cure a broken leg.

Further Discussion

Mr. Conroy I rise in opposition to this amendment. In order to understand my opposition, I think I have to go back and explain something that I think is apparent, but may not be: that is, that in the assessment procedure, there are three steps. First is the determination of fair market value; next is the determination of the assessment ratios, the percentages that you will apply to the fair market value; finally, the assertion against that assessed valuation of millages which raise the tax.

Certainly local government has the right to determine the millages which will be ultimately asserted against an assessment value to determine what the taxes will be. This is as it should be. But in the assessment procedure, I think that the assessment ratios that will be meaningful should be established on a statewide basis in order to

achieve the uniformity which I believe the court insisted upon in Bussie versus Long. I think it will become apparent that it is absolutely essential to have this uniformity if you have a statewide homestead exemption. I don't see how you are going to have a statewide homestead exemption and then allow varying parishes to decide how that homestead exemption will be applied in their particular parish. This is what I think Bussie versus Long said, or one of the things that it said, so that the attempt here, or the picture that's painted that this may solve the problems, does not; it simply increases the problems because ultimately, gentlemen and ladies, the problem that we will have to cope with in this convention is what will the homestead exemption level be. Nothing we do here with regard to local governments or statewide, or anything else, is going to get us out of that fix. If we want a homestead exemption in this constitution, which I think the voters will insist that we have, we are still going to have to come to grips with how much that homestead exemption is going to be. This amendment does not solve that problem. It still leaves it unanswered.

In addition to that, this amendment does one thing which it doesn't say directly that it does, but which I assume it's intended to do: it takes the state permanently out of the ad valorem tax field. If...if it doesn't intend to do that, then it's meaningless because the effect would be that the state would have to set the ratio statewide. So I assume it's based on a premise that the state would be taken permanently out of the ad valorem tax field. I do not think this desirable. I do not think that the state can afford to be taken wholeheartedly out of the ad valorem tax field permanently. I think it may have to get back into that at some time. I think we should leave it that right to do so. If it should decide to do so, it will be imperative that there be a statewide uniformity of assessment practices and procedures so that such a tax can constitutionally be levied throughout the state.

I think that the intention here was to find a solution to a difficult problem. I don't think that this amendment does that. It simply creates what I would regard as a chaotic situation within the state. I urge you to reject the amendment.

Questions

Mr. Slay Mr. Conroy, as a lawyer, I want to ask you this question because it has been stated over and over that this amendment is about what is in the present constitution or state laws.

This one says that the classification and percentages shall be set by the local governing body, but the present constitution, present laws do not say that, do they?

Mr. Conroy The present constitution doesn't. I believe that the statute says essentially that, that the local governing authorities can change it. But, the practical fact of the matter is that the local governing authorities have really never exercised that power and have left it to the assessors because they felt it was an infringement upon the assessors' functions.

Mr. Slay Yeah. Now, Mr. Conroy, let me read here what it says: "The valuation and classification fixed for state purposes shall be the valuation classification for local purposes, but the taxing authority of the local subdivision may adopt a different percentage." Now, what they are saying is that for the whole state now that the percentages have got to be the same. That's in the present law. Only the percentages can be changed. That's not what this amendment says, is it?

Mr. Conroy Well, really, what I think, Mr. Slay, the entire point out of all this is that we would

Further Discussion

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Mr. Avant Mr. Chairman and fellow delegates, I'm going to be brief. I think Mr. Slay hit on the thing that is the real bugaboo in this amendment. That's this question of classification. I want you to think about that very seriously because what this would permit, it would permit every local governing authority to set up different classifications of property for tax purposes. Now you talking about absolute chaos, absolute chaos. I'll just give you an example.

If the parish of East Baton Rouge decided that they wanted all of the used car lots in this area to be in East Baton Rouge Parish, well, then, by classifying them in a certain way and taxing them at a very low rate, they could seek to attract the used car lots. Now that's a kind of a farfetched example. But you can see that multiplied sixty-four times, all over the State of Louisiana, with every parish having different classifications of property, that it would be absolute chaos. In the first place, I don't understand how it could ever work in the case of a multi-parish taxing district. If you had, say, a levee board or some other multi-parish taxing district with the local governing authorities having the right to set different classifications, and you had three different parishes in that multi-parish district, and they all had different classifications, to me it'd be the doggonedest mess that the mind of man could conceive. I think that Mr. Slay certainly did hit on the problem. I don't profess to have any great knowledge in this area. But, when you come out with this question of classification on a local option basis, I think you are inviting absolute disaster.

I ask you to vote against this amendment.

Questions

Mr. Rayburn Mr. Avant, in your opinion, if this was left up to the local governing authorities, where you have some seven or eight special school districts, then maybe the fellow from District (A) wanted a certain classification, could the other members of the school board outvote him?...even though he lived in and represented that area?

Mr. Avant The local governing authority, as I understand it, Mr. Rayburn, would be your police jury...

Mr. Rayburn Be the police jury....

Mr. Avant They would be the ones that would make the classification and in your particular case, where you have seven separate taxing school districts--I don't know how you arrived at that point, but you say you've got them, and I'm sure that's correct....

Mr. Rayburn Sure have....

Mr. Avant ...I don't see how they could come up with a classification that is going to suit all of them, I mean, because they all are going to be different. That's just another example of the chaotic conditions that I think would result if you adopt this amendment.

Mr. De Blieux Mr. Avant, are you acquainted with the fact that the present law provides for classification of property?

Mr. Avant Well, I know it provides for classification, but my appreciation of the law is that the classification is going to be uniform all over the state. Local government may use different percentages of actual cash value within a certain range. That's my understanding of the problem.

Mr. De Blieux Do you know that the present assessors have been classifying property for a long time and assessing them at different percentages of value?

Mr. Avant Well, not under the law, according to

my understanding of the law, Mr. De Blieux.

Mr. De Blieux But that's the...you, you acknowledge the fact that they have been doing that, though.

Mr. Avant I have heard that said. I never have gone to all of the assessors' offices and checked them out. As a matter of fact, I have never been to my own. I never had any great interest in it to that extent. But I....

Further Discussion

Mr. Winchester Mr. Chairman and fellow delegates, I have a few words and that's all I'd like to say. But, I think that this is an attempt to short-circuit the assessors' plan and is an attempt to come in the back door. I've heard that expression used before, but I think this is certainly an attempt to come in the back door. Also, we were asked to be flexible, and I do not think this is the time to be flexible. What I understand the word "flexible" means is "you help me, but I don't help you." Thank you.

[Previous Question ordered.]

Closing

Mr. Arnette I'll try to make this as short as possible. I just want to get some of the arguments that have been placed against this particular amendment. The first argument is that this allows the local body to raise taxes without any authority. The legislature raises state taxes. Why can't the local authority raise local taxes? It seems very obvious to me. The legislature can raise the sales tax in one session two thousand percent without anybody's okay, except their own. But, we say it's okay for them to have that authority, but yet, we don't give the local governing authority the power to raise ad valorem taxes.

The second thing is: They say, "Well, this will take away the assessor's power." Well, I'll agree it will take away one segment of the assessor's power--it will take away his power to raise taxes by his act alone. Do you realize that right now in your particular parish--say you are assessed at ten percent--well, your assessor, without anybody's act except his own, can raise your property taxes one hundred...one hundred--my gosh, one thousand percent--one thousand percent. All he does is assess your property at fair market value instead of at ten percent, and there's nobody that says he can't do it. Why not leave this up to a governing body--the people who should set local taxes? We've also got safeguards in there on them: two-thirds vote. My gosh, this seems the only reasonable way to do it. Now, people say that this is a lot harder on the assessors than the proposed plan. Well, I'd like to point out one thing to you. The proposal made by the committee sets actual constitutional percentages in the constitution. This gives the assessor no leeway whatsoever. It says, "You assess at that percentage, partner," and that's it. Why don't we give our local assessors a little leeway. Let them work with their local government. Let their local government set these percentages. That's the way it ought to be. Why should we, in all our infinite wisdom, set a statewide percentage--a percentage statewide--that affects every parish in this state, that I know, obviously, will not work for every parish in this state. This plan as proposed by the committee just simply cannot work. It seems to set uniform percentages for nonuniform places. Let each parish set their own.

Now, the next thing is that this has been said that it might be unconstitutional. Well, it seems to me that it would not be, in any way, for the simple reason that everyone is treated exactly the same way in every taxing district. There is no possible way that this could be unconstitutional. I see absolutely no way whatsoever that it could ever be declared unconstitutional.

Now, we're talking about homestead exemptions.

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We want to set a homestead exemption. I think it's a good idea to have a homestead exemption, but let the parish decide what this homestead exemption means in their parish. They are the ones paying it; the state doesn't pay the homestead exemption anymore; the parish pays the homestead exemption. The parish pays it out of their revenue sharing funds that they get. The state doesn't pay this homestead exemption. Let the local people decide what this homestead exemption means in their parish. Now, Mr. Conroy, as one of his objections was that this took the state permanently out of the ad valorem tax business. It obviously does not. If you look at Paragraph (B), it provides that percentages of fair market value and classifications of property for multi-parish districts shall be set by the Louisiana Tax Commission. It's very easy for me to understand that one multi-parish district could be the entire state made up of sixty-four different parishes. It does not prevent state ad valorem taxes whatsoever. It just merely limits the percentage that can be placed on the property statewide. It is constitutional because of percentage. I urge your adoption of the amendment. Thank you very much.

[Record vote ordered. Amendment rejected: 43-69. Motion to reconsider tabled. Motion to take up other orders adopted without objection. Motion to adjourn to 9:30 o'clock a.m., Friday, October 19, 1973 adopted without objection. Adjournment to 9:30 o'clock a.m., Friday, October 19, 1973.]

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Friday, October 19, 1973

ROLL CALL

[83 delegates present and a quorum.]

PRAYER

Mr. E.J. Landry Thank You Lord for this privilege. Dear Lord, help us to be aware that we must be grateful to You, that we must obey Your laws, love and imitate Your infinite excellencies. Help us to see that Your works are full of wonders and beauty, and that You, God, are even greater than Your works. Give us the grace to understand that You are our maker, and that those of us who do not know You, though may know everything else, are ignorant of the greatest and the best part of all knowledge. You have cautioned us that if a man be blind, he, but loses the outward light, but if he is without You, he is a wanderer, and is solitary in the universe with no haven--no hope before him. Help us to understand. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation, and other delegates, members of that committee.

A proposal making provisions for property taxation.

Of course, the status of the proposal is that the Convention still has under consideration Section 1, dealing with assessment of property, classification, assessors and right of taxpayer. Two amendments have been adopted to said Section 1 to date.

Amendments

Mr. Poynter Amendment No. 1 [*by Mr. McDaniel*]. On page 1, between lines 12 and 13 insert the following:

"Section 1. Notwithstanding any provision contained in this constitution to the contrary, the power of taxation shall not be exercised by the legislature to levy ad valorem tax upon any property in the state, and such power shall be exclusively vested in political subdivisions to be exercised as provided in this constitution."

Amendment No. 2. On page 1, at the beginning of line 13 strike out the words, period etc. "Section 1."

[*Coauthors added to the amendments.*]

Explanation

Mr. McDaniel This amendment, I think, is fairly self-explanatory in that it sets the philosophy early in this section that property tax will be the basis of tax of financing local government, and just that. I think this is an essential philosophy, it's an essential position that we're to reassure local government that it is going to have one major tax source that will be the exclusive taxing right to support needed local services. With the state out of the property tax field, at present, this should not constitute or shift--or a major loss to state government. In fact, looking at the past, property taxes in the past of this state have been a very insignificant part of the total tax revenue to the state. There never has amounted to more than three percent of the total tax revenue or two percent of the total state revenue. So, even with all of the proposals that I have seen that even embody a limitation of five and three-quarter mills, this could not be in our...in the foreseeable future, one of the major sources of state revenue

for sometime to come. The other alternative would be if there is no limit put on the millage, that the state could limit for...could assess for property--then you have in effect gutted the very source of local finance. The point that I am trying to stress here, is local government needs the stability that the property tax field would give them, if they are the only one to use it. I say let's keep them out, let's keep this for local government. The state has certain exclusive taxing powers in certain areas of major tax revenue. For example, later in my...on this committee proposal on Finance and Taxation, you will see that the state has the exclusive taxing authority when it comes to such major taxes as the severance tax, the gasoline tax, and the income tax. These are major tax revenue sources that are denied local government. By the same token, why not determine right here and now, in the beginning of Section 1, that local government shall have this one source of local financing. It's historical, from the beginning of this country this has been the backbone of local government financing. This is where it ought to be. The people who live there pay the tax for local services, they know the local needs, they're willing to pay the bill. I would like to urge your support for this amendment.

Questions

Mr. Roy Mr. McDaniel, what do you think is the compelling reason that we should put into the constitution something that may never be, even though it may be necessary in the future that the legislature look at this again or evaluate certain property that is not in a real local area? I'm just worried about, you know, saying never can the legislature look at this without a constitutional amendment.

Mr. McDaniel This doesn't bother me inasmuch as it never has been a major source of state revenue or in the past its...I think the offsetting factor is it would be assurance that local government, that this would be a field that would in the future could not be preempted by the state as some of these other taxes are.

Mr. Roy Well, that doesn't necessarily mean if you have at its...if we don't put anything in the constitution, then the legislature may look to it for some source of revenue in the future. So, how does that preempt that field? I don't get your point that we have to say the legislature may never deal with it, because if we don't, then the legislature by looking at it one time in the future preempts the field, I don't believe that follows.

Mr. McDaniel What I am saying, Mr. Roy, is our committee took the position that we would reserve to the state sole taxing authority on severance, gasoline, income tax, which are major sources of revenue for this state. By the same token, using your reasoning, why should we put that limitation--let's just open it all up.

Mr. Roy For the state?

Mr. McDaniel For local government.

Mr. Roy Oh, no. Well, I know why I wouldn't open it up for local government, but that's not my question. Let's assume you have one little municipality or two municipalities in a parish that's not that rich, and they're the only two incorporated towns or cities in the parish. Unless, the...you going to say that where you have let's say a thousand square miles of territory covered by two towns that cover maybe five square miles, that nine hundred and ninety-five square miles could never be touched by the legislature even though the police jury wouldn't bother to fool with it. I just don't see why we need to put something in the constitution, look into the future that may not be necessary. That's my only point.

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Mr. McDaniel I think it is necessary, with the state out of it now.

Mr. Weiss Delegate McDaniel, isn't this amendment in essence the same that the people of Louisiana passed last year by constitutional amendment to keep the state out of the ad valorem tax business?

Mr. McDaniel Yes, sir, this is the intent.

Mr. Weiss It's the same law then that's now in effect by the people of the state so voting?

Mr. McDaniel Yes, sir.

Mr. Hayes Mr. McDaniel, don't the state have to enter into full faith and credit sometime? What would they do in the case they default on the Dome Stadium; wouldn't they need to increase a tax somewhere to pick up the tab?

Mr. McDaniel I'm not an expert on the Dome Stadium, but I don't believe it's...with the amendment that was passed last fall it isn't the pledge by the full faith and credit of the property tax of this state, it...there's probably--I'm not an expert in state finance, but I think other sources of tax money is pledged rather than a specific class of property such as, is covered by ad valorem taxes.

Mr. Hayes Well, don't we have some inequities in our taxing here in the state where it might be necessary for the state to tax in one area, and transfer to another area for example--you know the Sixteenth Amendment gives you the right of the United States Government to tax you wherever you are, and transfer it wherever it is needed. So, the state might find this necessary, maybe it would be prohibited from doing it.

Mr. McDaniel Well, I think you're presupposing here. The state saw fit to get out of the property tax field after being in it for many, many years and the extension of my...of that idea is what I have here. I think it would be reassurance to the people back home, and those of us who believe in local government to have the assurance that they're going to be the tax base there for schools, hospitals and drainage, and the various other needed services; if people are willing to pay for locally and enjoy locally.

Mr. Winchester Mr. McDaniel, in reference to what Dr. Weiss had asked, isn't it more a fact that the constitutional amendment took the state out of the ad valorem tax field, but that this amendment would prohibit the state from going back into the ad valorem tax field?

Mr. McDaniel This is basically the idea here, I'd nail the door shut, and throw away the hammer.

Mr. Winchester Well, I'm against it, sir.

Point of Order

Mr. Mire I rise to a point of order, Mr. Chairman, I don't believe that this is germane to this particular section. It's a completely new subject. It's not germane to Section 1 at all.

Ruling of the Chair

Mr. Henry All right, just a minute.

Mr. Mire, I had been under the impression, initially, that it created a new section, and that's the reason we didn't take it up yesterday. In effect it does not create a new section the way in which it is drawn, but I believe that your point is well taken to the effect that it is not germane to this particular section because this section deals with assessment of property, classification, assessors, and right of the taxpayer. Now, properly drafted, it could provide for a new section or could be added later on in one of the sections, it

appears to me, Mr. McDaniel, in the proposal. It is pending as a new section.

Mr. McDaniel Mr. Chairman, I don't...I believe it is germane here. I think something of this that you're establishing a policy or a philosophy that is going to go all through this, and I think it should be considered exactly where we have it drafted.

Mr. Henry It may well be a policy that should be established here. I'm not arguing that with you, but I think when you read the title to Section 1, as is set out on page 1 of this proposal, that it is not germane to that section, sir.

Appeal from Ruling of the Chair

[*Previous Question ordered. Record vote ordered. Chair sustained: 59-36. Motion to reconsider tabled.*]

Mr. Henry Now, Mr. McDaniel, would you like for the Clerk to make the necessary changes in your amendment now to provide it as a new section, and it could be considered in that respect?

Mr. McDaniel Yes, Mr. Chairman, just line me up where you think it properly goes. I don't want to withdraw the amendment.

Mr. Henry I understand.
Mr. Clerk, can you make the necessary changes?

Mr. Poynter Mr. McDaniel, you want to...since you want to consider it an initial policy, do you want to just make it a new Section 1 between lines 10 and 11 which come right after the title to the article? Just make it a new Section 1, it would not affect old Section 1, adding a new section--sort of like the Gravel amendment did back on the elections with a code of elections. Come in with a new Section 1 between 10 and 11?

Mr. McDaniel That would be all right with me.

Amendment

Mr. Poynter All right. So, it would be the same thing. Amendment No. 2 would be unnecessary and it would read: "On page 1, between lines 10 and 11, insert the following:" It would be a new Section 1. "On page 1, between lines 10 and 11, insert the following:" Of course, the text would not change, and then Amendment No. 2 would be unnecessary.

One of the Clerks, and I think he's correct, just called to my attention that properly speaking, perhaps, there ought to be inserted a title to the new section. So, it would be Section 1--and Mr. McDaniel, if you want to come up and help me work out what kind of language you'd like, properly speaking, there ought to be a title to the section in addition to the body or the text itself, sir.

Further Discussion

Mr. Lowe Mr. Chairman and ladies and gentlemen of the convention, I'll try to make my remarks brief. We have discussed this matter in Revenue, Finance and Taxation. I'm sure that Local Government has discussed this particular concept of taking the state out of the property tax business. Now, before we...before I give you my remarks, I'd like to clear up one thing with you and I have checked this with the research staff on a number of occasions. The constitutional amendment of 1972, did not take the state out of the property tax business. The constitutional amendment of 1972, removed the five and three-quarter mill. But, by a two-thirds vote of the legislature the state can get back into the property tax business, and as I appreciate it, without the prior previous limitation of five and three-quarter mills. So, today, the state is in the property tax business. The voters of this state did not vote to take the state out of the property tax business, they merely voted to remove the five and three-quarter mill tax. Now, let's

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look at what we're doing. We're writing a constitution for all times. No one knows what the situation will be fifty or a hundred years from now. If we're here thinking that we're writing a constitution for this year, or next year, or five years from now, we'd best back up and take a new look at what we've been doing. I say to you that the financial, the fiscal matters of this state have probably taken a hundred and eighty degree turn over the last fifty years or maybe a three hundred and sixty degree turn over the last fifty years. So, if you're here to tell me that we know, today, what we're going to need fifty years from now, I'd say that you have a crystal ball. There's no way that we can sit here in good conscience, and remove through this constitution a source of revenue that may be vital to the State of Louisiana twenty-five years from now, or ten years from now, without decreasing revenues from severance and not telling what other sources within the years to come. We cannot in good conscience say once and for all, that the state will never have as a source of revenue, ad valorem taxes. This may prove to be in the future one of the major sources of revenue. I would say that the way Louisiana sits now with the other fifty states, that certainly, we need to take a serious look, and do some long-range planning with ad valorem taxes. I hope that you all will join with me, and not, today, saying that we need to get in the property tax business, but there are studies being made all the time, and the state should be making long-range studies. Part of that long-range study or studies should be, and I'm sure is being made at this time, should encompass ad valorem taxes. I should certainly hope that the tax burden can be spread equitably among all citizens and segments of our state. In order to spread that tax burden equitably I think all avenues have to be open to the legislature. If, we once and for all start closing avenues, we are promoting inequities. I'm here to say that and I believe it sincerely. Let's not in this constitution promote once and for all inequities. Let's kill this amendment.

Questions

Mr. Weiss Delegate Lowe, don't you think that with the power of taxation to destroy, that if the state again goes into the ad valorem business, and assumes large tax revenue from this source, that it would destroy the home rule concept which this convention has endorsed?

Mr. Lowe We've done such a good job with the home rule concept, I'm not worrying about home rule too much. If there's anything that's come out of this constitution, it's a good home rule and I think Local Government has done a good job. I compliment them for it, and I'm happy to see home rule strengthened and I think home rule has been taken care of Dr. Weiss.

Mr. Roy Monday, I think you made a good presentation. I'm not nearly any C.P.A., but don't you agree that the one piece of tax source that we have is appreciating is land, and land values, and the source that the state has now for severance taxes is being depleted. So, that twenty-five or fifty years as you say from now, maybe the only source of revenue for this state will be the property, and no longer any minerals. Don't you agree with that?

Mr. Lowe I wish I had said that instead of you, Chris, I'm ashamed I have to let a lawyer think of that instead of a C.P.A. That's beautifully said.

Further Discussion

Mr. Mire Mr. Chairman and fellow delegates, I rise in opposition to this section for two, I think, very, very important reasons. First of all, how can anyone kind of think that the state is not going to be involved in local government

in this state. If they were not involved in local government today, how would any of your local governments survive? That's your school systems, your police jury, your municipalities, or you name it. They have to be involved, and they are directly involved with monies one way or the other. But, more importantly, some of our natural resources that does, in fact, furnish some of these monies that are distributed back to local government today are fast leaving this state. It could well be one day that we'll have to revert to a property tax. I would hate very much to see it prohibited in the future. Another phase, the more we divorce the state from any sort of local government or working with local government...

Our homestead exemption to be meaningful the only way that it can be meaningful is to in fact, get monies from the state to reimburse our local taxing bodies. This is the only way that homestead exemption can be of any use to local governing authorities. The more you're going to divorce the state from local government, the least they're going to be interested in what happens. This is my opinion, one of the first nails in the coffin of homestead exemption. I understand that one is not directly related to the other, but the more you divorce the state from local government, the more you get them away of any sort of sharing. I urge you to defeat this. We have a limitation in our proposal that the state can't impose more than five and three-quarter mills which is what authority they presently have. This I would like to keep in the proposal, but I urge you to defeat this section.

Further Discussion

Mr. Velazquez Mr. Chairman and fellow delegates, I rise to oppose this amendment. It's been stated that the power to tax is the power to destroy. It's also the power to innovate and the power to build, and the power to try to even out the financial problems of the various local areas. The great sources of revenue which the state has, the severance tax, the income tax, and the sales tax are all avenues that could change rapidly, that could decrease or go up and down. We, know ourselves, that it took millions of years for petroleum products to form in the ground and these are being rapidly depleted. We know there are difficulties with the income tax. We know that any sales tax is most regressive to the poorest of our citizens. To tell the state categorically that it must always stay out of the ad valorem tax business is to destroy the basic flexibility of the legislature. For this reason, I feel I must oppose this amendment. Thank you.

Further Discussion

Ms. Zervigon Mr. Chairman and delegates, I rise in support of this amendment, and particularly in answer to some of the questions raised by Delegate Lowe. If we think that if we pass the proposal as it is now before us, the state may get back into the property tax business in any kind of meaningful way, we're fooling ourselves. There's a five and three quarter mill limit in the proposal that's before us. If we think that this proposal, and the companion Proposal No. 15 out of the committee, is broad and flexible allowing the state to make up revenues lost through declining severance tax revenues, we are lying to ourselves. The state cannot make up that revenue on a five and three quarter mill limit--cannot reimburse local government on a five and three quarter mill limit. Let us leave the severance tax to the state. The state has the power to tax all sorts of things that are denied to local government, that are not available to local government to tax. Let us let local government levy this tax. One of the problems that's often raised, when you talk about the property tax, is the difficulty of deciding what a piece of property is worth; of two folks going out to a site, and one of them says, "Looks like

fifteen thousand to me," and the other one says, "You're crazy, it's only twelve." If we pass the McDaniel amendment, outside the city of New Orleans, we solve that problem because we have one assessor looking at every piece of property within the taxing jurisdiction and deciding its worth. We don't have the problem of the disagreement of the worth of property within well-meaning individuals. There are limits throughout these Articles, 26 and 15. Let us pass this one further limit that reserves this source of income to local government. Then let us go into the other part of the article, Proposal 15, and cut out some of the limits there, so that the state may, in reality, recoup some of the money lost from declining severance tax income, so that we don't have to come back and amend the constitution, in the future, again and again, as we have in the past.

Questions

Mr. Dennery Ms. Zervigon, isn't it a fact that the law institute and the project recommended that the state be prohibited from levying an ad valorem tax on property?

Ms. Zervigon That's correct, Mr. Dennery, and they're out of the business now, and we never really will be in the business on five and three quarter mills; it only ever made up three percent of their revenues.

Mr. Lennox Ms. Zervigon, Mr. Lowe's argument, when he preceded you at the podium, seemed to build itself around the proposition that once adopted, this constitution could never be amended. Is that a valid conclusion, in your opinion?

Ms. Zervigon We don't really know, Mr. Lennox, except that I will say this in support of that argument. I think people, if they adopt a new constitution, are going to be very, very hesitant to amend it. On the other hand, what Mr. Lowe, speaking against this amendment, is speaking in favor of by implication, is the five and three quarter mill limit, the three dollar license plate--isn't this the proposal, which has his name on it--the three percent limitation on the income tax, and various other limitations that are in this document. We cannot make up a loss through declining severance tax revenues on a five and three quarter mill limit. So let's leave that to local government where it makes up as much as thirty percent, fifty percent of the income, and deny it to the state where it only makes up three percent.

Mr. Lowe The lady has said that my name was on Proposal 26 and...

Ms. Zervigon No, sir, fifteen..with all the limitations in it.

Mr. Lowe Oh, fine.

Ms. Zervigon No, I looked on twenty-six. I'm dumb at 9:30 in the morning, but I'm not that dumb.

Further Discussion

Mr. Jenkins Mr. Chairman, this section as proposed is exactly, or almost exactly, the same as a similar section in the Local Government Article. It does two things really. First, it gives the exclusive authority to levy property taxes to local government, excepting, of course, that it specifically prohibits state government from levying property taxes. I rise in support of this amendment. I'd like to give you some background on the recent history of this five and three quarter mill tax. You may remember that it was specifically because of this five and three quarter mill tax that we had in the past, that our state property system was held to be contrary to the constitution

of the United States. It gave a statewide property tax levy which would allow a comparison among various taxing authorities. If we include the authority for the state to levy a property tax statewide, we are inviting future court suits. We are inviting a continuation of the legal hassles we've had in the past. Now, it's not going to provide a great deal of revenue to the state. The argument that we may need a state property tax in fifty or a hundred years isn't solved by the five and three quarter mill tax provided in this article. That only provides, maybe thirty million dollars, so if you want a state property tax in the future, you're going to have to amend the constitution anyway. So the way that this article has it without this amendment doesn't solve any problems. What we should do here it prohibit the state from levying a property tax, and give this exclusively to local government, just as we've given other sources of revenue, such as the income tax and the severance tax, exclusively to state government. If the people see a need to levy a state property tax in fifty or a hundred years, all they have to do is come back and amend the constitution. The people, last year, voted against this tax. They voted to do away with it, and most of them thought they were voting to abolish it once and for all. If we allow the legislature to come back and levy such a tax without a vote of the people, we're going to be voting against what the people thought they were doing and intended to do last year. Many states prohibit state property taxes.

Some people have said the purpose of this proposed new section is to take the state out of the property tax business. The state will not be out of the property tax business if this amendment is adopted because we'll still have the Louisiana Tax Commission. What it will do is prohibit the state from levying a property tax, and that's good. I don't want to see the people of this state have another thirty or forty million dollars in property taxes levied on them after they voted to do away with such taxes--when it would be levied on them without their own vote. The legislature would impose this tax, not the people. They would never vote on this proposed tax increase. The people have had enough with taxes. They don't want to increase taxes, and we've provided, in the Committee Proposal of Revenue and Taxation, that local taxes, on the overall, won't be increased by any new scheme we propose here. Yet we would allow, under this Section 2 provided in this committee proposal, up to a five and three quarter mill tax to be levied by the state. That's a tax increase. So we would be increasing taxes by this provision or at least laying the foundation for it. The people have voted against this tax. In terms of overall state revenue, it wouldn't mean a whole lot. If the state wanted to ever really increase taxes on the property tax field, they would have to have a constitutional amendment anyway, so there's no real need to keep that Section 2 in here, and there is a need to adopt this new section as proposed by Mr. McDaniel. So let's give the taxpayers of this state a break, and once and for all, leave property taxes to local government, and keep the state from levying any.

[Amendment withdrawn: 79-22.]

Personal Privilege

Mr. Lowe Mr. Chairman, and ladies and gentlemen of the convention, I'm not aggrieved. I just wanted to come before you and make one point clear that the delegate from New Orleans may have come up with the belief, that because my name was on a proposal, that I could go along with a three dollar license plate or, in the constitution, some rates for income taxes. I was unalterably opposed to those propositions and that sort of philosophy in this constitution and I opposed it in committee. I did allow my name to go on the proposal as it came to the floor, as many of us did, in the sake of some unanimity on things coming out of the com-

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mittee. But, I would not want the lights to go out in this convention hall with anyone believing that I could, in any way, go with the three dollar license plate in the constitution, or with the two percent, four percent, and six percent individual income tax rate in the constitution. So, it's for that reason, since the point was brought up by the delegate from New Orleans, that I would want you to know my stand on those propositions at this time.

Mr. Henry Ladies and gentlemen, if you will, please give me your attention just a minute. There are a number of delegates, and seemingly most everyone that I've talked with, that would like to resolve, or begin attempting to resolve, the question of homestead exemptions. If that is the wish of the majority, then what we need to do is to pass over Section 2, and to temporarily defer action on 1 and to pass over 2, and get into Section 3 and begin debating the problem. If we want to do this, I'd rather we not get into a long debate as to whether we do it or don't do it, but might take a straw vote as to what your wishes are.

Point of Information

Mr. Perez My question is whether you'd try to resolve only homestead exemption or the myriad of other exemptions we're talking about while we're on this section?

Mr. Henry Well, once we got into it, Mr. Perez, I think we'd need to determine it. I think we could easily determine homestead exemption and put the remaining exemptions in a separate section. Whatever the delegates want to do; I'm just trying to get a consensus, and I think your point is well taken, but I think primarily what we need to do is determine the homestead exemption.

Motion

Mr. Stovall Would a motion be in order, Mr. Chairman, that we pass over the other sections and come to Section 3 at this time? I so move if you would accept it.

Mr. Henry Alright.

Point of Information

Mr. Conroy Mr. Chairman, if the homestead exemption is geared to a dollar amount of assessed valuation, don't you have to know what the percentages are that you're going to apply to fair market value before you can determine what that figure should be, and that figure's in Section 1? I don't understand how we could skip to the other without knowing what percentage is correct.

Mr. Henry I think that's absolutely correct, and, of course, some percentages have been determined... whether that's fine or not...it's a which comes first proposition, the chicken or the egg.

Further Discussion

Mr. Newton Mr. Chairman, I just don't see any difference whether we fight it out on the percentage or on the homestead. One determines the other, and I think we might...I object to passing over Sections 1 and 2.

Point of Information

Mr. Gravel Is this a debatable motion, Mr. Chairman?

Mr. Henry Mr. Gravel, it is debatable, yes, sir. I would hope we wouldn't waste a great deal of time on it, but, of course, that's up to the delegates.

Further Discussion

Mr. Gravel Well, Mr. Chairman, I just think that a better procedure can be followed than that suggested by the Chair, and I would object to it, and

would like to be heard on it.

Mr. Chairman, and ladies and gentlemen of the convention, I definitely agree with the concept that we should consider the homestead exemption in its relation to the percentages that have already been considered by this convention. I disagree, however, that we should just arbitrarily move over into the total exemption section of the article that goes on for pages and pages, relating to all kinds of exemptions besides the homestead exemption. Now, I think there's a very simple method by which we can resolve this issue, and that is to agree that all those who have any provisions--and I think there's some twelve or thirteen up at the desk--that relate purely and specifically to the homestead exemption, that we relate those provisions, as an amendment to Section 1, together with an amendment to the title of Section 1, that would permit us to consider the homestead exemption. That would do what Mr. Champagne has suggested to a number of people on the floor, and, also, would accomplish what a number of other delegates have suggested, and that is that you consider the classifications, the rates, and the homestead exemption together in one section. As an illustration, we could amend Section 1--I think the paragraph might be (H) if I'm not mistaken, I may be wrong--but add a new paragraph to Section 1 dealing with homestead exemptions after the title has been amended. I suggest that we proceed in that manner, and that can be done without any suspension of the rules, without passing over anything, but simply adopting the amendments to conform to Section 1, or to relate to Section 1, rather than to relate to the section that deals with a multiplicity of exemptions. When we get to that particular section, unless I miss my guess, we're going to be here a long, long time working line by line, phrase by phrase, word by word, insofar as those other exemptions are concerned. I suggest that we defeat the motion of Reverend Stovall, but that we accomplish the same purpose by proceeding in Section 1 by amendment.

Question

Mr. Chatelain Delegate Gravel, do you realize that I fully agree with you?

Mr. Gravel No, but I'm happy to have you, for the first time.

Point of Information

Mr. Fontenot Mr. Chairman, does the Clerk have any amendments to this effect that Mr. Gravel has just spoken about, considering the homestead exemption in Section 1 instead of in Section 3 at the present time? Are there any amendments to that affect?

Mr. Poynter I don't believe that I have the copies of them at the desk at the present time, but I have understood that such amendments were being prepared, but I don't have them at the desk, Mr. Fontenot, at the present time.

Mr. Fontenot Well, I would agree with Mr. Gravel. If that's the way we can get out of this dilemma, I think we ought to consider them together, Mr. Gravel.

Mr. Gravel My point, Mr. Fontenot,--if I may say this, Mr. Chairman--was that, I understand there are some twelve or thirteen amendments at the desk that relate specifically to the homestead exemption. All I'm saying is that those particular amendments could be adapted to amend Section 1 rather than Section 3, I think it is.

Mr. Henry Your suggestion, Mr. Gravel, is to amend the title to Section 1, and provide for amendments thereafter?

Mr. Gravel That's correct. Yes, sir.

Mr. Henry Alright. Mr. Champagne, I'm going to take the liberty to ask a few people a few ques-

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tions because I know a number of you have amendments on Section 3, and I want to do whatever you all are agreeable to do on this. But, I know, Mr. Champagne, you've had an amendment. Is something like this agreeable with you?

Mr. Gravel Mr. Chairman, Reverend Stovall has authorized me to say that he agrees with the procedure that I have suggested, and is willing to withdraw his motion. If the Chair is willing to accept that, I would then make a motion that we authorize...well, I'll make a motion after that if that's agreeable to the convention.

Mr. Henry Well, if he's withdrawing his motion, one would be in order. He says he withdraws it. We don't even need a motion to do that.

[Motion withdrawn.]

Point of Information

Mr. Perez It's my understanding that when Mr. McDaniel tried to take the subject matter in Section 2, and bring it into Section 1, it was ruled by the Chair that it was not germane to Section 1.

Mr. Henry That's correct.

Mr. Perez Now, if the same attempt were made here to take the subject matter in Section 3 and bring it to Section 1, would not we be in the same posture?

Mr. Henry You're absolutely correct, but I believe Mr. Gravel mentioned the fact that he would offer an amendment to the title of Section 1 which would then provide that such amendments would be germane if that amendment was adopted. Someone would have to raise that point then at that time.

Mr. Perez Which means then that if Mr. McDaniel had amended the title to Section 1, he could have brought the subject matter up without it being a new section, also?

Mr. Henry If someone had not raised the point of order with Mr. McDaniel, it never would have come up, Mr. Perez.

Motion

Mr. Schmitt I'd like to rise to make a motion that we suspend the rules for the purpose of debating Sections 1 (B) and 3 (A) at the same time, so that we might be [be] able to get this homestead exemption resolved completely. I think that would satisfy everybody.

[Motion rejected: 38-67.]

Further Discussion

Mr. Champagne I think I now see something that I didn't see a few minutes ago, and I object to this procedure. I would be glad to explain it if I might be allowed the position to do so.

Fellow delegates, I think the thing we should do, and I was in favor of all the while, is discussing the homestead exemption, and the homestead exemption only, in conjunction with this proposal. I think what is about to come up, and those of you who are in favor of discussing other exemptions, whether you agree with it or not, what is attempting to be done at this position has been pointed out to me, is that once we discuss the homestead exemption, we'll simply delete all the rest of the exemptions and put them back in the statutes. I think it's a very, very clever method and I think that if that is the intention, I am opposed to it. I therefore would suggest that we discuss the per-

centages and the amount of the homestead exemption in conjunction, but not necessarily tear them away from the other exemptions. I would hope that we could consider it in that manner and that method. In line with that, Mr. Schmitt's motion did that exactly, and for that reason, I hope you will reconsider the possibility of doing it in that manner.

Mr. Henry Mr. Champagne, did you make any kind of motion? I was distracted for a moment.

Motion

Mr. Champagne My motion is that we consider the homestead exemptions and their amount in conjunction with, or prior, to the percentages. We don't simply take them out of the others; we do not discuss any other exemptions before we decide the percentages at which we shall assess property and the amount of the homestead exemption.

Ruling of the Chair

Mr. Henry Mr. Champagne, your motion would be out of order. No, sir. It's a nonprocedural motion, because Mr. Schmitt made a motion for a suspension of the rules that, if the rules suspension had been adopted, could have accomplished that purpose, but we have no mechanics just to... not right before us. Now, let me tell you before... well, we don't have any motion before the floor that's a proper motion. We have one of several alternatives. The delegates did not desire to suspend the rules to consider two sections at the same time. We have the alternative that we could resolve the convention into the Committee of the Whole for the purpose of debating Section 1 and Section 3 at the same time. The problem that you might not like there is that you could not require a record vote in the Committee of the Whole, but you could, insofar as your amending process, you could offer amendments in the Committee of the Whole, but there would be no record votes. You have the option of proceeding as Mr. Gravel has suggested, by amending the title to include homestead exemptions in Section 1, and if that amendment is adopted, then providing for homestead exemptions in a paragraph of Section 1, or you have the alternative of passing over Sections 1 and 2, and debating 3 at this point. I know of no particular other alternatives, and the Clerk doesn't either. Now, so what we're going to...we will entertain a motion at this time.

Mr. Abraham, you were standing there a long time, so I'll recognize you first.

Point of Information

Mr. Abraham Well, I was simply going to ask a question of the Chair as to what position are we in now; that we, still as it stands now, are in a position to where we can go ahead and debate Section 1, is that correct?

Mr. Henry That's absolutely correct.

Mr. Abraham There's no motion, or anything, to skip over or anything like that?

Mr. Henry No, sir.

Mr. Abraham Then what are we arguing for? Why don't we proceed?

Mr. Henry Well, Mr. Abraham, that would suit me fine, but I'm trying to get a consensus of what the delegates want to do.

Mr. Abraham Are you asking for speakers to get the consensus, or shall we just...

Mr. Henry No, I was trying to resolve it now. We're fixing to take up the debate on the further amendments to Section 1 unless we have a motion.

Amendment

Mr. Poynter [*Amendment by Mr. Tobias*] It's simply, on page 1, line 11, after the word, number and punctuation, "Section 1." insert the following: "Homestead Exemption;" it just inserts "Homestead Exemption" in the title.

Explanation

Mr. Tobias All this amendment does, Mr. Chairman and fellow delegates, is that it amends the title of Section 1 which would allow us to consider, simultaneously, the question of homestead exemption and percentages of assessment.

Point of Order

Mr. Kean Isn't this proposed amendment not germane to this section, and, therefore, it could not be considered any more so than Mr. McDaniel's could have been earlier?

Mr. Henry Your point of order is well taken because the amendment to amend the title is not germane, Mr. Kean; consequently, the amendment would be out of order.

[*Amendment declared out of order. Motion to pass over Sections 1 and 2.*]

Further Discussion

Mr. Winchester Mr. Chairman and delegates, I am opposed to this motion. I think it is an attempt to put the homestead exemption in the constitution, and to put the other exemptions in the statutes, and I'm against that and I oppose this amendment or this suggestion for that purpose. If I'm wrong, I stand corrected, but that's the way I see it.

Point of Information

Mr. Munson I wanted to ask you...didn't you just say that this motion was out of order?

Mr. Henry No, the amendment that Mr. Tobias had was not germane.

Mr. Munson That was my question, and that's what Mr. Winchester was talking against. Hadn't you already ruled that it was not germane and out of order?

Mr. Henry Yes, sir, you're correct.

[*Previous Question on the Motion rejected: 22-79. Motion to recess rejected: 16-84.*]

Point of Information

Mr. Womack You call it a point of order, maybe information is a proper word, Mr. Chariman, and I wholeheartedly agree with what you say, but the folks that's doing the little interconniving because there's another thing or two that they want to take unfair advantage of by maneuvering in this direction...if they'd tell us all what they've got on their mind, we'd be better informed and we would be less reluctant to back off on some of it.

Further Discussion

Mr. Fontenot Fellow delegates, I'm against Mr. Duval's motion to consider the homestead exemptions without considering Section 1. We're going to just have to sit down here and decide one day at one time, exactly what percentage and what homestead exemption we're going to need, and what we're going to apply to this state. Without answering that essential question, you know, you're going to have to sit down and say, "O.K., do I want a twenty thousand dollar house to be exempt from

taxes, do I want a twenty-five thousand dollar house, or a thirty thousand dollar house?" We are going to have to answer that question before we can answer all the rest of the questions we have on this whole proposal. But, how are you going to do it by considering Section 3(A)? That only concerns the homestead exemption. Without the percentage, you don't know what it means. How are you going to consider Section 1 without knowing your homestead exemption? I know it's a procedural dilemma we're in right now, but I don't think Mr. Duval's solution to the problem is the right solution. I think Mr. Tobias had the right answer... if we could consider Section 1 and the homestead exemption. Mr. Champagne's against this because he thinks, possibly, just considering the homestead exemption would allow all the rest of the exemptions to be taken out and put in the statutes. As far as I'm concerned, I think the essential thing we're going to have to do is decide what home you're going to have exempt on your tax rolls. You can't do it by considering the percentages without the homestead exemption; we have to consider both at the same time. I wish I had a motion that I could make, possibly the motion would be to suspend the rules to allow Mr. Tobias to introduce his amendment considering the homestead exemption with Section 1, but I don't know if that would be advisable. I don't know exactly what the Chair suggests, but I'd suggest that we consider both of them together. You can't consider one without the other.

Point of Information

Mr. Anzalone Would it be proper to offer an amendment to Section 1 which would add the word in the title, "Homestead Exemption" behind "right of taxpayer", and add Section 3(A) as Subsection (F) to Section 1?

Mr. Henry The only problem that you run into is amending your title. If anyone questions it as to whether or not it's germane, it is not the amendment to amend the title is not germane.

Mr. Anzalone Well, could we suspend the rules to do that?

Mr. Henry You could suspend the rules... You could make a motion to suspend the rules for that purpose.

Recess

[*Quorum Call: 100 delegates present and a quorum.*]

Motion

Mr. Anzalone Mr. Chairman, I've got to read this thing. It says, "I want to move to suspend the rules to allow the offering of amendments to Section 1, with respect to homestead exemptions and rate of state property taxation."

Questions

Mr. Arnette I'd just like to find out what this is going to accomplish. We're going to have to vote on one or the other, first, anyway, no matter which section is considered in. Isn't that true?

Mr. Anzalone Mr. Arnette, in an attempt to answer your question, there are many delegates on the floor of this convention that feel that these matters are so interrelated that you would not be accomplishing anything to discuss them singularly. What we should do, is be in a position to discuss all three at the same time.

Mr. Arnette Well, what I'm saying is, we can discuss them together without any problem. But why do you want to put it in the same section when you are going to have to vote on the percentages first, or the homestead exemption first, or some-

thing...

Mr. Henry Well, Mr...Arnette, it's not a debatable motion. If you have a question, please...

Mr. Arnette I'm just trying to find out if it solves anything.

[*Motion to suspend the rules adopted: 79-21.*]

Mr. Poynter The rules have just been suspended. We're still on Section 1. But the rules have just been suspended so that any delegate, if he or she chooses, may offer amendments to Section 1 in addition to the subject matter presently contained therein, on the additional subject matters of the homestead exemption and the limitation on the rate of state property taxation. So amendments on any of those subjects are now in order to Section 1. But we are on Section 1 and any amendments that are presently being drafted ought to be drafted as amendments to Section 1. I know Mr. Anzalone, for example, has just prepared some in that light.

If you want some amendments that were originally drafted to Section 2 or 3(A), we can convert those and make them paragraphs or whatever and amend Section 1. But we are on Section 1, but you have the additional right now to offer amendments which would...no longer is there a right to contest their germaneness on those two additional subject matters.

Recess

[*Quorum Call: 109 delegates present and a quorum.*]

Personal Privilege

Mr. Jenkins Mr. Chairman, you know several months ago I issued a report to the people of my district which analyzed some of the issues that the legislature faced last year. I found that the people of my district really enjoyed and appreciated this report. But a number of the politicians in the state, and some of my colleagues in the House, didn't care for my report too much. So, in analyzing what the best approach to the Constitutional Convention would be, I decided that the best thing to do would be to change my approach. Instead of having any sort of chart or rating system on the convention that I would do, I would give the delegates a system of self-rating so that they could rate their own performance. I finally found a system that would allow each delegate to do this. So, if you'd grab a pencil and paper, you will be able to rate yourself in five different categories. Now the five categories are going to be quality, timeliness, initiative, adaptability and communication. Now within each one of those five categories, you can get from one to five points depending on how good you are in that area.

Now, under the area of quality, you get five points if you can leap tall buildings with a single bound...five points. You get four points if you must take a running start in order to leap tall buildings. You get three points if you can leap over only short buildings, or a medium building with a...with no spires, or you can get two points if you crash into buildings when attempting to jump over them. You get only one point if you cannot recognize buildings at all.

Now, on timeliness...I will not yield to Mr. Anzalone, Mr. Chairman...On timeliness you will get five points if you are faster than a speeding bullet; four points if you are as fast as a speeding bullet; three points if you are not quite as fast as a speeding bullet; two points, would you believe, a slow bullet; and one point if you shoot yourself in the foot while loading the gun.

Now keep track of this. This is important.

Now on initiative, you get five points if you're stronger than a locomotive at this convention; four points if you're stronger than a bull elephant; three points if you're stronger than a bull; two points if you shoot the bull; and only one point if

you smell like a bull.

On adaptability, you get five points if you walk on water consistently; four points if you walk on water in emergencies; three points if you wash with water; two points if you drink water; and one point if you pass water in emergencies...think about that.

Finally, on communication, you get, and we have a number of people here qualify for five points... five points if you talk with God; four points if you talk with angels; three points if you talk to yourself; two points if you argue with yourself; and only one point if you lose those arguments.

So I predict that no delegate here is going to get twenty-five points. But none will get less than five points, either.

Mr. Henry That's the most intelligent speech I've heard in this convention in a long time, Mr. Jenkins.

Mr. Clerk, you might explain to the delegates what has taken place since our last meeting. Just before we broke for noon, you will recall that the convention was in a state of turmoil. At the time that we left, there had been numerous motions and a great deal of debate as to what we should do and what we should not do...when all of a sudden, one of the leaders of the convention moved that we recess until 1:30 after which we did, and I'm sure, we all enjoyed a lunch.

Now, Mr. Clerk, for the next exciting episode, will you explain to our listeners what's taking place?

Mr. Poynter Well, Mr. Chairman, while the listeners were dining, the staff stayed and has redrawn all the amendments to Section 2 and 3...and I say all of them basically.

My Rayburn, your amendments, of course, here, have been drawn as amendments to Section 1.

We've kind of arbitrarily made all the homestead exemption amendments a proposed Paragraph (F) to Section 1, and all the ones dealing with limitations on state ad valorem property taxation as Paragraph (G).

Mr. Roemer, your amendments are here, Mr. Rayburn, Mr. Champagne, your four amendments have been redrawn in this fashion; another set by Mr. Roemer. Mr. Abraham, yours have been redrawn; Senator De Blieux, yours and Mr. Roemer's on fair market value have been withdrawn. Mr. Casey, yours have been drawn to (G); Mr. Schmitt, yours have been drawn in that way. Mr. Velazquez and Mr. Johnny Jackson have amendments which have not been redrawn since they are going to have to be amendments to whatever amendment with respect to a homestead exemption is ultimately adopted by the convention. We'll just have to wait on those amendments, Mr. Velazquez, like we talked about, until we see what's adopted and then have them prepared in the proper fashion.

Mr. Schmitt, your amendment which would, in essence affect now (G) on the old 2, Limitations of Debts, has been withdrawn...as...had been redrawn as a Paragraph (G), as has Mr. McDaniel's amendment which would now be a (G). I've taken the liberty, and in several cases, to eliminate some duplication. Mr. Kean...I don't see him right now...Mr. Kean had an amendment which was identical to Mr. McDaniel's. I didn't ask the staff to redraw that. Mr. Schmitt, you had a three/five homestead exemption proposition that's identical to one that Mr. Champagne has had. I took the liberty of not asking the staff to redo that if you want to join him.

So those amendments have been redrafted in that fashion as Proposed (G) and (F). Of course, Mr. Chairman, we still have pending amendments to other paragraphs of Section 1 as well.

All right. The Rayburn amendments...first...dividing the subject matter. There are three Rayburn amendments. You ought to have three different Rayburn amendments there. Throw away the one, first of all, that has "Rayburn, Mire, Gravel, and a whole bunch of coauthors..." because this is just Rayburn's name along on it. So you can

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throw away the one that has a whole bunch of co-authors. You ought to have two left with just the word...the author "Rayburn" on it. The one that will be offered is the one that has, really, three paragraphs to it. Looks like there's a second paragraph or a third paragraph, if you will, to this amendment that provides "the provisions of this paragraph shall become effective, etc." Most people follow me there? All right. Now this one, incidentally, is a three thousand, five thousand dollar proposition if you want to check in terms of the subject matter...Three thousand, five thousand, in terms of the dollar amounts of the exemption so that that's the one. The other two he's not going with, so that's the one that he's offering, the one that's three thousand, five thousand, the word "Rayburn" alone on it is the author; three paragraphs rather than just two.

Amendments

Mr. Poynter Amendment No. 1 [by Mr. Rayburn].

On page 1, line 12, after the word "taxpayer" add a semicolon. Insert the following:

"Exemptions from ad valorem property taxation".

Amendment No. 2. On page 2, between lines 7 and 8 add the following:

"(E)," or rather, "(F)", excuse me, "homestead shall be exempt from ad valorem property taxation as follows. From any parish, state parish and special taxes, the bona fide homestead, consisting of a tract of land, or two or more tracts of land, with a residence on one tract and a field patch or garden on the other tract or tracts, not exceeding one hundred and sixty acres, building and the appurtenances, whether rural or urban, owned and occupied by any person, the full amount of three thousand dollars of the assessed valuation. However, by the favorable vote of a majority of the elected members of each house, the legislature may increase this exemption to an amount which shall not exceed the full amount of five thousand dollars of the assessed valuation.

Veterans and persons sixty-five years or older, shall be provided with a homestead exemption of five thousand dollars of the assessed valuation. No exemption shall extend to any municipality (and that word should be municipal instead of municipality) or city taxes, except the following:

1. In Orleans Parish this exemption shall apply to the state, the general city, the school, the levee, and levee board taxes.
2. To any municipal or city taxes levied for school purposes.

The exemption of homestead shall extend to the surviving spouse of minor child or children of the deceased owner and to the bona fide homestead when occupied as such, entitled thereto as either in the husband or wife, that this exemption shall not be extended to more than one homestead owned by the husband or wife.

The provisions of this paragraph shall become effective commencing January 1 of the year following the end of three years after the effective date of this constitution, and until that date, the homestead exemptions provided by Article X, Section 4, Paragraphs 9 through 9(C), shall be applicable.

Explanation

Mr. Rayburn Mr. Chairman and fellow delegates, our committee worked long and hard trying to come up with a proposal that would be presented to this body, and one that we hoped would be adopted. As I stated before, we had mixed opinions on our committee. We had some that felt we should have a five thousand, some a three thousand, and some a two thousand. I have, for the last two days, with the committee members and other delegates I have talked to, tried to reach a compromise. I feel sure that the majority of the members of our committee will vote for this compromise. They will not all vote for it, but I feel certain a majority of them will vote for it.

The provisions of this amendment give to the

people of this state a three thousand dollar homestead, five thousand to veterans, and five thousand to people over sixty-five. It allows the legislature to come back at a later date and increase that three thousand up to a figure not to exceed five thousand. It further provides that the provision of this act will not be effective until three years after it has been adopted by the people. The reason for that is the assessors say that it will take them that long to reevaluate their property and to more or less get their house in order. That's the reason for the three year provision.

My main reason for trying to gradually increase the homestead exemption is that I do not want to hurt my local community. As I stated before, we have seven different taxing districts in the parish of Washington in the parish school system, and one in the city school system. In one of those particular districts, there are only thirty-two people...thirty-two homes now on their assessment rolls. If this exemption went too high, you might remove those thirty-two. There's not too much shifting can be done, as most of you know who are familiar with the rural sections of our state. When you have a given district where you have nothing but farms, you have no industry. You have maybe one country grocery store. So I did not want to put those districts in jeopardy or to put the schools in jeopardy. That's why I finally reached the decision that I feel three thousand dollars...that we can live with it. It will be a step in the right direction. Maybe in the near future, after the legislature has had a chance to see this plan put in operation, if it's adopted by the people, maybe then they can increase it to four. Maybe later they could increase it even up to five. But I don't think we should hastily jump into something that might jeopardize our local communities when I certainly stand here and plead to you that I do not, and will not attempt to tell you that I know the after effects of what a four thousand, or a five thousand homestead exemption would do to my parish. My assessor at this particular moment, is confused over exactly what it would do.

So I'm going to ask you to go along and adopt this amendment. I think it's a step in the right direction. I think it's something that all communities can live with. I move the adoption of it.

Questions

Mr. Lanier Senator, as you and I discussed yesterday, don't we have acreage taxes that are levied in certain drainage and levee districts and forestry districts throughout the state?

Mr. Rayburn I'm sure you do, Mr. Lanier. We have a fire protection tax in my particular parish that I live in. We don't have an acreage tax. But there are some in the state. Yes, sir.

Mr. Lanier Would I be correct, as you and I discussed, that this exemption does not presently apply to the acreage taxes in the levy and drainage districts, but only to the forestry acreage tax? Is that correct?

Mr. Rayburn That's what the assessors have told me, Mr. Lanier.

Mr. Lanier Would it be, also, correct that your proposal here is not intended to change the present law, but that the acreage taxes in the levee and drainage districts would remain exempt from the homestead exemption?

Mr. Rayburn Yes, sir. That's my intention.

Mr. Alario Senator, your last paragraph says "that the provisions of this paragraph would not take effect until three years after the adoption of this constitution."

Does that mean, then, that we would have this two thousand dollar homestead exemption for three

years.....

Mr. Rayburn Yes, sir. If you will read on further you will see where it says that the present provisions in the present constitution will remain in effect until after three years, Mr. Alario. The assessors that I've talked to tell me that it will probably take at least three years for them to put the provisions of this act into effect and reevaluate all the property which they've got to do if this provision passes.

Mr. Alario Senator, what about the provisions of the first section where we are going to change the percentages? But say in some parishes at ten percent we are going to be raising them. Would the parish governing authority then be able to collect additional taxes even though we are going to keep the two thousand dollar homestead exemption? Or will that, also, remain the same as it is now...whatever percentage they have on their books now?

Mr. Rayburn The homestead exemption will remain the same as it is now until three years have lapsed, Mr. Alario. But the other provisions on the percentage...this has no effect on that at all, to the best of my knowledge.

Mr. Alario So that, if the governing authority could complete their...or the assessor could complete his reassessing in one year, then possibly he could be raising those assessments and the people wouldn't have that three thousand dollar exemption until the third year, but at the same time pay taxes for two years?

Mr. Rayburn Well, I don't know whether the percentage factor provides any time limit on it or not, Mr. Alario. I don't know that.

Mr. Jenkins Senator, I'm trying to understand one aspect of your proposal where you say that "by majority vote, the legislature may increase the exemption to an amount which will not exceed five thousand dollars."

Does that mean, as it seems to me, that the legislature could increase it, say, to four thousand dollars, but it would have to be four thousand dollars for everybody? They could not set, say, thirty-five hundred dollars for one category of people, and forty-five hundred for another category. It would have to be one set homestead exemption that would apply to everybody. Is that correct?

Mr. Rayburn That would be my understanding, Mr. Jenkins. However, they could, maybe, put a provision in there like we have here. I don't think they could, even though at that, for old people or veterans. I don't think the legislature...because it's not spelled out in the constitution. I think they could raise it thirty-five hundred, to four thousand, forty-five, but they could never exceed five thousand dollars.

Mr. Jenkins But they would have to do that for every homeowner in the state. They couldn't say that, like people who made more than a hundred thousand dollars a year didn't get but three thousand. But people who made under a hundred thousand, maybe, got five thousand. They couldn't do something like that, could they?

Mr. Rayburn I don't think they could, no, sir. I'm no lawyer, but I don't believe they could, Mr. Jenkins.

Mr. Arnette Senator, I think your three thousand dollar idea is a good compromise. I think this was the compromise we were heading for. I think it would be supported by the convention. The only thing that bothers me, is your provisions that says "The legislature may increase the exemption by a majority vote." Why did you have this provision in there, was there any particular reason?

Mr. Rayburn No. There was really no particular reason, Mr. Arnette, other than I just felt like a majority vote should be able to do it. I understand that there will be some amendments to increase this to two-thirds...if this is adopted, there will be an amendment following it....

Mr. Arnette Well, Senator, do you know that the homestead exemption can't be increased by the legislature by any vote now? In other words, it takes a constitutional amendment to do that.

Mr. Rayburn That's right. Yes, sir.

Mr. Flory Senator Rayburn, as I understand your amendment, what you are doing is, in effect, granting a homestead exemption to a hundred sixty acres of land within a municipality. Is that correct?

Mr. Rayburn That language is in the present constitution, Mr. Flory.

Mr. Flory Well, does that do that?

Mr. Rayburn I don't think it does. I don't know. You would have...I'm not qualified to answer that, but that present language is in the present constitution now.

Mr. Flory What does the word "urban" mean?

Mr. Rayburn Well, I don't know, that could be... I think you know what it means. I'm not in a position to say or give you a legal interpretation on it; but, I did track the present language in the present constitution.

Mr. Flory All right. The second question is under your last paragraph of the amendment where you have the three year period delay for implementation. What if the lawsuit now pending is judged by the court, and a decision is handed down, wouldn't that decision take effect for that three years under your provision?

Mr. Rayburn Would it do what now?

Mr. Flory Wouldn't the judges decision be implemented for that three year period?

Mr. Rayburn It could be. I wouldn't know, it could be.

Further Discussion

Mr. Champagne Mr. Chairman, ladies and gentlemen, I rise on this occasion to express myself on this very serious matter that has involved me in the last several months. I want to commend our Chairman on almost a perfect compromise. I suggest that perhaps if we adopt this one, and in turn adopt the next one in substitute with the two-thirds provision of the legislature, that we will have reached the ultimate in compromise. I rise here to suggest that if there be those among you who are too old to remember, or those of you too young to know, I am here to suggest to you that Santa Claus no longer comes down the chimney. With or without uniform you can see him or her by merely looking into the nearest mirror. The reason that I am not on the committee proposal, as suggested, is because some people in the committee would suggest that he does come down the chimney. I am here to say to you that if you can afford a Cadillac or some other long automobile, that you ought to be able to buy the gasoline to run it, otherwise, you should buy a compact. I am here to suggest that in the event you find you cannot buy the gasoline to run your big car, that you shouldn't siphon the gas from the man across town or the man down the street who drives a three hundred dollar secondhand automobile. What I'm suggesting to you, is that some of the proposals that we did have were of such a nature that the man who spends all of his money for taxes might have to support those

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who are in mansions of forty thousand dollars, fifty thousand dollars, a hundred thousand dollars, or the like. I would suggest to you that if there is any politician who would run in the thirty-ninth district as an advocate that all people in forty thousand dollar homes should pay no taxes, that I would be able to eat his lunch out of his lunch bucket without opening the lid. I think that when you take into consideration that twenty thousand dollar homes today in another four to five years might indeed be twenty-five thousand dollar homes or thirty thousand dollar homes, that we do have here a very fair compromise with the exception of, I would like to make the extensions of homestead exemptions a little more difficult than in the event we get some careless legislators, unlike those gentlemen and ladies who are now in office, that we would at least require two-thirds of them to make the change. That is why I urge you, and I hope that I can reach within the halls, the inner halls of your mind and impress upon you that if there was an important vote in this convention, you now have it before you. Do not be misled by smoke and hot air, and the such that may follow. But, I suggest that you vote with principles, and I ask all of you not to do this in a political motive, but once in your life in this convention, I beg of you for all the people--the poor people, the regular people, the rich people, the dead people, and the people yet unborn--I urge you to support this amendment, to come back and support the other one with a two-thirds vote. If some day we meet driving down the roads, I hope you shall say "Thank God for that privilege." I thank you.

Further Discussion

Mr. Chehardy Mr. Chairman, fellow delegates, first off, I am for a homestead exemption and for a meaningful homestead exemption at the time that it is being offered to the people and for as many foreseeable years as we can anticipate. We have taken in this particular amendment the two thousand dollars originally setup in the early 1930's, has been updated by a thousand dollars. In one week's time...in the past several months' time, we have seen the cost of dairy products go up as much as fifty percent; over the same period of time, the very same property that if you would relate two thousand of real estate in the '30's to an equivalent amount of property today, you would be talking of maybe ten or twenty thousand dollars of real estate. I have watched this convention when it came to freeing the timberlands of the state. In the case of Senator Rayburn's area, I believe the Senator explained that Crown Zellerbach up there has what, twenty-seven thousand acres or something like that, and they are assessed at a nominal figure. All of the timberlands of the state with a flick of the finger received their exemption, every industrial exemption with a flick of the finger is continued. So, when it comes to the homeowner, the pain and suffering expressed by Mr. Roemer, who has led the fight against the homeowners of this state, has become so painful that it's sad to behold. This is the same Mr. Roemer, and this has to be said, whose family has been....

Mr. Henry Now, wait just a minute. Now, please, Mr. Chehardy, as bad as I hate to...

Mr. Chehardy Well, I wanted to tell about their industrial exemptions.

Mr. Henry Please, let's don't get into names and personalities, please, please.

Mr. Chehardy Well, it's a shame the people of the state won't know who's voting for what and what's going on. The three thousand dollar exemption is the biggest joke coming out of this constitution. It's a mockery of the people of this state and it's a mockery of the people who sent you and I here. The assessors originally went with

ten thousand and in the spirit of compromise went to five thousand. Yes, we had long and deliberative meetings. We came out with the compromise by more than half of the members with a five thousand and a six thousand proposition. In the past few days, we have tried to see if we could possibly reach another medium and without reason, without reason, I have watched man after man follow down the path of anti-homeownership in this state. That's exactly what we are doing if we support a homestead exemption of three thousand dollars. I, for one, am voting against it. I have an amendment coming back proposing a five thousand dollar homestead exemption and six thousand for veterans and people over sixty-five. I certainly hope you will vote against this home...this proposal, which is not a meaningful homestead exemption and vote for one which is.

Further Discussion

Mr. Arnette Ladies and gentlemen, I think we have come to what we think is a compromise figure here, three thousand dollars homestead exemption. I think the people of this convention can agree to that and I think they can go with it, but the only problem with this particular amendment is it allows the legislature to change that homestead exemption, a power they don't have now. It takes a constitutional amendment to change that homestead exemption now. I think that's the way it ought to be in the future; I'll give you a few reasons why. First of all, the legislature is sitting in Baton Rouge, they don't know what the parish of...say this parish over here want, or this parish over here, or another parish. They could change the entire basis of ad valorem taxes in that parish by changing the homestead exemption. We can't even change that homestead exemption, we have to go to the people for approval of this document. But, we are saying the legislature can do it with nothing at all but a majority vote. They can't even raise taxes in the legislature without a two-thirds vote. But, you are going to let them change the homestead exemption by a majority? I think giving the power to the legislature changing it at all is a mistake; but, with a majority vote is ridiculous. What's going to happen is, we are going to have a five thousand homestead exemption next session, you can book it because everybody running for the legislature is going to say "I'm going to take care of my homeowners. I'm going to give them a five thousand homestead exemption." Everybody is going to run on that platform and that's exactly what's going to happen. You're going to have a five thousand dollar homestead exemption in a lot of places where they don't want it. My people don't want it. My people aren't clamoring for a decrease in...or an increase in their homestead exemption. I haven't heard anybody even ask me whether we are going to increase it or not. But, I will say this, we better not let legislature have the power to change this homestead exemption at will, because they will do it immediately, no doubt in my mind about it. Now, I have an amendment coming right behind this one that is exactly like Senator Rayburn's exactly word for word, except, it leaves out the provision of the legislature having the power to increase homestead exemptions. I urge you to defeat this amendment and go with mine right after this. Thank you.

Questions

Mr. Roy Mr. Arnette, haven't we...and didn't you vote to authorize the legislature to grant industrial exemptions by a simple majority vote? Isn't that what you voted for?

Mr. Arnette Mr. Roy, this is a totally different....

Mr. Roy No, no, what's the difference?

Mr. Arnette This is something totally different. We are changing the entire tax base of your parish

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when you change the homestead exemption. Whereas, when you give an exemption for a new industry, we hadn't depended on those taxes before. But, we have depended on those homeowners paying a little percentage of the taxes in a parish, this is the difference between the two. You are changing your entire tax base when you change the homestead exemption; but, when you are given industrial exemption, you're not and that's the difference. Also, it says that the local governing authority has to O.K. that exemption before it has that exemption.

Mr. Roy What difference does that make?

Mr. Arnette It makes a lot of difference, the local people have to want that exemption. Whereas, in this particular provision, you are giving the power to the legislature saying "You can change my homestead exemption in Jeff Davis Parish without my people in Jeff Davis Parish having a thing to say about it," and that's wrong.

Mr. Roy Mr. Arnette, let me ask you a question--one more--because we are not going to get anywhere. You really think these legislators, that any legislature, would come down here to Baton Rouge and in the face of defeating every school bond issue and ruining every school board and every police jury would vote for a five thousand dollar homestead exemption. You really believe that?

Mr. Arnette Mr. Roy, you're not going to ruin any school boards. You're not going to ruin any bonding authority. What you are going to do is, you are going to change the burden of taxes, that's exactly what you are going to do. In my parish it raised the taxes my farmers pay by fifteen percent; it raised the taxes my small businesses pay by about fourteen to fifteen percent. That's what it would do in my parish if you want to increase it even four thousand from two thousand. This is what I want to prevent the legislature from having the power to do, to change local taxes in my parish without my people having anything to say about it. That's why I'm against the legislature having the power to change the homestead exemption, a power which they don't have now.

Further Discussion

Mr. Roemer Mr. Chairman, fellow delegates, like most of you, I did not come to this Constitutional Convention as an expert on taxes. Like most of you, I will not leave this Constitutional Convention as an expert on taxes. But, like everybody here, I pay them and I'm concerned about them. I think, we as a group, want to do what's fair and what's right. Now, those are old fashion words perhaps in the political game. All too often we do what is fast, and we shoot from the hip, and we do what is expedient. But, let's for a few moments, consider what is fair and what is correct. Now, Mr. Chehardy and others have brought out quite fairly, I believe, that we have done things here for some segments of our population. One thing we have done in our committee is, we have continued the proviso that calls for a ten-year industrial exemption. I might point out to you, for your benefit, for those of you who did not sit in our committee meetings day in and day out. That when the Commerce and Industry Board appeared before our committee, I was one of their strongest attackers, because I believed that the ten-year tax exemption has been abused over and over again and every member of that committee knows I took that stand, every committee member knows--if he were to tell the truth--that I, I fought it, fought it, and fought it, because I don't think it's right for businesses already established here to get continuing ten-year tax exemption. Now, let me point the record out to you on the ten-year industrial exemption. Mr. Chehardy and Mr. Roemer, both, voted together in committee for the ten-year industrial tax exemption. If you don't believe it, check the records and I'll...you why we both

joined together to vote for it, because we need industry in this state to bring jobs. We both, together, supported Dr. Claude Mauberrret's amendment, which provided--yes, there can be a ten-year industrial exemption--but only if the local taxing authority granted in addition to commerce and industry. In addition to commerce and industry, we gave, Mr. Chehardy and I and the other members of that committee, gave the veto right to the local governing authority and don't you forget that. Don't you let loose conversation let you forget that fact, that we have helped clean up the industrial tax exemptions--not just me, but Mr. Chehardy and me, together. Now, let's look at the homestead exemption. I am in favor of a homestead exemption, a reasonable one. I think each of us here are--two good reasons for it, perhaps three. One, is we have given benefits to other people. Two, we want to promote homeownership in Louisiana; it's the basis of our social fabric in America. Three, it helps the economy of our state for people to buy and to build homes. The home is sacred every man knows that, he would be a fool not to admit that. The question is not is it sacred. The question is how high do we want to exempt them? Do you know that Louisiana ranks dead last in the nation in ad valorem taxes? I'm not ashamed of that. I think that's a good thing. But, the point is, should a man in a hundred thousand house, or fifty thousand dollar house, or a forty thousand dollar house pay his fair share of direct taxes? I submit to you, that however politically unwise for me not to support a high homestead exemption, I do on the basis of the facts, stand up and say "Yes, homeowners should pay for schools. Yes, they should pay for police protection, fire protection, water, sewerage, streets, sidewalks." My God, we all know that we ought to pay our fair share.

I came here thinking that a twenty thousand exemption was best. However, I am willing to compromise by waiting until 1978 to go to thirty thousand. I support "Sixty's" amendment; it's a good one; it handles the facts in our state. I have one amendment to it, let's make it by a two-thirds vote of the legislature to raise it. I urge your support.

Further Discussion

Mr. Conroy I, too, rise in support of the Rayburn amendment. As all of you know our committee has received a lot of criticism over the past months as we have wrestled with this difficult problem. Perhaps, many of you did not realize what a difficult problem it was until it came to the floor of the convention. I think all of us realize, now, what a truly difficult and emotional problem it is to deal with the homestead exemption in the proper level of the homestead exemption. I really want to compliment the Chairman of our committee, Senator Rayburn, on what I regard as an appropriate compromise of the differences of views that existed within our committee and exist within this convention. I, too, subscribe to what Mr. Roemer said about the fact that the provision in here for increasing the homestead exemption should be limited to a two-thirds vote. While I think that that provision should be in here, I nevertheless favor the amendment as written at the present time. To put the thing in better perspective, I think we have to remember that the 1921 Constitution which gives the two thousand dollar homestead exemption, based that two thousand dollar homestead exemption on one hundred percent of actual cash value, not on the present way in which it is being applied. The usual historic reason for a homestead exemption is to help the poor. When you start talking about the fifty thousand dollar home being exempted from all taxes that would be assessed against it, you are certainly not talking about helping the poor. The figures that we have dealt with over the past months have ranged all up and down the scale. I think this program here that is in this amendment is entirely acceptable and desirable. I think it is the best reasonable approach to try to arrive at an adjustment of the differences that exist in

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this constitution and I urge...in this convention. I urge your adoption of this amendment.

Questions

Mr. Ullo David, I'm in great conflict here with the veteran's exemption. As you know now, the veterans enjoy a five thousand dollar homestead exemption. What we are planning on doing is freezing in the same five thousand dollars, we are giving everybody else a sliding scale. Why can't we have a sliding scale for the veterans of this state?

Mr. Conroy Well, this, too, is a matter of compromise. There were many people that felt that the veteran's exemption should not be any greater than for the rest of the people at all. There was strong feeling that there should be some difference. I think the idea here is, again, of weighing of the different views, and trying to come out with something that settled the differences.

Mr. Planchard Mr. Conroy, is it not true that the representative from the Veteran's Administration came to our committee and he indicated that they were not asking for any more homestead exemption, that to please, just leave it where it was?

Mr. Conroy This is precisely what his testimony was, that they did not want it taken away, they wanted it to be made permanent. Under the present constitutional provisions, the veteran's exemption phases out in a couple of years, I can't remember what, but they wanted to know that amount was made permanent which is what...

Further Discussion

Mr. Smith Mr. Chairman, fellow delegates, I am in favor of this amendment. I had been a member of the Revenue and Finance Committee for the last nine months and have heard arguments pro and con. I think this is a good amendment. I am in favor of it, except, I think, that we should have a two-thirds provision in there--in the legislature--to raise it. I think we need two-thirds. We have that in taxes, I have put that in there. I feel like it's realistic to have a two-thirds amendment in there to raise the five to the four...five thousand dollars. It's impossible for us now...it's not realistic to have a homestead exemption for more than three thousand dollars. I have statistics here in our parish, we only have six percent of the homes in our parish over thirty-five thousand dollars. The next one is ten percent in Baton Rouge over thirty-five thousand. Orleans is eighteen percent. I believe Terrebonne is ten percent. In other words, the state average is ten point in five-tenths of the houses...homes over thirty-five thousand dollars. In our particular parish in Caddo, if we have a four thousand or five thousand homestead exemption, all of our homes would be exempt; it is not realistic. So, we should go ahead and pass this, pass it realistic. I would rather see it for two thousand, like it is now. I think it's...that's where it ought to be, but, we had to compromise. So, I'm willing to go along on this compromise. I feel like I know something about it. I'm not a tax expert, but I have listened at it for nine months--both sides. I feel like this is a good way to solve this problem. So, I ask now, let's pass this amendment, be realistic, and go ahead with the rest of the business of this convention and not stay on this for two or three days and play politics. We talk about the "little people." This will help the "little people," and the other one will help the "big people," if we make it any more. So, gentlemen, let's pass this amendment for three thousand dollars. I thank you.

Further Discussion

Mr. Fontenot Fellow delegates, I guess I'm number five in our committee to get up and support

this amendment--five in a row as a matter of fact. I guess I'm just going to repeat some of the arguments that were just previously made. As far as I'm concerned, I'm not for a three thousand dollar homestead exemption; I'm for a two thousand dollar homestead exemption with the ten percent. Mr. Chehardy says "A three thousand dollar homestead exemption." Well, now that we have got the percentages and the homestead exemptions together, we can talk realistically of a thirty thousand dollar homestead exemption. This is exactly what we are giving our people, the thirty thousand dollar homestead exemption, not a three thousand. Now, the point I'm trying to make. Whenever I ran for constitutional delegate, my people didn't ask me to come over here and raise their homestead exemption. But, if we put in a thirty thousand dollar homestead exemption, that's exactly what we are doing; we are raising it twenty-eight thousand dollars, because as you know, the court order says you got to start assessing at a hundred percent and you have a two thousand dollar homestead exemption. So, that homestead exemption is going to be worth two thousand dollars after 1974. So, if we put in a thirty thousand dollar homestead exemption, they are actually getting a twenty-eight thousand dollar increase in their homestead exemption, they didn't ask for it. Like I said, I'm for the amendment, because they also didn't ask for a forty-eight thousand dollar homestead exemption. If you go with an increase in the homestead exemption and if you go with the committee proposal, you're going to give them a forty-eight thousand increase in their homestead exemption. So, I'm forced, I'm in the middle, I have got to go with the compromise. But, I will be for a further amendment that would lower it to two thousand dollars which, in effect, would lower the homestead exemption to twenty thousand dollars. I think anybody with a twenty thousand dollar home should not pay any property taxes. But, if you got a home worth twenty-one thousand dollars, I think you ought to pay for some of the services you're receiving. Now, if you are in the city, you will be paying for some of those services. But, if you are in the parish in the rural area, you are not going to be paying for the services of the sheriff department, or police jury, and all your special districts. I think if you have a twenty-one thousand dollar house, in my parish, you are pretty well off. I think you ought to pay for some of the services. I'm from a rural community. I'm forced to go along with the compromise, but it will hurt my parish because as far as homesteads with an exemption of thirty thousand dollars, that there's just not going to be very many homes on the tax rolls. So, who is going to pick up the slack in my parish, the farmers are going to pick it up, the small businesses, the property of CLECO, and all these other utilities are going to pick it up and pass it on back to us for the consumers, and the renters are going to pick up the slack. This is how you are going to affect my rural parish, the people I represent. But, I know it's a compromise; it's better than the five thousand dollars that the Revenue, Finance, and Taxation Committee came out with, so, I'm going to go with it.

Questions

Mr. Stinson Mr. Fontenot, this may be a technical amendment, but we just refer to veterans. Don't you think you should say "military veterans" or something, there are veteran lawyers, and veteran doctors and veteran farm laborers? Do you think you should sort of dress it up and say "veterans of what?" This is something that is going to be going on for a hundred years, we hope. There is going to be a lot of veterans between now and then. Shouldn't it be "military of such and such a war and so forth?"

Mr. Fontenot Well, I know it's not the clearest ...

Mr. Stinson We don't want to give any military

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exemption down here to any Yankee veterans that might be living.

Mr. Fontenot I realize that; it's not the best, but I think the intent of the committee is to cover "military veterans." Another point I wanted to make...let me see...no, I have no further comments.

Mr. Roemer Clyde, I think you ought to be fair about it in your statement. You said that it was...that "Sixty's" amendment, would in effect, raise the homestead exemption by twenty-eight thousand dollars. But, don't you know that we have to compare that against the assessment rate and it depends on the parish, the effect of it? For example, if a parish is already at ten percent against the two thousand, they already have a twenty thousand homestead exemption. So, we are not trying to raise it by twenty-eight thousand. Don't you agree with that?

Mr. Fontenot Mr. Roemer, you know that the court ordered a hundred percent assessment because these assessors assessing at six percent in one parish, twenty-five percent in another, and ten percent in other parishes, this is unconstitutional. But the point is, the court ordered a hundred percent assessment. Now, because these percentages are not...were not exactly a hundred percent assessment, I know Mr. De Blieux it's not exactly the same, but with the court order saying the assessors have to start assessing uniformly, then at a hundred percent you...all you have is a two thousand dollar homestead exemption. That two thousand dollar homestead exemption applies...a twenty thousand dollar house or a hundred thousand dollar house. But, if you go with a ten percent and a three thousand dollar homestead exemption, you are actually giving that person a thirty thousand dollar house, a thirty thousand dollar homestead exemption.

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, I rise in support of the Rayburn amendment, and not only is it my support, but I'm authorized to say that it's the support of the Louisiana Assessors' Association. I have polled each assessor present for the last two days and have asked them to contact any of their fellow assessors that they could contact, and with the exception of Mr. Chehardy, they have authorized me to, in fact, support this amendment. Let me try to explain some of the specific reasons why we are going to this amendment. You've heard me say from the first time I've mentioned homestead exemption to you that the only real meaningful homestead exemption is the one that will be reimbursed by the state to the local taxing authorities. I have been assured that this homestead exemption can be reimbursed, that the local taxing bodies will not lose any revenues--I say, "Will not lose any revenues." With this authority to the legislature to increase it, should the reevaluation do violence to the homeowner and they can then find the funds to in fact reimburse these local taxing authorities, then in their wisdom they could--if they saw that it was necessary to alleviate some real problem--they could in fact increase the homestead exemption to as much as five thousand dollars. We endorse this concept. I'd like to further explain something that Mr. Winchester brought to my attention. I believe that there are some of the delegates confused as to what happens to revenue sharing today. Let me clear that point that revenue sharing, based on the act that created it, in the parishes where there's enough money sent down to the sheriff based on the formula that first--that first--he takes those monies that are to be reimbursed to the taxing authorities through the Homestead Exemption Act and distributes those monies to these tax recipients. They, in fact, get the dollars in their treasuries; then any monies over and above that goes to whatever formula the

local representative and the local governing body decides to, and how they decide to distribute it. But, first, the local...the first monies that are distributed by the sheriff, and it does in fact reimburse our homestead exemption program now, in all but about three parishes--in all but about three parishes. I wanted to make that point very clear, and I hope that you support this amendment. Thank you.

Questions

Mr. Fulco Mr. Mire, with the lower percentage, what effect will this have on the taxes to be paid by the veterans...

Mr. Mire By who, sir?

Mr. Fulco By the veterans, under the five thousand dollar homestead exemption, how will this affect them? Will it increase their taxes, or lower it?

Mr. Mire I don't believe it will increase it on the veterans.

Mr. Fulco Well, under the present percentage that we have and with the five thousand dollar homestead exemption that they do now enjoy and if we lower the percentage from what it is today, wouldn't that prove that they would have to pay... it would cost them more in taxes?

Mr. Mire Well, you must look at the whole picture, Mr. Fulco, and there are a lot of the properties that aren't assessed, maybe, at that higher percentage. Once you reevaluate all the properties at fair market value, there's going to be a shift of the taxes to a point, no matter what, and the millage is going to either go up or go down. So, to answer your question definitively, you just can't, except looking at one parish and seeing how it comes out in that parish. Thank you, Mr. Chairman.

Further Discussion

Mr. Stagg Mr. Chairman and fellow delegates, like other speakers, and particularly Mr. Fontenot, who preceded me, I came here prepared to support the two thousand dollar homestead exemption because of the peculiarities of the taxes as assessed in the district where I live. Quite unlike Mr. Chehardy, whose tax base in Jefferson Parish is the cause for much of the turmoil in this convention, the taxpayers of Caddo Parish are fixing their taxes based on a twenty-five percent of value for residences and thirty percent of value for all other properties. There are some older properties that are in need of reassessment, but in the main, that is the basis for assessment in Caddo Parish. We have a six hundred million dollar tax base in our parish, based on those percentages of value. This convention in its previous vote on this section saw fit to fix the percentages for residences at ten percent and for other purposes at fifteen percent, which you can clearly see lowers the tax base of Caddo Parish quite substantially. We have in the parishwide taxes only thirty-two and a half mills. In the city taxes, we only have twenty and three-quarters mills, but it produces the taxes that keep Caddo Parish a nice place to live. It keeps our school system well supplied with what it needs, and not too much of the cane that is being raised in these other parishes has been raised in Shreveport about the level of a man's taxes on his house. I can see with a ten percent and fifteen percent base, and with a three thousand dollar homestead exemption, the first problem is going to show up in the Caddo Parish School Board. The Caddo Parish School Board right now has fifteen million dollars of income from ad valorem taxes. Three million of that money comes from the old property tax relief fund or revenue sharing, as we do it today. As you do what you are doing in this convention to reduce the basis of the valuations of the properties, and to fifty percent increase the level of

the homestead exemption, I'm worried about the income of the Caddo Parish School Board, and where shall the monies come from. I'm assured that there will be revenue sharing increases later to come in this meeting. We have heard when Mr. Prescott was at this microphone yesterday that this has been assured to the School Boards Association, but I think the record ought to be clear that when you vote for a three thousand dollar homestead exemption, based on the valuation levels of ten and fifteen percent, that you're locking into the state legislature a need to come up with a larger block of revenue sharing funds because the eighty million dollars being talked about is not going to cut it. I will probably vote for Mr. Rayburn's amendment, because so far as I have seen, it is the best compromise that I have heard of, and I was tickled pink to hear Mr. Mire say that all of the assessors support it, save and except Mr. Chehardy.

Further Discussion

Mr. Abraham Mr. Chairman, fellow delegates, we've had this proposal hanging over our heads since last week. This week we've done nothing but mill around in a state of confusion trying to decide what we want to do and how we could get together. Now, I'm in favor of homestead exemption. The only question I ask is: why are...do we feel in this convention that we must raise the amount of the homestead exemption? I agree with Mr. Rayburn; if it takes a compromise such as this, I will go along with it; I will vote for it, but I still ask why we need to raise it from two thousand to three thousand. I have not had one single soul from my parish speak to me since last January on the need for this convention to raise the amount of homestead exemption. I think we do a pretty good job in our parish of assessing our property. I think we do it on a fairly equitable basis. Everyone seems to be satisfied with it. I have had no complaints with it, and I can't understand for the life of me, as to why we have to sit here and argue and argue and argue over the amount of homestead exemption that we are going to grant. When I say I agree, I will vote for this amendment. I have one other question, and that is, "Why are we going to put a provision in here that the legislature may change this?" Our present provision now requires a constitutional amendment, and I think that we should retain this restriction, and I have an amendment coming in later which will delete the provision for the legislature to change it. People are worried about how much this was going to increase their taxes. Well, we have Section 5 in this proposal in which we're going to provide for an automatic rollback in taxes if there is any increase. So, I don't think that there is any danger. I have not had a veteran approach me to say that "I want to continue the five year...the five thousand dollar exemption." Every veteran that I know of has gotten this on the basis that it is for five years. That was the original intent of the thing to begin with; it's been renewed on a five year basis ever since, but I don't see any need why we have to continue to perpetuate this five thousand dollar exemption for veterans from now on out. A favorite expression of mine is "to do something, even if it's wrong." Well, I think it's time we did something with this proposal. I think it's time that we moved on it one way or the other. Let's at least adopt this amendment, and then if we don't like certain provisions of it, let's change it. I, too, want to compliment Senator Rayburn for coming up with something to try to get us off base, and for God's sake, I think that's what we ought to do; let's get off base; let's move with this thing, one way or the other. Thank you.

Further Discussion

Mr. Willis Mr. Chairman and fellow delegates, I feel that in the eager anxiety to resolve our question, you will lend me efficient hearing. The question we are about to decide cannot be of more

importance to us than to every man and woman in the state. I rejoice in the privilege of engaging in its discussion before this august body, which possesses the ability to discern, and the courage to decide and declare, and I make bold to say that the confection of this constitution is in good hands. I will not intone a prose argument or use words of regal coinage in argument. I intend to use a familiar advertising phrase, "To get down to basics," but, first, let me say that none of us are here from natural right. We are fallible, and notwithstanding, we were chosen to execute the highest trust. There is no degree in fact or honesty; either it is one hundred percent, or not at all; an honest fact is that. Taxes are the lifeblood of government, and what we pay for a civilized society. They are never voluntary; they are exacted, and come from various forms and various sources and resources. To be civilized, taxes must be well organized and properly proportioned among our people with respect to their property. Property follows persons, or their government. You have but to recall our history to realize that, if we allow government to own all property by way of an unbridled power to tax, we are no longer a republic, trite to say. If we allow this, or close to this, we need be thrown in an ocean without shore or bottom. When it comes to a man's home, government should be bridled and harnessed to a full load of all responsibility. Take heed not to depreciate the dignity of the home. Be it ever so humble, there is no place like home, where all men come at dusk to rest in his safest refuge, and to plagiarize another song, if you do depreciate the dignity of the home, "your cheating heart will tell on you." The exaction of a higher tax from a homeowner than is absolutely necessary for the economical and efficient administration of good government, and which may cause the loss of the home, is the most effective tool of the taking by government of the crucible and last bastion of the best society--the family. Disband or displace that nucleus of society by depriving it of a home, and you implant disorder therein, and in our entire society. We should be bound by the inescapable logic; otherwise, we use an umbrella in a fog or a mist. History instructs us that rulers never shrink to govern. A constitution is mankind's censure against government, solely from the fear of being badly governed. If a man's home is truly his castle, we must not allow it to be constantly bombarded with excessive taxes. Excessive bombardment must eventually destroy. In government, as in music, to create harmony we must avoid discord. I hold that the dignity of owning or the opportunity to own a home is as upgrading a right as any set out in our Bill of Rights. It is part and parcel of the greatest urge to man, self-preservation, because it is the shelter, not only of himself, but of his loved ones. Think never of taking it from him by tax. I want a man to be as secure in his home, from taxes, as he is entitled to protect it with his arms. Then, we would insure the domestic tranquility we set out in our preamble. To tax and to please is no more possible than to expect love from hate. Yet, every citizen should...no citizen should escape the payment of his just share. The home, however, should not be put between the taxpayer and the treasury; it should be side by side with the taxpayer and held in the highest regard. I note that the criticism of the committee proposal comes easier than craftsmanship. Criticism without a remedy, or which does not yield to reality, is empty. There is a harmless middle, between the points or horns of a dilemma, and I find that point in the committee proposal. The learned delegates who have argued to sustain...

Mr. Henry You have exceeded your time.

Further Discussion

Mr. Burson Mr. Chairman, fellow delegates, I'm going to vote for this amendment for one reason only, because it sets the homestead exemption at three thousand dollars, and realistically, I don't

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think that this convention will leave it at two. But, I am not, by that vote, nearly conceding the fact that I want the thirty thousand dollar homestead exemption, or will vote for one, or will support any document that has it in there. I feel that a local option is the only answer on this property tax question, because all parishes have homes, but not everyone has the industry that everybody's been talking about passing the taxes onto. Philosophically and practically, it simply is not right in my view to impose upon the people that I'm here to represent, a situation where, at the present time, about fifty percent of the people are contributing toward support of their local public institutions, but under this ten and three thousand dollar homestead exemption, less than ten percent will be contributing to the support of their public institutions. To shift from wage earners, who in many cases make more money, the obligation for paying for their local public services, to small businessmen and farmers is not property tax reform in my view; it's substituting a worse inequity than we have ever had. Now, you've got to understand, to understand why I take this position, that in my parish, a ninety-five hundred dollar home on down is exempt. But, on a home that I purchased for thirteen thousand five hundred dollars in 1967, which may be, on the market at the present time, worth sixteen thousand in Eunice, I pay fifty-six dollars a year to my parish to support public schools, the hospital district, the health unit, and the parish in general. On a twenty-five and one-quarter mill basis, the city we pay fourteen and a half mills. That's because we've been assessing it about twenty percent on current transactions. Well, you say, reappraise. If you reappraise the only thing in the world you are going to do is change a home that may be assessed at five thousand now to twenty thousand. If you've got a thirty thousand dollar homestead exemption, you haven't helped the situation a bit because it's still exempt. Now, I have no quarrel with the people from Jefferson and St. Bernard who've got a problem on the opposite extreme. I don't want to do anything that would hurt them. I'm saying that the only thing that you can do that won't hurt either them or me is to leave it to local option. There is no statewide solution to this problem. Well, you say, "It's going to be unconstitutional if you allow local option on the rate." Why? Property tax is the product of three items; the value of the property times the rate of assessment times the millage, and nobody argues with the fact that you can change the millage, that one area can have a higher millage than another. So, if you can change one variable in that equation, the only question I have to ask is, why can't you change another variable, the rate, because the tax, the end product, is changed if you change any one of the three items. Can you see that? It seems to me it's obvious. Mr. Denny, when he asked the question yesterday, opened my eyes to that fact, and I don't see how anyone can seriously quarrel with that simple proposition. I ask you again to think when we continue to consider this question, whether or not you want to impose upon people such as those I represent, a tremendous upheaval in the social, economic and educational structure just to impose a statewide solution, if you'll call it that, to the property tax question when the people in the area have never asked for it. I haven't had the first person ask for any change in our tax structure in the two parishes I represent.

Further Discussion

Mr. Landrum Mr. Chairman and fellow delegates, I rise to oppose this amendment because I do believe it is too much, considering the fact that we have a ten percent...we're working on a ten percent assessment. With a three thousand dollar millage... I mean a three thousand dollar exemption, it is put in a home thirty thousand dollar free of taxation. I don't believe that the idea of exemption was brought about to give to those who can afford

to pay taxes on their homes, to free them of taxation. I believe it was designed to help those who could not pay. A thirty thousand dollar home, you should be able to pay on a thirty thousand dollar home, and for that reason I think that we should not accept this amendment. I have one calling for a twenty-five hundred dollars, and a three thousand dollars for veterans and for those sixty-five or older. If this amendment is accepted by the convention, if the Rayburn amendment is accepted by the convention, then I will withdraw mine altogether to keep from going over all this again, but I do believe, with that ten percent it makes a great deal of difference. I'm, also, looking at that five year period, when the reevaluation period starts coming about again, that second time around. The first time I believe you would have a great change in the income from that taxation, but that second time it will not be as great. We will be reappraising homes that have not been changed for the last seventy-five or a hundred years. But, the next time when that home comes up again, which would only be five years, it would not be as great. For that reason, I oppose this amendment.

Further Discussion

Mr. Flory Mr. Chairman and delegates to the convention, I rise in opposition to the amendment. I do so for one specific purpose, and that is to get squarely on the record in support of the homeowners of this state. I'm not trying to impose my views upon you. But, as I said, I want to be foursquare on the record, in bold print, of giving to the homeowners of this state an adequate homestead exemption in the constitution of this state. If you go back to the time that the present two thousand dollars was put into the constitution, in the homestead exemption, it covered the total value of the home that it was to exempt. Here we propose, some forty years later, to raise that by fifty percent in this amendment. Who is here to argue that the value of the property of this state has not raised more than fifty percent within the last forty years? I would not agree to that. I remember in the early fifties when Frank Fulco as the coauthor of the constitutional amendment that was to raise the veterans' homestead exemption to five thousand dollars, and the hue and cry in the legislature at that time was, "You're going to bankrupt local government if we go to a five thousand dollar homestead exemption for the veteran." Well, you and I know that that did not happen. It had no appreciable effect upon the tax base in this state whatsoever. But, what do you do to the veterans in this amendment? You do nothing whatsoever for the veterans in this amendment, except that if you go by the law and assess his property at fair market value today, that has been raised in value thirty or forty percent in the last five or six years, he's still got the same five thousand dollar exemption that he had ten to fifteen years ago; you're doubling his rate of taxation as a veteran of this state. It's been stated from this microphone that not one of his constituents asked him to raise the homestead exemption, but I suggest to you that I represent several thousand members in his district, and when he finds... those people in his district find out he's raised the value of that property to the actual cash value and applied a three thousand dollar homestead exemption, I suggest to you he'll hear plenty from those taxpayers at that time, but the problem is that it will be too late at that time. Now, what are we talking about in this amendment?

I could understand granting to a homestead with a hundred and sixty acres a homestead exemption, whatever the value might be for rural property used for agricultural purposes, or as a homestead, timberlands, but when you tell me that we're going to correct the problems in this state with a new constitution, that we're going to let this amendment apply to a hundred and sixty acres of urban property, I can't buy that. You can't buy agricultural land in this state for five hundred dollars an acre, let alone urban property, and yet as

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a homestead, we're talking about land value alone of eighty thousand dollars. I know property in this city on the assessment rolls for fifty dollars an acre. Right next to it, from the same property, the same tract of land that was sold, the cheapest lot sold was eighteen thousand dollars, a hundred by two hundred feet. We're going to exempt that property.

I cannot support this amendment in no way, as it being of value to the present homeowners of this state.

Further Discussion

Mr. Nunez Mr. Chairman and fellow delegates, about a week ago I decided to...about eight years ago I got involved in the property tax problems mainly because there were many legislators from this state that had been trying to do exactly what the federal court did...or whatever court that judged the Levy--Parker decision and crushed the property tax relief fund...there were a number of legislators from Caddo, from Baton Rouge, from Orleans, and from various other places that had low millage or high millage and low assessment, they'd been trying to change it for years. I believe the old property tax relief fund was the best solution to the property tax problems of this state, with some modifications, that we could've ever had, or had in the past. I think it was an evolutionary process of the law that worked well, and if we wouldn't have tried to revolutionize it, we wouldn't be in the situation we are today, but we are in this situation. When I don't know enough about a subject I usually sit down and not try to get up here and tell you something about it if I don't think I know as much as you do. But, I think so much misinformation has been given over this microphone and to this convention, from my point of view, that I will attempt at this time to try to straighten out what I think is some inequities. Inequity Number 1, is that I can't understand, I can't understand how, how we can, the assessors of this state, adopt a plan of ten thousand dollar homestead exemptions at ten percent, exempting a hundred thousand dollar home, and bring it to the committee that I was on, and then at this particular date, we are down to the same ten percent if we're now at three thousand dollars, or thirty thousand dollar home exemptions. I can't understand the logic behind that, and I don't think...I think there's no reasoning or there's no facts behind it, which leads me to fact Number 2. What are the facts? I tried with the Tax Commission and every group of this state to get what the parishes of this state assess their property at. There is none; you can't find it. I'm not up here condemning the practice, because I think the practice worked well. It worked by people who are elected, serving their constituents, and working together with the governing authority on the millage, the assessment, and the ad valorem taxes. I think it worked well. Now, it isn't working well today, and it won't work well. So many people get up here and say they've never been asked to...raise the homestead exemption; well, certainly you haven't been asked. You haven't been asked because they've never been assessed at ten percent before, but when they get assessed at ten percent, and that thirty thousand dollar home or twenty thousand dollar home is going to go on the rolls for that figure, you're going to be asked; you're going to be asked, so shouldn't we anticipate the moves of these people we represent and don't wait until something's done here that's going to be too late to correct, and I think it will be too late to correct. If you want to know about the property tax relief fund, there is no more property tax relief fund. There is just no more property tax relief fund. Revenue sharing has replaced it. It has no semblance, no facsimile, of property tax relief fund, no where in no shape and no form. The first revenue sharing program we had was divided on fifty-fifty, fifty percent of homestead exemptions and fifty percent of population, and I might add sixty-one out of the sixty-four

parishes gained. I started to pass the history of what had happened in the past two years in this state out to you, but I thought it would cost a little too much money to print it all. I wish I would have; I think the cost might have enlightened some of us here today, but if you look at what the parishes are sharing, some of them have gotten from zero or minus a million...minus six million...or four and a half million that Jefferson got, minus a million that I got in St. Bernard, minus seven hundred thousand that St. Tammany got to the thirteen million that Orleans got, thirteen million. I want to just say a few more remarks.

Mr. Henry Quickly, please.

Mr. Nunez Values in my parish have gone up in the past ten years, and it was brought to my attention by one of the news media here, that friend has just bought a house. Some doubled, doubled by way of the homestead exemption, if the assessors have to do their job, and that's assessed at actual cash value. I don't think three thousand dollars is enough at this time, gentlemen and ladies, I just don't believe it is. I just went to my assessor's office and spent one week, and if he assessed the homes at what they're worth--my home has doubled in twelve years, it's doubled in value--so if he assessed me, he'd double...he'd triple the taxes of some of those people. I think we'd better anticipate what we are doing before we look down the road a minute...

Further Discussion

Mr. Gauthier Mr. Chairman, and delegates to the convention, I rise very briefly to state that I am in favor of this amendment. We've heard a few speakers up here say that to tell the homeowner we are only giving him a three thousand dollar exemption is a mockery. I say to you to tell people that they can have a free ride is a mockery. It's time we stopped kidding the general public--it's time we stopped kidding people--it's time we tell them what they are going to pay and let everyone pay his fair share. No one complains about paying a fair share. Everyone says, "I agree. I will pay. I want to pay my fair share." I say to you that this amendment is a good amendment. It's a compromise. There is only one improvement I would like to see made. Let's change the majority to two-thirds. Why? If we don't, this battle will be fought many times again in the future. By making it a two-thirds vote, we will, perhaps, be saving this state a lot of money in time spent needlessly in the legislature.

My good friend, Burt Willis, so eloquently described a home. Even though I agree with a lot of what Mr. Willis said, my appreciation of ad valorem taxes is that a man pays what he can afford to pay, and according to the services he receives. Now how do you get this conclusion? How do you determine what a man can and should pay? It is a very difficult thing to do. I suggest to you that there is only one scale that you can use, and that is the home. I say to you that this is a good amendment, and I hope that you support it.

Thank you, Mr. Chairman.

Further Discussion

Mr. Velazquez Mr. Chairman, fellow delegates, I want to rise to support the individual homeowner as the bulwark of the American system. I want to see every worker in the State of Louisiana become a homeowner because I want to see him become a more responsible citizen.

At the same time, I want to see more than a two thousand dollar exemption for every citizen. I don't want to be blamed for destroying the school system of the city of New Orleans. Young people need more education, not less. Education is getting more expensive. It's getting expensive at a rate greater than the rise in the tax rates. Yet people are seeming...are now seeming to be afraid to vote for new school measures. I'm not going to ask you to vote any particular way on this amendment

because you've got to let your conscience be your guide. I'm just going to tell you where I stand.

I cannot in good conscience support a four thousand dollar homestead exemption. But the people need more than two thousand dollars. I'm going to introduce a short-circuit amendment a little later on to prevent any homeowner from losing his home due to excessive taxation. I want to pay my fair share. But I don't want to see anybody lose his home.

In closing, I just want to salute Mr. Lawrence Chehardy of Jefferson for the long fight he's made on behalf of the taxpayer. No matter what happens on this vote, the citizens of Louisiana must know that the reason that the taxes haven't been raised any higher, that this state hasn't gone hog-wild on the tax situation, is because of Lawrence Chehardy.

Thank you.

Questions

Mr. Winchester Mr. Velazquez, did you know that the homestead exemption was started a number of years ago and then, after that, a tax was put on the people to take care of the homestead exemption? Today, this money that goes into that fund is over a hundred and sixty-two million dollars. Mr. Velazquez, did you know that when the homestead first started, for a number of years, it was only a thousand dollars? Then it went up a little bit more, then it finally, after a number of years, got the full two thousand dollars. Mr. Velazquez, do you know that for someone to say that we are getting a "free ride" is certainly not correct? The people are paying for whatever we receive or they receive back in homestead exemption. I don't care how you cut it, they are paying that money. If they don't get it back, the state will use and use more and more of the hundred and sixty-two million dollars.

Thank you.

Mr. Velazquez Thank you, Mr. Winchester.

Mr. Winchester, all I can say is I don't want a free ride. Nobody I know wants a free ride. We just don't want to see anybody lose their homes. I'm not going to try to tell you how to vote on this thing because you've got to make up your own mind.

Mr. Winchester Thank you, sir.

Mr. Velazquez I just want to say that homestead exemption is a fine thing. But we have a lot of problems here in Louisiana only money can solve.

Further Discussion

Mr. Alario Mr. Chairman, fellow delegates, it certainly should be no surprise to you that I am opposed to reducing the amount of the present proposal...calls for homestead exemption. Mr. Abraham asked, "Why are we raising it?" Why are we raising it from two thousand to four or five thousand? I'll tell you why and just what our thinking was behind that concept...is never before...never before has property been reappraised in this state. When you bought a home, it was put on the rolls at whatever percentage was in effect at the time and it stayed there. It stayed at that price until it was...sold and then put on at the percentage of that price.

Now we wonder what's going to happen with reappraisal coming along. What is a two thousand dollar homestead exemption going to be worth as compared to years ago? It's going to be worth almost nothing to the homeowner. Nothing at all. If you think I'm just talking in the wind, just look around the community you live in and how much property values have increased over the number of years. I can tell you in the parish I live in a home...a twenty thousand dollar home is certainly increased to thirty or forty thousand dollars in value. Now what does the two thousand dollar mean to that homeowner now? We go and reappraise it. Homes that have been on the books for thirty years

at a low assessment rate, and that's paying low taxes, are now going to be reassessed and have to pick up additional taxes. Whose taxes and whose burden is he going to pick up now? He's going to pick up the taxes that are presently being paid by industry. They are going to divide it up amongst all the homeowners in that parish. Nobody cries about poor little industry getting a reduction in taxes. No, we only worry about the homeowner not having to pay any. I don't think that's the problem whatsoever. You take a twenty thousand dollar home now is a lot of money, or a thirty thousand dollar home, just think about the cost of living, how much it's risen. Just a month ago I went to a function at the social club I belong to, and they had a potluck supper, they call it. Everybody brings a little dish and you socialize, and everybody drinks and has a good time. Just last year, one year ago, that same potluck supper, people brought hams and turkeys and roast beef, all kind of meats. You know what was at this gathering? In the middle income people...everybody brought salads because that's all they could afford. We had green salad, we had all kind of salads there because that's what they could afford...no longer meat to bring to a potluck supper. Just the price has gone up that much over the year. Ask the wage earners in your district that you represent how much he's able to save from his paycheck now with the high cost of food going up so much. Ask the young people now who go to buy a home and they can't buy it because interest rates are so high. He has to pay so much for that lumber and that labor that goes into it. We cry about "Oh, we're going to give a break to the homeowner." I suggest to you that if we leave the homestead too low, we're going to be giving the break to industry. That's not what we're here to protect. We're here to protect those individuals back home who have to pick up the burden in this state. Don't think they haven't been paying it.

Where does the original homestead exemption fund come from? The property tax relief fund. Those people voted to have an income tax put on them so that they could be reimbursed for homestead losses. They voted to have alcoholic beverage taxes and public utility taxes put on them. Now all these monies are taken away from them. Where is it going now? The same money that was used to protect these homes is being used in other areas. You are taking it away slowly, but surely, to say that "Well, now a thirty thousand dollar home is a big home and a rich man." I suggest to you he is not a rich man. He's trying to struggle to get by to make a living for himself and his family...to send his children to school so that he might have greater opportunities...

Further Discussion

Mr. Stovall Mr. Chairman, I want to make one brief statement. We've heard it said that a man's home is his castle. I suggest that life is found not simply in a home but in community, in the situation where we have adequate schools and services. It seems to me that this amendment will provide adequate schools and services as well as protect the homeowner. With that brief statement, I move the previous question.

Mr. Henry There are no other speakers on the list. Is there any objection to the previous question? Without objection, the previous question is ordered.

Senator Rayburn, if you could squeeze in a moment or two to yield to Mr. Burns on your closing, I... cause I slipped up, and I apologize to you for it, Mr. Burns.

[Previous question ordered.]

Further Discussion

Mr. Burns Mr. Chairman, I don't want to take up any more time of this convention. If you recall, I asked you to let me be the last speaker inasmuch as I was the original author with Senator Rayburn when this same idea came to us late yesterday afternoon, that it would possibly be an acceptable compromise.

So, with that statement, I yield to Mr...

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Mr. Henry Thanks, and I apologize for messing up a bit.

Closing

Mr. Rayburn Mr. Chairman and fellow delegates, I'm not going to take but just a moment. I'm sure I cannot convince anyone. I sincerely believe that this is a good compromise. I spent considerable time talking to the people who did not like the three thousand figure...who maybe wanted a four...some a five, and some even higher. I've talked to many delegates that wanted to leave it at two. I believe this is a figure that we can all live with. I would be the last person in this state that would stand before you and knowingly ask you to do something that would hurt my schools. I have always voted to further the cause of education, and to the best of my knowledge, I will continue to do that. I think this will give the people of this state some relief. Maybe it won't satisfy all of them. In my opinion, we'll never be able to draft something that will satisfy everybody. But somewhere down the line, you've got to give and take a little. That's what I believe this amendment is doing. I want to say this because Mr. Flory has questioned the language in this amendment, as far as rural or urban property, I tracked that language from the 1921 Constitution. That particular language is in the 1921 Constitution, and that's where I got it from. We are certainly not giving any special benefits or any extra benefits, or adding any more benefits by this language than has been in order in this state since 1921. That's where I got that language, it is in the present Constitution. I just wanted to clear that point up. I now move the adoption of the amendment, Mr. Chairman.

[Reference to Order: Amendments adopted: 7-... Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Stagg]. On page 2, between lines 7 and 8, in floor Amendment No. 2 proposed by Delegate Rayburn, just adopted, on the last line, immediately after the numbers 9 (C), and before the word "shall", insert the words "of the 1921 Constitution." That's on the last line of the language added by that amendment...by the Rayburn amendment.

Explanation

Mr. Stagg Mr. Chairman, fellow delegates, this is a simple technical amendment which would cause the last part of the paragraph of the Rayburn amendment to read that the...until that date, "the homestead exemption provided by Article X, Section 4, Paragraphs 9 through 9 (C), of the 1921 Constitution shall be applicable." It merely inserts a reference to what Article X we are talking about. It's a technical amendment, I move its adoption. I hope there are no objections.

[Amendment adopted without objection.]

Amendment

Mr. Poynter The next amendment, which is also being passed out at the present time, sent up by Delegate Roemer, as follows: it's by Roemer, Velazquez, Champagne, Conroy, and others.

Amendment No. 1. On page 2, between lines 7 and 8, in Floor Amendment No. 2, proposed by Delegate Rayburn and adopted by the convention on October 18, on line 11 of the text of the amendment, after the words "vote of", and before the words "of the", strike out the words "a majority" and insert in lieu thereof "two-thirds".

Explanation

Mr. Roemer Mr. Chairman and fellow delegates, sorry for the few seconds delay. I was talking to some of my home rule people back home.

This amendment changes only one thing in the Rayburn proposal that we just passed. That is the

provision is to the majority vote of the legislature is changed to a two-thirds. The reason I'm trying to propose this is to keep in line with our other tax proposals on the super majority needed to pass it by the legislature. On tax issues, our committee has taken the stand that they require two-thirds vote. I support that. The reason being is that tax issues are so vital and so important that we should neither give exemptions nor take them away without a clear...clear mandate from all sections of the state. I'm afraid that with a simple majority, we might get a semi-mandate... a quasi mandate, or pseudo mandate, and do something that would harm a large portion of this state. All my amendment is trying to do with the two-thirds provision is give us the insurance that we need that if we need to raise this homestead exemption, then we can do so. If we don't need it, then we won't raise it. That's all I'm trying to do.

I will yield to questions.

Questions

Mr. Stinson Mr. Roemer, is this the amendment that was just passed?

Mr. Roemer Yes.

Mr. Stinson I believe you'd better change it to the nineteenth instead of the eighteenth hadn't you...technical. Yours says October 18th...is passed. Today is the nineteenth.

Mr. Roemer Thank you. I didn't type that, but thank you.

Mr. Henry We'll make that change if there's no objection.

Mr. Arnette Mr. Roemer, do you see any reason, or can you explain to me why the legislature needs the power to change the homestead exemption?

Mr. Roemer Well, because we just granted them that power in the previous amendment, Greg.

Mr. Arnette Well, I realize that, but they haven't ever had it in the whole history of Louisiana. Why do they need the power now?

Mr. Roemer I understand that, but it's the clear, overwhelming opinion of this convention that the "Sixty" Rayburn amendment was in our best interest to give them that right. So, I'm not going to argue that right anymore. What I'm arguing is, is it fine? They have the right, but let's make sure it's a clear mandate of nearly all the people.

Mr. Arnette O.K. Another question.

Mr. Roemer Did you understand my answer? I mean, I'm not trying to beat that thing. We've already passed it. They have the right, Greg. I'm just trying to assure that it be...

Mr. Arnette Well, I think a lot of people voted for that particular thing just because it had three thousand in there. Not because it had this provision about the legislature raising it.

Mr. Roemer I understand, and if you...

Mr. Arnette I know a lot of people that don't like that provision that voted for the amendment.

Mr. Roemer I understand.

Further Discussion

Mr. Alario Mr. Chairman and fellow delegates, I stand to oppose the Roemer and others' amendment and oppose any change now in the amendment that was offered by Senator Rayburn. That, supposedly was the compromise. Now, we begin to whittle away at that compromise. Why...why not let the legis-

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ature with a majority decide that if the economic condition change in the years to come, that by a majority vote they could protect their people back home. Why, why keep tying the hands of the home owner. This amendment is designed to make sure that never, ever can the legislature ever raise it. That's what's going to happen.

You take certain areas of this state who ban together, two-thirds is easy to get. It won't be very difficult. Their economic condition may not have changed, what about the others? Oh, you heard we mention that the people of this state have paid to reimburse themselves for the homestead exemption for those three taxes, the income tax, the alcohol beverage tax, and the public utilities tax which now exceed two hundred million dollars, what are we guaranteeing back to them out of that amount of money, now eighty million... eighty million... less than half... less than half the tax they paid to reimburse for the loss in homestead exemption. Now we are even looking at tying their hands even further.

I ask that you leave the Senator Rayburn amendment just as it was, and let's give the legislature that latitude. If they see it in the future, they will be able to change it. I don't think it's that easy to get any tax exemptions for little people in this state through that legislature. For two years, now, I've offered a bill in the legislature that would have cost the revenues of the state some one point four million dollars. All it simply did was say that you would not... the state will no longer charge a sales tax on prescription drugs and medicine. I haven't had any success with that... I haven't had any success at all with that... why the state has to continue to tax those who are sick and elderly, I'll never know, but I haven't had any success with that.

Just in the last session of the legislature there was a bill that would exempt industry again from the sales tax on pollution control devices. It was going along fine. Came through the committee with almost no objection, came to the House floor. I tacked on the simple amendment to it, that would say if we are going to give the exemption to industry, which would have cost 2.6 million dollars, then we ought to do something for all the citizens of this state, too. I said, then, let's exempt prescription drugs and medicine which is only half of that cost. It amounted to 1.4 million dollars, well, through some mix-up, that amendment passed, and the bill left the House. The powers to be put the brakes on that bill so fast you can still see the skid marks from the House to the Senate because they didn't want to give the break to the little man. But as long as it was going to the industries of this state, oh... everything was fine and good... 2.6 million dollar exemption again for industry was going along fine. But you tack on a 1.4 million dollars to give relief to the sick and the elderly of this state... "Oh, we can't do that. You're going to break the state." But, yet twice as much exemption for the big boy was alright.

Further Discussion

Mr. Avant: Mr. Chairman, fellow delegates, I'm going to be short and to the point.

Fourteen men can stop any adjustment in this homestead exemption if you adopt this amendment. Fourteen Senators, regardless of what the vast majority of both the House and the Senate may feel is necessary, and absolutely possibly mandatory under the circumstances... fourteen men. I don't think that you want to adopt this amendment.

Further Discussion

Mr. Conroy: I rise in support of this amendment. It was discussed in the debate on the Rayburn amendment itself. I think it was mentioned by several people who came up here that they overall supported the Rayburn approach but felt that this two-thirds was necessary to line it up with the committee's idea that granting here an exemption always shifts the burden of the tax so that you

are, in effect, dropping it off of some people when you shift it off of one other people. Now, with that concept, to be consistent with our spirit here, we felt that the two-thirds was equitable and appropriate here and we give your support.

Questions

Mr. Winchester: Mr. Conroy, I was about to put up an eighty million dollar plant in... (unclear)

Mr. Conroy: Good.

Mr. Winchester: How do I go about getting a ten-year exemption?

Mr. Conroy: Right now?

Mr. Winchester: Yes, sir.

Mr. Conroy: You apply through the State Board of Commerce and Industry.

Mr. Winchester: How many members are on that state board?

Mr. Conroy: I have no idea.

Mr. Winchester: Then, what does it take, just a majority of those members to give me an eighty-million dollar exemption? Is that correct?

Mr. Conroy: I really don't know. You may be right. I haven't ever appeared before that body.

Mr. Winchester: Thank you, sir.

Mr. Champagne: Mr. Conroy, don't you consider it a useless question when people keep asking about the homestead exemption that voted to leave it in the constitution?

Mr. Conroy: I haven't thought...

Mr. Champagne: Why I ask about it, when they voted to leave it in... you know? The next question is do you find it kind of odd that all people now speaking for the Rayburn amendment were against it a few minutes ago?

Mr. Conroy: No comment.

Further Discussion

Mr. De Blioux: Mr. Chairman, and ladies and gentlemen, I rise in support of this amendment. I happen to be a member of the legislature. I know how easy it is to get matters through that legislature when it's offered to give somebody some relief... tax relief particularly. Those are popular issues. Sometimes, though, maybe we should not vote those exemptions. I feel like that with this restraint on there requiring two-thirds, or whatever we do go through and give an exemption to someone where it passes with two-thirds vote, that it's been properly thought out and properly advanced, and it's just not a vote getting gimmick because you could take this in an election year, it would be a very popular issue to grant and campaign upon the idea you are going to vote to increase the homestead exemption.

I certainly ask you to support this as a proper restraint because we are putting a lot of other things in this constitution that's going to make it easier for the legislature to operate. I think it should be. So let's don't grant too much tax relief all at one time. I just think this is a proper restraint to exercise to be sure that when we grant an additional exemption that it's properly thought-out and that we know how it's going to affect the revenues of the local subdivisions particularly, and the state at large if we have to reimburse the local governing bodies the amount they are going to lose, because revenue sharing, or however, they're going to have to make it up

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some way. When you get the pressure of your local government, it doesn't make any difference to them so long as it's paid out of the state treasury. It will become an easy matter to get through on just a clear majority, in my opinion.

So I ask you to support the amendment.

Questions

Mr. Roy Senator, are you going to require that it also takes a two-thirds vote to roll it back? Or will the legislature be able to do it by a simple majority vote, then?

Mr. De Blieux Well, that depends upon the way it's worded.

Mr. Roy What does it say?

Mr. De Blieux It's worded with two-thirds to increase it, it should be worded with two-thirds to decrease it, it doesn't say, and I think it ought to be a proper resolution...a proper way, that if we decrease it, it ought to take a two-thirds vote as much as the increase.

Mr. Roy But it doesn't say that...it doesn't say that, though, does it? It doesn't say that, does it?

Mr. De Blieux That's the way I read it, Mr. Roy. Maybe I misread it, but then if you can interpret it different from that, the only thing we replaced is not the words...not the changing... but the amount of the vote that it takes to change it from the majority to two-thirds. You think we'd write an amendment that it could be decreased by a majority vote...the Roemer amendment says it can be decreased only by a two-thirds vote. That is the way I read it. Now if you can read anything different, I'd like for you to explain it to me.

Mr. Roy Do you think that those folks from the Crescent City are going to agree after all...the little trouble....

Mr. Henry All right, now, Mr. Roy, come on. Come on, be nice.

Mr. Roy If one-third of the Senate, fourteen people can defeat any roll up, or any granting of an extension of five thousand dollars with the trouble we've had here to get three thousand, how in the world do you think the people of Louisiana are ever going to get that thing in if it's... even if it's required and needed?

Mr. De Blieux Mr. Roy, I know that it takes two-thirds vote to pass any constitutional amendment. We haven't had too much difficulty when one was desirable...to obtain a two-thirds vote.

Mr. Nunez Senator, it's been said that it takes fourteen votes to kill any meaningful extension of the homestead exemption. Now we know you're one of them. Would you name the other thirteen? I think you know them, and I know them. Won't you name them for the convention?

Mr. De Blieux Well, you know Senator Nunez, sometimes you have to have somebody that's going to be responsible.

Mr. Shannon Senator De Blieux, if the legislature should raise the homestead exemption from three to thirty-five hundred, or four, forty-five hundred, wouldn't that be an increase in taxation on some segment of the population?

Mr. De Blieux Yes, I think it'd be a shifting of the burden. Yes, I certainly do.

Mr. Shannon Well, isn't this superfluous then? Isn't that taken care of in previous action we've taken where it requires two-thirds vote of the leg-

islature to raise taxes?

Mr. De Blieux Well, Mr. Shannon, as you know, that we are making a new constitution. The old constitution contains that two-thirds provision, so we are making a new one. What we are saying here, that if we're going to increase any taxes, we ought to have a two-thirds vote. Now it will increase it on some. I think that if you're going to do that, it ought to take a two-thirds vote either way.

[Previous Question ordered: 65-46.]

Closing

Mr. Roemer I'll just say a few brief words, Mr. Chairman, about some of the objections that have been raised to this amendment. Some people have said, "Well, industry can get their giant exemptions with a simple majority." Of course, we've changed that in our committee proposal. I hope you will support us in that. We call for a veto power at the local level, so it's going to be increasingly, increasingly, increasingly more difficult for industry to get those giant exemptions unless the local people want them. I just want to point that out.

We're, also, trying to be consistent here with our committee stand that issues of grave importance in regard to taxes should take a two-thirds vote... should be a clear mandate. When you provide extra exemptions, you increase the taxes on somebody else. So to be fair about it, we thought that to provide those extra exemptions and to increase those taxes, we ought to be consistent and do it with a two-thirds vote.

Now, finally, I'll say, someone raised the point, "Well, when will the legislature do this? We've had so much difficulty doing it today." They'll do what we have done when there is a clear need and a clear mandate. The responsible men and women in our legislature will stand up and give us the kind of exemptions we need. All the two-thirds thing is, is trying to make sure, is that the need is real, and the time is right before they do that.

Questions

Mr. Slay Buddy, just two short questions. First, we just passed the Rayburn amendment, and that was quite a compromise. Do you think it's fair for us to come back now and ask the people that voted for that to change it?

Mr. Roemer I'm sorry, Charles, I didn't hear that. Do I think it's fair to do what?

Mr. Slay We just passed Senator Rayburn's amendment and now we're coming back asking us to... and that was a compromise...do you think it's fair for us to come back now and ask the people to change what we just voted for?

Mr. Roemer Yeah....

Mr. Slay O.K. I know the answer.

Mr. Roemer Well, I think it's fair....I mean.

Mr. Slay O.K. Then to be fair, then, don't you think we ought to have a two-thirds vote to pass your amendment which is just what we are asking for?

Mr. Roemer Well, if you want to set...I'll go by the rules, whatever they are.

Mr. Slay Use two-thirds.

Mr. Roemer I might, I might say, Charlie, Charlie...Mr. Slay, if you remember my speech that I gave in support of "Sixty", I said I would make one amendment to it...the two-thirds. I tried to be consistent on that.

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Mr. O'Neill Buddy, Chris asked a question that I think I'd like you to address yourself to. Is it going to take just a majority to reduce the homestead exemption now?

Mr. Roemer No, we have set a constitutional mandated minimum of three thousand dollars for the homestead exemption. It'd take a two-thirds vote, and a vote of the people, a constitutional amendment to change that.

Mr. O'Neill Hold on. Under yours, it's going to take two-thirds vote to increase the homestead exemption. Is that right?

Mr. Roemer That's correct.

Mr. O'Neill Now, what about reducing it, Buddy? If they want to reduce it from forty-five hundred to thirty-five hundred?

Mr. Roemer Oh sure, above the minimum. I'm talking about a three thousand dollar minimum. That's what I'm talking about as guarantee. You know how they're going to change that minimum? They can't do it unless they go to the people.

Mr. O'Neill I'm not talking about changing the minimum, Buddy, I'm talking about running it up to five thousand and dropping back to three thousand. That's what I'm talking about. There's no provision in your amendment for that.

Mr. Roemer I'd be...I'd be willing to live in a world that took two-thirds to raise and a majority to bring it down. Because I'd like to see a majority vote to bring it down, Gary.

Mr. O'Neill Well, I'd like to see it just the other way.

Mr. Roemer Gary, let me amplify the position... my personal position, and most of the members of the committee. We fought hard to have all these exemptions either in or out under the two-thirds rule to reduce the or to raise them. I've been consistent in that because they affect our taxes.

Mr. Casey Mr. Roemer, unless we vote...unless we vote for your amendment, don't you agree that, realistically, the legislature, every year, is going to be deluged with legislation to increase the homestead exemption from three thousand to either four or five thousand dollars?

Mr. Roemer Well, it could happen, but the legislative workload is not my fear.

Mr. Casey Don't you...I'm not worried about the legislative workload either, but I'm being realistic about it. If property tax continues to be an emotional situation like it is right now, don't you agree that it will only take fifty-four House members and twenty Senate members, and that if it is done on an emotional basis, that we can realistically destroy the tax base of a local governing body?

Mr. Roemer Yes.

[Record vote ordered. Amendment adopted:
68-45. Motion to reconsider tabled.]

Amendments

Mr. Poynter The next amendment is sent up by Delegates Chehardy, Toca, Alario, et al. It's a set of three separate amendments which are being passed out, I believe, at the present time.

Amendment No. 1. On page 2, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn and just adopted, at the end of line 9, after the words "amount of" delete the word "three" and delete lines 10, 11, 12, 13, and 14 of the text of the amendment and insert in lieu thereof the following: "five thousand dollars of the assessed

valuation."

Amendment No. 2. On page 2, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn and just adopted, in line 16 of the text of the amendment after the words "exemption of" and before the word "thousand" delete the word "five" and insert in lieu thereof the word "six".

Amendment No. 3. On page 2, between lines 7 and 8, in the amendment proposed by Delegate Rayburn and just adopted, delete lines 29 through 34, both inclusive, in their entirety of the text of the amendment.

Explanation

Mr. Chehardy As much as I detest being repetitious, it is impossible not to be when I have just witnessed not only passage of a meaningless homestead exemption--in view of today's economy, in view of the fact that we're on the threshold of reassessment of all of the property in the State of Louisiana--but then to have the leader of the three thousand or less homestead movement, Mr. Roemer, succeed in passing an amendment to the three thousand dollar proposal which virtually...which makes it virtually impossible to ever increase it to four thousand, should that need ever occur because of the disaster which we face when reappraisal takes place in this state. Now, I want to remind you that the Assessors' Association went on record for ten thousand dollar homestead exemption, originally. After months of discussion and badgering, went to a five thousand homestead exemption, and six thousand for people over sixty-five and for our veterans. This amendment to the Rayburn and Roemer amendments merely attempts to give to the people in this constitution what the Association of Assessors, as a whole, had originally promised and then reduced to five, and no more. Five thousand in relation to two thousand, and in relation to reassessment of all of the property in this state, which, in many cases, has not been reassessed for generations, is hardly going to cover the increases in the majority of homes in our state. I don't want anyone in here to say they didn't understand that when they face their voters at home. You have the chance here to redeem this ill-advised action in not giving the people a decent homestead exemption in the constitution you intend to offer to them. You've heard a lot of cries about the increase to five thousand causing panic, yet, can you remember the cries that went up when the veterans first received the five thousand homestead? That caused no financial crisis in our state. That caused no panic. Have you forgotten that the people of this state have had the income tax, and the alcoholic beverage tax, and the public utilities tax put upon their backs to provide the homestead exemption? Are you aware that when we lost the homestead exemption, we did put eighty million into a revenue sharing fund which we have preserved? But, that fund today probably generates--those three sets of taxes--will generate today in excess of two hundred million dollars. I'll repeat, your parishes are going to have more money than they've ever had in their history. I, for one, will not proudly face my constituents if I stood by and accepted a --and for want of a better word--hypocritical pretense of a homestead exemption increase to three thousand, to make up for what two thousand was, forty years ago. I sincerely hope that you realize that you have sat here and not batted an eye in letting exemptions go by for those that can afford to pay, but that we, as a body, are permitting to go to our people, a bad, bad constitutional amendment pertaining to the homestead exemption, in that it's totally insufficient. It is not going to relieve the trouble they are going to face when we have reassessment, and it's going to haunt you. Those of you that cast this vote because you are worried about your store, or your bank, or the clients you represent will someday have to atone to his own conscience. But, as far as I'm concerned, mine is clear, but there's not one of you that does not know what you have done--particularly the assessors. I'm glad that Mire says I am not

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one of those that went down to the three thousand level. I'm asking you, please, to give the people of the state and the old people and the veterans a meaningful homestead exemption. Examine your consciences and do what's right. You're only giving the people their own money back--you're not giving them anything. When you go home, you can face them with a decent conscience.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I rise in opposition to this amendment. I don't know but three parishes in the State of Louisiana that at the present time that are assessing property so low where this amendment would be meaningful to them in that proper respect. As you well know, if you go from parish to parish, you will find some property where they have homes worth a hundred thousand dollars that they're not paying any taxes on them. They are assessed below the two thousand dollar level. While, on the other hand, you go to some other parishes, property that's assessed for twenty...that has a valuation of twenty thousand dollars are on the assessment rolls where they are paying some taxes. I think that possibly, as a result of the action we take here on this proposal, it may have the effect of having some uniform valuations put on assessment rolls with reference to property. But, to go about this state and say that you are going to guarantee everybody who has a fifty thousand dollar home that he hasn't...doesn't have to contribute one cent to the upkeep of his community or his parish or his local subdivision for the services which he demands of his local government, I think is stretching the point a little bit too far and being a little bit absurd. I don't know of any people who have fifty thousand dollar homes who are not able to pay some property taxes. I would venture to say that most of those people who own fifty thousand dollar homes and above own other property. So, it's not a question of taking away the homestead of a poor person or anything of this sort. We have taken care of the poor people when we have exempted twenty thousand dollar homes. We have taken care of those not quite so poor when we have taken care of twenty-five thousand dollar homes. Then, we are absolutely getting up into the upper echelon when we go about taking care of those who have thirty thousand dollar homes. So, why do we want to go into the rich class and grant them exemptions when they actually don't need it? I think that the amendment that we had proposed and adopted...that's proposed by Senator Rayburn has gone as far as we can go at this particular time. Now, the legislature has a provision in that amendment that we have just adopted to allow them to make changes, and needful changes, if it becomes necessary. I think that's all we should be concerned about at this particular period of time. Whenever that gets obsolete, which I don't see within the next ten or fifteen years, at least, we will have the provisions of a constitutional amendment to change it. Therefore, I ask you to oppose the amendment.

Questions

Mr. Stinson Senator De Blieux, in view of the fact that you were our leader in this one instance, I'd like to ask you a question. When Mr. Chehardy referred to the fact that the veterans and the over sixty-five, isn't it a fact that Mr. Roemer's amendment has nothing whatsoever to do with it? It's left entirely like it was under his amendment in this case.

Mr. De Blieux That's exactly correct. That's exactly correct.

Mr. Willis Mr. De Blieux, I'm sure you are conversant with the suit that you advocated to have the assessors line up and assess at actual cash value?

Mr. De Blieux Mr. Willis, that was to base the assessments on actual cash value. It didn't say assess. There's a lot of difference between assessment and a listing of property.

Mr. Willis I understand that the suit was to execute the laws and that means determine the actual cash value of all property by the assessors.

Mr. De Blieux That's the use of actual cash value in making their valuations.

Mr. Willis That's correct, but, then wouldn't that take care of your mathematics you apply with respect to hundred thousand dollar homes?

Mr. De Blieux No, if you understand the procedure for assessment, they are supposed to use the actual cash value of property in making their assessments, and the Tax Commission was supposed to take a percentage of that, or the local governing body a percentage of that.

Mr. Willis And equalize it all?

Mr. De Blieux And equalize the taxes throughout the state, yes.

Mr. Willis Now, don't you know that in addition to that, that we are discussing three sections now, and that that tax base in that first section is still vulnerable to attack by amendments here?

Mr. De Blieux Now, I didn't understand your question, now. I think you...

Mr. Willis We are now...we don't have the cart before the horse. We have the cart on top of the horse when we are discussing exemptions--homestead exemptions--before the tax base. Don't you know that in Section 1 the tax base is still vulnerable to attack by amendments by this body--that the tax base can be raised?

Mr. De Blieux Well, it depends upon whatever tax base you take, but I have an amendment I hope that will take care of that situation.

Further Discussion

Mr. Fontenot Fellow delegates, I also rise in opposition to the amendment. Mr. Chehardy said something about your conscience bothering you or...he says it doesn't bother him, and as far as I'm concerned, my conscience is clear up to the point of the three thousand dollar homestead exemption. It's not as clear as I wish it was. I wish it was two thousand dollar homestead exemption with the percentage applied therefor, which would yield a twenty thousand dollar homestead exemption. He keeps saying a three thousand dollar homestead exemption is meaningless in this day and age, when in 1938 or whenever the two thousand dollar homestead exemption was put in, it was more meaningful. But, you've got to remember that when the two thousand dollar homestead exemption was put in that applied to the actual cash value. There wasn't a percentage applied to that home and then your homestead exemption would apply to it. But, in this constitution, today, if we accept this section with all the amendments, we're going to have it a percentage, then a homestead exemption. So, the real meaningful homestead exemption as it stand right now, if we vote on this right now, is going to be thirty thousand dollars. Now, as far as I'm concerned, that is meaningful. I wish it was twenty thousand dollars, but I'll go along with a compromise unless somebody comes up with a twenty thousand dollar homestead exemption; I'll vote for it. I think we fought this battle with Senator Rayburn's amendment, and I think we ought to just vote this amendment down, and let's proceed to other business. Therefore, I move the previous question.

[Motion for the Previous Question withdrawn.]

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, I rise in opposition to the amendment, and I would like to be accurate on what the Assessors' Association have, in fact, voted on. By...at an official meeting, they had officially voted to recommend four thousand and five thousand, which, we later, by a poll, decided to go to the three thousand and five thousand. Again, I say that to the man, that we polled, each one agreed to go to the three and five with an understanding that it would be a meaningful homestead exemption with, in fact, a ...with a positive reimbursement to the local taxing authority of these monies that they will lose under the homestead exemption, if it would be absolutely only and not, in fact, reimbursed from the state level. I urge the defeat of the amendment.

Further Discussion

Mr. Weiss Fellow delegates, Mr. Chairman, just a moment of your time to try and share with you some of this tremendous confusion, concern, and absolute inexperience of most of us with this problem of assessment. This morning paper--and I'd like to read to you what this morning's paper that was on every one of our desks had to say, by an expert who predicted inflation. He simply said --and I've seen this happen in other countries--"we may have a new currency in the United States, soon, in which five old dollars will be worth only one new one." I believe that many years ago my father said, "When you need shoes, you go to a shoemaker." When you talk about assessments, why don't we listen to assessors? Now, here is a split in the opinion of assessors. This, our Calcasieu Parish assessor made clear to me, that many of your meetings, Mr. assessors, have differences of opinion, such as this group here. They are many times split down the middle. I would like to try and define to you some of the facts as I see them. First of all, you cannot at sea set your bearings, if you are on a ship, by another ship that is in motion. You must have something static such as a star, some fixed object. Now, how can we set values if the dollar that all of us have known--five, ten, twenty years ago--is suddenly going to become worth one-fifth of its value, so, Mr. Chehardy's statement that a two thousand dollar assessment of 1932 cannot be far wrong. When he says now that the assessors, and I think the honest ones are trying to say, "Let's give the people of Louisiana--since we voted this homestead exemption--let's give them ten thousand dollars." What's wrong with that? It's simple arithmetic. I see nothing wrong with it whatsoever, but I also see other factors at play: namely, our political experts and particularly big industry, where exceptions are also made. The question comes: Who is going to pay for land values, whether it be the little man, the big man, industry, our improvements, our renters, our land-owners--just who is going to pay it? I believe Mr. Chehardy is making the point here that the little man deserves relief. I believe we agreed with a three and five thousand dollar burden to give him this much relief. But, I'm not too sure we're giving him enough, and particularly in light of this distribution of house values in Louisiana. Mr. Fontenot--and I congratulated him for getting this information, Staff Memo No. 20, July 12, 1973, distribution of house values in Louisiana, used by Mayor Landrieu and others to illustrate just what homes are worth more than thirty-five thousand or less than thirty-five thousand and so on; this is based upon the present assessors' value. What's going to happen when Canal Street--as Mr. Chehardy points out--gets reassessed from its 1930 values to its 1974 values? What's going to happen to the price, as we knew a dollar that is now one-fifth of its value? I think Mr. Chehardy has made a good point, and I think it's time we recognize that the honest assessors in this group, and those who are interested in honest assessments for the people of this state are trying to give them a fair shake, no less than two thousand dollars as by

old standards of 1932. I speak in favor of this amendment. I hope you will consider it strongly. And for the people back home--for the little man who's been paying plenty, who's going to be reassessed from five to fifteen thousand dollars on his property, from ten to twenty-five thousand dollars, from fifteen to thirty-five thousand dollars--give him a break. I'm in favor of Mr. Chehardy's amendment.

Further Discussion

Mrs. Warren Mr. Chairman and delegates, I really didn't want to come up here to talk about it because our Chairman said at the offset of this convention, "There's going to be some idiots here representing the idiots." I'm one of them. I'm not an expert; I am really one of those idiots. I have been running all around this place trying to get some information on one thing that was mentioned in this proposal from the very beginning--where it says, "rural or urban." "One hundred and sixty acres, rural or urban, is a homestead." Now, folks, ain't no one hundred and sixty-five acres in no urban area no homestead. I'd like for anybody to show me--in an urban area where you've got a house with a homestead on it where people are living in it--one hundred and sixty-five acres. It just don't make sense. I was in a meeting here a few nights ago, one I was privileged to be in, and the discussion came up about land in our area where you could sit on it and hold it until the price went up to what you would call it, "a person could get fat on it," and then they sell it. In one of our polls...I believe that you'd have to go back for about a couple of years or so and pay your taxes on it, but if you hold it twenty years and then sell it at a killing, two or three years taxes on what we got now ain't going to mean very much. So, I want somebody to tell me how--on their committee--how did they come up with a homestead in an urban area? I could see this in a rural where you're going to have gardens and farms and thing like that--land usage--but I can't see it in no city 'cause this is big business itself. Now, I am for homestead exemption. I think everybody ought to pay his fair share of taxes, but I'm thinking of what one of our representatives said once to me. He said, "Mrs. Warren," he said, "the poor are going to be with you always." What I'm learning in this convention, they're going to be with us always. I've been listening; I've been doing quite a bit of reading on the material that Mr. Chehardy sent out. It's good. I've been hearing a lot of good on both sides, but this is real confusing to me. So, I'd like for anybody here to tell me that they go in an urban area and find a homestead with a hundred and sixty-five acres, and then I can vote for your amendment. Would anybody volunteer to tell me that information if I got a few more...I got a minute. Yes, sir, please, answer for me.

Question

Mr. Alario Mrs. Warren, do you know that I think the reason why, and see if you agree with it, of why they provide that a hundred and sixty acres--where it could be two parcels of land--would be homestead exempt, would be if I'm living in New Orleans and have a little home on a 60' x 100' lot, that I could own that home which might be worth only ten thousand dollars, and then maybe I've got a farm in Covington with so many acres that might be worth another ten thousand dollars--I might have that over in the country in order to raise a few cows and pigs to feed my family--so that I might have an exemption on that, also, to a total of a hundred and sixty acres.

Mrs. Warren But...it's no exceptions made, it's no exceptions on that made. If you're in one place, you can have it--it don't have to be nothing on it.

Further Discussion

Mr. Ullo Mr. Chairman, members of this convention, I would like to proceed with a little story that happened to me a number of years ago when I first finished dental school. My first year in private practice, as a lone practitioner, I was... I had the course--all the theory--but certainly not the experience. I was confronted with many, many problems that I felt were very unsolvable. So being supposedly an educated person, I searched for answers. I went to many of my senior colleagues. I attended different dental meetings, heard all kinds of testimony, and finally resolved myself to the fact that they were just unsolvable problems that I would have to learn to live with as I moved along throughout my dental career. Today, I find myself in the same situation. I've heard many supposedly experts come to this rostrum and dictate to all of us the different concepts of property tax. I find after hearing all this testimony that many of these supposedly called experts are just about in the same boat that I was years ago when I first started my dental practice--an unsolvable problem. I would like to make just one statement to each and every one of you. In this day and age when we have so much, and inflation has been a constant source of attrition to what we have, a three thousand dollar homestead, homestead exemption, is literally nothing--literally nothing when you're just raising it by one thousand. I think that five thousand homestead exemption would provide for the people of the state, for the future, for all the problems that certainly are to come in the future. Thank you.

[Previous question ordered. Record vote ordered. Amendments rejected: 34-77. Motion to reconsider tabled.]

Amendments

Mr. Poynter The next amendment is offered by Delegate Arnette.

Amendment No. 1. On page 2, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn and adopted by the convention on October 19, 1973, on line 10 immediately after the word "valuation" change the semicolon ";" to a period "." and delete the remainder of the lines and delete lines 11 through 14, both inclusive, in their entirety.

(And I think we need a technical amendment to delete the Roemer Amendment as well, Mr. Arnette.)

Explanation

Mr. Arnette It's a very simple amendment. All this does is bring this provision of the constitution, the new proposed constitution, in line with the old one. It's very simple. We're not allowing the legislature to change the homestead exemption without a referendum of the people. Before this new constitution, the legislature always had to go to the people--like they should--to get the homestead exemption changed. Under this provision, unless we take it out, they won't have to go to the people. They can sit over here in Baton Rouge and decide what homestead exemption is good enough for people over in my parish, and people up in Caddo, and people over in Jefferson, and everywhere else. Maybe they don't even want it. The monied people are going to want a high, high homestead exemption, and those are the people who contribute to campaigns. So, the legislators are going to say, "Well, look" you know, "we'll get you a good homestead exemption." They'll do it at their first opportunity, and we'll be sitting around with a five thousand dollar homestead exemption. The people who don't contribute to campaigns--the people who rent, the people who have small houses--those people are the ones that's going to be hurt by this 'cause they're going to be paying the taxes; the people who rent are going to be paying the taxes; your small businesses are going to be paying the taxes. It's a bad provision. I don't think we ought to allow the legislature to change our tax

base without having a referendum of the people, as is required in the present constitution. All this does--it's a very simple amendment--it just brings us back to where we were in the old constitution. If there's a need for a change in the homestead exemption, the people will vote for it. If there's a need for a change, it's very simple; they'll order a referendum; they'll approve a higher homestead exemption. But, under this present provision that I'm seeking to amend out, they don't have to go to the people. They can do this to... they can just merely do this by a vote of the legislature, and this is a bad provision, letting the legislature decide on who is going to be taxed locally and how much they're going to be taxed. I urge your adoption.

Questions

Mr. Abraham Greg, is there anything in the present constitution which allows the legislature to increase the homestead exemption now, by either a majority or two-thirds vote?

Mr. Arnette No, there is absolutely nothing in the old constitution.

Mr. Abraham Is there anything in this proposal that allows the legislature to do it?

Mr. Arnette Well, Mack, I think you brought up a very valid point. There is nothing in the old constitution that allows the legislature to do it. There is nothing in the work of this committee, of the committee proposal, that allows the legislature to change the homestead exemption. This is just something that was adopted on a floor amendment, and I think it was adopted in haste. I don't think we meant to adopt a provision that would allow the legislature to set local taxes and who is going to be taxed locally, which is what it does.

Mr. Abraham Well, my question now is that since it was not in this original proposal, then why has it become so imperative that we allow the legislature to do it now?

Mr. Arnette Well, I don't see...you've brought up a valid point. If the committee, in eight or nine months of working on this provision, didn't think that it belonged in there, why does it belong in there now? All of a sudden on a floor amendment, one day it's there. I never even heard anything, even...thought of being proposed like this until Mr. Rayburn came with his amendment. That's why I don't think we ought to have it in there. I think it's half-baked idea.

Mr. Flory Mr. Arnette, did you know the legislature now has the authority to grant tax exemptions to farmers in your district to the tune of millions of dollars a year?

Mr. Arnette I realize that the legislature does have some exemption ability, yes.

Mr. Flory Well, then, why not give them the right to do it for the small home owners?

Mr. Arnette Because it's not a small homeowner. That's the point, Mr. Flory. These are people that have houses worth over thirty thousand dollars. We have covered the homeowner to thirty thousand dollars. A man that has a thirty thousand dollar house ought to pay a little bit of taxes.

Mr. Flory Mr. Arnette, do you know what inflation is going to do in the next ten years?

Mr. Arnette Do I know what what's going to do?

Mr. Flory Inflation.

Mr. Arnette Inflation--I would assume that it would probably go up a little bit, yes.

Mr. Flory Well, then don't you think you ought to give the legislature some discretion to protect the homeowner in that event?

Mr. Arnette No, I don't think we ought to, Mr. Flory. I think we ought to keep it just as it was in the past. Let's let the people decide. That's the way it was before--not the legislature. Let the people decide. What's going to happen is, is you're going to have an increase in the homestead exemption that's good for some areas and terrible for others.

Mr. Fowler Mr. Arnette, you said the Rayburn amendment was adopted in haste. Do you think three days is in haste?

Mr. Arnette Well, I'll say this to you: If you will notice, any provision having to do with the legislature raising the homestead exemption was only talked about here for that one amendment. It was not talked about for three days. It was never even mentioned until this afternoon.

Mr. Rayburn Mr. Arnette, did you know that the reason the committee did not consider this, that the original proposal contains five thousand dollars? The original proposal contains five thousand dollars as reported out of the committee, and where the three to five got it was in the compromise to try to agree on something.

Mr. Arnette Well, Senator, I realize that the committee proposal had five thousand, but what is good, if you've got a five thousand dollar exemption is the same thing as if you've got a three thousand dollar exemption. If it was a good idea for three, it ought to be a good idea for five.

Mr. Rayburn I know, but you said you didn't know how it come about. I just wanted to brief your memory that the reason it came about that the original proposal had five and now it has three with an option to go up to five, Mr. Arnette.

Mr. Arnette Three...you're right. It has three now and exactly where it ought to be. It's a good compromise at three thousand.

[Previous Question ordered: 69-24.]

Closing

Mr. Arnette I just want to say one thing in closing. We are giving an awesome power to the legislature in this particular thing that we have never given them before. I urge you not to give it to this and accept this amendment.

Questions

Mr. Segura Mr. Arnette, did you know that what is considered a thirty thousand dollar house today, was only about a twenty thousand dollar home ten years ago? In another....

Mr. Arnette Mr. Segura, before you ask the question, I know what you are going to say. But, the point is, if there is reform needed, the people can easily vote it like they could have in the past. There was no reform needed for over fifty-four... what was it forty years, why was there...what's the problem now? Why can't we go under the old way, the way we use to have it?

Mr. Segura The reason we can't is because today in this constitution as we are writing it, it says that "All property will be reassessed every five years, reevaluated every five years." On the books today, and the way the system was with the old two thousand dollar exemption, you would never reevaluate the property until it was resold. Consequently, the value of the assessment didn't go up. You have made provisions, which is wise, for values to go up. You should make provisions for fluctuation of the homestead exemption with

the evaluation....

Mr. Arnette Mr. Segura, I'll agree, there will be some changes needed in the homestead exemption in the future. Let the people decide, Mr. Segura, don't let the legislature decide; let the people decide. The people of this state might not want an increase in homestead exemption. But, if they do need one, if an increase is warranted, they will vote one; I will assure you of that.

Mr. Segura Well, aren't we trying to write a constitution that will be as near perfect as possible, so that we don't have to go back to the people for a constitutional amendment. Does not the legislature represent the people?

Mr. Arnette The legislature does represent the people. Right, but, we have put some limitations on them and this, I assure you, is one and I feel we definitely need to put on them.

Mr. Segura Don't you feel that two-thirds vote is a good enough limitation?

Mr. Arnette No, I don't, Mr. Segura, that's why I'm offering this amendment. I think it's kind of obvious I don't think that's enough insurance.

Mr. Segura Do you know I disagree with you?

Mr. Fontenot Greg, if we took out the language--and I'm in favor of taking it out--if the legislature wanted to increase the homestead exemption all they would have to do was vote by a two-thirds vote to amend the constitution and go to the people with the constitutional amendment to increase the homestead exemption. Now, do you think there would be a lot of homeowners who would be against a constitutional amendment to increase the homestead exemption?

Mr. Arnette Do I think there would be a lot of people against it?

Mr. Fontenot Right. In other words....

Mr. Arnette Somebody who was already completely covered might be against it.

Mr. Fontenot Right. But, in other words, if the legislature....

Mr. Arnette In other words, somebody who has a thirty thousand dollar house is covered right now, might be against some amendment that changes it, to say, covering a hundred thousand dollar house.

Mr. Fontenot Right. But, then the point is, the legislature if they wanted...without the language in here, if they wanted to up it, all they would have to do is go to the people with an amendment to increase the homestead exemption. Wouldn't that be....

Mr. Arnette That's exactly right. If an increase in a homestead exemption is warranted, it can easily be passed by the people. Now, I don't argue with that, I think it's a good way to do it.

[Record vote ordered. Amendments rejected: 22-88. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. De Bliex]. On page 1, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn, and adopted by the Convention on today, delete lines 9 through 16, both inclusive, in their entirety and on line 17, at the beginning of the lines delete the words "dollars of the assessed valuation" and insert in lieu thereof the following: "occupied as a resident by any person up to the sum of twenty-five thousand dollars of its fair market value. Any percentage

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of fair market value provided for in Section 1, Paragraph (B) shall be applied to any excess of the value of the homestead in excess of twenty-five..."

Mr. Henry He doesn't want to offer this one, so he has got another one.

[Amendment reread with correction.]

Mr. Poynter All right. This is basically the same amendment. I'm not going to read the instructions. I think they stay identical. The dollar amount change is the only difference...

The words added are as follows: "occupied by any person, in the full amount of thirty thousand dollars of the fair market value. Veterans and persons sixty-five years or older shall be provided with a homestead exemption of fifty thousand dollars of the fair market value. However, by the favorable vote of two-thirds of the elected members of each house, the legislature may increase the homestead exemption to an amount which shall not exceed the full amount of fifty thousand dollars of the fair market value, and the exemption for veterans and persons sixty-five years or older shall not exceed the full amount of sixty thousand dollars of the fair market value."

Explanation

Mr. De Blieux Mr. Chairman, ladies and gentlemen, I want you to get the copy of this amendment which is being passed out now and read it carefully so you can understand what we are doing. We have been talking about two thousand, and three thousand, and four thousand, but we have been saying that that's ten percent of the assessment. Why do we want to confuse the people? Why not just tell them exactly what you are doing, where everybody will know and understand it? Instead, of trying to complicate these matters, why not simplify them? Now, we are saying that we want to grant to a person who has a thirty thousand dollar home a complete homestead exemption. So, let's tell them that in the constitution, that if you have got a thirty thousand dollar home, you are going to be exempt from some taxes on that home. If you've got a home that's worth less than that, you won't pay any taxes on it. Now, if you've got a home that's in excess of that, you will pay taxes on this. This only changes the percentages in the Rayburn amendment to actually represent what it says. Now, in addition to that, so to be sure that there is no difficulty, all property that has a valuation of over the thirty thousand provision, you are going to apply this percentage to that and tax that amount whatever percentage that it is. The only thing he knows that if his home is worth so much, he knows what his homestead is actually worth. It will not change the valuation of a tax amount of his property one iota. The only thing you are going to do is this amendment is actually tell the taxpayer the truth of what his tax exemption is, what it covers, and what he has to pay taxes on. That's all in the world this amendment does is to translate it into a realistic language where that they can understand it.

Questions

Mr. Alario Senator De Blieux, isn't it common knowledge in this state that presently industrial property is assessed a lot more than residential property? Isn't that the actual practice now?

Mr. De Blieux It might be, Mr. Alario, but this amendment will not affect that whatsoever. This is in the homestead provision, not in the taxing amendment. This only applies to homestead. It is translating the two and three thousand dollars or....

Mr. Alario All right, Senator, you're saying it wouldn't apply as it pertains to industry now. But, wouldn't, in effect, what you are doing here be putting the entire cost, the entire value of that home on the rolls at a hundred percent of value and then at the same time, putting industry at some

other figure? You don't even mention what that might come in here for.

Mr. De Blieux The only thing what we are doing, is telling the taxpayer how much he is going to be exempted for.

Mr. Alario Where does your amendment say anything about other properties, industrial properties? Are they still going to be at fifteen percent?

Mr. De Blieux This particular provision we are talking about now doesn't apply to other property, it only applies to homesteads. That's all we are talking about and that's all the amendment talks about.

Mr. Roemer J.D., isn't it true that you don't materially change the "Sixty" Rayburn amendment? All you do is list the full value of that homestead exemption, now that three thousand dollars versus ten percent which is a thirty thousand dollar exemption. All your amendment does is says thirty thousand dollars. Isn't that true?

Mr. De Blieux That's exactly right.

Mr. Roemer Isn't it additionally true that if it's a value over thirty thousand dollars, that the difference between the thirty and whatever the value is, would be carried at ten percent of that difference?

Mr. De Blieux That's correct.

Mr. Roemer For example, if it's a forty thousand dollar home, the thirty thousand will be subtracted from it, it would be ten thousand times ten percent, which would be a one thousand dollar value carried on the rolls.

Mr. De Blieux That's correct, absolutely correct. It won't change the valuation of taxes one cent, it just tabulates a realistic figure.

Mr. Avant Senator De Blieux, you know that in East Baton Rouge Parish we have a subdivision ordinance, don't you?

Mr. De Blieux What's that?

Mr. Avant You know that in East Baton Rouge Parish we have a subdivision ordinance?

Mr. De Blieux Yes.

Mr. Avant You know that the approximately minimum size lot in a subdivision that is now being developed in this city or this parish is somewhere in the neighborhood of about eighty by a hundred and fifty feet--a single family residence now, approximately.

Mr. De Blieux I believe so.

Mr. Avant You know that about the cheapest you can buy one of those lots for in a subdivision is around sixty-five hundred dollars, don't you?

Mr. De Blieux I believe that's true.

Mr. Avant You know that the cheapest house you can buy in one of them is around thirty-five thousand dollars, don't you?

Mr. De Blieux That may be true, yes.

Mr. Avant You also know that in this parish apartment units are outnumbering in new constructions, single family residences, by about five or six to one. Isn't that a fact?

Mr. De Blieux That might be true, but this is...

Mr. Avant You are going to encourage homeownership with this....

Mr. De Blieux This amendment will not affect that one iota. It will, in fact, will not change anything in the Rayburn amendment. We will not change it so...tax wise; it just changes so that the homeowner will know what value of property is exempt from payment of taxes, that's all it does.

Mr. Flory Senator De Blieux, I don't think you realize what you are doing here.

Mr. De Blieux I'm doing the same thing we did in the Rayburn amendment.

Mr. Flory I don't think you are, because what you did not do is delete that language in the Rayburn amendment that says, "No exemptions shall extend to any municipality or city taxes except the following." It left in the exemption for the parish of Orleans and yet you are going to make the residents of your parish and your district to pay city millage on sixty thousand dollar homes?

Mr. De Blieux Mr. Flory, you asked me a question. I didn't change that language. That language has not changed in the Roemer amendment.

Mr. Flory But, though you added the language in there "to sixty thousand dollars," didn't you?

Mr. De Blieux No, it's exactly like it is in the Rayburn amendment.

Mr. Flory No, it is not, I think you should take time to read it.

Further Discussion

Mr. Burson Mr. Chairman, fellow delegates, I didn't think it was possible for anybody to come up with something worse for my area than the committee proposal, but this amendment succeeds in doing that. This would finish us off. I have been on the ropes and this is a knockout punch, with thirty thousand dollars as the set for the homestead exemption, I can guarantee you--now I know what I am talking about--that ninety-five percent of the homes in St. Landry Parish and certainly in the city of Eunice would now be off the tax roll. I checked with the superintendent of schools, and out of our sixteen million dollar school budget this past year, one million five hundred thousand of it is produced by our property tax, on an assessment ratio of twenty-two point five to twenty-five percent, on a sixteen mill school tax. Now, we've got a renewal of five mills of that coming up in 1975, we just lost one in April. Now, if you could tell me how we are going to roll that five mills up--to I don't know what it would take maybe a hundred mills now with this thing--and pass it, then I wish you would come tell me, because I would be real interested in hearing how we are going to do it. How we are going to tell the small businessman that owns the corner grocery store, that we are going to save his house for him with his homestead exemption. But, we are going to increase his taxes on his business to the point where he is going to lose his business. If he loses his business, he will lose his house with it. Revenue sharing--you know revenue sharing means to me you've got to have some revenue to share. Where, in heaven's name, is the State of Louisiana going to come up with that one million five hundred thousand to give back to my parish, when the severance tax, which is the biggest source of dedicated revenue for education, is a declining source of taxation income right now. They would have to somehow or other come up with new money to allow us to remain in the same place that we are now by locally collecting our own property tax. This is fantastic, and I urge you, please, to defeat this amendment. I know that there will be an amendment coming which will provide for a local option with some uniformity of standards, which I contend and will argue strenuously, at that time, is all in the world the Bussie case required.

Questions

Mr. O'Neill Mr. Burson, did you know that if you move the previous question right now, that some people might waive, and we might vote on this thing real quickly?

Mr. Burson I would move the previous question so long as the speakers who are waiting would be willing to waive.

I move the previous question.

Mr. Stinson Mr. Burson, you know I'm willing to help you with your problem. But, if they do disregard your problem, maybe as a suggestion you should try to get some of that money from the Evangeline Race Track to help you.

Mr. Rayburn Mr. Burson, I wanted to ask Senator De Blieux this, he said this made no change in the amendment recently adopted. But, I see the figure of sixty thousand dollars in here. So, that's got to be an increase over the present amendment that was adopted. Senator De Blieux on three different occasions said it made no other change, but he...either he is wrong, or I can't read.

Mr. Burson I think you're right, Senator.

[Previous Question ordered.]

Further Discussion

Mr. De Blieux Mr. Chairman, I wanted to ask that I had intended this to track the Rayburn amendment, sir. I would like to ask the privilege of changing the word of "sixty" to "fifty thousand," so it would conform with the Rayburn amendment. It was my intention to make...

Mr. Henry Gentlemen, wait, please. Now, the previous question has already been ordered. So, you're sort of locked in on it, Senator De Blieux, unless we reconsider the vote by which the previous question was ordered.

Mr. De Blieux I think that privilege has been granted to delegates before. I just like to ask to make that correction in the amendment, withdraw it and make that correction and resubmit it, Mr. Chairman.

[Motion to reconsider rejected: 38-61.]

Closing

Mr. De Blieux Mr. Chairman, ladies and gentlemen, I would like to say this...there is one thing this particular amendment has pointed up here. In view of the remarks that I have heard from some of the delegates, in view of the fact that we have refused to put the realistic figures into the amendment, that some of us don't understand the tax process of our state. Now, if you are going to use ten percent values and you are going to say you are going to exempt the home of thirty thousand dollars. Why not state that? Now, I asked you for the privilege of making it conform exactly to the Rayburn amendment by changing that word "sixty" to "fifty" what was our original intention, and I slipped up on this particular amendment, and you refused to do that. Now, if you are for the Rayburn amendment, I don't see how you could possibly oppose this because this is telling the people exactly what we are intended to do by the Rayburn amendment. But, instead of telling them in the nature of two thousand and three thousand, instead, we are going to triple that--that is, ten times or multiply it by ten--why not tell them exactly what the homestead exemption is? I asked you for the privilege of correcting that, and I'll say this. If you will adopt this amendment, I will then propose an amendment to change that word "sixty" to "fifty thousand dollars," so, we will make it conform exactly to the Rayburn amendment. I ask you for that privilege.

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Questions

Mr. Winchester Senator, do you know that if the laws were written so the people could understand them, half the lawyers would be out of business?

Mr. De Blieux Well, I'm willing to put some of them out of business, Mr. Winchester, to make them understand it better, that's our purpose.

Mr. Roemer J.D., in answer to one of my earlier questions, you said that our amendment and that pains me to use that phrase, did not change "Sixty's" any. It does, don't you agree with that?

Mr. De Blieux Well, if we change that word "sixty" to "fifty" it would not.

Mr. Roemer Well, I mean, your amendment doesn't change it though and the point is it does change it. I feel a little bit like the man, the fool, who signed a blank check. We better screen these through Chris Roy next time.

Mr. Rayburn Senator De Blieux, you said after hearing the discussion you didn't think that the majority of the delegates understood what we were talking about. The reason I can't understand it, I can't multiply I don't guess. You got the "sixty" in there, and you said you had "fifty," I read "sixty." So, why don't you just admit that you got caught?

Mr. De Blieux Well, at least if we are going to grant the exemptions in excess of thirty thousand dollars to other people, we ought to bring them up to fifty thousand dollars. Maybe we ought to give the veterans and those sixty-five, a little bit of preference. That's when I originally drew this particular amendment, and that's what I thought about.

[Record vote ordered. Amendment rejected: 3-101. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Hernandez]. On page 2, between lines 7 and 8 in Floor Amendment No. 2 proposed by Delegate Rayburn and adopted yesterday, on line 15 of the text, immediately after the word "Veterans" and before the words "and persons" add the following "of the armed forces of the United States who have been honorably separated from such services and who possess such other qualifications as shall be defined by law."

Vice Chairman Casey in the Chair

Explanation

Mr. Hernandez Mr. Chairman, ladies and gentlemen of the convention, this is a very simply amendment, there is no play on words or anything else. This clarifies Senator Rayburn's amendment--and by the way, Mr. Alario, I obtained Senator Rayburn's permission to introduce this--it clarifies where it says "veterans and persons." Just make it clear that "Veterans of the armed forces of the United States who have been honorably separated from such services and who possess such other qualifications as shall be defined by law." This makes it clear, Mr. Stinson, and answers your questions there that they must be "Veterans of the armed forces of the United States" and they must "have been honorably separated." that is all this does. I ask you if you will please support this amendment.

Questions

Mr. Lanier Mr. Hernandez, I'm concerned about your word "separated" here. Very often, I believe, people are in the service and when they come out they are in the reserves for a period of time. By "separated" do you mean separated from active duty,

or do you mean discharged from the service?

Mr. Hernandez No, sir. I used that word "separated" for the very reason that you have pointed out, Mr. Lanier. When you are discharged from the armed forces of the United States, that means you have completely...you have completed all your duties. In the case of reserved officers or other reservists, for that matter, when they are separated from the active duty the term for that is they have been separated from duty and that is not a final discharge. They can still be in the reserves or in any other branch but not on active duty.

Mr. Lanier When I got out of the Army, I was on ..in the reserves for three years. This would mean that I would have been eligible for the veterans' exemption even though I was not on active duty, but was still a member of the reserves.

Mr. Hernandez That is correct, sir. That is the terms that the armed forces use "separated."

Mr. Singletary Mr. Hernandez, does your amendment cover members of the National Guard?

Mr. Hernandez I'm sorry, sir, I did not understand your question.

Mr. Singletary Does your amendment cover members of the National Guard?

Mr. Hernandez No, sir, it does not.

Mr. Derbes Mr. Hernandez, perhaps I didn't hear the full explanation that you gave to Mr. Lanier. But, I'm concerned about the career officer who has not yet been separated, but who is still a veteran of the armed forces. Are you disqualifying him from a homestead exemption during the term of his service until he is separated?

Mr. Hernandez That is correct, sir. He is not a veteran until he is either separated or discharged.

Mr. Derbes And may I ask, by way of further explanation, if a veteran under the present law is one who has been discharged or may he also be one who is currently serving?

Mr. Hernandez Well, sir, he must be either separated or discharged, that is the definition of a veteran, Mr. Derbes. As far as the men on active duty, they have their privileges that are set up by the armed forces. This has nothing to do with the men on active duty.

Mrs. Zervigon Mr. Hernandez, I'm trying to understand the effect of your amendment, the total effect of it. The part that confused me is the part that says, "who possess such other qualifications as shall be provided by law." Does that mean that the basic qualification is that you are honorably separated from the armed forces, but that the legislature might add qualifications onto that, additional qualifications that would, in effect, disqualify some of those who have been honorably separated?

Mr. Hernandez No, Ma'am. The purpose of that is...they, the veterans have been defined veterans...eligible for veterans preference, have been defined and it will be defined, for instance, in civil service. I don't want to get into any conflict. This, also, might provide for definitions that might be handed down by the legislature. But, if he has met the requirements here and has been honorably separated--the main thing I put that in there for, is to prevent any dishonorably separations or discharges from obtaining any veterans benefit.

Mrs. Zervigon Yes, I understand that. But, what other qualifications do you envision being defined by law?

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Mr. Hernandez That is something...that would be left up to the legislature entirely.

Mrs. Zervigon Is it not possible that the legislature may say "Anyone who is honorably discharged and who, in addition, has fought overseas is eligible and those who did not fight overseas are not eligible, or anyone who is honorably discharged and who, in addition, volunteered rather than was drafted is eligible and no one else is eligible? Doesn't this allow the legislature to add additional qualifications, such other qualifications as shall be defined by law?

Mr. Hernandez I can't imagine the legislature passing anything like that. But, under the present definition that are eligible for this it's certain periods, back, for instance, during World War II there was a certain period, during World War I, World War II, the Korean incident, the Vietnam conflict, just prior to the outbreaks of the Vietnam conflict and it is not yet closed. Now, that will, by law...Now, that has not yet been closed, Mrs. Zervigon, but that is the reason it says "other qualifications as shall be defined by law." There will be a close-out on the Vietnam conflict when I...

Mrs. Zervigon So, they could limit it to veterans of those particular conflicts if they wanted to?

Mr. Hernandez Yes, Ma'am.

Mr. Jenkins Mr. Hernandez, you know there are a number of different types of discharge from the armed services. Some of them are not dishonorable discharges, they are other than dishonorable, and yet they are not honorable discharges. For example, a person might have an administrative discharge and he may have actually served very capably and very loyally. But, am I to understand that under your amendment, he would not be eligible for this exemption?

Mr. Hernandez I think you will find the different definitions are honorable and other than honorable, and dishonorable. I think you will find those... there are three. This says clearly he must be honorably discharged.

Motion

Mr. Smith Mr. Chairman, I think this amendment is very simple and self-explanatory. I think we all realize what it does, so I now move the previous question.

[Motion for the Previous question withdrawn.]

Further Discussion

Mr. Flory Mr. Chairman, delegates, I think we ought to take a look at what's before us. I know Mr. Hernandez well enough to know that he would not do anything to harm the veterans of this state, his experience in working in behalf of veterans demonstrates that. But, I suggest to you, along the lines...I wanted Mr. Hernandez to hear this particularly, because I don't think he intends to harm the veterans. I was just really biding some time to get him to thinking about what that last phrase means when he says "who possess such other qualifications as shall be defined by law." Now, let me suggest to you, if it were the will of the legislature they could say that as one qualification he had to earn less than five thousand dollars a year. He had to be white, or any other qualification that the legislature wanted to add, and I don't think that's his intention. I support the concept of the amendment in its entirety. But, I don't think as it is worded now, that we ought to adopt this. I would suggest to him that he withdraw it and redraft it to accomplish what he has in mind.

Questions

Mr. Velazquez Mr. Flory, you know I have a veteran in my district who is a veteran of World War II; he is a veteran of the Korean War, and a veteran of the Vietnam War. He has never been either discharged or separated, yet he is eligible for the other government benefits at the present time. Under this thing, he no longer would be eligible if he owns a home in New Orleans. He wouldn't be eligible for any veteran's benefits, you know, under this thing.

Mr. Flory I appreciate that, Mr. Velazquez, and I think what Mr. Hernandez was trying to do--and I have not discussed it with him--but, I think what he was trying to do was to cut down on the language that now exists in the present constitution and give to the veterans the same benefits at least that they now enjoy. But, in shortening the language--cutting it down--he has opened the door to do something that is detrimental to the veterans that he does not intend to do, in my judgment.

Mr. Roy Gordon, what you are saying is that when he uses the word "and" right after the word "services," he is coupling the other requirements that the legislature may impose and it should maybe use the word "or." Right?

Mr. Flory Well, I think, either way, Mr. Roy, he would be doing something or subjecting the veterans to a possibility that he does not want to subject them to.

Further Discussion

Mr. Stovall Mr. Chairman, members of the convention, I really don't feel that this is necessary. I think we all know of young men who go into the service, and sometimes they get into a fight, or they have some other difficulty, they are given less than an honorable discharge and yet they come back and desire to take their place in our society and to develop into good citizens. I see no reason why we should push ourselves here today to place unnecessary restrictions on them or to treat them differently. It seems to me that we are in the business of reconciliation and helping persons make new starts. I really do not feel that this is necessary, and I request that you vote against it. Thank you.

Questions

Mr. Lanier Reverend Stovall, did you know that I served as a judge advocate officer in the largest general court-martial jurisdiction in the Army for three years?

Mr. Stovall I did not know that, Mr. Lanier.

Mr. Lanier And do you know that during that entire time I never saw anybody get less than an honorable discharge for just having a fight?

Mr. Stovall Well, I served as a chaplain for three years with the United States Marine Corps myself, Mr. Lanier; you know, I have known of some, Mr. Lanier.

Further Discussion

Mr. Rayburn Mr. Chairman and fellow delegates, I rise in support of this amendment. I have thoroughly checked this out with the staff. In our present constitution we have one complete page concerning World War I veterans, another one World War II, another one Vietnam veterans, and another one Korea veterans, and every one of them has the same language, "shall receive an honorable discharge," in each and every one. You would shorten your constitution, your present constitution, by four and a half pages, and I think, and I'm advised by the staff that we will do the same thing with this language, and if it can be done, well, then certainly I think we should do it. I don't think the day will ever come in this legis-

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lature--I hope it don't--when the legislature will go to saying that this one can receive a bonus and that one can't receive a bonus. I just can't conceive of that ever happening. I mean I think that we'll be fair with everybody.

Questions

Mr. Flory Senator Rayburn, I didn't suggest that I thought that the legislature would do that; I just said that there was that possibility, but I think one of the things that I was concerned about, and I think you are too, is that under the present law, the widows or the children of a deceased veteran now get the exemption under the constitutional provision, but under this language, they would not. I don't think that's what's intended. That's why I said, "I think you ought to reexamine the present constitutional provision and then re-submit it," because I know of no one who objects to the concept of what we're talking about.

Mr. Rayburn Well, I think Mr. Hernandez would agree to that, Mr. Flory, if it has been omitted, and the only thing I'm trying to do is just take out and condense some language that's now in there and kind of do what I promised the people I was going to do--try to submit a short constitution.

Mr. Champagne Senator, I should ask, do you know that I'm in complete agreement with you and that I feel that this is a genuine attempt to cut down on the language of the constitution, and I have no fear whatsoever? The only thing that worries me is that possibly as a veteran of this convention I might have been considered otherwise...

Mr. Rayburn Yes, thank you, Mr. Champagne.

Mr. Guarisco Senator, where do you think this would put this situation? The man who's killed in combat, where does his family...he's not honorably discharged or honorably separated. I don't know if that counts as an honorable discharge, but would his widow and children receive those benefits?

Mr. Rayburn Well, I think that if that's not taken care of...if it is, I don't know that that particular language is in the present constitution...I know it does refer to honorable discharge, and probably, if it is, we could place it in here with just a couple of words.

Mr. J. Jackson Senator, Mr. Velazquez asked the question: what about a man who was a veteran, let's say, of the World War II, the Korean Conflict, the Vietnam Conflict, and he hasn't been discharged, as such, he's still on active duty; or what about a situation where the person is on two years educational leave. Would he be denied the benefits under this...under your amendment?

Mr. Rayburn I think he would if he hadn't been discharged. I think he'd be denied under the present language in the present constitution.

Mr. Velazquez Correct a misimpression, Senator Rayburn, that someone brought up earlier. Did you know that when a man is killed in combat, he receives an honorable discharge? The United States Army separates everybody one way or another.

Mr. Rayburn Yes, sir.

Mr. Burns Senator, in Section 3, with reference to homestead exemptions, the last sentence, I think, of page 2, "the exemption of homesteads shall extend to the surviving spouse, or minor child or children of a deceased owner," and so forth. That would take care of the veterans being killed in action.

Mr. Rayburn Yes, sir.

Mr. Slay I agree with your sentiments there, and

this does say what the present constitution says except that the present constitution goes a little further, and it says, "and a person who has served in Vietnam or Korea"--they don't have to be honorably discharged. So, under this amendment, though, a person who served in Vietnam or Korea, and who has not been discharged, and is still in the service, wouldn't be entitled to it. I believe we've got a good amendment, but I think that it should be cleared up just a little bit on that point.

Mr. Rayburn Well, it's not my amendment, and I did discuss it earlier with Mr. Hernandez, and I want to say here and now that we're trying to help and not hurt any veteran. I think everyone realizes that, and if we do need to add, maybe, another sentence, I'm sure Mr. Hernandez would be happy to do that.

Mr. Hernandez Mr. Chairman, there seems to be such a demand that this be changed, and one of the most appealing demands that I've had is that the widows and orphans of veterans killed in action should be considered in this. With all that in view, I would like the privilege of withdrawing this amendment at this time, and resubmitting it later.

[Amendment withdrawn without objection.]

Amendments

Mr. Poynter The next amendment sent up at this time by Delegates Chehardy, Toca and others.

Amendment No. 1. On page 2, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn and adopted by the Convention on October 19, 1973, at the end of line 9, after the words "amount of" delete the word "three" and delete lines 10, 11, 12, 13, and 14 of the text of the amendment and insert in lieu thereof the following: "four thousand dollars of the assessed valuation."

Amendment No. 2 would strike, in essence..... rather than read it, strikes the last paragraph of the Rayburn amendment.

Chairman Henry in the Chair

Explanation

Mr. Alario Mr. Chairman, fellow delegates, I'll try not to be long on this particular amendment. I think you've heard discussion pro and con about the value of raising homestead exemption to a reasonable figure. We've tried it at five thousand. Certainly, you rejected that, and now we're down to three thousand, and we think possibly that you might be able to go along here with a compromise in the middle, and bring it to a four thousand dollar figure, which we think might be more realistic as to what the present value of homes have increased since the time the two thousand dollar exemption has been put on. I earnestly ask that you would consider this amendment, and do your best to vote for it.

[Previous Question ordered. Record vote ordered. Division of the Question ordered. Amendment No. 1 reread. Amendment rejected: 30-73. Motion to reconsider tabled. Amendment No. 2 reread. Amendment rejected: 20-86. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 *[by Mr. Velazquez]*. On page 2, between lines 7 and 8, in Floor Amendment No. 2, proposed by Delegate Rayburn, and just adopted, after the language added by the amendment, add the following: "The legislature shall provide for a system whereby whenever the property tax on a homestead rises to more than 11 of the household income, the excess amount will be refunded by the state."

Explanation

Mr. Velazquez Mr. Chairman, fellow delegates, this is what's called a circuit breaker. It merely states "the legislature shall provide for a system whereby, whenever the property tax on a homestead rises to more than 11% of the household income, the excess amount will be refunded by the state." I feel that when once your property taxes reach this state, they have reached a confiscatory stage. What you're aiming at then is not building up and making a greater Louisiana or a greater America; you're aiming at destroying the system. So, I feel this is a necessary protection for the small homeowner, necessary protection for the elderly; it's necessary protection for the poor. I leave all the details and all the definitions to the legislature, as they must be left because only the legislature has the flexibility to define the terms involved in this.

Questions

Mr. Lennox Tom, is it possible under this amendment if it's adopted that a person with residential property worth, say, a quarter of a million dollars, just for argument's sake, but having no income at the moment, could avoid all taxation?

Mr. Velazquez The legislature itself would have to put...could put a stipulation in, preventing that, in their basic set of definitions. I don't think that that would do what...hurt the citizenry or hurt the tax base in the way you've mentioned.

Mr. Lennox All right. The same hypothetical case, but all my income is in tax-free bonds and you have no way of determining what my income is, wouldn't I then be avoiding taxation on that residence?

Mr. Velazquez Doesn't the Internal Revenue Service find a way to measure your taxation?

Mr. Lennox Not on tax-free bonds.

Mr. Velazquez It seems to me that there's no real scheme whereby you can work for a living or be gainfully employed and hide all of your money from the United States Internal Revenue Service, and if you have a system, I salute you, sir.

Mr. Lennox Well, I don't own any tax-free bonds, but I understand they are not reportable as ordinary income under the Internal Revenue Code.

Mr. Velazquez Well, all I can suggest to you, Mr. Lennox, is that you go ahead and do it, but you better buy yourself a striped suit, just in case.

[Previous question ordered. Record vote ordered. Amendment rejected: 13-90. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [*by Mr. J. Jackson*]. On page 2, between lines 7 and 8, in Floor Amendment No. 2, proposed by Delegate Rayburn, and adopted by the Convention on October 19, 1973, after the language added by the amendment, add the following: "The legislature shall adopt laws providing for tax credits or rebates to persons renting homes on a percentage of rent attributable to property taxes, in a manner provided by law."

Explanation

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, you know, oftentimes when we talk about property taxes, and we talk about the people who pay...people who are paying taxes to support various city services, we tend to confine them to property owners. I, like Mr. Velazquez, believe very seriously that the homeowner or the

property owner is the bulwark of democracy, but in this democracy exist persons who cannot, not because of their own ability, persons who work and receive such a wage that they can't afford to be property owners. Now, on property, and we know as a matter of...if we want to admit as a matter of reality that on homes where, on property, on rental property, whenever a property owner is taxes, then he calculates within his rent the amount to cover that tax. So, in essence, renters themselves become property taxpayers. I would suggest to you very strongly, that what this amendment says--I understand that there are certain delegates in here who are concerned about homestead exemptions; I know that any homestead exemption that's granted by this convention, that ultimately the responsibility, and the more greater share of the burdens of the taxes, is going to be passed on to renters. I would suggest to you that all this method does is says that the legislature shall provide--and I'm not suggesting what percentage of the rent should be rebated; I'm going to leave that up to the legislature because circumstances vary according to apartment sizes, how many tenants live in a particular apartment. I suggest to you that if you're really concerned about providing relief of taxes for poor people, that I think that we rightfully should look at property owners as such, but I think that we've all recognized that the shift of the burden will be given to renters, and I suggest to you as a matter of historical reference that renters do pay the taxes on property in this state, although they do not get the kinds of tax benefits from state government that is passed on to the property owners. I yield to any questions.

Questions

Mr. Arnette Johnny, there's one thing that concerns me about your amendment, and that is you put no limitation whatsoever on the amount of...or the piece of property, the value of it, or something like that. In other words, a man could rent a half million dollar mansion, and get a tax rebate for the full amount of the taxes that whoever owns it is paying.

Mr. J. Jackson One of the problems in rental property is that you have all sorts of property valued...where you have all sorts of property that charges certain kinds of rent, based on the location. I did not feel as though I was qualified here to suggest that ten percent, which would be equal to the kind of ratio that we've given to the property owners, so I would leave those details up to the legislature.

Mr. Arnette Well, my problem is, though, Johnny...

Mr. J. Jackson Now, if you want to set it at property valued at ten percent of assessment..

Mr. Arnette Well, what I'm saying, Johnny, is that we put a limit on homestead exemption. In other words, people with houses over thirty thousand dollars have to pay taxes, but you don't have a limit here. If a man is renting, say, a fifty thousand dollar house, he gets a rebate for everything, all the taxes paid on that fifty thousand dollar house, or to the full value of fifty thousand dollars.

Mr. J. Jackson I can understand your concern, but on the other side of that concern...on the other side of that question, if you put a limit in here, because of the varied degrees of rents that exist within this state, then there exists the possibility that you may exclude persons from receiving certain tax credits or rebates from state government, and I left that up to the wisdom of the legislature, whereby it can conduct through various hearings and various testimony from property owners, renters, people who rent out property, so, that we could come up with some basic limitation. This doesn't prohibit the legislature from setting

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a limit, but I didn't think that I had the kind of information to determine what was going to be the basic limit. I do not feel that the legislature would provide such a limit as to allow somebody to rent a fifty thousand dollar house, and not, you know, and deduct that as a tax credit.

Mrs. Zervigon Johnny, to follow up on Greg's question, is it your feeling that when you say "in a manner provided by law," that the legislature could key it to somebody's income tax return, for example, and if you have more than seven thousand dollars worth of income, you wouldn't be eligible for this tax credit?

Mr. J. Jackson Yes, that kind of latitude I would leave up to the legislature to determine what's going to be the criteria, the limits, the income limits, you know, and such.

Mrs. Zervigon So, it's your intention, as the author of this amendment, that the legislature could apply this tax credit or rebate to poor folks, and go ahead and collect the taxes and not rebate from some folks that live in a penthouse on the top of some hotel or something like that? That it could apply it to some folks, and not others, depending on their income, on the rent they pay, or something like that?

Mr. J. Jackson Right. I think that precedent has been set for that because in other...there are methods by which we have set income levels for certain kinds of federal subsidies, things like that. This is not a new idea because it is going on in other parts of the country. I suggest to you very strongly that if we're serious about, you know, taking care of the needs of poor, I suggest to you that renters within the state carry as much a burden as property owners, and that ultimately when you give a homestead exemption, then you're transferring the weight to the renters.

Mr. Stinson Delegate Jackson, it's real confusing, sir, to persons renting homes. The lessor rents, and the lessee rents from him. Now, are you referring to the owner of the property or the tenant?

Mr. J. Jackson No, I'm talking about the tenant.

Mr. Stinson Oh, the tenant, but don't you think you need to correct that. It's confusing; it could be considered to be the owner, too.

Mr. J. Jackson Well, if that's going to clear up the confusion...this is designed particularly for the tenant who pays the rent, of which taxes have been calculated in that rent.

Mr. Stagg Representative Jackson, in the legislature when you bring out matters that have fiscal problems connected with it, do you not occasionally put a fiscal note on it to tell how much this particular measure might cost the taxpayers of the State of Louisiana?

Mr. J. Jackson Yes, right.

Mr. Stagg Don't you think that you ought to withdraw this amendment, and do a little bit of elementary research somewhere, somehow, to be able to tell the delegates of this convention what this provision might cost in dollars, the tax recipient agencies of the State of Louisiana?

Mr. J. Jackson Mr. Stagg, I would say that that same argument applies to what it's going to cost our school boards...our government says when we raise from a two thousand dollar homestead exemption to a three thousand, that was not a tax...

[Amendment withdrawn and resubmitted with correction. Previous Question ordered. Record vote ordered.]

Closing

Mr. J. Jackson Ladies and gentlemen of the convention, I suggest to you that one of the realities and the fact of life in this state is that whenever you have homestead exemption that ultimately the slack by the increase in homestead exemption is going to be absorbed by renters. When you have increased homestead exemptions, that's going to force some parishes and some municipalities to initiate sales taxes, which are more regressive to poor folks. I suggest to you that the kinds of concerns that you have about this amendment could very well be addressed by the legislature in terms of its mechanism. I suggest to you in terms of what it's going to cost the state, that in the testimony heard by various concerned parties, maybe delegates from the convention, that the legislature can take that in consideration, but I do not believe that we ought to constantly perpetuate the fact that the only people in the State of Louisiana who pay taxes and support governmental service, to any significant degree, are property owners because, in fact, we know that a majority of the people in this state are renters. Some people cannot afford to own homes. Some people do work, and cannot get the kinds of funds necessary to own a home. Yet, and still, they are indirectly paying for the taxes that a property owner puts in his rent. All this amendment says "that the legislature shall adopt a law, providing for tax credits or tax rebates," and that takes in the system whereby persons who have concerns about what it's going to cost the state, that takes in that kind of consideration, but I don't think that we can continually say it to over half of the population of this state because you are not a property owner, and because we cannot distinctly say in this constitution that you can get a homestead exemption even though we do know that you pay taxes through your rent, you know, we can't put it in the constitution. I suggest to you that this is a good amendment, and that if there are concerns that people have, that maybe you ought to add any additions as such, but I would ask for your favorable adoption of the amendment.

Questions

Mr. Rayburn Johnny, am I interpreting this right? When you say property taxes, do you mean all property taxes, whether parish, city or state, or otherwise--all property taxes, was that what you mean?

Mr. J. Jackson I'm talking about property taxes in which a person is a tenant and living there as a residence; that's the only property I'm talking about.

Mr. Rayburn What about where a company executive moves in to take over a new position with the company, and they rent him a house; would he be covered under this?

Mr. J. Jackson I think that those kinds of concerns can be addressed by the legislature, but let me just add to that, Senator, is that the state is not being deprived of those taxes because they are still going to tax property that, you know, rental property. All I'm saying is that that tax burden has been shifted to the renters.

Mr. Rayburn What about these big fine apartment houses, where a fellow sells his home for seventy-five thousand dollars and moved in one of them? Is it your intention to include them?

Mr. J. Jackson Those matters...it was not my intention to include them, but instead of putting separate limits in there or putting the kinds of restrictions, or as such, I decided that this was a matter that could best be handled by the legislature, but I did not want to provide provisions for homestead exemption, and we didn't say it in every argument for homestead exemption, no matter where you were that somehow or another, this is going to affect the renters, and I'm suggesting to

you that...

Mr. Hayes Thank you, Mr. Chairman.

Mr. Jackson, what I was trying to find out if you were trying to shift the apartment...or give a pro rata share of the taxes on the apartment to renters. For example, let's say that the taxes are about a...on apartments, say, is about a hundred dollars per unit on some here, say, in the Baton Rouge area I know. You would like for the people who live in these units to get a deduction on their income tax, say, for a hundred dollars, say a unit, who live in these apartments. Is that the general idea?

Mr. J. Jackson If that's the pro rata share in an apartment dwelling, then, either a hundred dollars or some fair share.

Mr. Hayes All right. Good.

Mr. J. Jackson I don't think that...

Mr. Hayes Now the next question is, now the owner is now deducting this from his income tax. Would he also get the same deduction?

Mr. J. Jackson No. I think...no. That's not my intention to give him...

Mr. Henry Mr. Hayes, the gentleman has exceeded his time.

[Amendment rejected: 43-61. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Schmitt]. On page 2, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn and adopted by the convention on October 19.

On line 13, at the beginning of line 13, after the word "exemption", insert a period and delete the remainder of the line, and delete line 14 of the text of the amendment in its entirety.

Explanation

Mr. Schmitt This is a very simple amendment. The only thing that it will do will be to eliminate the restriction that the legislature cannot increase the homestead exemption above the five thousand dollar of assessed valuation.

The reason for this is that in talking to various people, to Gordon Flory, Senator Blair, and many others, it seems to me that the rate of inflation in this country is very high, and that this would allow the flexibility upon the part of the legislature since the last paragraph of Senator Rayburn's amendment would not allow this new increased homestead exemption to go into effect until, at the earliest, January 1, 1976...I'm sorry...January 1, 1977. In this period of time, if inflation continues at the present rate of construction costs, which is about one percent a month, this should result in about a forty percent increase in construction costs alone above that which it is at the present date.

Therefore, the person who has a thirty thousand dollar home at the present date would be paying forty-two thousand dollars for that same home three and a half years from now. I believe that this would allow the future flexibility that is necessary for the legislature so that it is not necessary to have a constitutional amendment in order to increase the homestead exemption above the five thousand dollar limit which is in Senator Payburn's amendment. We must allow flexibility. As you know, I have not favored an unlimited homestead exemption. But I have been persuaded by the very vociferous and powerful arguments of Mr. Chehardy, and of many other advocates, that there is a strong possibility that inflation will increase at exorbitant rates in the future. I believe that we do need the flexibility in our proposal so that the

legislature, with the protection of the two-thirds vote, can increase this above the five thousand dollar limit.

Even though five thousand dollars seems like a lot to us right now, in actuality, that's only the equivalent of around a thirty-two or thirty-three hundred dollar, at present-day rates considering the inflation factor of one percent per month over the next three and a half years. I would request your support for this amendment.

Thank you.

Questions

Mrs. Zervigon Mr. Schmitt, are you a registered Republican?

Mr. Schmitt I hope so.

Mrs. Zervigon Didn't your President say that the rate of inflation was slowing...that he almost had it solved and that pretty soon we'd be back on an even keel?

Mr. Schmitt Well, this will allay the fears of many that a Democrat might be elected, and we might have our rate of inflation increasing again.

Mrs. Zervigon Mr. Schmitt, I didn't hear what you said because your fellow Republican is talking in my ear. What did you say?

Mr. Schmitt I said this would allay the fears that a Democrat might be elected and the alleged rate of inflation might increase again.

Mrs. Zervigon If this is designed to prevent a Democrat from being elected, did you know that I oppose it?

Mr. Schmitt Mrs. Zervigon, I figured you'd impose it...oppose it, anyhow.

Mr. Roy Earl, I know this may surprise you, but I may be for what you are saying. Let me see if I understand you.

Are you for merely allowing the legislature to even go up to six thousand dollars exemption if they choose?

Mr. Schmitt That's correct. Whatever is necessary because I really feel that inflation will be setting in at some level, but we don't have the foresight to see at what level it will be setting in.

Mr. Roy Well, I think that's a great amendment, Earl, and I want to tell you that.

Mr. Schmitt Thank you, Chris.

[Previous question ordered. Record vote ordered. Amendment rejected: 24-76. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Nunez and Mr. Alario]. On page 2, between lines 7 and 8, in Floor Amendment No. 2, proposed by Delegate Rayburn, and adopted by the convention on today.

In line 16 of the text of the amendment, after the words "exemption of" and before the word "thousand", delete the word "five", insert in lieu thereof the word "six".

Explanation

Mr. Nunez Mr. Chairman and fellow delegates, this would give the old folks over sixty-five and the veterans of this state, a homestead exemption --instead of five thousand, it would put it at six thousand. I think that many of you know that the veterans have been getting a five thousand dollar exemption and we have to keep renewing it over a period of years. I had the privilege and pleasure of handling that amendment, and also the veterans

bonus. I think that the veterans deserve this particular exemption. I believe that the old people of this state, the people on fixed incomes, the people on Social Security, the people...the people who cannot better themselves should get a better homestead exemption than the average citizen. Mind you, when you give the opportunity or the prerogative to the legislature that it can be raised up to five thousand, you are putting them at the same level. You are putting them at the same level in the amendment...or the constitutional amendment we passed, that the old folks and the veterans could never be changed...can never be changed. Now let me tell you what I fear, and what I think your fears should be. I fear that in the coming years, with the rate of inflation...I don't know if it was Dr. Abraham, or somebody, or Mr. Weiss, who said, "I read that article by Dr. So and So who said that twenty-five years from now the dollar bill will replace the five dollar bill or vice versa...the five dollar bill will replace the dollar bill"...means that twenty times, or five times inflation will catch us by then. I believe this is a fact. All you have to be doing would be to follow the trends of the building industry in the past ten years. Look at the construction programs for this state. What you don't build today, tomorrow costs you two or three percent more. What you don't build this year, tomorrow will cost you fifteen or twenty percent more. When I built my home, I wish I would have built three homes because it's worth twice as much as when I built it. And now that the assessors of this state, now that they have...they shall assess at a certain percentage of actual cash value, they will not be able to take into consideration the needs of that person if they are going to obey the law. I believe that they shall obey the law this time. I think that the problem has been because some of them haven't obeyed the law in the past. But they are not going to be able to tell that old person who comes in there and tells them that "I can't afford to pay those fifty, or hundred, or two hundred, or three hundred, or what-have-you, because I'm on a fixed income, I'm on food stamps, I'm on welfare, I'm on Social Security, and what's he going to do? What is he going to do? He don't have the latitude he used to have. He don't have the leeway. He can't play his little politics with them. He's going to have to assess them. He's going to have to put them on the rolls at that percentage. Mind you, we put in the constitution that every five years he shall reassess that property. I think that's a serious provision we have. I think it's a good provision. But I believe we should leave a little latitude in the people of this state who have done so much for it. The veterans...the veterans, and the people over sixty-five...the old people. They make up such a small percentage, I don't think anyone can get up here and attack that this...doing this will jeopardize the income for local government, or jeopardize the income for our taxing bodies. I don't think you can do that because I think the percentage...the percentage that they make up is so small that it would not affect the budgetary units. It would not affect the taxing units of this state. I think if we would seriously do ourselves a lot of good, we should seriously consider this amendment because I believe, I believe that it would help pass this constitution.

I had the opportunity to appear before a veterans organization two weeks ago, of about two thousand people on an...on one of these annual meetings that they have. The only questions they raised to me on the Constitutional Convention is that they wanted to be guaranteed a meaningful homestead exemption. They appreciated it in the past, and they want it guaranteed in the future.

I met with a Jubilee Club of about two hundred old folks, and they sincerely and really appreciate the fact that we are intending to give them a meaningful...a meaningful homestead exemption...one that will not cost them any additional money in the future. We have to look into the future because I think if we looked at the spiraling rate of in-

flation, it isn't coming back down. It never does. It never...look at the interest rate we had this year...up to ten percent. I think in the next few...two or three or four years, that's going to be the average prime rate of this state, of this country, of this nation. I don't think we are doing ourselves any harm by giving this. I think we are showing good faith with those people...those people who have worked so hard, and have built this state and this country, and those veterans that have sacrificed so much. I think it's the least we can do for those people. I think...I believe that if we do this, we would help...we would get a large group of people on the side of we who are responsible for writing the convention, and we who seriously want to pass it, gentlemen and ladies of the convention. I think that we could do this convention a tremendous amount of good by giving them a little more than we are giving the twenty year old who's got a lifetime ahead of him, or the man who is making fifty and sixty thousand dollars a year, and ten thousand a year, and giving him the same exemption as you are giving those folks.

I think it's a good amendment, and I really would appreciate if you would go along with it. I think that the old folks will, and the veterans will.

Questions

Mr. Champagne Senator Nunez, I hate to do this with you. But don't you remember when I said those same things in committee and you voted against it?

Mr. Nunez Mr. Champagne, if you're telling me that I voted against it, I'm going to tell you you just don't know what you are talking about, my friend.

Mr. Champagne Senator Nunez, I have the record, sir.

Mr. Nunez Now let me tell you something about...wait a minute, let me answer your question. Now you've been making an accusation that's not true...that's not true. I never have voted against giving the veterans and the old folks a raise. But I'll tell you, so many things went on in that committee, so many things over the past year, that you and a lot of other people made us sit there time and time again, made it oppose certain things that we wanted to do, or that the assessors wanted to do. You come here and made a few changes and you compromised it and in one hour or two hours that we sat, we worked a year to do it. But I never have voted against the old folks and the veterans of this state. I've been chairman of the Veterans Committee for eight years, and I've handled most of their legislation. So, if I did, I don't remember doing it.

Mr. Stagg Mr. Nunez, is not the provision giving the increased homestead exemption to people over sixty-five a new concept, either constitutional or otherwise, in Louisiana, brand new now?

Mr. Nunez It hasn't been in the constitution before. Many of us have tried....

Mr. Stagg All right. Good. It's not that we're doing that for them now, are we not?

Mr. Nunez Yes, sir.

Mr. Stagg All right. In the veterans, has it not been a term thing which has been having to be extended by the legislature and by what we have done in the Rayburn amendment...it is now becoming a permanent fixture in ad valorem taxes. Aren't we benefitting veterans to that extent?

Mr. Nunez Yes, sir, it has been a term thing, and we've renewed it on every occasion that we had, and every time we've had another law which we...you know it looks like we might be involved in

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another one soon, we've increased that, we've allowed those veterans to come under the particular....I think this is permanency....

Mr. Stagg But we are now in....

Mr. Nunezlet me finish. I think the amendment that Mr. Hernandez had, that if we get it right, we're permanently giving the veterans of this state, in this past wars and future wars, a meaningful homestead extension. If you are going to give them something, why do you want to give them the same thing you are giving the other citizens of the state.

Mr. Stagg Mr. Nunez, I'm probably a veteran of the same war that you are. Do you know I oppose your amendment?

Mr. Nunez I doubt it.

Mr. Arnette Hey, Sammy, just a quick one here. How many people do you think that are living in fifty thousand dollar houses are on food stamps?

Mr. Nunez Mr. Arnette, I don't really know. But I could tell you one thing. There are a lot of old folks in this state that live on fixed incomes and if my knowledge of food stamps serves me right, it doesn't make any difference what type of house you have, it's based on your income....

Mr. Arnette It makes quite a bit of difference what amount of capital you have. But my point is, well a man in a fifty thousand dollar house can afford....

Mr. Henry Cut the mike off back there. Now, Mr. Arnette, you are not supposed to make a statement.

Mr. NunezI'll certainly appreciate your vote. For this I think we'll be doing ourself a great thing.

Further Discussion

Mr. Alario Mr. Chairman, fellow delegates, I think Senator Nunez has come up with an excellent amendment here, one that seems to be fair and just to the veterans and the elderly people of this state. What he's simply doing is giving them a thousand dollars increase in the homestead exemption, the same thousand dollars that we're giving to every other citizen in this state. I think if we raise one class of citizens, we ought to raise the other ones an equal amount. I think it's only fair and just. The figures passed out on one of the brochures that was handed to you would prove to you that this particular amendment that Senator Nunez and I are offering will not be a burden to any local government. It shows that there are only seven percent of the homes in this state that are valued over thirty-five thousand dollars. Now, how many of those are veterans or people over sixty-five, I don't know, but certainly it wouldn't be the greater percentage. I think it would certainly be an advantage to those individuals. Now, we say we're giving this additional benefit to the elderly. Yes, we are, but I want to point out to you that those are the same people in this state who will probably be hurt the most under this reappraisal business that we now have to go into. These people have been owning their homes for thirty and forty years, have worked all their lives to pay for it, and now they are going to be reappraised at the current market value. I think that on cases you're going to see some homes that were built, maybe, at thirty thousand dollars that may just be worth fifty to sixty thousand today, simply because of the property values going up. I don't think we ought to jeopardize that old person from being taxed to the point that he won't be able to afford to live in the home that he has paid for and worked for all of his life, that he has been accustomed to living in, and I think this would be a help to those people in particular. I ask that

you would pass this amendment.

Questions

Mr. Roemer John, didn't we just a few moments ago...vote against this very issue in this convention? Didn't we vote against De Blieux's bill which called for a six thousand...didn't this convention vote that down?

Mr. Alario Senator De Blieux had a little more involved in his, Buddy, when he talked about putting the full value of homes on the assessment rolls. I think that's what we were basically voting against.

Mr. Bergeron John, this amendment simply pertains to veterans and people sixty-five years and older. Right?

Mr. Alario That's correct.

Mr. Bergeron I'm in agreement with you on this amendment, and I'll tell you why. I'm looking at some statistics from the U.S. census of housing. Would you believe that over 306,000 people in the State of Louisiana are older than sixty-five years old, and that only 12.9 of these people are employed?...that 41.5 of these people are listed as being in poverty. So, I'm in agreement with you basically on this amendment.

Mr. Alario Thank you, Mr. Bergeron.

Mr. Rayburn Mr. Alario, I just wanted to set the record straight. I have here the minutes of our meetings where Mr. Arthur Webb, who was State Commander of the Louisiana Department of American Legion, appeared before us. His only request was to place the five thousand dollar homestead exemption in the constitution and give it constitutional status. That was his only request when he appeared before the committee. Am I correct?

Mr. Alario Senator, I remember that testimony, and I certainly remember him saying with the remark that "if someone else had a pair of shoes, then he certainly had no objection." But that's just the point we're trying to make. Of course we had a lot of people representing the elderly that also asked us to do something for them. I think if we're doing it for one class of people and giving them a pair of shoes, we ought to give it to the others.

Mr. J. Jackson John, you say that you do not want to treat different classes of people alike. What about those veterans and elderly people who are living in rental property?

Mr. Alario Johnny, if you'll check the record, I voted on all your rebate amendments, so...

Mr. J. Jackson Now, I didn't say you didn't...

Mr. Alario We tried to do something for them, but I just can't do it in this one particular amendment.

Further Discussion

Mr. Velazquez Mr. Chairman, fellow delegates, I just want to go on record in favor of this amendment. I feel that we have an obligation to our elderly and to our veterans. We already have it at the present time. I think we should continue to have it in the future. Thank you.

[Previous Question ordered.]

Closing

Mr. Nunez I won't take up too much time. I think it's important enough to say one word. Senator Rayburn is right. The man did come. That's before...most people are under the assumption that

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we will be under the old system. They want to keep what they've got, but when you're raising everybody else and when you're putting a mandatory ten percent against their property, then they're going to want exactly what you're giving everybody else or a little more. That's all we're doing here, and that's why I presented the amendment. The gentleman, when he came before the committee, he came with the intention that the people with...the homestead exemption would stay the same and the assessment would be the same. They know what they can do now, but if you...this is in lieu of that, and it's also because of the fact that the increase of the percentages and the increase of the three thousand dollars...of the individual citizens, and also that the legislature can raise it to five. Go along with it, please. I think it's a good amendment.

[Record vote ordered. Amendment rejected: 44-60. Motion to reconsider tabled. Motion to take up other orders adopted without objection.]

Announcements

[I Journal 646-647]

[Adjournment to 9:00 o'clock a.m., Saturday, October 20, 1973.]

ROLL CALL

[75 delegates present and a quorum.]

PRAYER

Mr. Heine Let us pray. Our dear Heavenly Father, we thank Thee for this day and for all the blessings that Thy hast given us. Be with us now as we deliberate on the business of the constitution, and that the decisions that are made here will be for the best interest of the majority of the people of our state. Lead, guide, and direct us now, and watch over us through the remainder of this day, and forgive us of our many sins, for Christ's sake. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation, and other delegates, members of that committee.

A proposal making provisions for property taxation.

Of course, the convention still has under its consideration Section 1, dealing with Assessment of Property; Classification; Assessors; and Right of Taxpayers, and in accordance with the suspensions of the rules moved by Mr. Anzalone, and adopted by the convention on yesterday, the rules have been suspended to allow the offering of further amendments to said Section 1 on the subject matters of the homestead exemption and limitations on the rate of the state property taxation.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Hernandez]. On page 2, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn and adopted by the convention on yesterday. Immediately after the word on line 15, immediately after the word "Veterans" and before the words "and persons" add the following: "of the armed forces of the United States who have been honorably discharged or separated from such services or persons who served in said armed forces, as defined by general law."

Explanation

Mr. Hernandez Mr. Chairman, ladies and gentlemen of the convention, I withdrew this yesterday because there were so many people that came up and told me that they were for this concept, but--so there were so many "buts" until I thought I had better try to eliminate some of those, and get this more acceptable to more people, which I had hoped to do at the very start. This simply says here, that "veterans of the armed forces of the United States who have been honorably discharged or separated from such services or persons who served in said armed forces, as defined by general law." Now, as far as I know, that covers practically all the objections that were raised yesterday. I hope it covered all of them. But, remember this, the only thing that I'm trying to do with this, and there's no play on words or anything else, it's just to give this preference to honorably discharged or separated veterans. Then it was brought up to me that there were some on active duty now that had served in both the Korean and the Vietnam conflicts whose families were living in a home, and they were deprived of this veterans exemption even though they had served honorably in those two conflicts, so, I wanted to cover that. Now, as far as I know, that covers these objections that were raised yesterday. I will be glad to answer any questions that you might have.

Mr. Tobias Mr. Hernandez, yesterday, you were asked a question by I don't remember who whether this particular amendment language would cover members of the National Guard; do you believe it now covers members of the National Guard?

Mr. Hernandez No, sir, I do not.

Mr. Tobias Why would you discriminate against members of the National Guard?

Mr. Hernandez There's not a question of discrimination, but the members of the National Guard who have served in the National Guard while it was on active duty in conflict are covered, but these men that are just in the National Guard at home, and they have never been actively engaged in any conflict are just not covered.

Mr. Tobias But, aren't they...

Mr. Hernandez They have never been under any veterans preference.

Mr. Tobias But, aren't they veterans of the armed forces?

Mr. Hernandez Mr. Tobias, let me go back a little further. I was asked yesterday as to why this is... as defined by general law. The reason for that being, all of veterans preferences, both state, and federal cover those veterans during certain periods of conflict a little before and a little after, that is true in both World Wars and in the Korean and Vietnamese conflicts. The federal government determines those dates and the State of Louisiana accepts those dates; that's why it's here defined by general law. The date on the Vietnam veterans has not yet been closed, I'm sure that it will be soon, hope it will be. Mr. Chairman, I have been requested to ask you to open the machine for co-sponsors. At this time... Thank you very much ladies and gentlemen.

[Coauthors added. Previous Question ordered. Record vote ordered. Amendment adopted: 86-2. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Ullo]. On page 2, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn and adopted by the convention on yesterday, on line 17 of that amendment after the words "assessed valuation" and before the words "No exemption" change the period "." to a semicolon ";" and add the following: "however, by the favorable vote of two-thirds of the elected members of each house, the legislature may increase this exemption to an amount which shall not exceed the full amount of seven thousand dollars of the assessed valuation."

Explanation

Mr. Ullo Mr. Chairman, members of the delegation, this is a very simple amendment; all we're doing is applying a sliding scale to the veterans and the people of age sixty-five--over age sixty-five to the same as we did as far as the homestead exemption was concerned. I feel that the vets have had this five thousand exemption for years, it has been sort of frozen into the constitution. We have made provisions for the future of this state as far as the homestead exemption leaving it to the infinite wisdom of the legislature whereby they can change it from three to five if at such time it would be deemed necessary. I feel that it would be a mistake to not give this same flexibility to the veterans' exemptions and also the people of over age sixty-five. I can foresee in the future possible much more inflation whereby the homestead exemption would be raised to five thousand dollars,

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and this would in all have the same effect as taking away this veterans, and the exemption from the old age people. I also see that possibly in future years some of the percentage ratios may change. We...this convention has not really adopted a percentage on a statewide basis yet, and there's a good possibility we may go to a local option which could in the future offset percentages that would go away, and deem necessary that we increase this veterans' benefit and also the benefits for the old age people. I also foresee there's a good possibility in the future that if such things come to pass, that more or less we would need a statewide amendment to give the veterans and the old age people more benefits. So, with that, I am open for any questions.

Questions

Mr. Burns Dr. Ullo, wasn't a similar amendment raising it to six thousand dollars defeated yesterday afternoon?

Mr. Ullo Yes, Mr. Burns, but this was a definite rise in the exemption which would have been frozen into the constitution. All this is doing is leaving the flexibility in whereby in the future, if the legislature sees that it's necessary, they can raise this exemption without a statewide amendment.

Mr. Casey Mr. Ullo, I apologize, maybe you have already explained this. Is this applicable to veterans and over sixty-five or just to veterans?

Mr. Ullo To both.

Mr. Casey Now, are we not now under the committee proposal--or let's say the Rayburn amendment already giving veterans more than what they had before, and that is really an exemption on a permanent basis?

Mr. Ullo Mr. Casey, I think it's only a matter of this exemption has been passed on for almost thirty years, and I don't think after the recent Vietnam crisis that the legislature is about to take away this exemption from the veterans of this state, not now, or in the future.

Mr. Casey Well, are we not giving people over sixty-five something far more than what they had before by the Rayburn amendment?

Mr. Ullo Certainly, but this day of attrition of the economy as far as increased inflation I think it's more than necessary that we give these old age people this benefit. I ask for your favorable adoption of this amendment.

[Previous Question ordered. Record vote ordered. Amendment rejected: 25-62. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [*By Mr. De Blieux*]. On page 1, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn, and adopted by the convention on yesterday, delete lines 9 through 16, both inclusive, in their entirety and on line 17, at the beginning of the line delete the words "dollars of the assessed valuation" and insert in lieu thereof the following: "occupied by any person, in the full amount of thirty thousand dollars of the fair market value. Veterans and persons sixty-five years or older shall be provided with a homestead exemption of fifty thousand dollars of the fair market value. However, by the favorable vote of two-thirds of the elected members of each house, the legislature may increase the homestead exemption to an amount which shall not exceed the full amount of fifty thousand dollars of the fair market value.

Any percentage of fair market value provided for in Section 1, Paragraph (B) shall be applied to any excess of the value of the exemptions granted herein."

Explanation

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, there is quite a bit of talk among the delegates about local options. If you have local option, you're going to be needing some sort of a mechanism to be sure that each person gets the amount of the exemption which we have already voted. If you approve this amendment, it would make no difference what the percentage is, what the local option may be. Each person would be entitled to an exemption of up to thirty thousand dollars, that's what we have already voted. Now, if you want that person to have that exemption then you ought to be willing to put that exemption, and make it sure that he gets it into the constitution. Now, the only thing that this changes in the Rayburn amendment is, that we use the actual fair market value rather than the percentage as stating as he has in his about three thousand dollars based upon ten percent. If we don't adopt the ten percent, that's not going to be thirty thousand dollars. That's what I am trying to get over to you. This way you are assured that the property owner will get an exemption of thirty thousand dollars. I think that's what everybody wants. So, why do we want to try to mess up and confuse the issue by refusing to state that we're giving him an exemption of thirty thousand dollars, because if you adopt a different percentage than the ten percent, it's going to amount to difference in the amount of exemption which he is going to get. This way, you give him his exemption first, and apply the percentage to that in excess of the thirty thousand dollars. Now, if that doesn't make sense to you, I'd like to know what does. I'm going to ask you to seriously consider this, because if you don't do that, if you have local option, you're going to have to come back and redo this section all over, or otherwise, you are going to be giving some people a less exemption and others a whole lot more. Now, if you are going to knock out the local option altogether, then of course, it won't make any difference if it's a straight percentage of ten percent or whatever it may be. But, I just ask you to seriously consider them because this is the only way you're going to be able to take care of places like Jefferson Parish, and like Caddo Parish where you have your different percentages, and you've got your argument for local option. I ask you to seriously consider it.

Questions

Mr. Weiss Delegate De Blieux, what is the difference between the assessed valuation and fair market value?

Mr. De Blieux The assessed valuation is that that you apply your millage to. Your fair market value is what you take the percentage of to determine your assessed valuation. There's a lot of difference.

Mr. Weiss Then, what's going to happen if you have an assessed evaluation that's different than a fair market evaluation?

Mr. De Blieux Well, your assessed valuation is going to have to...it's a different figure, but you've got to base it on something, and we've adopted the terminology of fair market value. You've got to take ten percent of something. Your ten percent is your assessed valuation. What you take the ten percent of is your fair market value. It's as simple as that, that is, if you can say it's simple. I think they ought to use fair market value all the way out and be done with it. But, yet nevertheless, if you're going to apply percentage, your percentage is your assessed valuation, that is, you start off with a house that's worth fifty thousand dollars--we'll say. So, you take ten percent of that. That would be five thousand dollars. You apply your homestead exemption to three thousand dollars of that. Now, under this procedure that the amendment that I have for adoption is, you'd take the fair market value of fifty thousand dollars, take off your homestead exemption first, so, thirty thousand dollars which we all agree upon. Then, apply your

percentage to the excess twenty thousand dollars. You'd come out, dollar wise, identically the same--there's no difference. The only difference is that you're assuring the homeowner that he gets his thirty thousand dollar exemption regardless of what the percentage may be and regardless of what the local option may be.

Mr. Weiss Assessors tell me they have an unfair or an unfriendly group that they have to assess; therefore, their assessments are often much lower than the fair market evaluation. Do you mean then they'll have to keep two sets of books, one on fair market and one on assessed evaluation?

Mr. De Blieux It won't change that one iota, Dr. Weiss. It won't change that because if you have an unfair group of assessors or something it's the assessed valuation fair market value is going to be identically the same. It's going to be unfair if you have unfair assessors. It won't change that whatsoever because just as well as they could take ten percent of fifty thousand dollars, and put it on as five thousand, they can take five percent, or four percent, or two percent. It wouldn't make any difference if they are going not use fair market value in making their appraisals. It won't change that. It just assures every homeowner that he gets his homestead exemption based upon what we've already voted and agreed that it should be. That's the only thing. It guarantees that homeowner he gets a thirty thousand dollar homestead exemption. Any other terminology used is not going to guarantee him that.

Mr. Abraham J.D., explain to me the meaning of the second paragraph here where it says "any percentage of the fair market value provided for shall be applied to that excess." I don't quite get the significance of that.

Mr. De Blieux All right. Let's take it this way. Under the Rayburn amendment as we have adopted, if a home is worth fifty thousand dollars, you put it on the assessment rolls at five thousand dollars, ten percent, if we adopt the ten percent rule. Then you take off the exemption of three thousand dollars--would leave two thousand dollars, and then that two thousand dollars would be what you'd apply the millage to. Under this amendment the home that has a value of fifty thousand dollars. You first take off the homestead exemption of thirty thousand dollars. That leaves twenty thousand dollars which you apply the percentage to if you'd use ten percent, would be two thousand dollars, and that's what you apply the millage to. You apply the millage to the percentage of that in excess of the homestead exemption. Then every homeowner knows that he has a homestead exemption of thirty thousand dollars, and he knows he's going to pay taxes on the percentage in excess of that. You guarantee him his homestead exemption regardless of what his assessment may be or whatever the percentage may be used. Particularly, in view--of I tell you people in Jefferson Parish, St. Bernard Parish that they have the low assessments at this particular time, those of you who are plugging for local option, and those that the percentage of ten percent and fifteen percent is going to hurt--like in East Baton Rouge Parish and Caddo Parish, and those parishes with the high assessment. You're going to need something like this to assure your homestead people that they get their homestead exemption.

Mr. Winchester Mr. De Blieux, are you saying, that the words "thirty thousand and fifty thousand" would make an assessor more honest than the words three thousand and five thousand?

Mr. De Blieux No, sir, Mr. Winchester. If an assessor is honest, those words are not going to aid him or deter from him one iota. It just lets the taxpayers know exactly what the exemption--it guarantees them their exemption. That's what it does; it guarantees them exemption.

Further Discussion

Mr. Burson Mr. Chairman and fellow delegates, I'm sure you all realize that this is the identical amendment that we defeated overwhelmingly, yesterday, and I hope that this amendment meets the same faith. The essential error with the thinking behind this amendment is, that you need some flexibility in the homestead exemption as well as in the ratio that's going to be provided by the local option plan that will be introduced this morning, because it doesn't make sense to say that you're going to guarantee to homeowners in St. Landry Parish a thirty thousand dollar exemption when their median home cost eighty-eight hundred dollars according to statistics. In Jefferson Parish you're going to guarantee the same thirty thousand where the median home cost twenty thousand dollars according to all reliable statistics. You may need a forty thousand dollar effective rate of exemption in Jefferson. You may need only a twenty thousand dollar effective rate in St. Landry. So, I ask you, please to defeat this amendment, and do not destroy the tax base or cause a social, and economic revolution in the shift of the tax burden in areas such as the one I come from.

Questions

Mr. Weiss Delegate Burson, I have before me something you issued to all the delegates which is most interesting which is entitled "Inequities Among Homes." I'd like to read to you the variance of assessments. Is this the type of play or variance that assessors should have of three houses sold...

Mr. Burson Those...

Mr. Weiss May I read this please, and ask you the questions? Of three houses sold for twenty thousand dollars each, one was assessed for seven hundred and fifty dollars, another for two thousand three hundred and twenty dollars, and a third, two thousand nine hundred and fifty dollars. Is this the type of variance in assessments that you recommend?

Mr. Burson Those are variances within the taxing district, Doctor, that has nothing to do with this. As for variances within the taxing district the local option plan that will be offered this morning requires uniform assessments within the taxing district. It's my position, and it's the position of the man that filed the lawsuit, Mr. Victor Bussie, that that's all that this lawsuit was intended to require. All in fact, the decision does require... the uniform assessment within the taxing district.

Mr. Weiss Delegate Burson, didn't the lawsuit simply prove that at present we have uniform assessment, and they're not being followed?

Mr. Burson Doctor, the only remedy for that, is contained as I understand it, later on in the committee proposal where a taxpayer will have the right not only to question his own assessment, but somebody's else's, if it's incorrect. But, I don't think that it will be solved with this.

Mr. De Blieux Mr. Burson, can you explain to me how the Rayburn amendment allows that flexibility which you're speaking about, and this amendment doesn't?

Mr. Burson It does not allow it as matters stand now, but if we adopt local option, it certainly would allow it. That's why I don't want to freeze...

Mr. De Blieux Don't you recognize the fact that if you have local option, the Rayburn amendment will lock in those percentages in that you will not be able to guarantee a homestead exemption to anyone--like that?

Mr. Burson With a combination of local option and the Rayburn amendment, we will be able to guarantee

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the taxpayers that I represent here, at this convention, that they'll be left alone in the same position they are now, and that's all in the world they want. They don't want these extra gifts that we're being given which is going to cause a social, and economic revolution, and shift the tax burden from fifty percent of the people to ten percent of the people.

Mr. De Blieux Are you saying that you ought to have different variations in homestead exemptions for different localities? That is, the amount of homestead exemption that a person has a twenty thousand dollar home in one territory that would be the limit of his exemption. That is, it would be a twenty thousand dollar exemption, and another one that may be thirty thousand, another one that may be forty, are you advocating that?

Mr. Burson I'll answer that question this way, Senator. If I can build a home in Eunice for twenty thousand dollars, and it costs me thirty-five thousand to build that same home in Jefferson or Baton Rouge, which may well be the case, then why in the world shouldn't the homestead ratio vary? That seems to me a common sense proposition.

Mr. De Blieux Well, wouldn't it be better that we have a provision whereby the legislature could set the homestead exemptions in each locality or that it's left to each locality to set their own homestead exemption?

Further Discussion

Mr. Conroy I rise in support of the De Blieux amendment. I like the figures that we were agreed to in the Rayburn amendment, and this simply converts those figures into the homestead exemption that I think we all wanted at that time. It does in all candor probably preclude the further discussion of juggling of percentages. It does probably preclude the possibility of juggling percentages for a local option approach, but I think, that's desirable. I think that this is what the convention indicated it wanted, and I think this is the best way to fix it, and to hold it at what I thought the vast majority of this convention indicated it wanted yesterday. I urge your support of the amendment.

Questions

Mr. A. Landry Mr. Conroy, don't you feel that this would automatically, if we go to a local option, where let's say Orleans Parish would have to use a twenty percent on the basis of fair market value automatically raise the homestead exemption from thirty thousand to sixty thousand dollars--compared to the Rayburn amendment?

Mr. Conroy I'm sorry, I don't follow you, Mr. Landry, that would do the opposite, it would...

Mr. Burson Let's assume that you had a thirty thousand dollar home using a twenty percent of the fair market value that house would be assessed for six thousand dollars wouldn't it?

Mr. Conroy Right.

Mr. Burson That person would get a three thousand dollar exemption and would pay taxes on three thousand, is that correct?

Mr. Conroy That's correct.

Mr. Burson Under this amendment, wouldn't he have automatically a thirty thousand dollar exemption?

Mr. Conroy That's correct.

Mr. Burson Therefore, would pay no taxes even though the house was assessed for six thousand?

Mr. Conroy That's correct. That's what I thought

we had agreed to yesterday, it should be the effect.

Mr. Alario David, Senator De Blieux mentioned two or three times that Senator Rayburn's amendment yesterday does not guarantee a homestead exemption. Would you elaborate on that for me, and tell me why Senator Rayburn's one would not guarantee an exemption?

Mr. Conroy You'll have to ask that one to Senator De Blieux, Mr. Alario.

Further Discussion

Mr. Abraham Ladies and gentlemen, yesterday when we milled around here and lost quite a bit of time debating whether to take these two sections as one. As I understood it, the intent was, to handle them together so we would be able to determine the percentage and determine the amount of the homestead exemption at the same time. Now, I voted for the Rayburn amendment on the basis of the three thousand dollar exemption, thinking along the lines of the ten percent ratio...assessment ratio. I'm sure that most of the other...most of you here were thinking along the same lines. The three thousand dollar exemption at ten percent allows a thirty thousand dollar home to be exempt from taxes. Now, to me, by placing an exemption in the constitution based on the fair market value of the home is a much more logical and systematic way of handling this problem. So, that, regardless of what percentage you apply, you're still dealing with the same basic figure of the amount of homestead exemption based on fair market value. Now, let me tell you what happens. On a three thousand dollar assessed valuation exemption a ten percent ratio allows a thirty thousand dollar home to be exempt. But, if a parish is applying a five percent ratio, this would exempt a sixty thousand dollar home. By the same token, if a twenty percent ratio is being applied, then this only exempts a fifteen thousand dollar home. So, as long as we're dealing with percentages, the amount of actual worth of a home that is exempt can vary all over the map. If the percentage ratio is applied to the fair market value of a home, then why not use that base figure in determining the amount of the homestead exemption. I think this is the most logical and simplified way to handle this particular problem. Then, regardless, of what is done with the percentages later on by a parish or however way we handle it, you still have a stable, firm base for homestead exemption. I submit to you that if we go back now, and we change the percentage ratio that is applied then we're going to have to come right back again and change the amount of the homestead exemption. So, I think, that Senator De Blieux has the right idea here and I'm very much in favor of it and I think this is the simple way to go. Then, regardless, of what is done with the percentage, we still wind up with the same amount of homestead exemption. I urge you to adopt this amendment. It does no violence to the Rayburn amendment or anything else that we've done. It simply fixes what we all have in mind of the worth of a home, the value of a home that we want to have exempted.

[Previous Question ordered.]

Closing

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I appeal to you once again to carefully consider the words of this amendment, and the effect thereof. Particularly, in view of the fact, that you're asking--many of you want local option because the local option can vary the amount of the homestead. I certainly think there's a general state policy if this Constitutional Convention is going to set the homestead, it should be equally applied every place all over the state. This will guarantee the homestead exemption up to the amount stated in here, regardless, of what the percentage may be locally. Regardless of what the percentage may be

locally. It's the only way that I think that we can truly approach the issue of local option. If we do not do that, then we're going to treat the taxpayers in different sections of the state unfairly by the provisions or the percentages that we lock into this constitution if we...that is, the homestead exemptions we lock in this constitution if we vary the percentages. I ask you to vote favorably upon this amendment.

[Record vote ordered. Amendment re-jected: 32-71. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Nunez]. On page 2, between lines 7 and 8--distribution copies haven't arrived--in Floor Amendment No. 2, proposed by Delegate Rayburn, and adopted by the Convention, on line 15, immediately after the language added by Floor Amendment No. 1 proposed by Delegate Hernandez, and adopted by the Convention on today, and particularly after the words and punctuation "general law," of that amendment add the word "widow."

Mr. Chairman, I'll try to read this thing. It would read when you pick up on line 15...The way... if you put the Hernandez amendment into the Rayburn amendment, and then add the Nunez amendment, it would read "Veterans of the armed forces of the United States who have been honorably discharged or separated from such services or persons who have served in said armed forces, as defined by general law, widows, and persons sixty-five years or older shall be provided with a homestead exemption" etc.

Explanation

Mr. Nunez Mr. Chairman, and ladies and gentlemen of the convention, what this amendment does, it extends to widows the same privilege we extended yesterday to veterans and to senior citizens, that is, citizens over sixty-five years of age. If you give me your attention, I think there's a lot of merit and a lot of logic behind extending that privilege to those widows. It would be very difficult to me to explain to two widows--one living side by side in the same house-- that she does not have to pay taxes on this house, and she has six children and she doesn't have a husband, and this one on the other side would have six children and not have a husband in the same price house, and she would have to pay taxes on that house. I think that this is a very, very good amendment. I think we evidently should have had it in before because if the husband dies--it makes no difference what his salary was and it makes no difference what type of home or what income bracket he was in--if she does not have any income and she's raising children and she is paying for a home and that home is taxed, I think this is where she is in most need at that particular time. I think that the widows of this state certainly need this exemption, and I believe that it would be good to insert it in the constitution.

Questions

Mr. Champagne Mr. Nunez, I agree with your theory, but isn't it at present time taken care of by legislation, by statute, because I would present to you the question: Suppose this widow gets married, she would no longer be covered?

Mr. Nunez My understanding of the legal term, she would no longer be a widow if she got remarried.

Mr. Champagne I see. But, you said...the question is, "the widow of a veteran?" Right?

Mr. Nunez No. Mr. Champagne, evidently...I thought it might be some confusing language in there. Let me try to straighten it out. Will not...the widows of veterans are now covered. What we are doing in this amendment is giving your wife, a widow--a widow, if you die tomorrow--or any other

widow, the same privilege that we've given to veterans and we've given to people over sixty-five. We're extending the homestead exemption to five thousand dollars to those people. Don't you think that's necessary?

Mr. Champagne One more question. Were you insinuating something when you suggested my wife was a widow?

Mr. Nunez I'm looking down the road at some things.

Mr. Lanier Senator Nunez, do you know what a grass widow is?

Mr. Nunez I've heard different terms, Mr. Lanier.

Mr. Lanier That would be someone who's divorced. Do you think they should--since they would no longer have a husband--they should be treated the same?

Mr. Nunez Mr. Lanier, my understanding, and after going over it carefully with Mrs. Duncan and the staff, I think we've narrowed it down to widows as such.

Mr. Rayburn Sammy, under the present proposal, we provide for widows to have an exemption. What are you doing that's not in this proposal? You're making it five thousand for all widows?

Mr. Nunez Yes, sir. Senator Rayburn, we're extending...it is provided under the present proposal that a widow would get the three thousand dollar exemption. What we are doing in this proposal, and if you will give me your attention, I'll try to get it...it's just a simple amendment, ladies and gentlemen. We're extending those...that five thousand dollar exemption to a widow, that you're giving to veterans and you're giving to senior citizens. We're giving that exemption to a widow, yes, sir.

Mr. Rayburn Let me ask you this then. Let's define that a little clearer; you've kind of got me confused, as usual. If a woman is a widow today, and she goes on the tax rolls as a widow, and two weeks later she marries, has the assessor got to come back and find out and take her off? How're you going to handle that business? Maybe two days after she gets on the rolls as a widow with her property, and then gets married, is she going to stay on there and enjoy that until the next year when the assessor comes around and happens to find it, or how will he know about it? What provision are you making for them to notify an assessor? You know, women marry and quit everyday. It's going on every day [everyday]; they start over and quit and divorce and get married again, and I'm just wondering how would you ever enforce this, Senator?

Mr. Nunez The same way you're going to enforce the appraisal provision where they have to reappraise property.

Mr. Stinson Mr. Nunez, this would also cover grass widows, too?

Mr. Nunez That's been brought up already, Mr. Stinson.

Mr. Stinson Oh, it has. I'm sorry I wasn't there. What was your answer?

Mr. Nunez Pardon.

Mr. Stinson Is it supposed to cover them too?

Mr. Nunez No, we're not trying to cover grass widows and it doesn't say grass widows; so I'd assume if it doesn't say it, it doesn't cover them.

Mr. Stinson Therefore, when you say widows, though, it covers all categories of widows unless you...

Mr. Nunez Well, I think you define a grass widow

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differently than you define widow.

Mr. Stinson Well, don't you think widowers should have the same protection as widows?

Mr. Nunez No, I don't. I think that if a man can't get out and earn a living...

Mr. Stinson With the women's liberation though, don't you think that they should? Now, you're discriminating, and that's going to be unconstitutional.

Mr. Nunez Mr. Chairman, if Mr. Stinson would ask one question and allow me to answer it, I might be able to give an intelligent answer, rather than hogging the microphone every time I try to answer.

Mr. Stinson No, seriously, with women's liberation in our constitution and you're limiting this just to females, don't you think that it's unconstitutional?

Mr. Nunez Mr. Stinson, I think that we should discriminate for our widows once in a while in this state, and I think if this does it, then I'm for discriminating and giving them a little more than we give the men. Yes, sir.

Mr. Winchester Delegate Nunez, is it not so that the conditions at the time a person applies for a homestead exemption is what governs? Then next year, the condition that exists at the time he applies for the exemption is what governs, and I think that will answer Mr. Rayburn's question.

Mr. Nunez Mr. Winchester, you're exactly right. I think the homestead exemption...you have to personally sign each year for it, and your conditions at the time that you sign are on that application.

Further Discussion

Mr. Alario Mr. Chairman, fellow delegates, I can tell the mood of this convention, but I seriously wish you would consider what Senator Nunez is trying to offer here. I've seen it happen only too often where the husband dies, leaves a wife with several children; her income is thus cut off, other than that which she might receive under her social security payments or welfare. Now, certainly she may not...a hundred or two hundred dollar tax bill a year may not be much money to an income producing family, but when they get their income shut off and put at a level where they're only drawing social security to the tune of two hundred or two hundred and fifty dollars a month, then the tax bill of two hundred dollars certainly gets high. All we're looking to do here is to make sure that those widows and those children are protected, that they don't have to worry about being taxed, and I don't think we're talking about a great majority of people in this state. We're talking about helping those who certainly need help. I earnestly ask that you give it your full consideration and think about it. Certainly someone close to you may be in this position; I've seen it happen. I've seen it where even an eighty dollar tax bill gets to be a burden on that family when you're talking about a small amount of income.

[Previous Question ordered.]

Closing

Mr. Nunez Mr. Chairman, and gentlemen of the convention, I think this is a serious amendment. I think it's a good amendment; I think very basically the mechanics are there to do what some of the objections that have been raised. There's no doubt that this wouldn't cover divorcees or grass widows or etc. It simply extends to those people, those widows, or those persons that are living in a... home that have a family and that are paying the same bills they had when that husband was there and providing the money for that family. Now, you think

about it a minute, and if you don't think like I think, then something's wrong, because I think we should extend this benefit to widows. I think we should extend this benefit to widows, and you're not doing a great injustice to the budgetary unit of this state. I think it's a good amendment, and I think it would do well for us to give widows the same privilege that we give veterans' widows and we give the old folks of this state. What's the principle behind that? Limited income. Limited income for the senior citizens. Does a widow have limited income? You bet she does; you bet she does! You let the breadwinner of a family die and leave her on a fixed income, and many times she's got to go to work herself, and then let those assessors come in there with this hundred percent, or this equalization, or whatever you want to call it, whatever figure you set upon, and she's got to pay the taxes on that house, I think she should be granted that exemption. I think it's only right and fair that we do that.

[Record vote ordered. Amendment rejected: 48-52. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Velazquez]. On page 2, between lines 7 and 8, in Floor Amendment No. 2, proposed by Delegate Rayburn and adopted by the convention on yesterday, after the language added by the amendment add the following: --Now this would go at the end of the Rayburn amendment--"The legislature shall provide for a system whereby the ad valorem property tax on a homestead is limited to seven percent of the gross income of all household members. Any refund shall be made only after application by the taxpayer in the form of an affidavit certifying the gross income of all household members."

Vice Chairman Casey in the Chair

Explanation

Mr. Velazquez Mr. Chairman, fellow delegates, this is an attempt to prevent in Louisiana the problems with property...ad valorem property taxation that have occurred in many states, whereby the individual homeowner is being phased out. This is not an attempt to destroy anybody's school system. It's an attempt to have a built-in protective device, so that when you go back to your homes and to your various areas, you can tell the citizens of Louisiana that you have guaranteed them that Louisiana will never go the way of California or the way of Massachusetts where the individual homeowner is being taxed at such a high rate that homeownership itself is in the danger of vanishing. All that this does is it ties in your rate of ad valorem taxation to your income, and it states, at the seven percent level, that if you have an income of ten thousand dollars that your ad valorem taxation...your property, the ad valorem taxation on your homestead, and on nothing else, will never exceed seven hundred dollars. If you have an income of twenty thousand dollars, then the property taxes on your homestead will never exceed fourteen hundred dollars. This is what is commonly called a "circuit breaker." Right now these are present, sometimes in the statutes and sometimes by constitutional amendment, in the states of Wisconsin, Minnesota, recently California in a different way, the State of Vermont, the State of Iowa, the State of Kansas, Ohio, Illinois, Virginia, and Pennsylvania. It's presently under study in the State of South Dakota and in the State of Washington. It allows the legislature to define gross income. It allows the legislature to define who the household members are. It allows the legislature to set up a technique for refund, and it allows the legislature, by requiring an affidavits, to provide for penalties in the case of fraud. The language that we have here largely tracks the Vermont language. We all know that big business can take

care of themselves. It's up to the state to try to protect the ordinary working man and to protect the poor widow, anyone else who needs assistance and this tie-in between income and the maximum amount of your ad valorem taxation will be of assistance to our elderly citizens; it'll be of assistance to those of our citizens who have just become homeowners. In the places where statistics are available, they show that no more than a quarter of the people who are eligible ever apply for this relief. But, the feeling in those states is that this type of "circuit breaker" amendment allows the citizen to realize that the state is interested in helping him become a homeowner, and if he is a homeowner, it is interested in helping him remain a homeowner. I urge a favorable adoption.

Questions

Mr. Newton Mr. Velazquez, do you have any figures on what this is going to do to the income of the taxing authority?

Mr. Velazquez What I've been told by talking to a couple of people who are assessors and who have some experience with this, is that at the present time this applies only to your homestead. They don't see where it's going to have, really, any effect at this time. It might not have an effect for ten years, but the key point of this is that it puts a guarantee to the individual taxpayer, lets him know that this convention and this state is interested in his well-being?

Mr. Newton Couldn't the legislature just as well do this as us?

Mr. Velazquez I would hope that they would, but they haven't, and I feel that it is worthy of constitutional inclusion.

Ms. Zervigon Mr. Velazquez, I think I understand what you're trying to do; I'm not certain that it's being done. The first sentence says that the taxing authority could not levy a tax greater than seven percent--isn't that so--of the gross income?

Mr. Velazquez It says that it is limited.

Ms. Zervigon So it couldn't be levied?

Mr. Velazquez The key point is that the legislature provides for the mechanism of the system. This tracks the language all through the Vermont one, and the way it operates there is that whatever taxes are put on you by local governing authorities, you have to go ahead and pay. Then you file affidavits through your assessor's office or through some other mechanism. It varies from county, or whether you are in a municipality in Vermont, and then you receive your rebate from the state. But, as this thing is written, all of the mechanism is left to the legislature. This does not say that any local subdivision must...can't tax you more than seven percent. It merely says a system is going to be set up for you to receive a refund in case your total ad valorem package on your homestead, and your homestead only, exceeds seven percent of your income.

Ms. Zervigon Mr. Velazquez, what I'm trying to find out is the relationship of the second sentence to the first sentence. It doesn't say in the first sentence that effect of the ad valorem tax is limited to seven percent, does it, or that anything over seven percent will be refunded? It says that the tax is limited to seven percent. So, I question what you then need a refund for if you never were taxed higher than seven percent to begin with.

Mr. Velazquez Ms. Zervigon, this thing tracks the Vermont language which has already been tested in the courts. The language has been so said by the federal courts to mean that if you are taxed, you must pay your tax, and then you apply for

relief under the system set up by the legislature, the legislature having authority to set up a system or mechanism for the system. This is the way it operates; this tracks language which has been court tested.

Ms. Zervigon Has Vermont a homestead exemption as well?

Mr. Velazquez They have a semi-homestead exemption. It's a very strange type of thing. It depends upon exactly how your area is bound, whether your area is...what's that...there's an expression...they have different terminology for land than we do here.

Ms. Zervigon Is the effect of it thirty thousand dollars of exemption on a home?

Mr. Velazquez I beg your pardon, ma'am.

Ms. Zervigon The effect of the semi-homestead exemption in Vermont, is the effect of it to exempt the first thirty thousand dollars of worth in a home?

Mr. Velazquez Not specifically. It's not specifically intended for that. It's specifically intended to protect the citizen from his ad valorem tax reaching a confiscatory stage.

Mr. Roemer Tom, you made the statement in your opening remarks that this was a "circuit breaker" type of idea. Is that correct?

Mr. Velazquez This is the term that technicians use for it.

Mr. Roemer We've studied the "circuit breaker" in our committee and done some reading on it. I submit to you this is not a "circuit breaker." What you've done here..."circuit breaker" theory, don't you agree, is one which exempts certain income levels from any ad valorem taxes? All this does is put a limit on everybody's ad valorem tax, and that's not a "circuit breaker"; that's a lid.

Mr. Velazquez Well, the "circuit breaker" philosophy is a broad one. I know you'll have to agree, and I have been told that this is a "circuit breaker" type amendment. It's been court tested.

Further Discussion

Mr. Winchester Mr. Chairman, and fellow delegates, when Delegate Velazquez asked me to cosponsor this amendment, I thought of my daughter who lives in Cyprus, California, in Orange County. She has a home valued at between thirty-two and thirty-five thousand dollars. She pays three percent of that valuation every year in taxes. Her taxes this year were a thousand and fifty dollars, which is at least three percent of the valuation of her home. This, amount of tax of one thousand and fifty dollars, is approximately six percent of her husband's income of eighteen thousand dollars a year. Now, in answer to Mr. Newton's question as to the cost to the state, I can tell you in St. Mary Parish now, at this time, the taxes amount to approximately one percent or 1.2 percent a year. I think that this amendment is a safeguard in the event that our taxes get too much out of line. It happens; it is happening in California and in other states, and it can happen here, and I ask that you support this amendment.

Further Discussion

Mrs. Warren Mr. Acting Chairman, and delegates, I support Mr. Velazquez's amendment. I would like to ask each of you to turn to page ten of the material that Mr. Chehardy sent out, and you'll notice that there was three million households in the United States, most of them low income, payments were more than ten percent of their income in property taxes. That tells you how much some

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places are paying in property taxes. I'm not an expert on this property tax deal, but I can tell you one thing: That you're going to have some people that are paying more taxes that they can afford at certain periods. This amendment that Mr. Velazquez has would assure the property owners that at this time in their life, they would not have to pay it. One thing that comes into my mind is a person that is working on a job, he is either laid off for a period of time or either he is sick in the hospital and cannot meet his obligations; yet, still, he owns a home, and he's not going to be able to pay his taxes. I noticed on page twenty-three of Mr. Chehardy's literature where someone thought of the farmers--and we're very thankful for that--they didn't have to be sixty-five years old, but because that they were paying more taxes than their income was allowing, they saw fit to put in their provisions that they would do something for the farmers. In that...under the farmers, where it says on page twenty-three, it says farm real estate taxes more than doubled between 1960 and 1970 while net farm income rose about one-third, which shows you how much the farmers lost. Can you imagine how much a person would lose if he's not working, yet, still, he has his home and he needs some type of relief? I'm not saying that people should not bear their burden of taxes, but I think that they should be able to keep it, and not lose it just because they're not able to pay the taxes at that time. So I'm going to ask you to vote favorable for Mr. Velazquez's amendment. If there's anything that you need to be straightened out in it, I think you should go to work and try to straighten it out and make it apply as it should, but not do away with the concept. Thank you.

[Previous Question ordered. Record vote ordered.]

Closing

Mr. Velazquez I don't want to belabor this, but I feel that we have an obligation to the homeowners of Louisiana to let them know that this convention thought enough of them to put in this constitution, a mechanism whereby if--and only if--the taxes reach a confiscatory stage, they will be safe. I think that right now the taxpayers of Louisiana are scared. They don't know what all these tax measures are going to do to them, and a scared vote is a no vote; a scared vote is a no vote for this constitution. I think that you can do no less than to put an amendment of this type in the constitution. Thank you.

[Amendment rejected: 28-74. Motion to reconsider tabled.]

Amendment

Mr. Poynter This amendment [by Mr. Velazquez] is somewhat different from the previous amendment.

On page 2, between lines 7 and 8, in the Floor Amendment of Delegate Rayburn, immediately after the language added thereby, add the following: "The legislature shall provide for a system whereby the ad valorem property tax on a homestead is limited to three percent of the fair market value of the homestead. Any refund shall be made only after application by the taxpayer in the form of an affidavit certifying the gross income of all household members."

Explanation

Mr. Velazquez Mr. Chairman, fellow delegates, this amendment that is now being passed out is exactly the same as the amendment which is in the California Constitution. As you know, they've had a terrible problem out in California with the high taxes. The taxes are almost a thousand dollars on a thirty-two thousand dollar home. This merely states "the legislature shall provide for a system whereby the total ad valorem property tax on your homestead is limited to three percent of the fair market value

of the homestead. Any refund be made only after application by the taxpayer in the form of an affidavit certifying the gross income of all household members." We all know that the gross income in California...the average income in California is higher than the average income in Louisiana. We also know that the property values in California are supposed to be higher than the property values in Louisiana, so whatever protection that they are being given there by this amendment, which was passed by the people in California almost by a ten-to-one margin, I've been told, would give the same protection and citizens of Louisiana deserve this same protection. Just as in the other one, it leaves all details to the legislature. If you're taxed, you've got to pay your tax; then you apply for your relief. I urge its favorable adoption.

Questions

Mr. Sutherland Tom, do you have a copy of that floor amendment before you?

Mr. Velazquez Yes.

Mr. Sutherland Well, I'm at a loss to understand what you mean when you say "the legislature shall provide for a system whereby the ad valorem tax on a homestead is limited to three percent of the fair market value," and then in the second sentence say, "any refund will be only after application by the taxpayer in the form of an affidavit certifying this gross income." What does a gross income have to do with the fair market value of the property?

Mr. Velazquez There should be a period after affidavit on this one. I'm glad you pointed it out to me.

[Amendment withdrawn and resubmitted with correction.]

Mr. Poynter In the second sentence, put a period after the word "affidavit." Strike out the balance of that sentence. The second sentence would read: "Any refund shall be made only after application by the taxpayer in the form of an affidavit."

[Previous Question ordered. Record vote ordered. Amendment rejected: 18-84. Motion to reconsider tabled.]

Chairman Henry in the Chair

Amendment

Mr. Poynter Amendment No. 1 [by Mr. J. Jackson]. On page 2, between lines 7 and 8, in Floor Amendment No. 2, proposed by Delegate Rayburn, and adopted yesterday, after the language added by that amendment, add the following sentence: "Notwithstanding anything in this constitution to the contrary, in order to provide equitable tax relief similar to that granted to homeowners through homestead property tax exemptions, the legislature may provide for tax relief to residential lessees in the form of credits or rebates".

Explanation

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I would ask very seriously... I don't attempt... I will not attempt to be up here no more than my allotted time. If I can be briefer than that, I will. But, I ask that you at least bear and hear my arguments on the amendment that is before you. On yesterday, when I brought before this convention floor that the problem that's facing renters in this state, particularly when we raise homestead exemption, a lot of delegates came up to me and said, "Jackson, I believe you have a good concept there, but because of several problems with the way your amendment was worded, I naturally had to vote against it, reluctantly." I suggest to you, as I did yesterday, that renters in the State of Louisiana do in a very direct way contribute in the paying of property tax. I think we all admit

that. Maybe some of us will not admit it publicly, but we know as a matter of fact that there are renters in the State of Louisiana and that included in their rent is the cost of whatever that landlord's property tax. Oftentimes when you have multi-dwelling apartments, you'll find that in the inclusion of the rent that a landlord puts his taxes. By having multi-dwellings, that he usually gets that percentage of the rent in excess of the property taxes that he has to pay. Now, I agree... like I said on yesterday, I agree that we ought to provide some homestead...some relief for property owners. But, I just want you to recognize and be very fair about it, be very fair about it, that every time you increase or afford to one segment of this population a tax exemption, then that means that somebody else has to pick up that burden of the tax. Now, this amendment attempts to, one, say that in order to provide fair treatment for renters who do pay property taxes which are included in their rent, the legislature "may" provide--it does not mandate the legislature to come up with a system for providing relief for renters. However, because of the kinds of reservations mentioned by delegates --and I'll name them--one, said, "Well, what's going to be the cost to the State of Louisiana? What about the income limit? You have no income limit in your amendment." I want to suggest to you that by saying that the legislature "may," that if you...if there is a proposal that's going to drastically have devastating or violent effects upon the funding sources of the tax base of the state or parish or municipality, the legislature will not, the legislature will not provide that relief. Secondly, on the matter...Secondly, on the matter of income limits, I would like to show you we did some research last night. Here are three legislative statutes from three different states talking about the various kinds of requirements necessary for a person to get tax relief or tax rebates by being a renter. I'm quite sure we could not put this amount of legislative material in the constitution, but it does set the basic premises that the legislature make. I'm going to answer a question when I finish, Buddy.

I want to suggest to you that there are thirteen states in the country that does provide tax relief, in some form or another, for renters, particularly the elderly. You know what we did no yesterday-- and I raised the question to Senator Nunez when he was bringing up his amendments about veterans and the elderly. Do you know that fifty-one percent of the elderly people in the city of New Orleans are renters? There are veterans and elderly people that do rent in this state, and the larger proportions than those who can afford to own property. It seems to me that we may be inviting, somewhere down the line, another suit of discrimination against people who are renters. What will that do to our tax exemption when one renter says that "I do pay taxes through my rent," and he files a civil suit against the homestead exemption? It seems to me that we ought to be very concerned about renters in this state. We ought to be, and we do...we admit to the fact that they are paying property taxes, then we ought to provide them some form of relief. Let me also just say in closing--and then I'll answer questions after this--in reading some of the information prepared for me by staff to show you what kinds of materials that have gone into some of the state statutes, they give income levels. They say a person with five...who receives an income of five thousand dollars shall receive certain percentage in terms of rebate, and it goes on to a sliding scale. I think that we do have the basis, and we do have precedents set in at least thirteen states that says that they are attempting to address themselves to the problem of renting. I'll yield to questions.

Questions

Mr. Roemer Johnny, isn't it true that this problem with renters cuts across racial lines--white and black? Aren't there substantially large numbers of white renters and black renters in this state?

Mr. J. Jackson It touches white renters, black renters, white veterans, black veterans...

Mr. Roemer Well, isn't it also true--you pointed in your example specifically to New Orleans--isn't it true that there are renters throughout the state? I know we have a high percentage in my area.

Mr. J. Jackson Right. I...I did...I attempted to get some percentage of the rental population...

Mr. Roemer It's approximately forty-three percent; forty-three percent statewide were the figures we had in committee. I want you to know that I'm supporting your amendment. The reason is because you say the legislature "may". You don't mandate certain rates or anything like that. You give the legislature the right to review it. Don't you think they have that right anyway, but you're just trying to make sure that the renters have something to hang on?

Mr. J. Jackson I'm quite...I wasn't sure if the legislature had the right, particularly when we have constitutionalized and given some authority for taxing. I don't know if the legislature could, without a constitutional amendment, provide for the passing of certain taxes, or at the same time give tax rebates. For those reasons, that's why I feel, in addition to the fact that if forty-three percent--and I'll take your figure--of the state are renters, and that they do, in effect, pay property taxes, then we ought to, at this state, allow the legislature some latitude to address itself for providing relief to a significant segment of our population--almost half.

Mr. Weiss Delegate Jackson, what type of bureaucracy would be necessary to see that forty-three percent of the state gets reimbursed? Considering the confusion that the assessors have in their problems, what do you think this would do to government in creating a practical approach to trying to reimburse an individual two to three or five dollars a month?

Mr. J. Jackson That's why the amendment is so worded as saying that 'the legislature may provide.' I would leave that up to the wisdom of the legislature. But, I suggest to you...

Mr. Weiss Is the legislature any more wise than this body?

Mr. J. Jackson No. Excuse me, I suggest to you that we do make those kinds of decisions when it comes on income taxes, so it just seems to me if you had an income level, that's one method of addressing itself without setting up a very vast bureaucracy. I think that we have, within existing state machinery, the facilities and the mechanism to implement that.

Mr. Weiss Could you envision this...

Mr. J. Jackson Let me suggest to you, Dr. Weiss, that I'm saying to you that there are thirteen states that have implemented, and they have not, based on my conversation with the staff, have resorted in tremendous bureaucracy and have devised several alternative means of addressing themselves to the problem. But, I think what this amendment does is not to try to set out the mechanism or say to you what the structure is going to be. That's going to be provided in a manner by the legislature. But, what it does lay out is the concept that...the concept of providing that "the legislature may provide" some relief.

Mr. Weiss What thirteen states are they...those? Montana has...

Mr. J. Jackson I have four of them listed: New Jersey, New Hampshire, Vermont and Maine were the four that we were able to get. I do have the reference book that...I think it's Greensville Encyclopedia of Community Taxes, which relates to

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the other states.

Mrs. Soniat But, Johnny, isn't it not true that in most of these states this applies only to the elderly?

Mr. J. Jackson No, there are variations of it. But, let me suggest to you, Mrs. Soniat, that even if it...even in those states where it applies to elderly--and I'm suggesting to you that there are variations of the elderly--we have not, even in our state, provided for elderly people who have rent... who are in rental property. I'm saying that the legislature could even decide not only in terms of what the income level is going to be, but could very well provide...

Mrs. Warren Mr. Jackson, don't you believe that forty-three percent of the people of the State of Louisiana is worth a little trouble or a little inconvenience to the tax assessors?

Mr. J. Jackson Not only...while I'm not suggesting that this is going to be a matter of inconvenience, but I am going to suggest to you that I could see somewhere in the future that somebody could put together a good brief for a case argument against homestead exemptions. Where does that put us in providing relief for property owners? I'm suggesting that--I'm not a lawyer--but I think that there are...there's enough documented evidence that can point out that property tax and rent to some degree as synonymous.

Further Discussion

Mr. Tapper Mr. Chairman and fellow delegates, I rise in support of this amendment. I don't really think it goes far enough; however, I have serious concern that if we do not make some provision for the more than forty percent of the dwellers in this state that are renters, I have serious concern for the constitutionality of this document when we complete it. I am for a new constitution. I think we have done a rather good job up to this point. We all know that this constitution may well succeed or fail on this particular issue, and for us to give the people of this state all the beautiful accolades that we've heard and, yet, end up with nothing, I think we'd be doing a grave injustice. I hope that you will see fit to vote for this amendment so as to prevent the possibility of this document being unconstitutional.

Questions

Mr. Weiss Delegate Tapper, the average homeowner owns a twenty thousand dollar home and has that much investment. It's my understanding that to help these homeowners who are working and getting limited income, they are given exemption from taxes. What investment does a renter have in his property?

Mr. Tapper A renter, Doctor, has as much of an investment...he doesn't have an investment that he can...that inures to his benefit. But, he pays for that property by his rent, and I think he should have some consideration for that.

Mr. Weiss Doesn't the homeowner also pay interest and taxes as well?

Mr. Tapper Well, I believe you've heard a lot of it here in recent days. There's very little taxes being paid by the homeowners today, Doctor, because of the homestead exemption. We're trying to make...give them exemptions up to sixty thousand dollar homes here in this convention. So, yes, Doctor, I do believe that these people have an investment that they cannot do anything with because it isn't theirs. They should have some consideration. I believe that it would be unconstitutional if we don't give them this award.

Mr. Willis Mr. Tapper, I emphasize your last statement, and that's what worries me. Do you believe that absent this passage in our constitu-

tion, it would be vulnerable to constitutional attack?

Mr. Tapper Yes, I do.

Mr. Willis Then, by the same token, if you turn the coin on the other side, don't you think that the legislature could accomplish this without its being in the constitution?

Mr. Tapper I'm afraid not, Mr. Willis. I'm an attorney, and I don't profess to know all of the law, nor do I profess to know everything about everything. However, I believe when we set forth certain restrictions in this constitution, that we will, in effect, prohibit the legislature from doing what we're going to authorize them in this amendment.

Mr. Willis Well, let's revert back to the Legislative Article and the constitutional basic theory that the legislature can do what is not prohibited to it in the constitution. If it is not harnessed, it can do what it wants. Does not that answer the problem of authority of the legislature to accomplish this without this passage in the constitution?

Mr. Tapper No, sir, it doesn't in my mind. It might...it may in your mind, Mr. Willis, but I'm still concerned about that provision that the legislature can do anything that is not prohibited by the constitution. I'm concerned about that, and I think we should make it perfectly clear that we want to do something or give them the machinery by which they can do something to help the renter who is paying at least forty percent of the taxes in this state.

Mr. Willis Let me...one more question: Do you not, do you not think that the cost--I embrace the benevolence of this as a poverty program, but I don't think that it's in proper perspective. But, do you not think that the administration of this would be more costly to the legislature than the benefits of the people to whom you want to benefit?

Mr. Tapper Well, Mr. Willis, as far as the cost of administration, we haven't gotten into that in any other area in this constitution. We've done a lot of things here with this constitutional document that's going to cost a lot of money to administer. No, I don't know what it will cost or whether it will cost more than any other project.

Mr. Willis Well, I'm talking about the relative cost to the legislature to administer a benefit when the cost is more than the benefit, as opposed to a cost which is greater than it would cost for this, but the benefits would be great. I'm talking percentages, not...

Mr. Tapper I understand your concern, Mr. Willis, and if you can come up with a better way to do it, I'd be for it. But, I think we have to do something here in this constitution.

Mr. Hayes Mr. Tapper, would this proposal suggest that each apartment within a unit, say, of a hundred have a homestead exemption applied to each apartment--a rebate of the taxes paid there go to each tenant? Is that something like you're proposing here, now?

Mr. Tapper Mr. Hayes, if...the amendment provides that the legislature shall set, or will have the authority to set the machinery. What Mr. Jackson has in mind, I don't know, as far as the specifics. My concern is that we do something to provide the machinery whereby those people who rent can receive some consideration as the homeowners do.

Mr. Hayes In other words, you don't...

Mr. Tapper What the exact machinery will be will be left up to the legislature. I hope you will adopt this--make this document constitutional.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, I rise in support of this amendment. We are now talking about the people who really need tax relief. Most of these people are renters because they cannot afford to be owners of property. They are in the low income group of our taxpayers. Yes, they pay the tax, but they don't get the credit for it. The owner of the property which they rent gets the credit when he files his income tax return because he takes credit for what they have paid. I certainly think that we ought to make some allowances for these. Now, it's true what the question Mr. Willis said. The legislature could do this, certainly, because it's not prohibited. The only word in this particular amendment which I'd like to change, if it was possible to change it now, was change that word "may" to "shall" and therefore mandate the legislature to make some credit for them, because now we are talking about the people who really need relief. But, yet nevertheless, if we put this provision in the constitution, it would indicate a positive feeling of the citizens of this state that they want some type of relief to those group of taxpayers. I ask you to support the amendment.

Questions

Mr. Rayburn Senator De Blieux, do you have any ideas as to what type of relief or what type of credit you would give them? Supposing a person was renting a home and did not pay any income tax, he paid no property tax, what type of relief would you give him?

Mr. De Blieux Senator Rayburn, I don't think that we ought to go into that because that would be legislation. Now, I think if you and I are members of the legislature, that's the time we can consider that question. I certainly think that we ought to set the policy, the feeling that we ought to be considering that possibility of giving those people that type of relief.

Mr. Rayburn No, well, if you ask me to do it, and I'm a member of the legislature, and you're for it, I'd like to know how you plan to do it. I don't want to have people thinking I'm giving them something and there's no way to give it to them. That's the only thing that concerns me.

Mr. De Blieux The constitution should set policy, not specifics.

Further Discussion

Mr. Roemer Mr. Chairman and fellow delegates, I rise to support Johnny Jackson's amendment. Let's try to understand what Delegate Jackson is attempting to do here. He's not sure if the legislature has the right to study and act on this problem without this particular amendment--I'm not sure either. I think that perhaps they could. But, the point that Johnny is trying to make, and I think it's a good one, and I wish you would consider it, is that a large segment--something in the neighborhood of forty, forty-one, forty-three percent of our population--live in dwellings that are rented. They pay rent. The homestead exemption that we've set--a fairly high one, I believe--will inevitably, I suspect, shift some of the burden to the renter in terms of ad valorem taxes. Here's why: The only people left to pay ad valorem taxes will be businesses--large and small--and apartment houses and dwellings over the thirty thousand dollar figure. The owners of these dwellings will pass the increase in ad valorem taxes on to their renter in the form of increased rents. Now, that's the problem. Now, Mr. Jackson did not try to solve the problem in the constitution by setting up an elaborate system for rebate. He did not try to solve the problem in the constitution by setting up specific dollar rebates. What he tries to do, and what I support him in, is an effort to

give the legislature the right to review, to study, and to act on this problem if it needs action, number one, and if, number two, it's economically feasible to do so. I furthermore submit to you that it is of political importance to the passage of our constitution that in all areas we try to apply the constitutional law with an even hand. Now, I think we've come down fairly heavy on the side of the homeowner. There's nothing wrong with that. I think we should also give a nod to that large segment of the population who rents. It seems to be an all too prevalent idea here, and perhaps on the streets, that the homeowner is sacred--so he is. But, so too is the renter, the man that maybe can't afford to own his own home, or who moves about in the course of his job and can't afford to stay in one place and has to rent here and rent there. All Mr. Jackson is trying to do--and I think we ought to support him in this--is to apply that even hand of constitutional law throughout our land and give the legislature a right--not a mandate, but a right--to review, to study, and then act at some appropriate time, if the need arises. I hope we can join with Mr. Jackson and pass this amendment.

Question

Mr. Weiss Yes, sir. Doesn't the legislature already have this right without constitutional action at this time? Is it not also true that sometimes good politics makes poor economics, and this is really nothing more than a pie-in-the-sky floor amendment?

Mr. Roemer Well, let...well, if...let me answer your first question first. Is it constitutional for the legislature to review it, Doctor, without this in there? I think it is. I agree with you. However, the subject is not entirely provable, one way or the other, quite frankly. We've got various opinions on that. So, when in doubt, we thought we ought to act--that's number one. Now, number two, to whether it's a pie in the sky. That is the very reason that Mr. Jackson did not put specific rates and specific dollars in here, Doctor. There is a problem. Don't you realize that? He wants to give the legislature...

Further Discussion

Mr. Landrum Mr. Chairman, fellow delegates, I rise to support the Jackson amendment. I believe the forty-three percent of our citizens of this state will ask themselves the question: "What will the constitution do for me? How does it affect me?" No better way for it to come through to them than for it to show that they will have some relief through their rent, that the legislature may be able to provide--or I wish it was "shall provide"--some relief for them. Sometime we will find that many of our people, they suffer through many things--added rent. Assessors, on some occasion, have been able to help them by increasing assessment to help to stabilize that rent. But, now that we have provided a way for everybody but the poor homeowners, I think we should consider these people today. I think we should make it in such a way to let them feel proud of CC /73 that in this year of 1973, somebody was thinking about me. It's an amendment, I believe, that will help those who really need help--the renters of this state. Thank you.

Further Discussion

Mr. Rayburn Mr. Chairman and fellow delegates, I certainly would like to do something to help the needy people of our state. I think my record will bear out that on practically every occasion I have done what I could for the underprivileged, the needy, the handicapped, the sick, and the lame, etc. But, I do not want to be in a position of having the needy people back home thinking they are going to get something, and no one knows the way to give it to them. I think we'll be doing

them an injustice. We've had some amendments in this convention that were voted on without no knowledge or no idea what would be the ultimate cost to the taxpayers of our state. Certainly, I have to consider that because I am one of the ones that has to try to provide the money to operate this state, along with other members of the legislature. It's bad to have to say it, but we've got some of our members who will vote for all the benefits, and then vote against all the ways to finance them. Of course, that's their prerogative, and if they want to operate that way, more power to them. I never have chose that route myself and hope I never do. I'm interested in helping the people that don't pay income tax that rents. How are you going to help them? I don't know; no one's told me that. If you go...if they pay some income tax, you could give them a little rebate. But, what about that poor devil down there that's renting a little old house? He don't have to pay any income tax because his home is not...I mean, his income is not great enough. How are you going to help him? I don't know. We've tried through our present welfare program. People who are on welfare, their rent is considered in the amount of monies they are paid. If they repair their home, that is considered in the amount of welfare they receive. The more children they have, that is considered in the amount of welfare they receive. But, I cannot, for the sake of myself, figure out a way that you could give a tax credit or a rebate to someone that don't fall in the taxing category--I don't know how. The amount of food stamps that we issue in this state is based on the amount of income and the amount of need. Maybe some way [some way] we could increase them--I don't know. But, if there's any way [any way] that anybody can tell me how this program can be worked to help the real needy--and not the greedy--then I'd be for it. But, I don't want the renters back home thinking that we come to this constitution, we're going to give them some relief with no sound way to reasonable do it that I've heard of at this moment.

Questions

Mr. Landrum Senator, don't you think that if some of the welfare industries, if you would get some of them off the rolls, we may be able to help some of the welfare renters?

Mr. Rayburn Yes, sir, Mr. Landrum, and if you'll tell me how to do it, I'll be glad to discuss it with you. But, I don't know of no method to do it. I've seen it attempted in my committee, and it didn't get off the ground.

Mr. Brown Senator, this amendment says "may" instead of "shall," and I think the question that was raised earlier as to if this wasn't adopted, did the legislature still have the authority to do this? What worries you about it because...do you agree that maybe it... the legislature can do it anyway? If so, why does this so worry you?

Mr. Rayburn Senator Brown, I think the legislature can do it now--like we already provide special benefits, the legislature can. I think we could do it now. What worries me is to put in here that we "may" do it, and I know of no way to do it. I know of no way, and I've heard no one else say they knew of no way to help a person who was renting a house for forty dollars a month that don't make an income enough to have to pay income tax. You can't give them a rebate on their income tax. I don't know how you would do it, and that's the only thing that bothers me. I don't want those poor people to think that we're going to do something for them, and no plan has been offered to implement it. That's my only objection.

[Previous Question ordered. Record vote ordered.]

Closing

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, can I please have your attention for just, again, for a few minutes because I want you to understand what I'm attempting to do here. First of all, it has been said that this is an amendment for welfare people--a suggestion. I do not want anyone here to cast a vote because of their reservations about the welfare system, and they're trying to tie this into the welfare system. This amendment applies to at least forty-one to forty-three percent of the population of the State of Louisiana, which runs to a gamut of people, whether they be welfare recipients, working people, elderly, veterans, etc. This is not designed for any one particular segment of the population, other than that of, one, you would provide it for homeowners; I'm saying that we ought to provide a method for renters. Secondly, the ultimate cost to taxpayers. Renters are taxpayers. People who rent pay taxes. People who rent tend to pay more taxes. We talk about there's no method of implementing such a provision, and we do not want to give people false hope as to what the legislature or what this convention could do. I am suggesting to you that in thirteen states different variations have been done. It's no problem of the legislature researcher. I can name you several ways. I've got some material right here. For example, they are doing it on a sliding income level. One doer says that when two members of a household claim tax credit under this act, they may determine among themselves a percentage of gross rent--accurate. Some do it on net income. There are ways to implement such a provision. I want to suggest to you that some of the arguments...another argument against this was that, you know, what are the various taxing categories. Ladies and gentlemen, this is permissive legislation, and that categories can be set up by the legislature. We have provided elsewhere in this constitution that "the legislature may, the legislature may." So, if we felt very strongly that the legislature had that inherent power anyway, why have we in previous articles used the language, "the legislature may"? Someone briefly, in recess, asked me...someone briefly asked me, well, you know we're trying to encourage homeownership. When a man rents, whether he stays in public housing, whether he stays in apartment dwellings, whether he owns a home, he--a property owner--that's his home. So, in essence, there is not that much distinction on the merits of home; we're just talking about homeownership. Some people can not afford to own homes. Should we penalize them and give relief to those who have at least minimal abilities to own a home? I suggest to you that...and I want you to understand this very clearly. This amendment attempts to not be a pie in the sky. I think the pie in the...You know, when we talked about the homestead exemption--the present level that we're at--Mr. Chehardy says that, you know, we may be giving, because of inflation, an exemption that is no more than a home...no more than a pie in the sky. I don't believe in those kinds of argument. I think it is permissive legislation. It allows the legislature to exercise responsibility, fiscal control, and such. As Senator Rayburn mentioned in his own testimony, we have provided...what happened when the welfare situation did come up? How could we provide for that? What happened when people came up with certain income? Did the legislature come up with a method of adequately and equitably attempting to tax people? So, I'm saying to you that this can be worked out by the legislature. It can...the legislature can put in matters of appeal for it, or anything else.

[Amendment adopted: 57-52. Motion to reconsider tabled.]

Amendment

Mr. Poynter The next set of amendments sent up by Delegates Nunez, Alario, Chehardy, and Toca. Amendment No. 1. On page 2, between lines 7 and 8, in Floor Amendment No. 2, proposed by

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Delegate Rayburn, and adopted on yesterday.

On line 15 of the amendment, after the language added by Floor Amendment No. 1, proposed by Delegate Hernandez and adopted by the convention, after-- particularly the last words of that amendment-- "general law," add the words and punctuation "physically handicapped as defined by law, widows, ". That will make that sentence read, when you pick up with line 15, "veterans of the Armed Forces of the United States who have been honorably discharged or separated from such services or persons who served in said Armed Forces as defined by general law, physically handicapped as defined by law, widows, and persons sixty-five years old, or older, shall be provided with a homestead exemption, etc."

Explanation

Mr. Alario Mr. Chairman, fellow delegates, I first of all want to apologize to you for coming back to the mike this morning to try to amend the original Rayburn amendment. Now, hopefully, this is the last time, and I can assure you it will be the last time that I appear here, if you decide as a body as a whole that you don't want to provide these additional exemptions.

However, I feel so strongly that I felt I had to come back and give it one more try, to provide that the physically handicapped, as defined by law, which would allow the legislature to define it, and the widows, which was defeated by a very small margin, would be entitled to the additional exemption raising their exemptions from three to five thousand dollars. Now I believe, as you believe, that we are writing a document here that's going to last for years. That's why I feel strongly that we ought to provide this protection for these particular individuals at this time. The only thing that I fear in this assessment business is the reappraisal of property every five years--not because it's not fair and just. It is. Properties ought to be kept on the same level, and all taxed at the same way. But I worry about inflation, just what it's going to do to a home that a man built costing twenty thousand dollars ten years ago, what it's going to be worth ten years from now. I can think of an example real close to me.

My father built a home twenty-five years ago--he's still living in that home--for eighty-seven hundred dollars, including the land. It's on the assessment rolls, I believe, for twelve hundred and fifty dollars, something like that, in Jefferson. I don't know why it's way above ten percent, but that's before Mr. Chehardy got in, I guess. But that's what it's assessed for at present. Just recently, my dad was offered close to twenty-one thousand dollars for that piece of property. That's almost three times the value. How what are we talking about in the future? We're talking about these smaller homes, and these particular individuals that we are concerned with; that might put a burden on them when they...who are the least able to afford this property tax. I don't think you're talking about great numbers in this state; but you are talking about some individuals whose incomes are below those of you and I and who would certainly not be able to afford that particular increase.

There's a plan going around now on the floor which, if you adopt, would allow for local option on assessments...the percentage thereby being adjusted by the assessor and the local governing authority. If that plan is adopted--and I don't know what the percentage...percentages are on it; I haven't had a chance to read it fully--but if you would allow it, as we have now in the state, some percentages to go up on homes up to twenty-five percent, then what you're facing is a twenty thousand dollar home being assessed for five thousand dollars. Now if you do that and take the three thousand homestead exemption, then certainly these particular people we are talking about--physically handicapped and the widows--would be subjected to additional taxes. With reappraisal being done every five years, with the cost of living being what it is, then certainly we are going to subject them to taxes that they haven't

been subjected to in the past. Their incomes are stable; their incomes are at a lower level; I don't think we ought to subject them to any higher amounts. We ought to try to give them whatever benefit we can.

Right next door in the state of Texas, a widow's home is exempt fully, regardless of the cost, whether it's ten thousand dollars or a hundred thousand dollars. They don't have any problems... didn't break the state of Texas. Certainly they have a higher tax rate than we do as far as ad valorem taxes are concerned.

I ask that you would give this a favorable vote.

Question

Mr. Jenkins John, you remember in the Bill of Rights in Section 3 of Article 1, we enacted an equal protection clause. We specifically prohibited discrimination for or against any person on the basis of sex or physical condition, if it was on some unreasonable or arbitrary basis. Now don't you feel that when you say that widows are going to have a certain exemption, but you don't say that widowers are going to, that you are making an unreasonable and arbitrary distinction? Also, when you give a certain advantage to handicapped people and not to other people, who may really have the same earning capacity or something else, that you are also making an arbitrary or unreasonable distinction contrary to Section 3 of the Bill of Rights.

Mr. Alario Woody, of course, you are asking me two questions: The first, why not give it to the man as well as providing for the wife in case of the death of either spouse? I think what we are providing here is that the man certainly is the wage earner now, and would be able to continue to earn the income. What I am concerned with is the woman who has several children in her household, not able to make that same level of income and, therefore, not able to continue to provide the amount of money necessary to even pay these taxes.

Your second part is providing for physically handicapped when we don't provide for anybody else. We are providing for veterans and old age. That is a classification, and, I think, justly so. So I don't see any problems as far as providing also for the physically handicapped.

[Previous Question ordered. Amendment reported: 29-70. Motion to reconsider tabled.]

Amendments

Mr. Pointer Amendment sent up by Mr. McDaniel. Amendment No. 1. On page 1, line 12, after the word "Taxpayer", insert a semicolon and add the following:
"Property Taxation, Limitation".

Amendment No. 2. On page 2, between lines 7 and 8--and we need to probably now insert the language, "and following the language added by the Rayburn amendments," etc.--add the following paragraph...I think this has been passed out as adding a Section (F) and I've changed it to make it (G):
"Notwithstanding any provision contained in this constitution to the contrary, the power of taxation shall not be exercised by the legislature to levy an ad valorem tax upon any property in the state, and such power shall be exclusively vested in political subdivisions, to be exercised as provided in this constitution."

Explanation

Mr. McDaniel Mr. Chairman, fellow delegates, I think everybody knows essentially what this amendment is about. We had quite a bit of discussion yesterday on why those of us that were for it thought it was a good and necessary amendment... or a statement of policy. I won't go into a repetition of all of the factors that were discussed

yesterday because I feel it would be pointless. But I would remind you that for the local government of this state, they need a stable, certain source of income as the backbone of financing these local governments. The property tax now is that local base. I would simply keep this. I repeat again: the property tax in this state has never been a major source of tax revenue to the State of Louisiana...never exceeded three percent of the tax revenue or two percent of the total revenue. But it is essential that local government have the stability that it provides. There are good reasons that we—I think—that we should do it. As I mentioned yesterday, in this Revenue and Finance Committee we reserved the right to the state only to get in the income tax field, the severance tax, gasoline, and these big revenues...sources of this nature. By the same token, for Goodness sakes, let's keep one major source of revenue that will... shall be the exclusive right of the local governments to finance their needed services. This has been historical, this point in our time when the state has not depended upon it. For Goodness sakes, let's give local government this assurance that this will be an area where local people, who know local needs, vote local taxes to support the services that are required.

In the rural areas, in the small towns of this state, we want, essentially, the same services that you have in the urban areas. We are willing to pay for them. Quite often they may be as expensive, or more expensive...or less, because of scattered areas and a lot of the factors that do not come with economy of size. I won't go into a lot of other things. I think the issue is clear here. But I would urge that we do support this amendment and give local government this right. If there is anything, I think the opponents use, it's to say it's the uncertainty of the future and the need that the state may need to get into it. It's for this very reason that I think that we need to give this exclusive right to local governments. If they have the uncertainty as to whether the state will or will not get back into the property tax business, how can you plan for the future? With the five and three-quarter mill that has been discussed from time to time...this hasn't been a major source. If that limit is removed and the state government gets into the ad valorem business, then, in effect, you have a shared situation much like sales tax and the ability of local people to finance their needs is going to be seriously impaired.

I would like to urge your support for this very worthy amendment.

Questions

Mr. Shannon Mr. McDaniel, we had a constitutional amendment last year relative to this subject, I believe. Did you vote for that amendment?

Mr. McDaniel Yes, sir.

Mr. Shannon Why did you vote for that amendment?

Mr. McDaniel Because I thought I was taking the state out of the ad valorem business.

Mr. Shannon Don't you believe that most people voted for that same reason?

Mr. McDaniel This is the way it was represented to be.

Mr. Shannon Thank you.

Mr. Gravel Mr. McDaniel, isn't it a fact that all that the constitutional amendment did was to remove the imposition of the five and three-quarter mill tax; it did not, in any way, prohibit the state from further levying an ad valorem tax in the future. Isn't that correct?

Mr. McDaniel Mr. Gravel, I wouldn't...you know I'm a farmer; I don't know the legal implications. I would say the vast majority of the people of this state voted thinking that they were taking the

state completely out of the ad valorem business. Whether they...the deal was where they could eventually get back under this or not, I don't believe the people understood it that way.

Mr. Gravel Well, isn't that the way it was represented, that the five and three-quarter mills state ad valorem tax was being repealed, but there was no prohibition against the state levying taxes in the future if, for some reason, it became necessary to do so?

Mr. McDaniel Well, I think that's some of the fine print some of us didn't know was in the proposal.

Further Discussion

Mr. Lowe Mr. Chairman, ladies and gentlemen of the convention, when Mr. McDaniel proposed his amendment yesterday, I spoke in opposition to the amendment. After having a complete day to reflect on Mr. McDaniel's amendment, I can say that I oppose it just as strenuously today as I did yesterday. I remind you of some of the remarks that I made yesterday, and that is, first of all, that we are writing a constitution for all time...not just for today, or next week, or next year, or ten years from now. We certainly don't need this sad type of prohibition in the constitution. I also reminded you yesterday that we have many declining revenues in the state. Our severance taxes are declining, and not one of us in this hall today can say what the fiscal affairs of this state will look like fifty years from now. Now I had a delegate say, "Well, we have a prohibition that we'll levy no more than five and three-quarter mills in the proposal that we're looking at today." I agree that that will not produce large funds and have a drastic effect upon the fiscal affairs of this state.

But one thing that it does recognize is that the state does have that ability to use as part of the fiscal affairs, ad valorem taxes. I would certainly hate to see this body go with the concept and say to all of the citizens that this delegation believes that the state should be out of the property tax business. I believe that that's a poor concept for us to say that the state should be out of almost any type of taxing business.

Now I want to make it clear that I oppose the three dollar license plate in the constitution. I oppose the fixed tax rates on income tax in the constitution. Those things should be legislative matters that should be flexible, that should give the legislature the power to deal with our fiscal affairs as they see fit from one year to the next. You couldn't run your business with some stringent guidelines that prohibited you from doing this, that, and a thousand other things and the state, as complex as our fiscal affairs are, certainly has problems that are more complex when you place rigid guidelines on them. There's no doubt that this would be a prohibition that in years to come would be unreasonable.

I ask you to vote down the McDaniel amendment. Let's get on with our business and try to get behind us the...section that we have that we've been deliberating for some time.

Mr. Henry Would you yield to a question from Mr. Roy?

Mr. Lowe Yes, sir. I hope he asks me the same question he asked me yesterday. I don't want to steal his thunder because he had a good question.

Questions

Mr. Roy No. I'm not going to ask that. But you heard Mr. Steimel talk the other day, did you not?

Mr. Lowe Yes, sir.

Mr. Roy You heard him say that Louisiana is on the bottom of the states in ad valorem taxation, where we develop revenues. Is that right?

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Mr. Lowe Absolutely.

Mr. Roy All the other states...it's one of the main sources of money for the people.

Mr. Lowe That's correct.

Mr. Roy Yet, we are now saying that in the future, which this may be the only place we can really look to it, we are going to forever say that it can't be. Don't you think that's kind of out of step with everybody, including PAR's idea about this whole thing?

Mr. Lowe It's out of step and unreasonable, and to add to what you've said, we've taken care of all of the poor and widows and so forth. So we can tax...

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I rise in opposition to this amendment. The first thing, as you well know, that if you don't have some tie-in with the state of the possibility of an ad valorem tax, you might destroy the right of the state legislature to make any provisions for revenue sharing because at the present time it's somewhat tied into that in reimbursing the local subdivisions for the amount of money they lose on homestead.

The second point I want to make with you is this: It may be that some future date, the legislature might see fit to reestablish the property tax relief fund. They could not do it if the state is completely out of the ad valorem tax business.

While I'm at the mike, I might clear up this particular point about what the legislature did in the extraordinary session when it proposed the amendment. There was no vote by the people upon the five and three-quarter mills. The only thing they did is repeal the constitutional limitation that was in the constitution limiting the state the right to levy more than five and three-quarter mills ad valorem tax. That limitation was taken out of the constitution, which meant if that had been the only thing the people had done, the state legislature could have passed any type of millage they wanted to. The legislature did repeal the five and three-quarter mills which was a statutory tax up to that limitation. That has gotten the state out of the ad valorem tax business as of this time. But if we did not bar the legislature from ever enacting another ad valorem property tax... there may be at some future date, it might be desirable. Right now, I don't see it. But let's don't pass this prohibition and place it in the constitution and then have to come back and amend the constitution later. I think that would be a very unwise move for us to take that step. It may somewhat jeopardize the revenue sharing program, as well as your homestead, if the state has no control over it.

Further Discussion

Mr. Riecke Mr. Chairman and delegates, I rise in favor of this amendment. I've listened for several weeks now to delegates say that...how much money the state legislature is giving back to the communities. It seems to me that it isn't right for the community officials to go up to the state legislature with hat in hand asking for taxes that are necessary to finance the local communities. The revenue tax, I think...I mean this tax we are talking about now was voted by the people. The people approved the elimination of the state tax. In order for the local communities to reinstate the tax, they are going to have...the people, also, are going to have to give them permission to do this. I think that we ought to approve this amendment.

Thank you.

Further Discussion

Mr. Rayburn Mr. Chairman, fellow delegates, I rise in opposition to this amendment. The Committee on Revenue, Finance and Taxation adopted a proposal, a section that is in this proposal that's up for consideration now, where the state could get back into the ad valorem tax, but they did leave a five and three-quarter mill limitation. I know taxes are not a popular word. But with our revenue decreasing in this state in the manner it has been decreasing from our oil and our leases, our bonuses and rentals in the last few years, we could very easily find ourself in a position on down the road where we will have to reach out and get additional revenue. Let me say this to you people who are strictly interested in local government. I have seen it happen in this state when the local people failed to raise revenue on a local legel and had to come to the legislature to get some relief. That happened in many municipalities in this state recently. In some municipalities, they have been defeated in ways and means to derive additional revenue for the last three or four times that the people have had a chance to vote on it. They had no alternative but to come to the legislature. We increased the cigarette tax and sent it back to the municipalities to help them with their problems. They have problems; I think we all realize that. But you might find some local community in the predicament it couldn't raise taxes in the future, and they would have to come to the legislature to get some relief. Please don't tie the legislature's hands. I can't predict the financial status of this state ten or fifteen years from today. I hope we don't ever have to levy additional taxes on the people, but if the time comes that we've got to do it to continue operating our state, run our colleges and universities, run our charity hospitals, continue our road program and many other essential things--keep our schools going and keep them on par with other states, we are going to have to have some way to finance them. I...we...everytime something comes up, now, they say "two-thirds--two-thirds. Get a two-thirds vote before you do it." You want to know the truth about the two-thirds vote? The two-thirds vote in this legislature has cost the taxpayers of this state thousands and thousands and thousands of untold dollars that they don't even know about. You get a governor trying to pass a little tax issue, and he's got to wheel and deal and promise, and build ponds, lakes, pave airport strips where there ain't two planes landed there in six months, and every other thing to get enough votes to pass it. That's one thing the two-thirds has done.

Why, we had a bond issue one time in the legislature, and under a former governor--and you know only fourteen members of the Senate can defeat it. You've got eight or ten just automatically against something...most of them...sometimes. You don't have to get but a few more. Then here come the lobbyists, and they get them two or three to be sure that you don't put no tax on them. Poor little people back home don't know what's going on. We had a bond issue, and they had trouble passing it. They called us in one at a time. What do you need? What can I do for you in your area? Well, you know we always need something...always something to be done. So finally, after about two days of calling us all in we had a little get-together across the river over here at a Senator's house that night. We got to talking about the bond issue. One said, "Well, I'm going to have to go. I'm going to get so and so out of it." One said, "Sure enough?" One said, "Yeah, I'm going... I guess I'll go. I got promised so and so." Well, the bond issue was for six million, and we added up that night and found nine million dollars worth of obligations out of the small delegation that was over there. So, I just want to let some of you people that don't really know what a two-thirds vote means; when you think you are protecting yourself with it, sometime it's the most costly safeguard you can have. If we keep on with two-thirds vote, and telling the state that you can't raise revenues here, you can't raise it there, you're going to have our hands tied, and we may have a

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serious problem someday that we won't be able to encounter or that we won't be able to solve.

I ask you, on behalf of the committee, to reject this amendment.

Vice Chairman Casey in the Chair

Questions

Mr. Smith Senator, didn't the people of this state vote the two-thirds in the constitution?

Mr. Rayburn Yes, sir, but I didn't. If they'd had known as much about that two-thirds business as I know, I don't believe they would have voted.

Mr. Smith Don't you think that...

Mr. Rayburn It sounds good...real good. But when you know both sides of the operation, it makes a little difference, Mr. Smith.

Mr. Smith You don't think if it's put up to them again they'd vote it back in? Don't you think they'd keep it there?

Mr. Rayburn Oh, I think they probably would. I think it's a real popular thing. But I just wanted to be honest about it and tell you some of the things that I know that it's cost the taxpayers of this state that they don't know.

Further Discussion

Mr. Reeves I've sat here through this entire debate on Revenue and Taxation realizing that many times I do not know as much as the members of the Revenue and Taxation Committee. I have learned an exceeding amount from the debate from both the assessors and the nonassessors, and so on and so forth. But, especially to the younger delegates, and I'm not talking about just the young delegates like myself, but the people that are going to be here through the next thirty or forty years, or the next--hopefully--when this constitution is really going to be in effect. I think you need to wake up and realize how that...what...how this is going to affect you.

It's very, very popular to say that only local government shall have the authority to levy property taxes. It's like motherhood and apple pie, and various and sundry other good things. It sounds good; I'm for it right now. But let's remember that we are not in the days of Huey Long; we're not in the days of Earl Long; we are not in the days in which the State of Louisiana has industry, the oil and gas industry to pick on. You know and I know, if you know the history of this state, that these are the people that have paid the taxes in the great State of Louisiana. For God's sake, you know I was for it, and historically my people were for it, because I'm from the parish that originated populism. But, we do not know the future of the State of Louisiana, especially in the property tax and the taxation area. Oil and gas industry is going, going, and almost gone in the State of Louisiana. If you pass this amendment, you're telling the people of the State of Louisiana, "Look, we're going to provide you some services. We're going to give it to you. We...you know the legislature is going to donate all these services to you, but God only knows where we are going to get the money." Somebody has got to come up with it. Now some of you are going to be in the legislature in the future. Some of you are there now. You've got to realize that somebody down the line has got to pay the bills. This is where we are. Who's going to pay the bills? Let's not lock into the constitution of this state something that we really don't know about. If you're telling the State of Louisiana unequivocally "No property tax can be levied by the great State of Louisiana," ad infinitum no more and no more. You have stopped it. Only local governments can do this. I'm for local governments; I'm for home rule; I like it. I'm just not for absolute home rule. That scares

me. Absolute anything scares me. But let me tell you, young delegates and people that are going to live under this constitution, don't lock into this state constitution something that you don't know about. You're not all-wise and all-knowing. This is a bad amendment in the sense that you're locking into the constitution something that we can't live with forever. Somebody's got to pay the bills. I hope that you will vote no on this amendment; not on the basis of whether it's a good amendment as far as motherhood and votes are concerned, 'cause it's going to get you some votes at home. It's going to probably get you some votes, but for the last time, we've got to stop thinking about politics every day [everyday], and the way you're going to get elected on the next election day. You've got to think about the future of this state. I may never run in a political race again. A few people here think that if I did, I couldn't get elected anyway. That may be very true. But let me tell you this, we've got to stand up and be counted for the State of Louisiana as a whole. Vote no on this amendment, please.

Personal Privilege

Mr. Denney Mr. Acting Chairman, ladies and gentlemen of the convention, it is my distinct privilege and honor to introduce the Congresslady from the Second Congressional District of Louisiana, my Congresslady Lindy Boggs.

Mrs. Boggs Thank you, Moise. Thank you.

How nice to be one of Moise's personal privileges.

Thanks to all of you for such a nice welcome. I certainly don't want to interrupt the very important proceedings of this great group. I just said to a meeting of the Women in Politics upstairs that I've never known a more magnificent exercise in participatory democracy than C.C./'73. I thank all of you so very much for your hard work and for your intense interest, and for the great things that you are doing for our state. I especially thank you for allowing me the privilege of saying "hello" to you.

Thank you very much.

Mr. Casey Mrs. Boggs, on behalf of the delegates to the Constitutional Convention, we appreciate your remarks. We were delighted to have you with us this morning. I'd like to mention that Mrs. Denney is in the audience, and she may raise a point of order about the fact that you may be one of Moise's personal privileges. He is, incidentally, the sex symbol of the Constitutional Convention. Under a point of information, she may also wish some additional information on that point that you raised, too.

Thank you very much, Lindy, and lots of luck to you.

Further Discussion

Mr. Planchard Fellow delegates, I'll try to make this very brief, but I'm against the amendment by Mr. McDaniel. I think if he gave it more thought, he would not have brought it before this convention. What is he asking us to do is to say today that the State of Louisiana will not go back into the taxing business. Then, in Proposal 15, which is not before us today, let me read to you what the committee of twenty-three delegates on the Revenue and Taxation Committee decided. One basic principle in the very beginning, that principle is that the power of taxation shall be vested in the legislature, shall never be surrendered, or contracted away, and shall be imposed for public purposes only. This is the basic concept that we have always had in our law. If you take the right of the legislature to pass any taxes, then you're getting away from this basic concept. I want you to think long and hard before you make up your mind to say that the legislature, the legislative body of this state, is not the one to decide whether or not we have taxes. I thank you very much.

Questions

Mr. Lanier Mr. Planchard, don't the other proposals of Revenue, Finance and Taxation preclude local government from ever entering into the gasoline tax, the severance, tax, and one other tax? Perhaps you can inform me as to what it is.

Mr. Planchard Yes. I do not think that this is in conflict, in any way with the principle that we have set out. We say the legislature has that authority. We are limiting local governments from coming into the severance tax business, if that's what you are thinking of.

Mr. Lanier Well, what I'm getting at is if you preclude local government from entering these fields and then you open the door for the state to come in on the property tax, cannot the property tax, the state through the property tax, cut the tax base out from under local government?

Mr. Planchard Do you really believe, Mr. Lanier, that they will?

Mr. Lanier Well,...

Mr. Planchard Well, they have not, and I don't think they will in the future.

Mr. Lanier If it was the thought of the people of Louisiana that to keep the state in the property tax business, why did they vote to get out in '72?

Mr. Planchard I don't think that was the vote of the people to get out of it entirely. I think they still left the legislature with the authority and the right to go back into it. All they did was reduce the five and three-quarter mills.

Mr. Riecke Mr. Planchard, don't you agree with Senator Rayburn that it's bad for the legislature to have to trade back and forth in order to get additional taxes; he said that earlier?

Mr. Planchard I would have to agree with that statement as made, yes.

Mr. Riecke O.K. Well, don't you agree, then, that if this privilege were transferred to the local communities that that would eliminate this bad practice?

Mr. Planchard I don't think that that would eliminate it, no, sir, I surely don't.

Mr. Riecke Well, they would not be able to vote it...that tax. So, they would not be able to horse trade on that. Isn't that correct?

Mr. Planchard I don't get your point, Mr. Riecke, I'm sorry.

Mr. Slay Mr. Planchard, I think you put that very good. But, the question was raised about the state coming back in, would it undercut the tax base? My point is, that would have nothing to do with the tax base for the local government any more than you could say the school board is undercutting the police jury, or the police jury is undercutting the school board, could you? In the past, it did not undercut the tax base and there is no way in the world it could do it in the future, is there?

Mr. Planchard You are absolutely correct.

Mr. Nunez Mr. Planchard, there has been a lot said up there at that microphone about the oil revenues decreasing down to nothing. Do you know what the revenues from oil and gas are in this state?

Mr. Planchard No, I don't.

Mr. Nunez Do you know what the revenues were from five and three-quarter mills?

Mr. Planchard Exact, no, I do not.

Mr. Nunez Well, for your information, I...

Mr. Planchard I know in relation it's minute.

Mr. Nunez It's minute, would never replace nowhere near the loss of revenues from oil or gas, or probably any other revenues of this state.

Mr. Planchard I would say it could replace quite a bit of the revenue. But, to answer your question fully, I don't think it could ever replace the total amount of the severance tax.

Mr. Nunez Would replace approximately fifteen or sixteen million dollars?

Mr. Casey Mr. Planchard has exceeded his time.

Further Discussion

Mr. Jenkins Mr. Chairman, I'm not going to repeat the remarks I made yesterday on this subject. But, there are a few things I want to bring up. The first is a point of history, recent history. Let me ask you to think back to May and August of 1972 and the sessions of the legislature held at that time. The court decision on the Bussie case came in, I believe, it was June or July during the regular session of '72--no time, really, was available to act on the question--in August we came back and we acted on it. We were asked to vote for a severance tax increase, forty-eight, fifty million dollars, something of that nature. The primary reason we were asked to vote for severance tax was to make up the revenues lost by the repeal of the five and three-quarter mill tax. We were asked to vote for one tax in order to take off another tax. So, we voted for a bill, some of us did--and let me tell you--there was no great discussion in the legislature about the legal effect of that legislation. In fact, I think most legislators thought they were abolishing, once and for all, state property taxes. I think when the people voted on it, they were thinking the same thing. Now, though, we are clearly, unequivocally in this article coming back and saying that the legislature can impose a five and three-quarter mill with no vote of the people, no thing and no tax is going to be taken off if they do that either. So, we put on one tax, took off another tax and now we are going to put back on the tax we took off, or at least make it possible, if we don't adopt this amendment, to put it on. Impression of the legislature and the people, I think, was that they were abolishing this tax. Now, here is how this will hurt local government. It will hurt local government and the local governments taxing authority for this reason. The people have to vote on tax increases, at the local level, ad valorem tax increase. The people will only stand for so much in property taxes. If the state levies a five and three-quarter mill tax, that's five and three-quarter mills that the people are not going to be willing to impose at the local level and they will vote against those taxes. If a local government has a sixty mill level, and the state imposes five and three-quarters and the level is then sixty-five and three-quarter mills, you can bet the people are going to be much more reluctant to vote for another five mills than if they hadn't had that state tax. They will only go along with so many taxes. They have to vote on the local level, but, on the state level, there is no requirement under Section 2 of this article that there be a public vote in order to impose this five and three-quarter mill tax. Now, that's how you are going to hurt local government. Now, it's been said we don't know the future of this state. No, we don't. But, we are helping to make the future of this state right now. If there is a favor we can do for the homeowners of this state and everyone else in this state, it is once and for all to say that the state will not be levying property taxes. In many of the areas of this country where you have high property taxes, the states in those areas

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levy property taxes and they are an intricate part of the high taxes the people have to pay, and not every state levies property taxes. You got some false information when that was said. It's been said that the legislature can't alienate the power of taxation and that's true, and this wouldn't do that. Most states have a prohibition of one sort or another, against one sort of tax or another. Almost half of the states, I believe, don't even levy an income tax; some don't levy a sales tax; many don't levy a property tax. That's not an alienation of the taxation authority of the legislature. The legislature can still tax, just not in that particular area. Now, if there is ever a need, a demonstrated need, for a state property tax, we will have a way to amend this constitution. I'm sure it will be very much the same as now, a two-thirds vote of both houses of the legislature and a referendum by the people. If there is any great need in the future for state property taxes, then you can bet that a constitutional amendment will be submitted to the people. The people, in their wisdom, will decide whether or not to levy state property taxes. So, let's adopt this amendment and keep the state from levying property taxes.

Further Discussion

Mr. Champagne Mr. Chairman, ladies and gentlemen, I'm going to be very brief. But, I think I have something to say about this amendment that no one else has touched upon. I am not in favor of taking this out completely as an irresponsible act. I think that we should be able to tell the people in...that are going to adopt this constitution, that we leave this to you at a local level. The people who speak in opposition to this amendment are those who would leave the state with a limitation of five and three-fourth mills. I want to point to you that the limitation of five and three-fourth mills reminds me of the time as a little boy that I visited the zoo in New Orleans. I saw a great big elephant, and I thought I was going to satisfy his appetite with a pocket full of peanuts. I assure you that I thought I was for awhile, until they came with his real dinner, and I saw him eat much more than my little pocket full of peanuts. The five and three-fourth limitation that they would put in the constitution is an absolute fooling the people, because what it amounts to is less than three percent of the income of this state. It amounts to so little that to put it in is absolutely fooling the people that the state has a right to levy a property tax upon the people. Actually, it was less than fifty percent of the amount that was originally refunded back to the local governments in the form of the property tax relief fund. It was just peanuts compared to the very big amount of money that it takes to run this state. Now, if you are going to really...if you really want to let the people know that you have full confidence in the legislature, then eliminate the whole phase of it and leave it up to the legislature. But, I'm afraid the people of this state are not so convinced. You see when they took the five and three-fourth limitation, the trouble there is the legislature now has unlimited authority to tax your property. If you don't put a limitation in there, or if you don't say "Get out of the business, leave it to local government," then you are allowing them unlimited authority to tax at will. Now, I don't say we don't trust them. I trust them. But, I don't feel the people of...it is something that could be explained to the people and it would be used by those opponents to this constitution to help kill this constitution to the people. I don't think you and I want that. I think here is an opportunity to guarantee local governments a base for future taxation to run the schools, to operate local government on a local basis. I thank you.

Further Discussion

Mr. Perez Mr. Chairman, ladies and gentlemen of

the convention, as Chairman of the Committee on Local and Parochial Government, I feel it is my duty and responsibility to appear before you to support this amendment because this is the proposal contained in the Local Government Article. I will explain to you why the Committee on Local Government proposed that the state should be out of the property tax business. First of all, as has been stated to you earlier, in 1972 the state decided that it should be out of the property tax business and repealed the five and three-quarter mills tax. At that time, another tax, in addition to severance tax, was imposed in order to take, and be put in the place of, the five and three-quarter mill tax and produce additional income. The reasoning by the Committee on Local Government was that there must be some area, some base, for which local government can look forward to finding the funds that are necessary to provide the necessary services of sewerage and water and on and on and on. The proposal by the Revenue Committee is to prohibit the local government from ever imposing an income tax. The Revenue Committee Proposal also provides that local government will be forever prohibited from imposing a severance tax or to value the...or to impose any tax upon the value of minerals in the ground. It limits the occupational license tax of local government to that of what is imposed by the state. Now, we must face up to the fact that if local government is going to have duties and responsibilities, those duties and responsibilities mean nothing unless they have the means with which to carry out those responsibilities. I say to you by the time that the federal government and the state government have exercised their rights in all of the other fields, that there is little left for local government as far as raising money through taxation is concerned. Traditionally and historically, the field of ad valorem taxation has been left almost exclusively to local government. The Revenue Committee Proposal which would limit the state's ability to tax to five and three-quarter mills, would amount to only a token percentage of the state's total taxes. The greatest percentage of revenue which has ever been derived by the state five and three-quarter mills tax was two percent, approximately, and approximately...or approximately three percent of its tax revenues. I suggest to you that it makes no sense, whatsoever, to have the state in the property tax business with a limitation of five and three-quarter mills. On the other hand, if the limitation of five and three-quarters mills is lifted, so that the state would be in a position to impose any property tax it wished, then, it could effectively destroy the ability of local government to raise the funds needed to operate and to provide the local services. I, therefore, suggest to you that this is a sound proposal. It is one that should be adopted and that we should reserve the field of property taxation to the local entities, to the school boards, to the local governments, and to the special districts.

Question

Mr. O'Neill Mr. Perez, you said it, but I just want it...you know in simple language. It's sort of a foolish argument to argue that the state, through property taxes, might ever replace any substantial revenues from the depletion of various resources. Just so...

Mr. Perez The only way that a property tax, by the state, could ever be any adding a substantial portion of the state's revenue, would be to do away with the five and three-quarter mills and leave it unlimited. If that were to happen, all of us know that that would destroy the ability of local government to raise taxes in order to provide the necessary services. So, if you leave five and three-quarter mills, it really means little or nothing to the state. If you open it wide open, then you provide the possibility for the state to impose property taxes so high that it would then preclude local government from deriving the property tax

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that is necessary to carry on the essential services.

[Previous Question ordered.]

Closing

Mr. McDaniel Mr. Acting Chairman, fellow delegates, I would daresay that there are very few of any of you that don't have your mind made up. So, I'll make my remarks brief and to the point, I hope. The issue is very clear here to me. Why should not local government have one stable source of finance for local needs? The state has many avenues, many of them closed exclusively to the state--your income tax, your severance, your gasoline, your growth taxes like sales taxes are shared by local government and the state. So, there is a limit that you can do. Those of you that say we want to reserve the right for the legislature in future years, as conditions change, to get back into ad valorem business, if it's so desired or the need is there. By this same argument the demands on local government are probably increasing as fast or faster than they are at the state level. I don't know from the limited experience that I have had here why there is a great body of knowledge that can be gained in Baton Rouge to where you can solve your local problems of finance better here than you can with some stability back home. I think local government has rights. It does need assurance that this one tax source will be there now; it will be there tomorrow; it will be there in the future. There have been a lot of smoke screens here talked about, that I don't think are relevant to the issue. We were not talking about the two-thirds vote or the merit here. We are talking about a philosophy of what we are going to do in finance of local government. I think in the recent election when the people overwhelmingly voted, they voted with the intent or with the understanding or knowledge that they were, in effect, getting out of the property tax field. I think most of us, that we have heard the governor of this state say, have understood it to mean, that the state is out of the property tax field and would probably stay that way. I think this has been the impression that I have got from his speeches, and I agree with him. I agree with this choice. I think what we need to do here is hold firm and close this one source as a state source of future revenue and say this will be the sole exclusive area that local people can tax themselves locally to finance the services that they demand locally. I think the most rural area of this state and the biggest urban area share this one thing in common, that there will be local needs. There are local needs for financing. The problems here are many. So, the choice, I think, is clear. I hope that if there is one person who has an open mind on this, you will ponder this in the few seconds remaining and vote to support your local government by giving them one source, other than self-generated income, that will be the backbone for the stability of financing their local needs. I urge the support of this amendment.

Question

Mr. Brown Delegate McDaniel, we heard Senator Rayburn's comments about the fact of the state losing a lot of its oil and gas revenue and perhaps being in a real financial bind itself continually in years to come. You represent a very rural parish like I do, up your area, that doesn't have a lot of local money, that needs the state for many, many services--up in Madison Parish, I think, the health units, off-system highway roads, drainage, all of your area is drained strictly by the state government. Do you think if you locked the state out of something like this in the future you may, in effect, have the state say to you, "Now look, Madison Parish, you've got to raise your own money. We can't drain your areas for you anymore. We can't give you that off-system highway work anymore. We can't take care of your health unit for you anymore. We can't give you all those state services you had in the past." Do you think that that may

be a problem to the rural parishes that you represent?

Mr. McDaniel Senator Brown, I'm glad you brought that up because that was the main point that I failed to cover in my notes here. This same convention, or this same committee, that you and I served on here, in effect, closed the income tax when we voted to keep it at a two percent level to some maximum level. We, in effect, said, "This cannot be a growth tax to the State of Louisiana." We went a step further and said, "Local government cannot enter this field." But, by the same token if Madison Parish, or Orleans Parish, or any other in between, we are going to have these local needs so why shouldn't we try to finance them locally?

[Record vote ordered. Amendments rejected: 48-60. Motion to reconsider tabled. Motion to revert to other orders adopted: 60-40. Motion to adjourn to 1:00 o'clock p.m., Tuesday, October 23, 1973. Substitute motion to adjourn to 10:00 o'clock a.m., Wednesday, October 24, 1973. Substitute motion rejected: 36-65. Substitute motion to adjourn to 9:00 o'clock a.m., Wednesday, October 24, 1973 rejected: 36-67. Motion adopted without objection. Adjournment to 1:00 o'clock p.m., Tuesday, October 23, 1973.]

Tuesday, October 23, 1973

ROLL CALL

[95 delegates present and a quorum.]

PRAYER

Mr. Pugh Would you bow your head and join me in prayer?

As we grope in the dark, let us humbly apply to You, the Father of light, to eliminate our understanding. Keep us forever mindful that we must guard with jealous care the rights of our citizens. Help us to frame the constitution with the greatest exactness to the end that individuals may not be controlled beyond what is necessary for their safety and well-being. Guided and governed by the eternal laws of justice to which we are all subject, make stable and wise our minds so that we may better understand the high entrustment which we have been privileged to share. Let us stand firm and without deviation in neither disobeying our reason nor violating our conscience so that we may be not divided by partial local interests, but rather truly be totally representative of all the people. Show us the way, the truth, and the light so that we may achieve the ends for which You designed our minds and hearts. When this task is finished, let it be neither misconstrued nor misrepresented. Give unto our people the wisdom to accept these undertakings, and if it be Thy will, let each of us, Thy servants, live to see the fruits of our endeavors.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26 introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation, and other delegates, members of that committee: A proposal making provisions for property taxation.

Of course, the status of the proposal was the convention still has under its consideration proposed Section 1, Assessment of Property; Classification; Assessors; Right of Taxpayer.

In addition, on Friday, October 19, the convention adopted the motion of Delegate Anzalone by which...a motion by which the rules were suspended to additionally allow amendments to the proposed Section 1 with respect to the homestead exemption and limitations on the rate of state property taxation. In that light, several amendments have been adopted: one amendment to Section...Paragraph, rather, (B), one amendment to Paragraph (E); a proposed Section (F) to the section has been adopted, which subsequently was amended by three separate amendments.

Personal Privilege

Mr. Juneau Mr. Chairman and fellow delegates, I'd like to correct one error that appeared in the Morning Advocate this morning. It reported that in the cities of Opelousas, Zachary, Baker, and Plaquemine, and Hammond, that the regional meetings will be tonight. That release by the Advocate is in error. Those meetings are, as you well know, are scheduled for next Tuesday night. So, I wanted to advise you that that article was not correct. We have in an effort to clarify what was put out by the Advocate this morning made releases again today to the radio, which was done previously, again advising that those meetings are not until next Tuesday.

Amendment

Mr. Poynter Amendment sent up by Delegates Anzalone and Flory as follows:

Amendment No. 1. On page 1, strike out lines 12 through 32, both inclusive, in their entirety and on page 2, delete lines 1 through 7, both inclusive, in their entirety and insert in lieu thereof the following:

(Now, I might initially point out as I appreciate the way the amendment is drafted, it would not have the effect of deleting old Paragraph (F) dealing with homestead exemptions. That language was added between lines 7 and 8. So, irrespective of the fact that this amendment has a Paragraph (F) in it, the Paragraph (F) heretofore adopted with respect to the homestead exemption would remain in the amendment, and that certainly, Mr. Anzalone says, is his intent that it would be that way.)

"Section 1. Assessment of Property; Assessment of Property in Multi-Parish Districts; Limitations.

Section 1. (A) Each property subject to ad valorem taxation shall be assessed by the assessor uniformly throughout his parish or district at a percentage of its fair market value or use value, subject to the provisions hereof, and shall be listed by him on the assessment rolls at its assessed valuation. The percentage of fair market value or use value used by the assessor as a basis for determining the assessed valuation shall also be listed on the assessment rolls. Such percentage shall be determined by the assessor; however, a parish or municipal governing authority, by a vote of at least two-thirds of its elected membership may direct the assessor to assess property located within its jurisdiction for the tax purpose of that jurisdiction at a different percentage of its value, but the rate shall be no greater than the maximums and no less than the minimums provided in Paragraph (D) of this section. Notwithstanding the foregoing, in a parish which has more than one elected assessor, the parish governing authority shall determine the percentage of fair market value or use value to be used for assessment purposes, in accordance with the provisions of Paragraph (D) hereof.

(B) The fair market value of public service properties shall be determined by the Louisiana Tax Commission and these valuations shall be certified to the various assessors, who shall fix the assessed value of such property based upon the percentage of fair market value as provided in Paragraph (D) of this section.

(C) Agricultural, horticultural, and timber lands shall be assessed for the purpose of taxation at a percentage of use value rather than fair market value.

(D) The assessed valuation of land and improvements, whether residential, rental, or owner occupied, shall not be less than five percent or more than fifteen percent of current fair market value. The assessed valuation of other property shall not be less than ten percent or more than twenty-five percent of current fair market value. (Now, this is the sentence with the correction in it.) The assessed valuation of agricultural, horticultural, and timber lands shall be ten percent of use value.

(E) For all taxes levied by a multi-parish district, the governing authority of such multi-parish district shall fix the percentage of fair market value or use value, which shall be uniform throughout the district, in accordance with Paragraph (D).

(F) The legislature shall provide a uniform method for determining fair market value and use value. All property subject to taxation shall be reappraised on the basis of its current fair market value or use value at least once every five years."

Explanation

Mr. Anzalone Ladies and gentlemen of the convention, it seems like that every time I get up here to try to explain an amendment, I always preface my remarks by saying, "This is what happened at a meeting in March of 1974." The reason that I do that is because there is going to come a March, 1974, and we are going to have to explain these things. Now, we can make taxation as complicated as possible, and we can remove authority as far away as you can get it. When we go home, the one thing that's going to be prevalent in everybody's

mind is going to be, "How much does it change what we have now?"

I'd like to tell you of a little conversation that I had at a local meeting. There were about a hundred people there. First outset, a group of local governmental officials got up and said, "Joe, can you tell us how can we hope to accomplish our purposes of financing local government when our assessment ratio, at the present time, is thirteen percent, and you reduce it to ten percent?"

I said, "Well, there's no question about it. Things are going to be better at ten percent."

He said, "Well, how do you know?"

I said, "Well, we really don't know, but they're going to be better because the guy down at the grocery store in the Fifth Ward that's got an inventory of about eight hundred dollars hadn't been reporting eight hundred dollars every year. Last year, all he reported was a hundred and a half. So, what we're going to do is make him set up, and he's going to report that whole eight hundred dollars, and that's going to solve all our problems with taxes in the Fifth Ward."

Well, that's fine. He said, "Well," he said, "but suppose it isn't?"

I said, "Well, we can always go to Baton Rouge and get some money."

Then, he says, "Well, I thought that the other day that you all passed something like a five and three-quarter mill property tax because the state was broke, and because that all revenues were about to come to a stop."

I said, "That's right."

He said, "Well, where are we going to go if Baton Rouge doesn't have any money?"

I said, "Well, we can always go to Washington."

He said, "Well," he says, "if I go to Washington, every time we send them a hundred dollars, they got that eighty-five dollar administration cost in there. We only get fifteen back. So, why don't we just go ahead and tax them on a local level and keep the hundred?"

I said, "Well, you just don't understand things about government." I says, "It's just a shame, but you don't understand it."

Well, he got up and left--took about twenty-five people with him.

Then there was a man from local business who stood up to speak for the business community.

He said, "Joe," he said, "what's all this roll up and roll down business you all have been talking about?"

I said, "Well, if the convention guessed right and everything was going to be better at ten percent, then it was going to be...mean that you were going to pay less and less taxes."

He said, "That's good."

I said, "But, of course, if we guessed wrong and things are not going to be as good as they say they are, then you're going to have to pay more taxes."

He said, "That's bad." Then he said, "Well, you know, Joe," he says, "it really doesn't bother me too much," he says, "because the people in the business world and living in a state that has inbred in it, I guess, homestead exemption, we realize that we've got to pay a little bit, a little bit more than everybody else. But, we don't want to get soaked. Well, what is your guarantee that we're not going to get soaked?"

I said, "Well," I said, "I'll tell you what we're going to do. We're going to reassess all this property and put it at ten percent. A couple of years from now, we're going to let you know if things are good or bad."

He said, "Well, I hope they turn out good."

I said, "So do I."

He said, "But suppose they turn out bad?"

I said, "Well," I says, "the only thing that I can figure is that we'll go get Mr. Sixty out of bed about six o'clock in the morning and tell him we've got to have a constitutional amendment. He's going to try to help."

Then, he's going to say, "Well, we got the constitutional amendment passed; now let's wait until 1979 to get it straightened out."

Of course, we've got to live with all this mess, now, for about four or five years just because we decided to guess wrong. Well, this man got up, and I asked him, I said, "Mr. Grocer," I said, "where are you going?"

He said, "Son," he said, "I got me a copy of that 1921 Constitution at home. I'm going to put that thing up under my pillow, and I'm going to sleep with it because I want to make sure that when we beat what you all have done, that there's at least one copy left in the State of Louisiana to go by."

Of course, now we're down to about fifty people in this little old hall. Mr. Dairyman, who happened to be my neighbor, got up and he says, "Joe," he says, "you know," he says, "I get that Progressive Farmer once a month, and they're talking about use value in there."

I said, "Yes, sir."

He said, "You know, if you don't have use value," he says, "they could just about tax farming people out of business."

I said, "That's what I understand."

He said, "Well, Joe, what have you all done to protect all this kind of stuff?"

I said, "Well, we've let the legislature decide what they're going to do with it."

He said, "The legislature," he said, "that's that bunch of fellows in Baton Rouge, ain't it?"

I said, "Yes, sir."

He said, "Ain't that the same bunch that last year wanted to take away the milk commission?"

I said, "Yes, sir."

He said, "And ain't that the same bunch that about every ten years is getting more and more of them city boys on there?"

I said, "Yes, sir."

He said, "Well, Joe," he says, "if I had to put it somewhere," he says, "you know, I reckon I'd just want to put it somewhere else."

I said, "Yes, sir, I would have too."

So, he looked down at his watch, and I asked him, I said, "Mr. Dairy," I said, "where are you going?"

He said, well, he was going to find Mr. Grocer and see if he had an extra copy of that 1921 Constitution because he just hadn't realized how good it was.

Of course, and then again, everybody has got an Aunt Mary. I've got one; you've got one and we dearly love them and we wouldn't hurt their feelings for anything in the world. Aunt Mary was there. And boy, she got up and she had fire in her eyes--I could tell it. She said, "Hon, I want to talk to you about a couple of little things. The first thing is, I want to know why you didn't put the Sixth Ward Garden Club in the constitution like you promised."

I said, "Aunt Mary, this ain't the place to talk about that."

She says, "And why you didn't get that seventy-five hundred dollar appropriation for us to plant them flowers."

I said, "Aunt Mary, don't worry about a thing because we're going to have us a bond issue," I says, "and we're going to raise all this money."

She said, "Well, but Mr. Grocer just got up and said there's a possibility that he's going to have to pay all the bill."

I said, "Aunt Mary, don't worry about that, my goodness." I said, "Somebody else pays the bill; we don't have to pay none; that...that's some of our business."

She said, "Well, no, what Mr. Grocer said is true."

Now why Aunt Mary says that about Mr. Grocer, of course, we keep that in the family--we don't tell nobody them things. Maybe it's because he quit weighing her beans with his thumb on the scale --I don't know.

But she said, "Well, son," she says, "what we want to do is plant flowers all over the ward, and these flowers are going to be for everybody. Everybody ought to pay a little bit. That's the only fair thing to do."

I says, "Oh, Aunt Mary, don't worry about that,"

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I said, "because what we're going to worry about doing," I said, "we're going to worry about getting off scott [scot] free and hanging it on somebody else."

She said, "Son, I believe me and you got to have another talk in the morning."

Well, when she got up and left, of course, there was everybody was gone. I looked around, and there sat my poor brother. I said, "Brother, what are you doing here?"

He said, "Well, if I didn't need a ride home, I'd have left an hour ago."

Now, that's the conversation that I had. Property taxation is complicated--there's no question about it. But, when we start explaining this thing to get somebody to vote for it, we better make it simple. We all know that we need change--no question about that. Lawsuits have proved it, and lawsuits are going to continue to prove it. The main thing is is that in the process of getting this change, there are those who feel that we must have some latitude. If you lock into a constitution something of which you don't have the full basis of competent knowledge to say that this is the way that it's going to be, then you have made a terrible mistake. I feel that any amendment with latitude is going to best serve what we are attempting to do here. This amendment does it. We're going to be able to sell this constitution, hopefully, but you're not going to go home and sell this constitution to a voter that you're going to tell, "Well, we really don't know what's going to happen to your property taxes, but in the end, it's going to be fair." Well, it's like Mr. Lantz Womack always says, "There's a lot of people in this state that want good government, but give me some pretty good government and I'll be satisfied." The only way in the world that you are going to keep local government from becoming a ward on the state and a ward of the United States Government is to give them a local tax base from which to operate. And just remember this: your local government does not pass taxes that the people don't vote on. But, you tell me how many state taxes and how many federal taxes that you pass that you get a shot at. I'm ready, Mr. Roemer.

Questions

Mr. Burns Joe, what night was it you had the meeting with Aunt Mary and that eight-hundred-dollar grocery keeper?

Mr. Anzalone It was in March of 1974, Mr. Jim.

Mr. Burns Oh, I thought you meant since they drew up this amendment. Do you think Aunt Mary could understand this amendment that we're talking about now?

Mr. Anzalone Yes, sir, my Aunt Mary is a real smart gal.

Mr. Burns She really must be.

Joe, is there any substantial change in the amendment that we are now discussing and the one that was handed out Saturday morning--Anzalone and Casey--other than the elimination of the last paragraph of Section (D)? Is there any other change?

Mr. Anzalone Mr. Jim, there's one primary change that was put in there. I don't have the one from last Saturday before me, but the primary change in the one of last Saturday is that we have locked into the constitution the question of agricultural land will be assessed at ten percent of its use value rather than a fluctuating percentage as it was in the original amendment.

Mr. Kelly Joe, did I understand you to say that you felt that your plan was a more simple plan than the Rayburn plan which has been previously adopted, now, and bear in mind, and especially in view of all of the variables that are contained in your particular plan?

Mr. Anzalone No, Mr. Kelly, I didn't say that it was worded any simpler. I meant to say that it was a simpler solution to a complicated problem.

Mr. Kelly Well, let me ask you another question, then. When you talk about a simple solution to a complicated problem, do you not agree that you may be creating one of the grandest problems in the world by allowing a parish governing authority, by a vote of at least two-thirds, to direct the assessor in his assessments? Don't you foresee that this would make a complete political football between the tax assessors and the...say, police juries?

Mr. Anzalone Mr. Kelly, the local governments of the State of Louisiana have been under the protection of the Louisiana Tax Commission since 1921, and in their extreme wisdom and their foresight, we have come from a one hundred percent assessment down to as much as two percent in certain areas, which is in the process at the present time of destroying local government. So, I just feel that if we're going to have something...some review body, I want to put it where we can all take a good long look at it and get it away from where it is now.

Mr. Kelly All right, sir, one other question. I refer you to Section (E) of your proposal. You speak in terms of a multi-parish taxing district, but yet, in this proposal, you say "the governing authority of such multi-parish district." Who is that "governing authority of a multi-parish district"? If there is none, are you going to bring both police juries in, say, out of both parishes to agree on some type of assessment?

Mr. Anzalone When you start talking about a multi-parish assessment district, you're talking in terms of levee boards and stuff like this. This is the intent of the amendment.

Mr. Kelly Well, I meant who is going to, under this Section (E), who is going to make the assessment? It says "the governing authority of such multi-parish district." Now, who is going to actually make that assessment?

Mr. Anzalone Well, the actual assessment is going to be made by the assessor from the fair market value which is going to be submitted to him by those governing authorities, the guidelines of which are going to be set out by the legislature.

Mr. Kelly So, really we...we just haven't said a great deal about this. This is something that we're going to put in the hands of the legislature. Is that correct?

Mr. Anzalone Sir?

Mr. Kelly I said really, then, you haven't explained it to a great extent in your...in Section (E). You are going to put it in the hands of the legislature to work out these details.

Mr. Anzalone Yes, sir.

Mr. Riecke Joe, look at your Paragraph (D) on your amendment. Was it not your intention to eliminate the words "more than" in the last line of Paragraph (D)? The Clerk, when he read it, he eliminated that, and I've got "more than" on my copy. Now, which is correct?

Mr. Anzalone Mr. Riecke, the last line in Paragraph (D) should read: "The assessed valuation of agricultural, horticultural, and timber lands shall be ten percent of use value."

Mr. Riecke Then you eliminated the word "more than" in here.

Mr. Anzalone Yes, sir.

Mr. Bollinger Joe, do you know I agree with you

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about old Aunt Mary and her flowers, but don't you think that being Aunt Mary's flowers are for everyone, that everyone should bear a certain portion of the taxes, or at least a level should be adopted?

Mr. Anzalone Yes, sir, I certainly do.

Mr. Bollinger Didn't we debate here last week and finally come up with a three thousand dollar exemption which you said you do not eliminate from your Section 1?

Mr. Anzalone Yes, sir.

Mr. Bollinger Is it not true that if you allow the assessor to go from five to fifteen percent on a home, that you can allow him to change the homestead exemption or exempt a home from either twenty thousand dollars or sixty thousand dollars depending on what he sets the percent? If he would set a five percent of fair market value, then he would exempt a sixty thousand dollar home, and if he would choose fifteen percent of fair market value, he would exempt a twenty thousand dollar home. Is that not correct?

Mr. Anzalone I think your numbers are correct, Mr. Bollinger, but the only way that I can answer your question is this ...And I hope, I hope that you understand what I'm talking about. Do you think that it's fair for a person to live in a seventy-five thousand, seven hundred and fifty dollar house and be assessed at twenty-three dollars ...twenty-three hundred dollars?

Mr. Bollinger No.

Mr. Anzalone Do you think that under the present situation that we have had with the Louisiana Tax Commission that this has gone on for the past fifty years that these things do happen?

Mr. Bollinger Yes, I do...

Mr. Anzalone Do you think that...

Mr. Henry Now wait, wait, Mr. Anzalone; he's supposed to be asking you the questions on the thing.

Mr. Bollinger Let me ask you one more, Joe; then I'll sit down. Under this proposal, is it not true that a man with a sixty thousand...

Mr. Henry The gentleman has exceeded his time, I'm sorry; he's exceeded his time.

[Rules Suspended to allow additional time.]

Mr. Bollinger One short one, Joe. Under this proposal, if the assessor would adopt a five percent assessment percentage on homes and a twenty-five percent on all other property, could not a man with a sixty thousand dollar home be totally exempt from property tax while a man with a small grocery store be paying on twenty-five percent of the fair market value?

Mr. Anzalone Mr. Bollinger, that is just exactly why we're trying to take this thing out of the Louisiana Tax Commission now, because this is the way it is. The only reason that the fluctuating scale is in there is not to assess a person who owns a home at five percent and a person who happens to own a business at twenty-five percent. It is an effort to get somewhere in between where everybody is living now so that it can be equal. In my parish, for instance, property on a residential basis is being assessed at thirteen percent. So is commercial property, with some exceptions I might add. Now, if you tell me that all of our property is going to be assessed at ten percent, I'd like to know where it's all going to come from to make up the difference. This is not some devious method whereby the assessor is going to be

given the latitude of assessing my house at five percent and your business at twenty-five percent. This is something that the local governments can work with to deem what is fair.

Mr. Conroy Mr. Anzalone, I wondered why, in view of your objective to get as much flexibility as possible, ...that you decided that only a ten percent value should be used for agricultural lands, and that that would not vary at all. What's the reason for fixing that percentage while the others are all variable?

Mr. Anzalone You know, Mr. Conroy, you've got a very good question.

Mr. Roemer Joe, would you agree with the assessment that, or the evaluation, that this amendment might be unconstitutional?

Mr. Anzalone No, sir.

Mr. Roemer Do you know that in our committee, Revenue, Finance and Taxation, that studied this problem for some months, with some small resolution, the testimony before that committee was generally that such provisions could very well be ruled unconstitutional? Did you know that?

Mr. Anzalone I have heard that.

Mr. Roemer O.K. The problem that I'd like you to address yourself to my real question, is: assuming that there is a chance that this provision will be deemed unconstitutional, what will we be left with if that's the case, Joe?

Mr. Anzalone What we're going to be left with if this is deemed unconstitutional is the same identical thing that appears on the statute, in the statutory law at the present time. I don't have the numbers of it, but this is taken directly from that plan.

Mr. Roemer Well, did you know that I disagree with you. The courts have already ruled that what we have on the books now is unconstitutional.

Mr. Anzalone No, sir. What is in your constitution and the enforcement thereof is unconstitutional, but not the statutory language that was passed in 1972, when this decision first came out.

Mr. Roemer Well, did you realize that the testimony before our committee is that what we have now is basically unconstitutional; the court has ruled that, and they've called for a hundred percent assessment and that if this is in our constitution, if it's proved unconstitutional, we'll be left with a hundred percent assessment, and a two thousand dollar homestead exemption. I just think you ought to consider that, Joe, before you push this.

Mr. Anzalone Mr. Roemer, I could not disagree with you more because as a matter of fact, if what the law is concerning property taxes today is one hundred percent and that is unconstitutional, the only other authority that you can go to for state property taxation is the statutes, and the statutes clearly provide a percentage.

Mr. O'Neill Mr. Joe, will you explain again why the local governments won't be able to assess homeowners at five percent and businesses at twenty-five percent? What's going to prohibit that?

Mr. Anzalone It was one of those three boxes that Woody was talking about the other day--I've forgotten whether it's a coffin box or a ballot box or a cartridge box, one of those three, if not all three.

Mr. O'Neill Yes, but you didn't write that in here. That's my point.

Mr. Anzalone No, sir. That's in the Bill of

Rights.

Mr. Rayburn You don't need to steady your nerves, Joe, this is not loaded. You did bother me a little while ago, though, when you started talking to yourself, and then answering your questions yourself. I know what they have said that happens to people when they start doing that. Listen, Joe, while you had that conference with Aunt Mary, did you tell her what her homestead exemption might be three or four or five or eight years from today, if your amendment was adopted?

Mr. Anzalone Yes, sir.

Mr. Rayburn What would it be?

Mr. Anzalone I told her it was going to be variable, Aunt Mary, because we didn't know where to set it at right now.

Mr. Rayburn In other words, she wouldn't know what it would be. Do you admit that?

Mr. Anzalone She knew it was going to be, let's see, whatever five percent of something to make three thousand dollars is.

Mr. Rayburn Well, five percent and then up to fifteen percent is the way I read this. It could be so much one year and twice that much the next year or three times that much. Is that correct?

Mr. Anzalone Well, Mr. Sixty, what you're trying to say is that it can go from a sixty thousand dollar house down to a twenty thousand dollar house.

Mr. Smith Mr. Anzalone, we have ten towns in Caddo Parish, and if this goes through, each one of them could pick a different percentage of taxes; also, the police jury. Isn't that going to create quite a lot of confusion, complications, if each one of them decides to go it on a different percentage?

Mr. Anzalone Mr. Jasper, it wouldn't create any more confusion than is created now because we have seven unincorporated towns in Tangipahoa Parish and none of them have the same millage; we've got at least five school taxing districts; we've got a couple of fire prevention districts; we've got seven drainage districts; at last count we had two hospital districts, and all of these people have got a different millage and different assessments all over the place. So, I don't see why it would be any more strenuous to do what we're talking about here and doing that, too.

Mr. Smith Just one more question. If you leave it to the police jury and to the aldermen of the towns and they're different, don't you think you'd better stand good with those officials, or you may have a pretty good tax on you?

Mr. Anzalone Well, I tell you what, if the equal protection of the law amendment to the United States Constitution means anything, they are going to get a lot more when they...

Mr. Henry You've exceeded your time, Mr. Anzalone.

Further Discussion

Mr. De Blieux Mr. Chairman, ladies and gentlemen, I believe this amendment focuses attention upon what I was trying to explain to you all Saturday morning when we were using the percentages for homestead exemptions. Under this particular amendment, a homestead exemption for a nonveteran could be worth sixty thousand dollars in one parish; it could be worth only twenty thousand dollars in another parish. In one parish a veteran may have a hundred thousand dollar home completely exempt from taxation because the assessor determines that he's going to assess it at only five percent of

value. An elderly person who'd have a hundred thousand dollar home, would also be completely exempt. While, on the other hand, if this was in another parish, it may be worth only fifty thousand dollars for a nonveteran or even less, or... twenty thousand dollars might be the limit of his homestead exemption for a nonveteran. A veteran here under those particular circumstances may have a house that's worth fifty thousand dollars and be completely exempt as compared to the other parish with a hundred thousand dollar home. The same thing with a person over age sixty-five, and it's because of these inequities in the homestead exemption, I feel like that this amendment is just about unconstitutional on its face. I think it will be met with serious constitutional problems and questions. You also have another provision in this which I think that the courts would outlaw under the present decisions that we have, and that is that the taxes and the percentages must be set by a governing body, and not by the tax assessor. This particular amendment says that the tax assessor shall set the percentages, and that is unconstitutional in my opinion from the cases in law that I've read. So, I feel like that we are passing something here that is going to put us into a lot of trouble and difficulty, and it's not going to be easy to turn around next year and correct, as we could do if this were provided for in the legislature. So, I tell you to be very careful about this and therefore, I urge you to defeat this amendment because you've got something that's inequitable. It's unconstitutional in my opinion, both because of putting the taxing authority in the assessor, as well as putting an inequitable distribution of the homestead exemption throughout your taxing district, and I ask you to defeat the amendment.

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, ladies and gentlemen, since adjournment last Saturday, I've given several hours of very serious thought to the many ideas, to the amendments, suggestions, adjustments and changes that have been presented to this convention, particularly in the area of the property tax. Now, this amendment, setting out the so-called local option plan, is certainly the most confusing, to say the least, of all amendments ever presented to this convention. The assessors had previously entertained such a plan and in every instance could not come up with one to conform with a court order or the Fourteenth Amendment of our Federal Constitution. We in every case recognized that it would be very near impossible to manage. To be specific about the plan before you, this would basically relegate the assessors to an appraiser type of officer...appraiser-clerk type of constitutional officer. It would, also, allow our local governing authorities to raise taxes and I repeat it would allow our local governing authorities to raise taxes drastically without allowing the people to vote on it, and if you'll listen to me a little bit, I'll give you an example. Take a parish that is at a five percent level on residential property. These homeowners could be raised to fifteen percent, or triple their taxes without a referendum. No taxpayer in the state would know what his taxes would be on a year-to-year basis. This would certainly discourage industry from coming to Louisiana, or expanding their present facilities. In order to predict the future taxes or the future amount of taxes, each taxing authority would have to be contacted for that determination. In the southwest section of Louisiana, some parishes would have to prepare as many as four or five tax rolls. This is certainly unreasonable and maybe even impossible, and opens the way to breed more inequities and unknowns in the administration of property taxes. Remember the school board, now, who collects the major share of ad valorem taxes on a statewide basis will not share in the control of the assessment percentages, and will still have to go to the people for any taxes other than those set out by this constitution.

Now, why should we give the local governing body the right to raise taxes without a referendum when we don't give that authority to the governing body which is responsible for the education of our children. This amendment would make our millage adjustment section inoperable and would make homestead exemption meaningless as it relates to property values. This amendment guarantees for the future that homestead exemption will not, and I repeat, will not be related to property values. Now, I submit to you that this is setting the stage for killing our homestead exemption program as we know it today and guaranteeing fiscal disaster for most of our parishes who depend on a state-reimbursed homestead exemption program. Most of the parishes depend on this reimbursement to operate their schools, drainage districts, road districts, and other related governmental services. If you have generally been satisfied with the way your ad valorem taxes have been handled, please vote this dangerous amendment down. Let's get on with the business of this convention; approve the article as submitted to you by Revenue, Finance, and Taxation, and allow for a fair, equitable, uniform, statewide tax system for the people of this great state. Thank you, and I won't answer any questions.

Further Discussion

Mr. Tobias Mr. Chairman, fellow delegates, I rise in support of this amendment and here is why: last Thursday, this convention moved into the Committee of the Whole to listen to speakers who would explain the question of property tax. What did we hear? Rhetoric. They didn't explain anything...rhetoric. A Norwegian philosopher once said, "My opponent's argument is ignorant and malevolent to boot. He hasn't even got the sense to state his so-called evidence in terms I can refute." That's basically what's going on here. If there is one thing I am convinced of, it is that not one person—and I would include myself in that group—not one person in this convention hall understands the full consequences of what we're doing. I doubt whether a lot of people understand what the exact situation is. Do they understand what the cases of Levy v. Parker and Bussie v. Long hold, or have held? Levy v. Parker in very simple terms, and I repeat very simple, that case held the property tax relief fund of this state was unconstitutional on the basis that assessment practices varied within the parish. It penalized those parishes who had differing assessments. But, the most important of the two decisions is Bussie v. Long. In that case, on page 9 of Judge Doherty's opinion, the statement is this: "It is therefore evident from these decisions that constitutional due process dictates the establishment of uniformity in the assessment of property for taxing purposes. On the following page, Judge Doherty went into specific examples why the tax system in this state was unconstitutional. I quote, for example, "In Lafayette Parish, a home which sold for eight thousand dollars was assessed for two thousand two hundred dollars, whereas a forty-seven thousand dollar residence was assessed for twenty-two hundred dollars, or approximately the same, although it sold for almost forty thousand dollars more." What this is saying is that within a taxing district, not statewide, but within a taxing district, the assessment percentages must be the same. That's what it's saying. In that light, this amendment, as proposed, would, and very well would, probably be found constitutional by a court in this country. A lot of people, I have been impressed from the discussions that I have heard on the floor, do not understand exactly what assessment is. Assessment has two facets, two facets. The first facet, setting a value; and the second facet, taking a percentage thereof. From that is deducted a homestead exemption, and with the resulting figure, that is multiplied times millage. That equals the tax that you are going to wind up with.

Further Discussion

Mr. Jack Mr. Chairman and ladies and gentlemen, one worm can ruin a whole barrel of apples. If you pass this amendment, this one worm amendment is liable to ruin this whole constitution we're all working for so hard. This amendment started out as, I gather from reading, one that had no name on it; then it had Anzalone and Casey; now it has Anzalone and Flory; it's been further amended by the Clerk having to tell us to strike out different words. It further, originally was not well thought out apparently, because they later took out about the tax on rolling stock. For instance, it had a maximum of forty mills. In Caddo Parish, the tax on rolling stock is more than forty mills. We had, Mr. Fulco and I, last Thursday thought this was a matter...this local option in the Rayburn amendment and all should be discussed, so we talked this Monday at a meeting with all the governing authorities that were advised of it. Now, all of the Caddo and the city of Shreveport officials that were at this meeting, are against this so-called local option, for numerous reasons. One of them—not necessarily these reasons in order—it's unconstitutional; the next thing—not necessarily in order—you have multiple districts that this thing is going to mess up. I hadn't stopped to think till somebody mentioned it on the port, that we'll have in Shreveport and Bossier, that makes us a multiple district. You've, also, got this situation: Mr. Anzalone, your attempt to solve the assessment problem, your attempt is more complicated than the assessment problem is complicated. This floor amendment has been amended, re-amended. Now, as I gather the assessor, unless it is a multiple parish district, is the one that's going to fix these percentages. Now, I want you to listen to this because this is important. Now, unless it's a multiple parish district, your assessor will choose if it's your home, or rent residential property, the figure of anywhere from five to fifteen percent. Then, if the governing authority does not like it, then by two-thirds the governing authority can fix that percentage. Let me tell you, that is more power than Napoleon had. You just stop to think about it. If you're an officeholder, you may think you're one of the guys up there wearing a white hat. If your assessor didn't like you, he could crucify you anywhere five to fifteen percent on your home or any house that you rented. He could crucify you on your business property anywhere from ten to twenty-five percent. He could wreck you. I'm not saying whether he would or not; that depends on how bad you had offended him. Then, if you don't like him slapping you down that way, Mr. officeholder, then you go to your governing authority. If it's a police jury or parish tax, then if they don't like you, they can crucify you; if it's your city people, then the city council can crucify you. If you were listening when Mr. Jasper Smith asked a question awhile ago, we have ten incorporated towns in Caddo Parish, just one parish. We are writing this constitution to last for years. Just think how many hundreds in thirty years from now, incorporated towns in Louisiana, there will be, all having taxes. Their governing bodies by two-thirds can change the percentage; if it's the parish one, any sixty-four parishes unless they are multiple districts. This is the most complicated thing, and does not solve anything. So, I say, defeat it.

Further Discussion

Mr. Lennox Mr. Chairman, fellow delegates, of all the bad proposals I have read and seen and heard since January 5, 1973, this has got to be the worst. I know that there have been all types of pressures brought to bear on just about everybody in the hall since Friday of last week to get support for this particular amendment, but I, also, know that there are a goodly number of you on the floor who are not subject to those pressures and are more likely to vote your convictions, and the pressures from any quarter or not, and it is to you, those independent thinkers that I would like to spend just a few moments and give you some of

my thoughts. Less than a decade ago industry in Louisiana had many, many things going for it, many, many things that attracted industry to Louisiana, notwithstanding the fact that, from time to time, the business climate in our state was something less than satisfactory. Business investors were willing to come to Louisiana, notwithstanding political situations which were not satisfactory, because there were other things in existence at the time that outweighed those political considerations. I submit to you that most all of them, if not all of them, have disappeared in the last decade. The abundant supply of cheap fuel, natural gas, no longer exists--I don't need to tell you that. Productivity of Louisiana labor, as compared with our surrounding neighbor states, is at best, poor. The abundant natural resources previously available in Louisiana are diminishing rapidly. Cheap power which resulted from an abundant supply of natural gas available in prior years no longer exists. The favorable political climate oriented to industrial inducement and development, at least for the time being, is nonexistent. All we have left is "ole man river", the Mississippi River, which gives access to all areas along the Mississippi from Baton Rouge to New Orleans, and when that's...when the both banks of the Mississippi River are completely industrialized, the industrial expansion of our state will come to an absolute halt. Now, I would ask, in very brief summary, that you help me in giving this particular amendment the treatment it deserves, a real quick killing. Thank you.

Further Discussion

Mr. Rayburn Mr. Chairman and fellow delegates, I rise in opposition to this amendment for many, many reasons. I endeavored in the last few days to talk to some of my attorney friends, and ask them about giving me a legal opinion on this particular amendment. The only one so far that I've heard say it might, it might be constitutional was Mr. Tobias, who made that statement at this microphone a few minutes ago. Every attorney I talked to told me, in their opinion, this amendment might be constitutional, but certainly homestead exemption would not be, under the provisions provided here because it would not be the same; it would not be equal, and it would be different from parish to parish. I think one of the reasons that we...that we have the problem we have today is because we've had more or less local option in the past, as far as percentage values. Some parishes had a seven percent, some a seventeen, some a twenty, some higher than that, and I want to do something to correct that. I'm, also, concerned about the good people that my friend, Joe Anzalone's concerned about. I want to leave here and let the people of this state know that they are going to have a homestead exemption and know what they can count on and what they can depend on. Under the provisions of this amendment, they'll never know. I'm at a loss as to know why they want to take that authority and that power away from the assessors. They want to do that in all parishes but Orleans, and I see in Orleans where the governing authority of the parish was going to do it all. They don't even need the clerk, and that's what an assessor will be if you adopt this amendment; they'll be a clerk. We can go back and revamp and revise the provisions that we're going to adopt in this constitution, and just abolish the office, and let the governing authority hire a clerk and tell them how much money they want because if you adopt this that's what's going to happen. They are going to tell them, "We need...five percent this year, ten percent next year...well, in the last year, third year, give us fifteen percent." On property other than residential or rental, they'll go up to ten--they didn't go to thirty there; they cut that off at twenty-five. On the little homeowner, though, they went three times--five, ten, fifteen. On the other, they start at ten, and they quit at twenty-five, not no three shot deal on them--about two and a half. Don't know why; don't have no idea

why; I'm sure there's a reason, though. I'll let you all figure that out; I think you can if you'll just study a few moments. I think if this amendment is adopted in its present language, it's going to cause more turmoil, more political bickering, more political maneuvering in this state than we've ever had in your lifetime and in mine. I can see an assessor now making the same speech that a good friend of mine, Dudley Guglielmo, made, he said, "My hands were tied." Well, let me tell you, when the people went to the polls, they untied them, and your assessor's hands will be tied if this amendment is adopted. We won't need any more assessors, if I understand the provisions of this particular amendment right here, and I don't think, my friends, that we are ready to make this mistake. I don't think we're ready to fall into this trap. I want to see everybody in this state --and that's one time that my friend, Lawrence, and I are together; I think he's kind of strayed a little now, though--I want to be sure that they get a homestead exemption and that they'll know what they're getting. Under this provision, they'll never know from one year to the next. There is no way they can know, and if I'm wrong, somebody please enlighten me and tell me; they might have a five percent figure this year, and a fifteen, next. So, how will they know--or a ten, or anywhere in between, and I hope that you'll defeat this amendment.

Further Discussion

Mr. Lowe Mr. Chairman, ladies and gentlemen of the convention, I'm only going to be a couple of minutes because I only want to remind you of one thing. But, before I do that, if we think that in the past we've had some chaos in property taxes in the State of Louisiana and some confusion, we can now with this amendment take and multiply that chaos and confusion by sixty-four...the sixty-four parishes and local governing authorities that we will have, not to mention the nine hundred municipalities. So, maybe we need to multiply it times nine hundred and sixty-four. But, let me just call one thing to your mind, and then I'll sit down and be content if you'll listen to me on that. Let's assume that we have a parish...a municipality that has a thirty million assessment on homestead. The governing authority of that municipality decides that they would like a public improvement, and that public improvement is defeated overwhelmingly. At the time it's defeated overwhelmingly, the ratio on residential is five percent. Or, we can go further, and we say seven and a half percent. So, at seven and a half percent it's on...the assessment's on the roll at thirty million dollars. So, seven mills on that thirty million is producing two hundred and ten thousand dollars. I use seven mills because that's the general alimony tax of municipalities. They can spend it for any lawful purpose and making improvements is a lawful purpose. So...the city fathers say "Well, we will vote it down, but all we have to do is increase the ratio from seven and a half percent to fifteen. If we increase the ratio from seven and a half percent to fifteen, we'll have sixty million assessment on our books instead of thirty million. Sixty million at seven percent is going to produce four hundred and twenty thousand instead of two hundred and ten thousand. So, what do we care what the voters said, it doesn't matter. We can just put any tax on them that we want. We're not raising the seven mills. The only thing we are doing is raising the assessment by double." So, what've the city fathers done when they have raised the assessment by double? They have effectively raised the seven mills general alimony tax to fourteen mills. I don't care what anyone says, the local governing authorities under this proposal have a free hand at raising the tax bills of the citizens of a municipality or governing district. I don't believe any of you are willing to go back home and tell the people that elected you, that you stood here and sat here today and gave your local governing authorities

the right to double your taxes without you having one word to say.

Further Discussion

Mr. Burns Mr. Chairman and fellow delegates, the last sentence or the last statement that Mr. Lowe uttered from this platform just a second ago is basically the reason that I see fit to appear here at this time. I want to say in all humility, that I've served my parish and my district for twenty-six years in public office, at which time I have worked very closely with the police juries and with the municipalities and the mayor. I'm not up here in these few remarks to try to convince anybody, or change anybody, or get them to oppose this amendment. My primary purpose for being up here is so that my vote will be recorded on this tape, so that for future posterity if there is any question as to whether Jim Burns was responsible for their taxes being raised to eventually, in my considered opinion, to twenty-five percent, because I know that is what's going to happen throughout the parishes and throughout the municipalities of this state if this amendment passes; it may not be four years from now; it may not be six; it may not be ten, but it will happen, and if I'm not here to defend myself, so they won't be able to say, "Well, old Jim Burns voted that tax on us over here in St. Tammany and Washington Parish," that tape will always be available to show that I, for one, opposed it. Now, as usual, when these amendments come up there will be people come around and say "Well, this is a better compromise." I heard that until I saw fit to get Webster's Dictionary and see just exactly what is the definition of a compromise. I found that it meant to adjust and settle by mutual concessions --that means, each side gives and each side takes. Now, what concession do those who supported the Rayburn amendment on last Friday, what possible concessions are they getting in this amendment? All they are getting is an increase in the ceiling from fifteen percent to twenty-five percent. I visited with my assessor in the court house in Covington yesterday morning with the Anzalone and Casey amendment; I didn't have this one. I turned to Section (B) and I folded it back, and they had a high official--I won't call his name or his title, you might know who he is, and I'm sure maybe he didn't want his name to be called--but, I visited with the assessor and he was in the assessor's office. I handed it to each one of them. I said "I want you to read this very thoroughly and closely and give me your opinion as to what it means." Also, with reference to a part of Section (A), and neither one could say what it meant. When I said "Well, give me your opinion," and they gave two different conflicting opinions as to what it meant. Now, if an assessor and a high district official can't tell you what is in this amendment, how in the world do you think that a taxpayer throughout the State of Louisiana is going to be able to intelligently read this and be able to tell what his tax assessment situation is going to be. Now, I'm not naive enough to get up here and tell you that I think every taxpayer in the State of Louisiana is going to read the different articles of this new constitution. But, I'll say this, that before they go to the polls next spring or next year, to vote on this constitution, they are going to be satisfied and going to want to know in their own minds what their taxation and what their assessment problems are going to be. Now, ever since this constitution was first proposed, as time went on all we heard was "state uniform assessment." That was the only way you would ever solve the assessment and the taxation problem was to have uniform statewide assessment, so that everyone would pay on the same, and on the equal basis, and under the same system. Now, what do we have under this amendment? It's already been brought to your attention, so I will not labor the point, but I just want to use my parish as an example. We have eight municipalities in St. Tammany Parish and of course the police jury, which means nine taxing,

governing authorities.

Further Discussion

Mr. Conroy I join the apparent parade in opposition to the adoption of this amendment. I do so, because I feel so strongly that the amendment as presented to this convention is, in every sense, a very bad proposal. In taxes and in approaching the taxes, there should be some attempt made to provide a taxpayer with some guidelines as to what he might expect to have to pay, so he can plan on his taxes, so that he can know where he stands. This amendment, if not deliberately designed to do so, is perhaps the most remarkably open-ended approach to taxation I have ever seen. It is impossible for a person even to know what the assessment is going to be on his own home in any of several districts, because under this proposal, a person owning his own home could be faced with a possibility that the city would direct one level of assessment on his property, the parish could direct a different level of assessment on his property, a multi-parish district, or several multi-parish districts each could assess even different levels of assessment on his property. If the state ever came back into the ad valorem tax field, as they are permitted to do so, you could have still another level of assessment against the same property. You could have five, six, any number of different assessments against the same property. Those assessments could vary even on the same piece of property or the same kind of property, tremendously. A person in one parish with a homestead exemption could find his home exempted if it was twenty thousand dollars in value, but not if it was twenty-five, while in a neighboring parish the homestead exemption for a veteran or a person over age sixty-five could go as high as a hundred thousand dollars, because five percent of a hundred thousand dollars is five thousand dollars and there is such an exemption. Moreover, these figures could be juggled within an assessment district, within areas, from year to year. You could not know from one year to the next whether these... which set of values you were going to have to deal with. There are a number of other reasons why I think this is an objectionable amendment. I think most of them have been pointed out already. But, I do believe that this...in the months that we have attempted to deal with the ad valorem tax problem on the committee, this is, without a doubt, the worst proposal that we have seen during that time. I urge you to defeat this amendment.

Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise to support this amendment. I do so sincerely as a means of solving a problem in this state in the ad valorem taxation field. It's been stated by a number of speakers here that perhaps this plan was unconstitutional. The good thing about the system in this country is that half of the lawyers are right and half of them are wrong on every issue. Who can say what a judge will do as to the constitutionality of this question. I have my views as to...my beliefs as to its constitutionality, and I think that it is constitutional without question. One of the speakers said from this microphone that since last Saturday or last Thursday that a great deal of pressure had been put upon the delegates to support this proposal. Well, I don't know of any pressure that has been put on anybody to support the proposal, just to the contrary. The only pressure I know about has been to oppose the proposal, but, be that as it may, and it's proper. One of the issues I would like to address myself to is that homestead would not be related to the property value. I just can't believe that the person that made that statement meant exactly what he said, because I believe that the homesteads are directly related to the property values in this proposal without any question whatsoever. If you levy at five percent, assess at five percent, then your homestead exemption is

going to be more valuable than it would at the ten percent figure under the exemption that's been granted in the Rayburn amendment. So, I don't think there is any question as to what a value is as far as homestead exemption is concerned on what's been adopted. I don't know how the workers productivity in this state got involved in the ad valorem tax situation, but one of these speakers said that one of the reasons we ought to object to this amendment is because of the low productivity of the work force of this state. Well, I suggest to you that the work force in this state has got as good a productivity rate as the companies that he represents in other states throughout the south. I'll challenge him with figures of any state, any day of the week. But, I suggest to you one of the basic reasons for this proposal is to allow those municipalities, those governing authorities throughout this state to have some flexibility in the financing of the operations of government with their governmental units. It hasn't been but just two weeks ago that the parade came to this microphone hollering for home rule and it was the vote of this convention that turned over to the local governing authorities of this state unlimited power. A majority of the people of this convention were willing to give unlimited power to the local governing authorities. I ask you today, what's happened to the faith in the local governing officials in ten days? You don't trust them today, but you did when you gave them unlimited authority to do anything not prohibited by general law. Now, there has to be some medium, somewhere, some reason. Either you didn't have faith then and you don't have it now, or you did have it then and you ought to have it today. Let the governing authority have that authority that it takes to run that governmental unit. I'm not concerned, Mr. Burns, with my position on this matter as far as going down in history, as to whether or not I allowed taxes to be raised. All I'm doing here, is asking this convention to adopt a program that will give to the governing authority the authority to do that which I think they ought to have in the taxation field. If the people are going to demand the services, then I think there has to be some way of securing the revenues with which to finance that governing unit. I ask for the adoption of the amendment.

Vice Chairman Roy in the Chair

Questions

Mr. Lennox Mr. Flory, were you in the hall when Mr. Bussie addressed the delegates last week?

Mr. Flory Yes, sir. I was here.

Mr. Lennox Did he not say that he opposed on behalf of AFL-CIO...Louisiana AFL-CIO, local option and ad valorem taxation?

Mr. Flory I don't recall what he said. But, whatever he said is in the record and will speak for itself.

Further Discussion

Mr. Champagne Mr. Acting Chairman, ladies and gentlemen, I rise in opposition to this amendment, because after studying this...the provisions of taxes over the past few months, more than probably I have ever studied anything in so short a while, I am of the opinion, very firmly, that this amendment does not solve many, if any, problems but creates many. I assembled together some information that I had passed to you which explains clearly on the first and second pages why the inequity that exists will be promoted and continued under this proposal. I urge you to vote against this amendment. I suggest to you that all too often the people of this great state have been led on a merry chase in search of the pot of gold at the end of the rainbow, only to arrive at their destination to find no gold and not even a pot at all.

The Rayburn amendment, as proposed, is a vote for responsibility. It's in clear and simple language, one of the provisions that most of us, in running for this office, promised to the people of the State of Louisiana. While it may not give all of the bases for a tax base to the local governing parties, it is the best that we can generate in this constitution. But, probably the greatest feature of that amendment, as proposed by Rayburn and adopted by this convention, is that the assessors of this state have three years in which to correct the problem and inequities that exist. I plead with you to defeat this amendment and I hope that you shall allow me the privilege of joining you in its defeat. I thank you.

[Previous Question ordered. Record vote ordered.]

Closing

Mr. Anzalone In attempting to close on this subject, one would have to agree that the committee proposal is much simpler--there is no question about that. Well, just let me tell you one thing that the way the 1921 Constitution was written is identically the same thing as the way this amendment is being written by the committee. We started off in 1921 with a hundred percent assessment and that was that, and look what we have gotten ourselves into in the past fifty-two years--that's exactly what the constitution of 1921 says. Now, we are giving a special directive to the assessors and all of these other people. I assume that then in about four or five years, as a delegate here said one day, we are going to be in the same mess that we were before. But, ladies and gentlemen of the convention, this directive of the 1921 Constitution of assessing property at one hundred percent is what's got us in this mess now...when you get fifty-two years of problems and you are going to solve it by one little bitty thing that says "Now, we are going to cure everybody's ills." But, nobody has come up here to state with and degree of particularity that some day, somehow, some municipality somewhere is not going to get in trouble over ten percent. Nobody has said that. They have picked the figure of ten percent out of the air and said this is a cure-all. We have had countless testimony from many people representing many municipalities that say "No, this is not true." But, yet, we sit here steadfastly and say "Oh, but no! Oh, but no! Yes, it is true, because the guy down at the grocery store has got a fifteen hundred dollar inventory and he didn't report but three hundred dollars last year, so, we are going to tack that twelve hundred dollars on him and that's going to make up the difference." Well, that's fine and dandy if you all got four or five thousand grocery stores. This part of Tangipahoa Parish where I live, we've got two, so, I don't see where it is going to solve any of our problems. Now, you think seriously about these arbitrary numbers that you are fixing to put in here. You think about some of the numbers that you have had that have come up before today in this convention. You are dating your constitution is what you say--that's right, you are. The thing of it is are you dating it for the benefit of the people or are you dating it to their detriment? When local government continues to come to Baton Rouge and say "We need more money," Baton Rouge can't say "Go home and raise it yourself," because you have prevented it right here. Any time you prevent local people from placing a tax on themselves by their own vote, but yet you are telling me that I've got to support the monkeys in Audubon Park Zoo with my tax money, because you won't let them raise their own tax money, I say it's senseless; it doesn't make any sense in the world.

Chairman Henry in the Chair

[Record Quorum Call: 109 delegates present and a quorum. Amendment rejected: 36-72. Motion to reconsider tabled. Motion for

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*the Previous Question on the Section re-
jected: 8-102.]*

Amendments

Mr. Poynter Amendments sent up by Delegate Mire as follows:

Amendment No. 1. On page 1, at the end of line 26, delete the word "Assessors" and insert in lieu thereof the following: "Within three years after the effective date of this constitution, assessors".

Amendment No. 2. On page 1, line 28, place a comma "," after the word "districts".

Amendment No. 3. On page 1, line 29, after the word and punctuation "Commission." delete the word "All" and insert in lieu thereof the following: "Thereafter, all"

Explanation

Mr. Mire Thank you, Mr. Chairman. Fellow delegates, this is a technical amendment; it actually just makes the provision on percents effective at the same time that the provisions on the Rayburn amendments on homestead exemption goes into effect. All we are doing is asking that both go in effect at the same time, so you won't have one, percent and then...homestead exemption before or after.

Questions

Mr. Perez It was my understanding of the Rayburn amendment that the whole purpose of this was to give the assessors time in order to be able to get their fair market values...figures straightened out. Now, if we wait three years before the assessors begin to determine the fair market value of all property, then how in the world is this thing going to effectively work out?

Mr. Mire No, but this percent will be effective three years after; it's not going to be...it's not to be determined, but be effective.

Mr. Perez Well, if I read this correctly it would say, "Within three years after the effective date of this constitution, assessors shall determine the fair market value." Well, if they wait for that three year period before they begin to determine fair market value, when can this plan ever go into effect?

Mr. Mire If it says what you say, Mr. Perez, we certainly want to correct that, because the intention is that it does go into effect at the time with the Rayburn proposal.

Mr. Perez Would you know that it's my interpretation of your amendment that it...that you would not begin your redetermination of fair market value until three years after the effective date?

Mr. Mire Well, I trusted the staff with the language in it. I assumed that they had it correct and, of course, if they tell me they do have it correct, I'll go along with it.

Mrs. Zervigon Mr. Mire, under the present court decision as it now stands, when does property have to be reappraised, by what date?

Mr. Mire The court decision says...charged the Louisiana Tax Commission with the responsibility of not accepting a tax roll, January 1, 1975 unless, of course, it reflected their order. However, if this constitution passed before this court order is effective, the court order will, in fact, be moot--this is my understanding.

Mrs. Zervigon I'm confused by what you say, because I thought the thrust of the court order--and neither of us are attorneys--was that it was not fair to have someone's house assessed thirty years ago when prices were lower and have someone else's house assessed presently when prices are

higher. Isn't that correct?

Mr. Mire Yes, you could say that.

Mrs. Zervigon Isn't that the reason for the reappraisal?

Mr. Mire Yes, that's correct.

Mrs. Zervigon Well, could you delay that by saying here that you don't reappraise until three years after the effective date of this constitution?

Mr. Mire Our intention is that the reappraisal will not take effect before three years after, which will coincide with what was in the Rayburn amendment. We thought...not thought, but we knew that it would take at least three years for the assessors to get the proper maps and to hire the people that can, in fact, do this reappraisal and have the figures ready to put on a tax roll. This is the reason we are asking for the three years.

Mrs. Zervigon But, that isn't allowed under the present court decision, is it?

Mr. Mire The court decision gave us a mandate if there is nothing new passed in any constitutional document, either the state constitution or constitutional amendments. But, we discussed this with the judge, and he only wants something done and, in fact, immediately started.

Mr. Conroy I understand the need for some sort of transitional period, but I frankly do not understand the effect of this amendment. I'd really like for you to clarify it for me.

What would happen during these three years? Would all property stay like it is now, or would there be some gradual reappraisal? What's going to happen in this three year period?

Mr. Mire Well, let me just say this. I think that if an assessor is doing his work and trying to get his parish ready to, in fact, accept the mandates of the constitution, he would be, in fact, shifting his percents to...so that it would not be drastic in any one year. But that would have to be left up to him. But he would be having to put all his work together to be able at the time that this, that it calls for implementation, that he be ready to go across the border and implement it on everybody. But if the language, and if you tell me that, and somebody else handed this and said that they thought Perez was right, I'd like to withdraw the amendment and have the staff properly draw it so that it will do what the intention of it was.

Mr. Conroy I'd like to work with you on trying to work something out. I understand...

Mr. Mire Thank you very much.

[Amendments withdrawn.]

Recess

*[Quorum Call: 105 delegates present
and a quorum.]*

Amendments

Mr. Poynter Amendment sent up by Delegate Mire as follows:

Amendment No. 1. On page 2, between lines 7 and 8, add the following new Paragraph:

"(H) The provisions of this Section shall become effective commencing January 1 of the year following the end of three years after the effective date of this constitution, and until that date the provisions of the 1921 Constitution governing matters covered by this Section shall continue and be fully applicable, notwithstanding any contrary expiration date stated in any provision thereof with respect to the veterans homestead

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exemption."

Amendment No. 2.

On page 2, between lines 7 and 8, in Floor Amendment No. 2 proposed by Delegate Rayburn and adopted by the convention on Friday, delete lines 29 through 34, both inclusive, of the text of the amendment, in their entirety.

And Mr. Mire, for clarity, I'd like to add "including amendments, all amendments thereto" since Mr. Stagg adopted an amendment to those lines.

Explanation

Mr. Mire Thank you, Mr. Chairman. Fellow delegates, this is now doing what I was trying to do with the amendment that was withdrawn. This also does what Mr. Rayburn was doing with the last paragraph in his amendment. It will make the whole section applicable three years after this constitution is adopted by the people. It will do one more thing that we thought was important. The present veterans homestead exemption expires in the year 1975. This would, in fact, extend the veterans exemption until the new proposal takes effect in January 1, 1977. If there are no questions concerning this one, I would move for the approval of this amendment.

Questions

Mr. Kean Mr. Mire, I think I understand what you are doing here, but we say "the provisions of this section." Are we talking about the entirety of Section 1? If so, would not that mean that the percentage allocations in Subsection (B) would not be applicable for three years, and we would have to live with the Bussie decision for that intervening period of time?

Mr. Mire We talked about that very question. We felt that the judge would certainly give us this time to, in fact, implement it. We feel sure that he will. Thank you, Mr. Chairman.

Mr. De Blieux Mr. Mire, as you well know, there's a provision in the 1921 Constitution that states that "all veterans exemptions shall expire as of January 1, 1975." Now, if this constitution would not go into effect, you might say the 1975, if it's not adopted until the general election of 1974, which is a good possibility, then we are going to have three years there in which there would be a lapse of no veteran's exemption according to this amendment.

Mr. Mire Well, this particular amendment, in fact, provides that there will be...that it will be extended. This is my understanding from the lawyers who've got with me to write this particular amendment, that it would, in fact, extend the present veteran's exemption from 1975 through '76.

Mr. De Blieux I don't know. That might be true. But I don't read it that way.

Mr. Mire Well, I've got to go by what the staff and the attorneys have said it would do.

Mr. Rayburn Mr. Mire, is it not correct that the purpose of that, I had an individual amendment to do it, is that the veteran's exemption expires in '75, and we had to keep that in force until this product is finally adopted and put into effect? That's the purpose of your amendment. Isn't that right?

Mr. Mire That's absolutely correct, Senator.

Mr. Flory Mr. Mire, I appreciate what you are trying to do, and I agree with it. But could you explain to me why it's necessary to have the words, "notwithstanding I understand", but where it says, "any contrary expiration date". Contrary to what?

Mr. Mire Not contrary to the dates that we, in fact, set out in this particular amendment which

is January 1, 1977, assuming that the Constitutional Convention will be offered to the people in the year 1974, and, we hope, adopted. Then, of course, the veteran's homestead exemption that expires in '75 is then contrary. This is what we are hoping to eliminate.

Mr. Flory Well, for purpose of clarification, it would just appear to me it would be better to say, "notwithstanding any expiration date stated in any provision thereof."

Mr. Mire There are many other taxes, or something related to this section that will possibly expire between now and '77, and we don't want to stop them from expiring; such as particular provisions taxing people that will, in fact, expire. We want to leave it to the people as to whether or not they want to continue it.

Mr. Conroy Mr. Mire, I agree wholeheartedly with this provision. I want to make clear that I understand it's effect...that is that it would maintain the status quo for three years while the assessors implemented the program of changing the assessments, putting the assessment ratios into effect, so that three years after the constitution was adopted, the whole program could then be put into effect. Until that time, you'd have the two thousand dollar homestead exemption, the five thousand dollar homestead exemption for veterans would be continued, and the present systems would be continued until that time. Then there'd be a change-over at that point. Is that correct?

Mr. Mire That's absolutely right, Mr. Conroy. That's the intention of it.

Mr. Pugh Wouldn't it be a lot easier to say, "except for the veteran's exemption which shall be applicable immediately", the rest of it will be applicable three years from now?

Mr. Mire Well, Mr. Pugh, I would go along with anything that would say what I intended the amendment to, in fact, do. Of course, we got together, four or five of us up here. I went along with the attorneys...Style and Drafting...

Mr. Pugh Yeah. I'm not picking with you. I just read it the way the Senator does, that's all.

Mr. Mire Thank you, sir.

Mr. Champagne Mr. Mire, as I understand it, the last three sentences...it definitely means that the veteran exemption will not expire during that time.

Mr. Mire Correct, sir. You're absolutely right.

Mr. Champagne Thank you, sir.

[Amendments adopted without objection.]

Amendments

Mr. Poynter Amendment sent up by Delegate Avant as follows:

Amendment No. 1.

On page 1, delete lines 13 through 31, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 1. (A) All property subject to ad valorem taxation shall be listed on the assessment rolls at its assessed valuation which shall be a percentage of its fair market value or its current use value; such percentage of fair market value or current use value shall be uniform throughout the state upon the same class of property.

(B) The classifications of property subject to ad valorem taxation and the percentage of fair market value or current use value applicable to each such classification for the purpose of determining assessed valuation are as follows:

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| CLASSIFICATIONS: | PERCENTAGE |
|---|--------------------------|
| 1. Agricultural, Horticultural, and Timber Lands----- | 10% of Current Use Value |
| 2. All other Lands----- | 10% of Fair Market Value |
| 3. Improvements for Residential Purposes----- | 10% of Fair Market Value |
| 4. All Other Property----- | 15% of Fair Market Value |

(C) Assessors shall determine the fair market value and current use value of all property subject to taxation within their respective parishes and districts except public service properties which shall be valued by the Louisiana Tax Commission. All property subject to taxation shall be reappraised at intervals of not more than five years."

Amendment No. 2.

On page 2, delete lines 4 through 7, both inclusive, in their entirety.

[Amendments withdrawn.]

Amendment

Mr. Poynter The next amendment is offered by Delegates Kean and Pugh.

Amendment No. 1.

On page 1...and I think we ought to change, it says between lines 25 and 27. I think that ought to be between lines 25 and 26. Correct me if I'm not right...that's where you wanted it...

"The above percentages may be increased, by general law or by a special law applicable to a parish, adopted by a vote of two-thirds of the elected membership of each house, provided no percentage shall exceed twenty percent of the fair market value, and provided, further, that unless such increased percentage is of uniform statewide application, then the homestead exemption shall not be applicable to the increase."

Explanation

Mr. Kean Mr. Chairman and fellow delegates, as I appreciate the discussion we've had here the last several days, we've been concerned with the effect that the percentages originally approved by the convention in Subsection (B), might have, upon individual parishes, under circumstances where we really do not have the facts and information to judge the application of these percentages to the present situation in those parishes. In particular, we have talked about, and we've had Mayor Landrieu of New Orleans speak to us about his concern that these percentages would have on the tax base of the city of New Orleans. I think Mr. Burson has raised the question insofar as these percentages are concerned with respect to the tax base, that it might have in the parish of St. Landry. In an effort to try to find some means of providing flexibility so that we are not forever built-in in the constitution to these percentages now in Subsection (B), this proposed amendment would do several things.

First of all, it would permit the legislature, either by general law, or by special law applicable to a parish, to increase the percentages which are contained in Subsection (B) up to a maximum of twenty percent. Now this would permit, under these circumstances, the legislature, by a two-thirds vote of both houses, for example, to deal with the problem in New Orleans if it turns out to be as acute a problem as has been indicated to this convention on the floor. This would permit it to be done on a parish basis, or would give flexibility on a statewide basis so far as general law is concerned, if need for flexibility exists.

Secondly, to meet the problem of varying percentages and the homestead exemption, it would provide that the homestead exemption would not be applicable to the increase so that the homestead exemption would remain uniform throughout the state, if...unless we went to a uniform increase

applicable statewide. Now it seems to me that this could afford us some flexibility in dealing with the problem. It does give to the legislature, by a vote of two-thirds of both houses, the right to provide for that increase. But under circumstances where the legislature can generally increase taxes, where the legislature could levy the five and three-quarter mill tax by a vote of two-thirds of both houses, it seems to me that this does not violate any principle requiring a vote with respect to tax increase matters of this kind.

I simply submit this to you as a safety valve by which we could deal with some unusual problems among the parishes or on a statewide bases if our analysis of the percentages and the results which might obtain from them, happens to be incorrect. I have no pride of authorship about it. I simply offer it as a possible solution which would give us flexibility, safeguard the homestead exemption, and permit us to move forward with this rather complicated matter.

I'll be glad to answer any questions.

Questions

Mr. Lennox Mr. Kean, under this amendment, would it not be possible for the governing...the legislature to enact by this general or special law, a provision which would increase the tax ratio on a certain classification of property while leaving other classifications unchanged?

Mr. Kean But it could not do it more than twenty percent, Mr. Lennox, so that in the fifteen percent category, it could only be raised five percent.

Mr. Lennox Well, more specifically, they could raise industry and business to twenty percent from fifteen and leave all other classifications unchanged.

Mr. Kean If two-thirds of the membership of the Legislature voted to do it, yes, sir.

Mr. Lennox I take it the last three lines of your amendment are designed to get around the legal test of uniform application.

Mr. Kean That's correct, to make the homestead exemption remain the same despite any increase.

Mr. Abraham Gordon, I have two questions.

First of all, if I understand the last three lines, if you had a home that's at a fair market value of say twenty thousand dollars, and under the ten percent ratio it would be assessed at two thousand dollars, and it gets a two thousand dollar exemption because it's...we're allowing three, now if, in that particular parish, the increase went up to twenty percent, it means that home would be assessed at four thousand dollars. It would still get only a two thousand dollar exemption. It would not be able to get the extra thousand dollars.

Mr. Kean That's correct because I don't see how you can do it any other way and avoid constitutional problems which would result.

Mr. Abraham All right.

The other question I would have, then, is that assume we've got ten percent statewide and the five and three-quarter mill state tax, if they ever put it back in effect, is assessed on that ten percent. Now, a parish is increased to twenty percent. Would the five and three-quarter apply in that parish only to the ten percent ratio? Or would it go up to the twenty percent ratio?

Mr. Kean Well, you have to apply to whatever ratio was applicable in that parish.

Mr. Abraham Then, would you not have a problem there?

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Mr. Kean I don't think so.

Mr. Jenkins Mr. Kean, you don't have any roll-back in millage procedure associated with this amendment, do you?

Mr. Kean No, it would...

Mr. Jenkins So, really, what you are giving the legislature the authority to do here is to increase property taxes by a hundred percent in case of the homes, or thirty-three and a third percent in the case of a business, commercial, industrial apartment property. Is that correct? Without a vote of the people of the local area?

Mr. Kean It would take two-thirds vote of the legislature to accomplish it, yes, sir.

Mr. Jenkins But no vote of the people in the area to increase their taxes that substantially.

Mr. Flory Mr. Kean, let me see if I understand this amendment correctly.

Would this not allow the legislature to set the assessed valuation of property on homes and businesses at twenty percent by special law in the parish of Orleans?

Mr. Kean That's correct, if it's by a two-thirds vote of the legislature.

Mr. Flory Now, then...my second question. By that same procedure, could they not set homes at twenty percent and leave business and industry at fifteen percent?

Mr. Kean They could change the percentage Mr. Flory. But I think you know as well as I do that there's not any practical likelihood that the legislature would do it that way.

Mr. Flory But do you agree that there is that possibility?

Mr. Kean Always that possibility.

Mr. Conroy Mr. Kean, I'm trying to be certain that I understand how this last proviso operates. If a man owns a thirty thousand dollar home, it's assessed at ten percent, that's a three thousand dollar assessment which is totally exempt--his thirty thousand dollar home is totally exempt. Now you change the percentage from ten percent to twenty percent. It is now assessed at six thousand dollars--same thirty thousand dollar home. But now three thousand dollars of it is taxable? Is that correct?

Mr. Kean That's correct.

Mr. Conroy You say that you feel that this is a uniform homestead exemption when a person...

Mr. Kean A uniform treatment of the homestead exemption so far as the state was concerned, unless we went to a uniform increase in the percentage.

Mr. Conroy But, if it's made applicable to a single parish, the effect of this change, so that if you had a twenty percent applicable, in, say, Orleans Parish, the homestead exemption in Orleans Parish would only be a...would be half of what it was some place else. Isn't that correct?

Mr. Kean That's correct. We were trying to treat uniformity, and that's the only reason for it.

[Motion to suspend the rules to allow additional time adopted: 79-6.]

Mr. Kean Mr. Chairman, fellow delegates, I do appreciate that vote of confidence. But in light of some of the questions that have already been

asked, I'd like to withdraw the amendment.

[Amendment withdrawn.]

Vice Chairman Casey in the Chair

Amendment

Mr. Poynter First amendment is a line 29 amendment [by Mr. Perez].

On page 1, line 29 immediately after the word "valued" and before the word "by" insert "at fair market value".

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I know that it was the intention of those who prepared this article to require that all property, that the fair market value be determined. However, if you will read beginning in line 26, it requires assessors to determine the fair market value. But when it comes to the provision on public service properties, it says, "except public service properties which shall be valued by the Louisiana Tax Commission" and does not require the tax commission to assess at fair market, or rather to determine the fair market value. I've discussed this with the assessors. I don't believe there's any objection. I consider it a technical amendment. I move its adoption.

Questions

Mr. Gravel Mr. Perez, I don't have any objection, either. But I'm a little bit concerned about whether there is such a thing, really, as a fair market value for public service properties. Actually, they...there's some question in my mind about whether that particular phrase can be related to public service properties.

Mr. Perez Well, Mr. Gravel, I suggest to you that it was totally unfair if we're going to say, we're going to tax a homeowner or a little business man based on fair market value and turn around and leave it to the public service commission just out of the air to come up with any standards they want as to how we are going to assess the properties of the...

Mr. Gravel I agree with you that there should be a standard. What I'm trying to determine is, is fair market value the best definable standard for public service properties for which, generally, there is no market? That's the only problem I have. I thought, maybe, you could give me an answer to it.

Mr. Perez Well, I would...I would suggest to you the approach would be, for instance, with regard to an interstate pipeline, that the cost of construction of that pipeline could easily be determined, and the value of the products moving through it might even be determined, to determine fair market value even though it...you say it does not have a market value, there are times, many, many times when one pipeline company will sell a particular pipeline to another company so that there are standards for fair market value in my judgment. Railroads that are bought out by other railroads...the cost of construction of these lines, and of the cause, and the like, are the factors to be taken into account when you determine fair market value just as you would the cost of construction of a home.

Mr. A. Landry Mr. Perez, this is going to be a friendly question because I am a little worried about it in Lafourche Parish. At the present time, we have approximately twenty-four million dollars worth of assessment on our rolls which is public service corporations. We have no way of knowing at the present time whether they are assessed at fair market value, or what value. Now the problem I have is that if your amendment doesn't pass, and

in reevaluating our assessment in Lafourche Parish under the plan that we are about to adopt, it could very well be that the twenty-four million dollars would remain the same on our tax roll while our residents, who have about thirty-three million, would be doubled in amount. Therefore, we would shift the tax burden from the public service corporation to the residents of Lafourche Parish. Is that correct?

Mr. Perez That does concern me very much. In fact, it concerns me today. We have no way on a local basis of knowing how these public service properties are valued. In my judgment, it's quite possible now that they get a bigger break than the homeowner gets.

Mr. Champagne How many amendments you have, Mr. Perez?

Mr. Perez I have two amendments. The second amendment will refer to the reevaluation beginning at line 29 it says, "all property subject to taxation shall be reappraised at intervals of not more than five years." There, again, I didn't think it was clear enough that the assessors, when they reappraised, would be required to reappraise at fair market value so that I will have two amendments... one to make it clear that the Public Service Commission appraises at fair market value, and the other to make it clear when property is reappraised at these various intervals, that it, also, will be a fair market value.

Mr. Champagne That's the problem. I only see one of them. The one that I read that you say on line 30 has to do with reappraisal. It has nothing to do with the Louisiana Tax Commission.

Mr. Perez Well, I think the problem may be that the first amendment which I'm now discussing was probably passed out last week sometime, and you may not have it on your desk, and the desk may have become confused. But there are two amendments. I'll offer one and then the other one. In the first case, it requires the public service commission properties to be valued at fair market value. The second case, when property is reappraised, it, also, would be required to be valued at fair market value.

Mr. Champagne Well, they're both good. But it wasn't clear in my mind what we were talking about.

Mr. Kean Mr. Perez, would you not agree that if we are going to provide that the assessor shall determine fair market value, and that the tax commission is going to determine fair market value with respect to public service properties, that there ought to be something in this section under which the legislature would be required to establish some kind of criteria, some standards by which this duty would be carried out?

Mr. Perez I have no objection whatsoever. I think it's a good idea, Mr. Kean, particularly with regard to public service properties.

[Previous Question ordered.]

Point of Information

Mr. Rayburn Is the amendment we are fixing to vote on the one that applied to the Tax Commission?

Mr. Casey It applies to page 1, line 29, Mr. Rayburn, which is the Tax Commission.

[Amendment adopted without objection.]

Amendment

Mr. Poynter Similar amendment offered up by Mr. Perez.

Page 1, line 30, and this one was just distributed this morning on...this afternoon on page 1,

line 30, between the words, "reappraised" and "at" insert the words "at fair market value".

Explanation

Mr. Perez The purpose of the second amendment is to, also, make it clear that not only when the assessors, on the first occasion, when they reassess the property to determine the fair market value, but in the...at the intervals of every five years, that when they reappraise, they also reappraise at fair market value.

I yield to any questions if there are any.

Questions

Mr. Rayburn Mr. Perez, I see nothing wrong with this, but I'm just wondering, do you think we should add the words "fair market value or use value"? Do you think it's necessary to put use value because we refer in other language about fair market value and use value? I'm just wondering...

Mr. Perez I'd say that if you had to do that, then you'd have to go back up to line 26 and say the same thing again. But, I think a fair interpretation of this is that they do determine the fair market value, and then in a later case you make an exception to the application of the use of fair market value.

Mr. Rayburn Well, I'm concerned over land though, that we did specify would be at fair market value would be the use value. I don't know if that would apply to the Tax Commission or not because I don't know how muchland they deal with.

Mr. Perez Well, my answer to that is that I don't believe that is necessary because you have the exception on page 2, and that if you require the words "at fair market value or use value" to be put in on line 30, then you'd have to go up on line 26 and say the same thing "assessors shall determine the fair market value or use value," you see. I don't believe there's any real problem involved in my judgement. I just wanted to be sure that what applied on line 26, when you had the first appraisal, that when they reappraised at intervals of five years, they used the same standard fair market value.

Mr. Rayburn You don't think, though, Mr. Perez, if we don't spell it out, there could be some legal question as to whether use value was involved in that particular language or not?

Mr. Perez I can say to you, Senator, that if there is, I'm wholeheartedly in favor of the use value concept, and I'll be glad to work with anybody that wants to clarify it, but I do think, at least, we need this clarification at this time.

Mr. Rayburn Would you mind just accepting the words "fair market value or use value" in this amendment because I don't believe the Tax Commission has any control over the value of land?

Mr. Perez Well, the amendment that we're on now, Senator, it does not refer to the Tax Commission. It refers to...

Mr. Rayburn It refers to the assessor's reappraisal, and probably it should be added above there, but I'm just a little...

Mr. Perez Let me read it to you as it would read. "All property subject to taxation shall be reappraised at fair market value at intervals of not more than five years." Now, the words, if you read line 26, when the assessor has to originally appraise, it says "assessors shall determine the fair market value of all property," and so forth. So, all I'm doing is making it in conformity with line 26. It would be my suggestion to you that if you wanted to be sure that upon any reappraisal that the use value is taken into account that when

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we go into the question of use value, that you would say that this would apply, not only to the original appraisal, but in the reappraisal. I think that would be the better way to handle it.

Further Discussion

Mr. Gravel Mr. Chairman, ladies and gentlemen of the convention, I don't see any need for this amendment, and I really think it's going to confuse rather than to clarify the issue. The provision that Mr. Perez's amendment seeks to amend says that there shall be reappraisal every four years. Now, that reappraisal will be with respect to use value or fair market value as the case may be. If you use the amendment suggested by Mr. Perez, it seems to me that we are limiting the reappraisal, and we are probably not taking into consideration the requirement that use value has to be reconsidered every four years also. It just doesn't seem to me that this accomplishes the same purpose that the other amendment did. I'm not opposed to what I think Mr. Perez is trying to do, but I believe we're going to end up causing a problem that doesn't exist. When we say that there shall be reappraisal every four years, it will be certain that whatever value is necessary to be used--whether it be fair market value or use value--will be the basis of the reappraisal. It seems to me that its not necessary to add this language. I would hope that Mr. Perez might withdraw the amendment to give consideration to these concepts; if not, I would urge that the amendment be defeated.

Questions

Mr. Lanier Mr. Gravel, if this language proposed by Mr. Perez is not included, would it be your opinion that the reappraisal could be done at something other than fair market value?

Mr. Gravel No, I think it could be either fair market value where fair market value is the basis, or it could be use value where use value is the basis. That's all.

Mr. Lanier Then, what you're saying is that this sentence has to be read in connection with the first sentence in the other provisions of this section which require the assessment at fair market value.

Mr. Gravel Because here, we're just talking about reappraisal, and reappraisal shall be, of course, on the basis that the original appraisal had to be made. Frankly, I just don't think the amendment is necessary.

Further Discussion

Mr. Thompson Fellow delegates, I think that if Delegate Perez will not withdraw this thing, the best thing to do with it is just kill it and get rid of it. There's no way in the world for you to read in there what he's wanting you to read in there. It's going to be pretty clear that they could leave out the fair market...use value of this land, so I urge that he either withdraw it, to where we can fix it to where we can live with it, or let's just defeat the whole amendment. Thank you.

Question

Mr. Perez Can I refer you to page 2, line 4, which reads "the legislature shall provide that agricultural, horticultural, and timber lands will be assessed for the purpose of taxation at a percentage of use value rather than fair market value." I ask you why this presents a problem to you, because we've put this over into the hands of the legislature, and taken it completely out of this constitutional provision?

Mr. Thompson Why does it present a problem to

you in not wanting to put it in there?

[Previous Question ordered.]

Closing

Mr. Perez Mr. Chairman, and ladies and gentlemen of the convention, I hope I can have your attention because of the fact that I believe that Mr. Gravel and others who appear to be opposed to this amendment don't understand what the words say. If you will follow with me first of all on line 30, we are talking about reappraisal of property every five years, and what it says is "all property subject to taxation shall be reappraised," and what I would suggest that we insert is "at fair market value at intervals of not more than five years." Now, when you get to the problem of "use value" if you would turn the page over to page 2, and I realize this has been amended but the same language is still there, and the way it reads is "the legislature shall provide that agricultural, horticultural, and timber lands will be assessed for the purpose of taxation at a percentage of use value rather than fair market value," so that there can be no reasonable, legitimate question with respect to the amendment that I offer. What this says again is that agricultural land will not be assessed on fair market value, but on a percentage of use value. So there is absolutely no question whatsoever, and I just do believe, and I hope I don't have to start suspecting that possibly there may be some idea that after the first five years the assessors may be able to assess at something other than fair market value.

Questions

Mr. Gravel Mr. Perez, don't you agree that the use value of land has to be reappraised at intervals also?

Mr. Perez I agree with that, but that requirement--and this is not my proposal but the committee proposal--is that the only requirement for reappraisal is saying "all property subject to taxation shall be reappraised"--well, I would agree with that--"at intervals of not more than five years." But, irrespective of that, again the legislature is going to determine the use value, and again, the property used for agricultural purposes will not...the tax to be paid will not be based upon the fair market value, but be based upon a percentage of use value.

Mr. Gravel The only point I'm making is that if we are saying here, as I think we are, that "all property subject to taxation shall be reappraised at intervals of not more than five years." If that sentence applies to all property as it says it does, that we've got to make sure that we don't restrict and limit the reappraisal to fair market value; we've also got to permit the reappraisal of use value every five years also.

Mr. Perez Mr. Gravel, I can only answer you by saying that this requires the reappraisal of the lands every five years, and the assessor has the right to reappraise the use value at any time he would want to, as well as fair market value. But, the point that I'm trying to make to you, sir--and I hope that you will understand me--is that if we do not put these restrictions in here, then I say that a fair interpretation of this language could be that it's only the first time around that fair market value has to be used as a standard, and on a reappraisal it may not be.

Mr. Gravel Mr. Perez, one further question. Wouldn't your problem and mine be solved if that sentence that begins on line 29, page 1, that last sentence would be restated, let's say, as a Section (F)?

Mr. Perez I have, certainly, no objection to it.

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Mr. Gravel Well, then it wouldn't be necessary to amend it.

Mr. Perez No, sir, because I say that when you have the provision for reappraisal that we have to set the standards for that reappraisal, and that's the purpose of my amendment. Now, I'll be glad to withdraw my amendment, and to add the words "at fair market value or use value" if that will help you out and make you feel better; I don't think it's necessary. But, I do think it's necessary to require that when we do have reappraisals that those reappraisals...we still have standards and the future reappraisal will have the same standard as the first appraisal had.

Mr. Gravel Well, I agree with you, either way. Either the way you just mentioned or leaving out "fair market value."

Mr. Perez With the permission of the convention, I'd like to withdraw the amendment and reoffer.

Chairman Henry in the Chair

[Amendment withdrawn.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Newton]. On page 1, line 31, immediately after the word "than" and before the word "years" delete the word "five" and insert in lieu thereof the word "four".

Explanation

Mr. Newton This amendment changes just one word in line 31 to mean that the reappraisal interval, where the assessor would reappraise, would be four years rather than five. My purpose is that all the property within the taxing jurisdiction would have to be reappraised one time by the assessor during his term of office, and that way the assessor couldn't serve out his term, and then serve one term and then wait, and if he got defeated or something, let the next guy come along and have to bear the brunt of reappraising. Each assessor would have to reappraise once during his term of office. I've passed this by "Peg" and the other assessors, and I think they are in basic agreement that this is the way it should be, and as I understand it, there is no objection from the Assessors' Association. I urge the adoption of the amendment.

Questions

Mr. Burson Mr. Newton, among the multitude of unanswered questions that I have in my mind, is one about where the money is going to come from to hire the new permanent staff for all the assessors across the state that's going to be required for reappraising all this property. Do you know whether anybody has an answer to that question in any of this?

Mr. Newton I'm sure I don't have any more of an answer than you do, Jackson.

Mr. Burson Because, I believe, at the present time the assessor gets the money to run his operation as a percentum of, or it comes out of the taxes that he collects, which would otherwise go to the local governing bodies, school boards, and so on.

Mr. Newton I really don't know. But, I do know we're going to have to do something along these lines anyway, so I don't think my amendment makes any difference.

Mr. Chatelain Delegate Newton, isn't there a court decision now that something's going to have to be done regardless, in the years to come?

Mr. Newton That's correct.

Mr. Fontenet Autley, if the assessor wanted to follow a procedure he could just assess twenty-five percent of the property every year, and therefore where, by your amendment every four years there would be a total reappraisal of all the property. He doesn't have to do it all in one year or in two years. He can take twenty-five percent of the property and do it over a four year period, isn't that correct?

Mr. Newton I would think that would be the way it would have to be done.

Mr. Fontenet I don't think he'd have to increase his staff that much to do that, do you?

Mr. Newton No, I don't.

Mr. Anzalone Mr. Newton, do you mean to tell me that my property is going to be reassessed this year, and I'm going to pay three years of taxes until the next guy gets his property reassessed, and that's the way you're going to do it, that's going to be legal?

Mr. Newton I think that it would be legal.

Mr. Anzalone You're going to do twenty-five percent a year for four years makes a hundred percent. Now, if I get caught in the first twenty-five percent, and you get caught in the last twenty-five percent, then I've got to pay my taxes for four years at whatever rate it is that I get caught up in a new deal on; that's legal? Don't try to get around the question. It's not going to cost about forty million dollars to do this mess.

Mr. Newton If you want to leave it for five years, leave it that way.

Mr. Mire Mr. Newton, isn't it a fact that the assessor plans to, in fact, maybe look at twenty-five percent each year, but not implement this new appraisal except on a four year cycle. Each four years...it might take him four years to cover his whole parish measuring square feet or whatever approach he'll use to, in fact, determine the fair market value, but when he applies his formula to it, he'll do that once every four years.

Mr. Newton Peg, I assume that's the way it's going to be done on the first three reappraisal.

Mr. Chehardy Do you recognize the problem we're going to have? I want to ask you to comment on this application I've just had. "Dear Mr. Chehardy, this is my application as an appraiser for your office if and when the constitution passes. Experience: (1). Grade A Italian appraiser. (2). Can't count over ten. (3). Don't believe in taxes. (4). Believe in my assessor. Eddy D'Gerolamo." Do you see what we have to contend with? I have a hundred and fifteen thousand pieces of property to reassess in four years you say, and this is the type of application I'm getting.

Mr. Newton You've really got a problem.

Mr. Chehardy But, in all seriousness, you have to consider making as many appraisals as have to be made over a very short period of time. I don't care if it's two years or four years; whatever it is, we'll get the job done if we have the means. But, when you say cut it from five to four, you are really creating a burden which I don't know if everyone can fulfill in this state, and do it properly.

Mr. Newton Well, Mr. Chehardy, I noticed that Mr. Mire came up here with an amendment to have everything done the first time within three years, so I don't think that this imposes an impossible burden on the assessors.

Mr. De Blioux Mr. Newton, with reference to the question of Mr. Burson and Mr. Chehardy, do you

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recognize the fact that the assessor of West Baton Rouge Parish made a reappraisal of all the land in his parish within less than two years?

Mr. Newton I did not know that, but I certainly am glad.

Mr. De Blieux And the central business district of New Orleans has been reevaluated in less than eighteen months?

Mr. Newton Thank you, Mr. De Blieux.

[Previous Question ordered. Amendment adopted: 71-40. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Abraham]. On page 1, line 31, after the word and punctuation "years." add the following: "The legislature shall provide a uniform method for determining the fair market value of property throughout the state."

Explanation

Mr. Abraham Mr. Chairman, ladies and gentlemen, what we've done in the committee proposal now is to fix the amount of homestead exemption. We fixed the percentage on the assessment, but we have one area...one variable in here that does need to be taken care of, and that is the...a uniform method for determining a fair market value of property. It really does us no good to say we're going to assess property at a fixed percentage statewide when we still have the flexibility of the variation of one...in one parish of a particular home being determined at having a fair market value of fifty thousand dollars, whereas, another one may only have twenty thousand dollars. This is going to establish a uniform method of assessing property throughout this state. Now, the legislature can set this up. Now, we have said that the legislature, in Paragraph (E), shall provide for the use value for agricultural land, so there is going to have to be some formula for this to be established statewide. The various assessors throughout the parish have formulas that they use for assessing property or rather for evaluating property within the parish. In order to arrive at an assessment figure now, they must have some yardstick to use in order to determine the fair market value. I think this would be real important that we establish some method or some yardstick that could be used statewide by all the various assessors, so that when you went from one parish to another, you would know about what the yardstick is going to be, you'd know how property was going to be assessed. There wouldn't be any question in your mind. I think it's particularly important that we have some type of thing like this for the Louisiana Tax Commission to use, because if you're going to assess public utilities or if you're going to assess property that crosses parish lines, then there must be some uniformity there that you don't have in one parish you're establishing a fair market value of one figure, and in another parish you're establishing another. For instance, if you had a railroad, and you're going to have to establish fair market value for that railroad then you're going to have to use this system statewide. You can't just use it in one parish, do it one way and do it another. I don't think it does us any good to sit here, and in this constitution to say we're going to set a percentage at ten percent or fifteen percent of whatever we want, and then we're going to say that we've got three thousand dollar homestead exemptions. If we don't have some uniform method for the very base at which all this starts--all of this starts with the fair market value, and we say that the assessor shall determine the fair market value of the property, so, we really have not gained anything at all towards standardizing this thing. If we have a system whereby the as-

sessors can establish fair market value at anything they want, the percentages mean nothing then and neither does the homestead exemption. Now, I realize that some of you say this is an impossible task, but I say to you that it is not. It's merely a matter of reviewing the various yardsticks that the various assessors are using and coming up with a uniform system or a uniform yardstick that can be used statewide. I will yield to any questions.

Questions

Mr. Shannon Mr. Abraham, do you realize that construction costs vary from parish to parish, and the construction cost in an area like, say Baton Rouge, or one of your rural parishes is quite different? You might build a home in Baton Rouge that would cost you fifty or sixty thousand dollars where you might be able to build that in a rural parish for quite a bit less. Would you want that home in the rural parish assessed at forty thousand dollars just because it cost that much in Baton Rouge to build it?

Mr. Abraham Mr. Shannon, construction costs vary with any parish, and they vary between the municipalities and they vary in the rural area, and the assessor, himself, in this parish takes this into account. He has yardsticks by which he assesses a home in Shreveport at a different figure than he might assess it somewhere else in the parish. What I am saying is that this thing will all be subject to review. The legislature will be in a position to establish uniform procedures throughout the parish.

Mr. Shannon Well, don't you think the assessor is in a better position to do this?

Mr. Abraham The assessor...the basic information probably will come from the assessor to begin with. The legislature will have to review the various yardsticks that the various assessors are using.

Mr. Shannon Well, why bother the legislature with something like that, a trivial matter like that?

Mr. Abraham Because the problem lies in that an assessor in Caddo Parish might be evaluating a home at...or place a fair market value fifty thousand dollars on a home, and in another parish they might place a ten thousand dollar fair market value.

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, I rise in opposition to the amendment although I know it's very well intended, and really intended to maybe simplify a job. Actually, what I contend that it does is allow people to set up a determination of fair market value that is, in fact, well defined by your local real estate boards or your local realtors in any area. An assessor that would be doing this job would have to go to these local realtors, local real estate firms, and, well, have to have an established system that he'll use within his parish. I think that with these people a fair market value can be arrived at far easier than you can a statewide system, because as somebody pointed out, certainly values vary from parish to parish, and I don't feel I'm qualified to, say, appraise property in Caddo Parish, but by the same token somebody from Caddo Parish doesn't necessarily know what it's worth in Ascension or East Baton Rouge or otherwise, and I urge you to defeat this amendment.

Questions

Mr. Goldman Mr. Mire, isn't fair market value a known quantity? Doesn't it mean what somebody was willing to pay for a piece of property or for a house?

Mr. Mire I think it's a well defined nomina, and

that it does, in fact, describe what a willing seller wants for a property, and what a willing buyer is willing to give him for it.

Mr. Goldman Is it necessary for the legislature to prescribe that in legislation?

Mr. Mire I certainly don't think so. I think that this is something that's been talked about and arrived at with any real estate concern or board, or what have you.

Mr. Goldman Now, if the legislature is given an opportunity to use...to present a yardstick through general law on how to determine fair market value, wouldn't it be reasonable to think that maybe they would say that any house built fifteen years ago has to automatically go up fifty percent, and if they do that, would that be fair? Because, let me give you an example: My house cost me thirty seven thousand five hundred dollars; I've been offered fifty-five or sixty for it, and a house up the street from mine cost two hundred and fifty thousand dollars to build, and if they put a percentage of how much it should increase in some sort of legislation, his might have to up to four hundred thousand dollars, yet no buyer would pay four hundred thousand dollars for his, where they would pay sixty thousand for mine, and wouldn't that create a problem?

Mr. Mire Well, I think that it would create problems, and particularly every time that you'd want to reappraise. You have to look at it on every reappraisal with the situation as it is at that time, and I don't believe that the legislature could necessarily set up something now that would work forever.

Mr. Burns Mr. Mire, after a local assessor completes his roll for the year, doesn't that have to be submitted to the police jury for their review?

Mr. Mire The police jury and the public, in fact. The public is invited to come in and inspect their assessments for a twenty day period every year; yes, sir.

Mr. Burns If the assessor wasn't using the right system for fair market value, they would be in trouble.

Mr. Mire Yes, sir. We hope to have a law that the police jury would have the right, in fact, to see that they do do their job as they should.

Further Discussion

Mr. De Blieux Mr. Chairman, and ladies and gentlemen of the convention, I rise in support of this amendment. There is no place in this particular proposal that gives the legislature the right to lay down any uniform guidelines for determining the fair value of property. You've got the provision for the use value but nothing for fair market value. I think that the assessors need some sort of an aid or guide in doing this. The fact that it's going to be done by legislative act is nothing to keep the legislature from changing those when the time becomes necessary, as was raised by Mr. Goldman on this particular point. For the very point that was raised by Mr. Shannon, I think that's why we should have legislative guidelines, because to determine the point...fair market value may not be the same in any parish to state, from parish to municipality, and so forth and so on. Therefore, if the legislature has laid down some guidelines for the assessor to follow, all that's necessary for him to do his job is just to stay within those guidelines. You will not have it competing forces of one assessor using one criteria, another assessor using another one for the valuation of the same property, and we're all reasonable men and women. I think that we can possibly make up some reasonable guidelines for

this that where everybody will know what their assessor is using in determining his guidelines. They'll know it from parish to parish; they'll know it from municipality to municipality, and you will not have those varying degrees of the valuation of property in sections of the state where it is entirely unrealistic and unnecessary, and therefore, I ask you to support this amendment. I think it's a good amendment.

Questions

Mr. Burson Senator, I'm glad to hear you making the same point I made the other day with regard to your thirty thousand dollar homestead exemption. The only thing that I can't understand is if we're going to have an absolutely uniform statewide solution to this problem, why don't we make it completely uniform? Since we're going to have the same ratio, let's have the same millage, and let's have the same fair market value, since those three are all part of the equation at which you arrive at the tax, which is the only thing the taxpayer cares about?

Mr. De Blieux Mr. Burson, one thing that we...it doesn't necessarily mean that every home is going to have the same value in every place, but it means the criteria by which you arrive at that value will be the same criteria. That's what this uniformity in this particular amendment will mean. Now, I think you recognize the fact that some political subdivisions need more money to operate their demands for their services than others do. So therefore, you've got to vary the millage, but you don't necessarily have to vary the percentage or the way in which you arrive at the value of the property. You just vary the taxes that are going to be collected from those tax...

Mr. Burson In this quest for uniformity, you still think it's alright to take ninety percent of the homes in one parish off, and only a fifty or sixty percent in the other and this would still be uniform in your view?

Mr. De Blieux It depends upon the value of those homesteads, Mr. Burson.

Mr. Burson And that depends upon the value as determined by the constitution, and not by the local economic conditions?

Mr. De Blieux Well, if you'd put a realistic value on the homestead, one that where everybody would know it, I don't see why you couldn't vary the percentages.

Mr. Avant Senator, you are familiar with the process by which expert real estate appraisers put value on property in expropriation proceedings, aren't you?

Mr. De Blieux Yes, I am.

Mr. Avant You know that there are many books that have been written on the subject, and that there's various things that you consider, and that people study those books, and then they get these degrees as a certified real estate appraisers?

Mr. De Blieux Yes.

Mr. Avant Yet, you've seen those same experts come in court and on a particular piece of property, one of them will say it's worth thirty thousand dollars, and another one will say it's worth a hundred thousand dollars. Now, what kind of guidelines do you propose that the legislature lay down to solve that problem?

Mr. De Blieux Well, Mr. Avant, that's a question that we'll have to get to when we get around to solving this particular problem. That's the reason you have those variances because all appraisers don't use the same criteria. If they were using

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the same criteria and the same valuation, the same comparables, they ought to come up with the same answers, but you know that, that they don't.

Mr. Avant You can't always use the same factors, can you?

Mr. De Blieux You could, but some of them don't, as you well know.

Mr. Avant If you take cost plus reproduction... I mean reproduction cost less depreciation, that's one thing you consider.

Mr. De Blieux That's one way of going about it, yes.

Mr. Avant You going to tie it down to that?

Mr. De Blieux I don't know...that's a question to be decided by the legislature. I don't think the convention ought to decide that question. I think the legislature ought to decide.

Mr. Avant Don't you think the assessor maybe ought to decide that?

Mr. De Blieux Well, I think you are leaving too much leeway for variance among the assessors in the valuation of property since they are going to put it on a percentage basis.

Mr. Rayburn Senator De Blieux, don't you know that if the legislature had to provide a method, that we would provide the method the assessors asked us to?

Mr. De Blieux That's probably...they would have a lot to do with it...

Mr. Rayburn Well, don't you really believe that, so why not let them do it anyway? They're going to finally do it.

Mr. De Blieux Senator Rayburn, don't you know that the legislature has already provided these guidelines? They're in the law right now.

[Previous Question ordered. Record vote ordered.]

Closing

Mr. Abraham There is nothing in this amendment here that says that the legislature will actually set up the values at which these things are going to be set. All this does is set up a uniform method for the assessors to work by so that they'll all be handling their work in the same manner. I see nothing wrong with this amendment. I say to you that the ten percent means nothing, the three thousand dollar means nothing unless you do standardize the method of arriving at fair market value.

Questions

Mr. Nunez Mr. Abraham, if the legislature does not set up a uniform standard by which they value the property on a fair market basis, can you envision what methods would be used by the sixty-four or sixty-eight or eighty, how many assessors we have in this state?

Mr. Abraham They would probably continue to use the same method that they're using now.

Mr. Nunez If there is no uniform method of valuation

property, what do you believe would happen with the various assessors throughout the state if we have no standardized method?

Mr. Abraham You'd have the same thing going on that you have now, where they are using fair market value at any figure they want and you've got varying degrees of assessments.

Mr. Deshotels Mack, as a matter of fact, Sub-section (E) provides for exactly that as relates to use value, doesn't it?

Mr. Abraham That's correct.

Mr. Deshotels So, you're just being consistent with the other provisions of the section. Are you not?

Mr. Abraham That's correct.

Mr. Deshotels Then you wouldn't have assessors having a completely free hand on one type of property with...as opposed to regulated, legislative regulated methods, as to other type of property.

Mr. Abraham That's right.

Mr. Fontenot Mr. Abraham, do you that while Revenue, Finance, and Taxation was deliberating, we asked some of these assessors how they determined fair market value. Some of them said they used cost basis; you know, they checked the cash sales where the people bought the property. Some of them said they go by the judicial test: a willing buyer selling to a willing...buying from a willing seller. Then some of them said...my assessor says he just looks in the area to see how the rest of the property is valued on the assessment books, and that's fair market value. Can you see...do you know that there are different variations at the present time of fair market value and that if we don't put in some stipulation like you want in your amendment, then we're going to continue these same practices?

Mr. Abraham That's exactly right. We've just spent days arguing over the percentage that we're going to fix, as to whether we've fixed the percentage or not. We've rejected two local option amendments, and I might point out to you that both of these local option amendments had this very same language in there. So, it does us no good to argue and set percentages and set homestead exemption unless we have some fair, uniform method of establishing fair market value.

Mr. Pugh Sir, is it not true that if the legislature did as you suggested and provided for uniform method of determining this, that if the assessor didn't follow that method, then you could bring a mandamus suit against him to require him to do so?

Mr. Abraham Well, I would assume so. If you say that you can do it--I'm not an attorney--but, I would imagine that you could.

Mr. Tapper Mack, I understand what you're attempting to do, but I wonder if you could explain to us just what do you mean by the method? Isn't this just an abstract provision that you have here that we really don't know how this can be done, do we?

Mr. Abraham That's exactly right. You don't know now, and it's been done in all kind of ways right now, and lot of them just pull figures out of the air, and this is going to require some study so that it will be done properly. This is

what I'm trying to accomplish. Either we're all going to go on the basis of setting fair market value at the last sale price, or we're going to go on the basis of your establishing it at so many dollars per acre, or however way it's going to be, but at least they would all be doing it in the same manner.

Mr. Winchester Mr. Abraham, don't you think that the use value is a new concept? We never have used that before, and there's different ways right now of what is use value. The old way, the assessor's been doing that for a long time, and they know what that's all about, and nobody loves the assessor but the people. I think you ought not delve into this too much because...the courts can't decide; nobody else can decide; the assessors have had the most experience on this, and I think they should be allowed to determine it.

Mr. Abraham Well, Mr. Winchester, I beg to disagree with you, but use value is not a new concept. Assessors have been using it for years.

[Amendment rejected: 52-59. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendments offered up by Miss Kilpatrick, Mr. Kelly, McDaniel and others:

Amendment No. 1. On page 2, delete lines 4 through 7, both inclusive, in their entirety and insert in lieu thereof the following:

"(E) The legislature shall provide that bona fide agricultural, horticultural, and timber lands, as defined by general law, will be assessed for the purpose of taxation at ten percent of use value rather than fair market value."

Explanation

Mr. Kelly Mr. Chairman, ladies and gentlemen of the convention. This amendment comes very close to being a technical amendment. I think there are two issues involved. One is: what do we mean by agricultural, horticultural and timber lands? I might refer to Section (E) as it now reads under the one amendment that has already been adopted. It says that "the legislature shall provide that agricultural, horticultural and timber lands will be assessed." All right. We provide there that there is no uniform definition for these particular types of property or land. Under the amendment we would say that "the legislature shall provide that bona fide agricultural, horticultural and timber lands, as defined by general law." This places it in the hands of the legislature to come up with a uniform system for the definition of these three types of property, that they will be assessed for purposes of taxation at ten percent. Now, this gets to the second issue involved, and after talking with the Committee on Revenue, Finance, and Taxation, it is my understanding that what the committee intended was that these three types of property would be assessed at ten percent of use value. However, in my opinion, Section (E) as it now reads is ambiguous. It says that "for the purpose of taxation at a--"a," and that's the key word--at a percentage of use value. In my opinion, this leaves it open that the legislature could provide for a hundred percent assessment on agricultural, horticultural and timber lands. The amendment would simply clear this up; it would mean that there could be no greater taxation than ten percent, and then, of course, we would use the use value as was intended by the committee.

Questions

Mr. Dennery Mr. Kelly, as I read the present section as it reads now, in Section (B), Classifications--all land at ten percent. Now, isn't that the same as putting ten percent back here on ten percent of use? The reason...let me explain why I'm asking the question, and then, if you please,

answer it. I have an amendment which would permit the legislature to change these percentages statewide; and it may be adopted and, of course, it may not be. If it is adopted, then I would have to also change the same thing for agricultural, horticultural and timber lands. It seems to me that "all lands" is all-inclusive, and I'd like your explanation of that.

Mr. Kelly All right, Mr. Dennery, in the first place, of course, I agree with you. If you do get your amendment passed, whatever it may be, and you are going to allow the legislature to provide a possible change in the future for these percentages, then I would agree with you that you would have to come back to Section (E) and make that change. However, in reference to your first question, I just entirely disagree with you there. I do not think that the provisions under Section (E) are necessarily governed by the provisions of Section (B). Now, we start out with Section 1; we come with (A), (B), (C), (D), and (E). Now, if you could work out some way where (E) is...let's first say this: Section (E) is an exception, but it's an exception to what? There are three or four other subsections above that. Title wise, it's of equal denomination, you might say, with Section (B). Now, if Section (E) was a Subsection (1) under (B), then I would be inclined to agree with you; but I think that this is ambiguous in the manner in which it is written, and for that reason, I want to see the ten percent placed into Section (E).

Mr. McDaniel Mr. Kelly, don't you agree this convention has agreed with the general idea of use value as shown by the 116 to 1 vote last week?

Mr. Kelly I agree with you. I think you're absolutely right, Mr. McDaniel.

Mr. McDaniel Aren't you also in agreement that most of the proponents of use value agree that this language is sufficient?

Mr. Kelly Yes, I agree with you.

Mr. McDaniel I would suggest you move the previous question on the subject matter.

Mr. Kean Mr. Kelly, I'm in agreement with what you're trying to do. One thing that bothers me, though: who establishes the use value? If you look back over at (C), you'd see "the assessor shall determine the fair market value of all property," and (E) is only dealing with the manner of assessment. It seems to me we've got nothing in this section which says anything about the assessor fixing a value based on use value.

Mr. Kelly Mr. Kean, let me say this: if you've found some ambiguity in the amendment itself, I--and I cannot necessarily speak for all of the other coauthors--but that, of course, was not the intention to place these three types of property in the hands completely of the legislature for assessment purposes, the intent of the amendment being that the tax assessor would go on and determine use value, but the use value would be determined in accordance with guidelines set forth by the legislature.

Mr. Brown Mr. Kelly, did you state earlier that you put the ten percent figure in there as a maximum ceiling, so that nothing could go above ten percent? I don't see...I'm worried about the necessity of having ten percent. Why is the ten percent figure as part of the amendment?

Mr. Kelly Well, Jim, I'll tell you what I think we were trying to do with this amendment. From talking with members of the committee, it was my understanding, as Moise had pointed out earlier, that it was their intention that this property would be assessed at a mandatory percentage of ten percent, referring back to Section (B) where we say: all lands--ten percent. But, in my opinion...

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Let me back up here just a little. It was also my understanding from the committee that they intended that agricultural land be assessed at ten percent, the distinction and the exception being that the ten percent basis would be on use value, as opposed to fair market value. Therefore, I think that in order to clear up the ambiguity in that the sections are, you might say, equal in denomination we had to come back and put ten percent in Section (E). Let me say this that before the forestry industry left here the other day--and I haven't seen any of them around--they were in agreement with this particular amendment. It's also my understanding that Mr. McDaniels and other members who are, you might say, primarily represent agriculture--Mr. Munson and them--that they are not in disagreement with this amendment.

Mr. Brown Well, then, use value is the key, how it's defined. Would you admit that, depending on how the legislature defines the term "use value"?

Mr. Kelly There's no question about it. In other words, I think use value has a judiciary, or a judicial interpretation, but I think that what we've done here is allow the legislature to establish guidelines as to what is truly a bona fide agricultural, timber land, or horticultural land.

Mr. Reeves Don, our problem in Winnfield in reference to Tremont Lumber Company, surrounding the city of Winnfield, in growing trees within the municipal boundaries of the city of Winnfield, does this solve the problem? In other words, they will be assessed at the value that it is presently being used, rather than what its potential use is, and this is what scares me in this provision.

Mr. Kelly Yes, I think that's the...that's one of the things that is...that you're attempting to accomplish here, and I think you've hit the problem right on the head. In other words, I can use the example of a farm also, and we have that in Natchitoches Parish where we've got...that Cane River land comes right up next to the city. Well, I mean, if you look at it from a standpoint of fair market value--which it's my impression that we start talking about highest and best use and stuff like that--well, then this property might be worth four or five thousand dollars an acre, whereas if it's used for agricultural purposes and is actually being used, say, growing trees or growing cotton... well then it's use value; it's farmland value...

Further Discussion

Mr. Lowe Mr. Chairman, ladies and gentlemen of the Convention, as a member of Revenue, Finance and Taxation, I certainly agree that our...at least, my intention was to take land and come up with a use value. If there's a six thousand dollar an acre piece of land close to town, or close to a plant, and it's being farmed, and farmland is seven hundred and fifty dollars an acre, well, then the value placed on that piece of land is seven hundred and fifty dollars based on its use, being farm use, and that ten percent of that then would be seventy-five dollars. I agree that all along that was my intent, and I see no big ambiguity in what we did; but this seems to clear it up some, and based upon the fact that this does clear it up, I certainly support this amendment.

Questions

Mr. Pugh Sir, as I understood the original provision by the committee, it read that "the legislature may provide," and when it did that, it in effect said the legislature may find an exception as to these three categories. It may provide that they could be valued on a use basis. Then the amendment that I solely voted against provided that the legislature "shall" provide that, and if the legislature shall provide it, why not just

have the constitution provide it? What escapes me in this is what Mr. Kean is talking about. You say "the legislature shall provide that bona fide ag..." so forth and so on, "as defined by general law will be assessed for the purpose of taxation." Now, why are we going to tell...why are we in the constitution going to tell the legislature they shall do something that we ought to be doing in the constitution in the first place?

Mr. Lowe Well, I don't have any objection to doing it, Mr. Pugh. The thing that we have before us is this amendment, and I'm supporting the amendment, but I would support something that would have us do it in the constitution. I would have no objection.

Mr. Pugh Well, see, as I understood the original concept, the legislature could, if they wanted to, set up these three categories. When they changed it to "shall," I voted against it the other day for what I'm trying to tell you now. I couldn't get the floor last week...

Mr. Lowe Well, you'll agree that the "shall" is already in it before this amendment, though.

Mr. Pugh Oh, yes. I understand that, but I'm saying that it's getting further complicated by this amendment from what it was.

Mr. Lowe Well, I guess I just don't see the complication, Mr. Pugh.

Mr. Nunez Mr. Chairman, my question was the same as Mr. Pugh's. If we're going to say "the legislature shall" and set up the detail as to what they shall do, why not put it in the constitution? Why deceive the whole system by saying "the legislature shall do this"? Let's put it in the constitution if you feel so strongly about it.

Mr. Lowe I don't have any objection, Senator Nunez. If you come up with an amendment, I would support it, I'm sure, if it would just do exactly that.

Mr. Lanier Mr. Lowe, do you feel in your opinion that marshlands, of which my parish has a great deal, could also reasonably be included in this category?

Mr. Lowe I would think so. There's a lot of timber in the marshlands, and I would assume that it could. If you wanted to put marshlands in it, I would support it because I think that they should also be covered based upon use, but I would think that they are covered.

Mr. Willis My questions, Mr. Lowe, were preempted by Messieurs Nunez and Pugh; however, would you not believe that the amendment could be self-operative in the constitution by having it say, "bona fide agricultural, horticultural, and timber lands shall be assessed," and so forth, instead of saying that the legislature shall do it? Why not do it...that's what I had in mind, Mr. Pugh; they preempted that. Now, Mr. Lanier preempted my next question in that we provide in this amendment for farms, flowers, and forests, but we don't provide for marshlands where no trees grow or swamplands where some trees grow. Would you consider that as other lands assessed at ten percent of fair market value?

Mr. Lowe I wouldn't think so. I would certainly think that when the legislature provides, that they would provide for those lands.

Further Discussion

Mr. Gravel Mr. Chairman and ladies and gentlemen of the convention, as I envision it, this is an important amendment and is necessary mainly because if we don't have a provision in this particular section that will permit the legislature to define by general law what constitutes agricultural,

horticultural and timber lands, we're going to leave an awful lot of loopholes that some people might try to utilize to keep from paying taxes. Let me give you just an illustration of what I'm talking about. Let's assume that an individual owns one acre of land in the city of Alexandria that's worth thirty, forty thousand dollars as a city lot on which a home, of course, could be, might be constructed. He might, in order to circumvent the intent of the law, might decide to grow corn, or have a garden of some kind on that one acre of land, and then contend, as I think he could, that that particular piece of property is being utilized for agricultural purposes. Now, in order to obviate the possibility of that being done--I could cite you many other illustrations--we're simply saying that agricultural, horticultural and forestry lands that are defined by law as such will be subject to this reduced basis of taxation. That's practically every legislature that has adopted the so-called "greenbelt plan" or the "land use concept" has defined the lands that are so envisioned and encompassed by the law. It's for that reason that I think this is a good amendment. It's one that does permit the legislature to have the proper latitude and do what is necessary to enact laws that will give the kind of definitions that will make sure that there won't be any circumvention of ad valorem tax laws by the use of this...

Questions

Mr. Anzalone Mr. Camille, would you say that this would be a self-executing provision of this constitution?

Mr. Gravel No, it would not because the legislature would have to come forth with the definitions...

Mr. Anzalone Now, I ask you this question: if the legislature does not come forward with a definition, how are these properties going to be assessed?

Mr. Gravel Mr. Anzalone, it's necessary under this amendment for the legislature to act.

Mr. Anzalone Mr. Camille, I didn't ask you that. I asked you if they didn't do it, what would be the result of it; how would these properties be assessed?

Mr. Gravel Well, I would assume these properties would be assessed, if the legislature didn't act, the same way all other lands would be considered under the general classifications business.

Mr. Anzalone Now, one other question: do you think that you could mandamus the legislature to provide for a provision like this?

Mr. Gravel I don't think you can mandamus the legislature at all.

Mr. Anzalone Well, Mr. Camille, why don't we just say that agricultural, horticultural, and timber lands used bona fide will be assessed for the purpose of taxation at ten percent of use value?

Mr. Gravel Because for the reason I've just stated, Mr. Anzalone, I think it's necessary to have a definition. I think horticultural lands can be a rose garden in your backyard.

Mr. Anzalone Well, Mr. Camille, we don't have any kind of a law that's set forth any definition on fair market value. Why should we have one on horticultural lands?

Mr. Lanier Mr. Gravel, do you feel that marsh lands could also be reasonably included in this classification?

Mr. Gravel No, sir, I do not.

Mr. Lanier Why not?

Mr. Gravel Well, for a number of reasons, but I don't think that's germane to this particular amendment. I don't think that marsh lands, or probably any other classification of lands that had just as much right to be considered as marsh lands. I just don't think that they should be considered in the land use concept.

Mr. Lanier Why not?

Mr. Gravel Because I think they ought to be put on the assessment roll at fifteen percent of the fair market value.

Mr. Lanier You don't think that the use value should be...

Mr. Gravel No, I do not, Mr...I do not, I do not think they should be. I do not.
Does that cover it, Mr. Lanier?

Mr. Chehardy Mr. Gravel, are you sure that you checked with Crown-Zellerbach, Georgia Pacific, Wirehauser [Weyerhaeuser], and the people that own ...millions of acres of land to make sure they are satisfied that they are not taxed too highly?

Mr. Gravel No, I checked with Eddie D'Gerolamo. He said this was pretty good...pretty good.
Thank you.

[Previous question ordered. Record vote ordered. Amendment adopted: 102-8. Motion to reconsider tabled.]

Amendment

Mr. Poynter Mr. Derbes, we need to change the instructions on this in light of the adoption of the previous amendment.

This is the Derbes amendment that was passed out to Section (E). It was drawn to page 2, line 7, but we need now to change the instructions of those amendments to provide, in essence, that this amendment, that this additional language would be added at the end of the Kilpatrick amendment so that it reads something to the effect of:

In the language added by Convention Floor Amendment No. 1, proposed by Miss Kilpatrick and adopted by the Convention on the day, at the end of the language added thereby, add the following sentence:
"The legislature may make similar provisions for buildings of historic architectural importance."

Explanation

Mr. Derbes Mr. Chairman and fellow delegates, I realize that I run the risk of a certain amount of ridicule and being the brunt of a certain amount of jokes here. But what I'm trying to get across to you is a very important sociological fact that we, in the city of New Orleans, have identified recently. That is that whenever there are buildings of historic architectural importance, regardless of the area in which they are located, they are frequent...they frequently fall victim to the fact that when property values in the area become very high, people can no longer maintain the buildings. They can no longer support the maintenance of the buildings in the same style, or for the same purpose that they had in the past. So what they are required to do under the circumstances is they are required to sell the buildings, the buildings are torn down, and something is built in their place. I'm not trying to impede progress or to stop new construction. I'm merely trying to take into account a very important fact. That is, that whenever a building of historic architectural importance becomes surrounded with high density, high priced property, the only...that the legislature is, unfortunately, at a loss under those circumstances, to give the owner any incentive by way

of a tax break to maintain its property for the use that it has been maintained in the past. This is not a legislative...this is not necessarily a legislative mandate. This is merely an authorization. It merely says that the legislature may make similar provisions for this type of building. I am sure that you will all think that all I am trying to do is to seek to exempt the French Quarter from taxation. It's not true. I submit to you that it is not my intention.

In fact, this problem was called to my attention by people who were interested in other parts of the metropolitan area of the city of New Orleans. If any of you who have been to the metropolitan area of the city lately, you may realize that there is an area on the other side of Canal Street known as the central business district, where there is a great deal of high rise construction. Unfortunately, the high rise construction is frequently a substitute for old buildings of genuine architectural importance which were torn down because of the trend that I've just outlined. I can state categorically that I, as a residential property owner in the French Quarter, pay as much, virtually as much tax as almost anybody in the city. I don't mind doing it. But I do think that in other areas of the city where the character of the neighborhood is changing, it would be an important additional inducement for the legislature to be able to say, "O.K., if you've got a building that is of a certain character, and of a certain age, and if it qualifies for...under certain established criteria...as a building of historic architectural importance, then we will encourage you to retain the building in its present form by using use value rather than fair market value in determining the assessment.

This type of amendment affects a very small, very miniscule number of properties in the State of Louisiana. I suggest to you that is it a method of retaining properties that are irreplaceable, and a method for inducing properties...I support the committee's position in trying to use fair market value uniformly throughout the state in order to establish assessed valuation. I think that's great, and I think it should be uniformly administered. All I'm trying to do here is provide that the legislature may...may authorize certain exceptions for certain isolated instances where buildings of historic architectural importance will be jeopardized, and their very existence may be called to question, unless the owner has provided some type of inducement to maintain the building in its existing form.

Thank you for listening. I urge your adoption of the amendment. I'll listen to Mr. Lennox's questions and anybody else.

Questions

Mr. Fontenot Mr. Derbes, let me ask you a question.

Do you think that the Independence Hall would come under the criteria of historic architectural importance?

Mr. Derbes I don't know. It's beginning to seem like Grant's tomb to me, Mr. Fontenot.

Mr. Fontenot Well, I'm kind of concerned with some of your words...this language. Suppose...I mean this is a money-making operation. Suppose after the CC/73 is over with these people say, "Well, they go to the legislature and try to get some kind of assessment percentage on the basis of that historic building because it was used at CC/73, can you see the problems you are creating with this language, "historic, architectural importance"? You are opening the door for possible, just all kinds of things that are being used for money-making operations to be a success in...

Mr. Derbes Well, I'm suggesting to you that architecturally...architecturally Independence Hall is of absolutely no importance. I don't think you would have any trouble getting the legislature

to agree to that. Now it may be important historically for other reasons. But I submit to you that that's not specified nor authorized by this amendment.

Mr. Fontenot What about museums that charge admissions? They use old, historic buildings and charge admission. Don't you think maybe...they make money just like any other business would.

Mr. Derbes The character...Mr. Fontenot, most of the museums located in buildings of historic architectural importance are located in public buildings.

Mrs. Warren Mr. Derbes, I don't know whether this is friendly or unfriendly, but I was wondering did you have in your mind that every building in the French Quarter, whether it was making money or whether it was a resident, would come under this architectural...

Mr. Derbes Mrs. Warren, I'm not attempting to exempt any classification of property from paying the same type of tax that every other classification of property is doing. What I'm merely trying to do is give the legislature authority because after such a provision, the legislature would have no authority for establishing reasonable classifications to determine. Then this is necessary. I have no personal interest, nor is it my intention, nor would I support anything that would exempt from ordinary uniform taxation the residential buildings in the French Quarter.

Mrs. Warren I mean I had reference to those businesses down there because, I mean, it does bring to us, and it does make money, because I've been down there quite a bit just looking around. Sometimes in the coffee shop, you can't hardly get a seat.

Alright I do, I go everywhere. Hurry up.

Mr. Derbes I suggest to you that the same rules I specified in this document that we are debating now would apply to ownership, whether the ownership was of a private character, a residential character, or the ownership was of a commercial or industrial character. It would apply to the French Quarter just as it would apply to any other part of the state.

Mr. Lennox Mr. Derbes, one thing troubles me. That miniscule number of buildings affected. That statement seems to trouble me a little bit. It would seem to me as a native of the Irish channel, if you included all of the residences in the Irish channel and in the Garden District, which I understand are now moving at rather substantial prices, would be buildings of historic, architectural importance, and would be placed on the tax rolls at some sort of use value far below what their market value would be. Is not that a fact?

Mr. Derbes Mr. Lennox, let me explain something to you, as I see the problem. I see the problem only in the event that the residential use begins to conflict with commercial or industrial use. I think as long as residentially use...as long as the neighborhood is highly desirable for residential purposes, that apartments in that neighborhood, and homes in that neighborhood, will fetch a high price as residential uses. So such legislative authorization would not be required in that instance. The only instance in which such legislative authorization would be required, and would in my judgment, be appropriate is when an essentially previously residential area was being threatened by heavy commercialization, or large office buildings, and it became necessary to give the owner of this old property some inducement to keep it in its residential character rather than sell it and permit demolition.

Mr. Lennox All right. My family home was on the corner of Camp Place and Orange Street. The new

owner of that building has just recently spent an unbelievable amount of money on it.

Further Discussion

Mr. Conroy I rise in support of the Derbes amendment. I think it does require further explanation and understanding on the part of the convention because it is a serious problem. This amendment would in no way affect or aid a homeowner where the home was in an area that was zoned residential. It would not affect it at all because that would be its fair market value, and its use value would be the same thing already. This amendment applies only to the situation which Mr. Derbes has described where an encroaching increase in commercialism in a particular area leads to the destruction of a desirable historic building. This is happening in the city. There is a reawakening of the need in the city of New Orleans for preservation of these historic buildings. There have been books written about it recently, pictures taken to try to preserve, at least, in pictures, some of these buildings. But that's about all that you can preserve in some areas as the commercial values increase tremendously. The owner of such a property has only two choices, really. He either has to tear down this historic building, or he can give the property to a charitable foundation which takes it off the tax rolls. It no longer produces any income to the city or any other governmental unit if it's taken off the tax rolls. A lot of this is happening in the city of New Orleans right now where property is given to charitable foundations to avoid further taxes in order to preserve a building of historic significance.

Buildings of historic significance, architectural importance, are as valuable and as irreplaceable to a city as many of the natural assets in the countryside which many of you are familiar with. This assistance is needed to preserve these things. If you find something like has been happening in the central business district where property was reassessed at one-third of its fair market value within the general concepts that we are working with here, you will absolutely ruin the existence of these buildings. I think this is an important and desirable amendment. I urge you to vote for it.

I will yield to any questions.

Questions

Mr. Goldman Mr. Conroy, some of these buildings of historic architectural importance, aren't they fire hazards? What would happen to the rules on those kind of things if you preserve them?

Mr. Conroy This would have nothing to do with their being fire hazards. They'd still have to meet any fire requirements. This deals only with the way in which it is to be taxed, Mr. Goldman.

Mrs. Zervigon Mr. Conroy, some of the people that are asking questions of Mr. Derbes were asking if some of these buildings wouldn't be exempt. This doesn't say anything about buildings being exempt, does it?

Mr. Conroy It certainly does not exempt them and does not create any greater definitional or problem than the definition of agricultural, horticultural, and timber lands. This is...

Mrs. Zervigon Quite the contrary. It says "they shall be taxed", doesn't it?

Mr. Conroy The other provision does. This says it may do it if it's necessary to...and desirable for the legislature to do it. I think it certainly is desirable for the legislature to do it and define it and hold it within proper limits. But it certainly...right now, this same objective is being achieved in certain areas through the assistance and understanding of assessors. But if we get to a system where we do, in fact, have an

objective, uniform system of assessment procedures, followed by assessors rigorously, they would not be able to make the type of exceptions which they presently do for this sort of property within their discretion. This would be to permit them to do so, a practice which they presently follow in many instances.

Mrs. Zervigon Mr. Conroy, don't you see an exact parallel between this and the land in agricultural usage in that what we are trying to avoid is land being forced to the same heavy use as neighboring property?

Mr. Conroy It is as exact a parallel as I can imagine between the problems of an urban area and the problems of a rural area. This is the urban counterpart of some of what we are doing with the rural areas.

Mr. Lennox Mr. Conroy, would you please direct my attention to that portion of this amendment that has anything to do with residential zoning as you describe?

Mr. Conroy Mr. Lennox, if you understand what fair market value is, of the home, it's based upon its value as a home. If it's in a residential area, that value is going to be the same thing as a home. But if it's in a commercial area...if it's in a commercial area and used as a residence, it's fair market value would be much greater than its use value as a residence. Much greater.

Mr. Lennox That's all great, but can you tell me where you find this, either in the amendment or the section it proposes to amend?

Mr. Conroy Because it deals with use value, Mr. Lennox. Use value as opposed to fair market value. That's the whole purpose of this.

Mr. Hernandez Mr. Conroy, certainly I don't take issue with your statements there, but can you see any possible connection between historical buildings and horticultural, agricultural, and timber land?

Mr. Conroy Yes, I do see a connection between them because I think that what the objective here is, is for the people in rural areas is to preserve these areas. The greenbelt philosophy was to encourage the preservation of lands around an urban area. This was one of the pictures that was made to our committee was that this amendment would permit the preservation of the so-called greenbelt of agricultural area around the city because it was desirable to preserve such lands as they are... this is to preserve equally vital structure.

[Previous Question ordered.]

Closing

Mr. Derbes I really don't have anything else to say except that if any of you have any more questions, I'd like to answer them. If no one has any more questions, then I would conclude my remarks. I'm only here to answer questions.

Questions

Mr. Deshotels Mr. Derbes, would you consider moving that we don't have a record vote?

Mr. Derbes I would not move that we not have a record vote. It's up to the people. If they want a record vote, I certainly wouldn't oppose it.

Mr. Flory Mr. Derbes, is it true that this would possibly grant a use value rate to, let's say a plantation home that had been turned into a restaurant that's a going business concern. Wouldn't that...

Mr. Derbes I think that that would...well, I

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think the legislature could make a judgment in that area, Mr. Clerk. What I'm saying...

Mr. Flory No, not after you once set a standard for what is of historic architectural importance.

Mr. Derbes Well, I think it's a valid point that you make. But what I'm suggesting to you is that we have established different rates of assessed valuation for different types of use, or different types of ownership, I should say. I think that that could just as easily be taken into consideration by the legislature in establishing the authority...in utilizing the authority established under this provision.

Mr. Flory Isn't it also true that you could design a brand new building architecturally to the point that it would be of historic value, and construct a new building?

Mr. Derbes Frankly, no. I don't think so. I don't think it could be of historic architectural importance immediately. I think that it could be of historic architectural importance eventually.

Mr. Womack Mr. Derbes, I read in the paper every now and then a place down in the Greater New Orleans area called "Elmwood." Wouldn't this come under that, too?

Mr. Derbes I think it could, Mr. Womack. But what I'm suggesting to you is the legislature could very easily exclude buildings of commercial use, notwithstanding their historic architectural importance. It's very easy to say that buildings of a certain character, or building of a certain age, can take advantage of these provisions, except those buildings which are used for the following purposes; perhaps museums, perhaps restaurants, perhaps gift shops, whatever to exclude industrial or commercial use. It's very easy for the legislature to make that distinction, Mr. Womack. Since I have a great deal of confidence in the legislature, I feel that it would make the appropriate decision.

Mr. Graham Mr. Derbes, do you think that under, or by this amendment it is possible that the use value could be actually in excess of the fair market value?

Mr. Derbes Well...it...that's true, too. Yes, that's true. Of course it is. Then, again, it would be a matter of legislative decision.

[Record vote ordered. Amendment adopted: 54-53. Motion to reconsider tabled.]

Amendment

Mr. Poynter The effect of the amendment will be the same, but the instructions will greatly vary. The best way to handle this, as suggested by Mr. Kelly, is for the amendment to read as follows:... and you don't even need to try to read that text that you've got there, and look at the Kilpatrick amendment:

In Convention Floor Amendment No. 1, on page 2, in Convention Floor Amendment No. 1 proposed by Miss Kilpatrick, et al., and adopted by the Convention on today, on line 1 of the language added thereby, strike out the words "The legislature shall provide that bone" and insert in lieu thereof the word "Bona" so that would read Bona fide agricultural, horticultural and timber lands, etc., and you'd pick up from there.

He would have the effect of striking out the first five words, the legislature shall provide, or six, that, and then putting in initial cap on Bona fide. The amendment would start there.

Vice Chairman Roy in the Chair

Explanation

Mr. Pugh Mr. Chairman, fellow delegates, the amendment recently submitted by Kilpatrick, et al., voted favorably by you, calls upon the legislature to provide in effect, for use value taxation on agricultural, horticultural and timber lands. This is the only instance where we have passed over to the legislature the requirement that it statutorily provides for ad valorem taxes. It's obviously the overwhelming position of this convention that these three subjects should be treated on the basis of use value. For that reason, I suggest that we delete the words, "the legislature shall provide that", and capitalize Bona fide so that it will then read "Bona fide agricultural, horticultural and timber land as defined by general law will be assessed for the purpose of taxation at ten percent of use value rather than fair market value."

You will recall that when the matter originally was presented to you by the committee, it read, "the legislature may provide." This group in its wisdom changed the word from "may" to "shall". I voted for...against it, then. I voted against it a few minutes ago because I think that we should not pass on to the legislature this requirement. If it's good enough for us to tell the legislature to do it, then it's good enough for us to constitutionally endow it, and that will be the result of this amendment. This amendment will give to agricultural, horticultural and timber lands, the constitutional status that you so overwhelmingly feel that it should have. There are no other changes, it's my understanding from Mr. Kelly, that each member of the previous amendment would go along with these changes.

Are there any questions?

Questions

Mr. Nunez Mr. Pugh, many of us from coastal Louisiana feel like marsh lands should be included in this category. We have an amendment coming that will provide that. Would you be willing to accept that into your section that we could include marsh lands in the same category as agricultural and timber, etc.?

Mr. Pugh I would be happy to vote on it when you made an amendment to mine, previously, for the benefit of the hotels in Baton Rouge, I allowed things to be tacked on. First thing I know, I lost what I thought was a pretty good amendment. I'm for your marsh lands. I'll vote for it. But in all due respects, I'll stand on my amendment at this point.

Mr. Slay Mr. Pugh, I still am not quite clear "as provided by general law." Who would do that? Who provides for the general law?

Mr. Pugh General law, sir, is acts passed by the legislature. The legislature still has to define a bona fide agricultural, horticultural and timber lands. I had not affected that. The only thing I had done is constitutionally endowed these three items rather than saying the legislature shall provide. The legislature's going to have enough to do when we get through with the constitution without adding to their burdens.

Mr. Slay Yeah, and then...but then we said, "as defined by general law," we put it right back on the legislature, anyway. I couldn't quite see the purpose of it.

Mr. Pugh Yes, they are going to have to define it. That's what everybody wanted them to do anyway.

Further Discussion

Mr. Kelly Charlie, Mr. Slay, I want to try...the main reason I want the floor is to try and answer the question that you just asked. The primary difference is that when...is from a grammatical standpoint. In the Kilpatrick amendment it says that "the legislature shall provide." Now, that's at

the very beginning. There are two things conditioned upon that: one being the definition of these three types of land by general law. But, when we said "the legislature shall provide," we, also, conditioned the ten percent assessment of use value onto that "the legislature shall." So, when you removed "the legislature shall provide," well, you removed that relation of the ten percent evaluation of use value away from that statement. So, in essence, now what you're saying is that bona fide agricultural, horticultural and timber lands as defined by general law. Now, the definition of these three types of property is related back into the legislative process, but the ten percent assessed valuation or the use value of this is completely constitutionalized, and there's no question about that. So, that's the primary purpose, and I would say that we endorse Mr. Pugh's amendment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 98-6. Motion to reconsider tabled. Motion to revert to other orders of the day. Substitute motion to move the Previous Question on the Section. Substitute motion withdrawn. Motion adopted: 67-33. Adjournment to 9:00 o'clock a.m., Wednesday, October 24, 1973.]

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Wednesday, October 24, 1973

Questions

ROLL CALL

[83 delegates present and a quorum.]

PRAYER

Mr. Landrum Our Father, in the name of Jesus, we thank You this morning for all Thy many blessings, watching over us all night long and enable us to rise this morning with a reasonable portion of health, strength, clothed in our right minds. We pray dear Master for this convention. We pray that You would give us guidance and understanding, that we may be able to do the things that are pleasing in Thy sight. We pray for this country this morning. We pray for our leaders. Give them courage and understanding, dear Master, give them a sense of compassion. Have mercy in the name of Jesus. Our Father, we ask Thy blessing on those who asked for prayer this morning. You know who they are. You know their needs. Please, Sir, have mercy. Bless every delegate and their homes, and the newsmen and all the employees. These blessings we pray and ask in the name of Thy son, Jesus and for His sake. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation and other delegates, members of that committee.

A proposal making provisions for property taxation, of course, the status of the proposal to date is the fact that the convention has under consideration still proposed Section 1 dealing with assessment of property, classification, assessors and right of taxpayers. In addition to these enumerated subject matters by a way of a suspension of the rules, adopted Saturday last or Friday last, the convention suspended the rules to allow additional amendments to this particular section affecting the inclusion of a homestead exemption and/or limitations on the rate of state property taxation.

Amendment

Mr. Poynter Mr. Chairman, as the amendments are passed out...the amendment was originally drawn prior to the passage of the Kilpatrick amendment, which was adopted on yesterday. So, the instructions would need to be changed to provide that in Convention Floor Amendment No. 1 proposed by Miss Kilpatrick and others, adopted by the convention on yesterday, on line 2, the language added by the amendment immediately after the word "horticultural" and punctuation comma "," add the following: "marshlands,"

Explanation

Mr. A. Landry Mr. Chairman, ladies and gentlemen of the convention, this is somewhat a technical amendment. You have included various classes of land to be assessed at use value. You have farmland which, of course, produces farm produce; in Lafourche we have sugarcane land. You have also excluded timberlands and on that you grow timber. We would like to include marshland which, of course, produces the shrimp crops, the muskrats, the ducks, the nutrias, and the minks, and the raccoons. All we are asking is equal treatment, like we did for farmland and also for timberland. If there are no other speakers, I move for a favorable adoption of the amendment.

Vice Chairman Casey in the Chair

Mr. Chatelain Mr. Landry, I'm wondering if you would consider including salt marshlands. There seems to be distinction between salt marshes and regular marshland. There is an area there that I'm a little bit confused about.

Mr. A. Landry Mr. Chatelain, as speaking with the assessors the marshland would be the same to them as sea marshes; it wouldn't make any difference to them.

Mr. Chatelain Well, isn't there an area of marshlands where the salt and the fresh water come together...at that point, aren't both of those considered marshlands?

Mr. A. Landry That is correct.

Mr. Chatelain Well, isn't some of the marshlands that involve cattle raising and other things are more valuable than perhaps the purely salt marshes?

Mr. A. Landry That is correct and if you use the use value, then the assessment would be based on the use value. If your fresh water marshes are being used for cattle raising, naturally, it would be more valuable than sea marshes and the assessors will take that into consideration.

Mr. Chatelain Well, it's your intention by your amendment then, that there will be a difference in the value of salt marshes as opposed to fresh or to fresh water marshes?

Mr. A. Landry That would be determined by the assessor, yes, sir.

Mr. Chatelain But, it would be your intention, though, that it would be the land where cattle are grazed and perhaps crops are raised; it would be more valuable than land that a purely salt water and not capable of producing any kind of, you know, cattle raising, etc.

Mr. A. Landry Mr. Chatelain, if the assessors consider the use value, naturally, that would be correct.

Mr. Chatelain Thank you, sir.

Mr. Hayes Mr. Landry, the marshland, that land classified is that land that they appraised at eighty-three thousand dollars an acre? Is that the land you are talking about?

Mr. A. Landry No, sir. If you...the value of marshlands is very low, especially if you would sell it and reserve the minerals.

Mr. Tobias Ambrose, on what basis is marshland presently assessed?

Mr. A. Landry Right now, I don't know the basis that the assessors use, but in my parish, they are assessed at approximately...what we call a fresh water marsh is assessed at about four dollars and fifty cents an acre. The sea marsh is about a dollar ninety an acre.

Mr. Tobias What about if it's producing oil?

Mr. A. Landry The what?

Mr. Tobias If it's producing oil, what do they assess it at?

Mr. A. Landry You cannot tax oil. The state has prohibited you from doing that.

Mr. Tobias I know, but...

Mr. Avant Mr. Landry, isn't most of the marshland --and I'm asking you if you can tell me how much-- actually used for agricultural purposes in that it

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is grazing land, even though it may be salt marsh?

Mr. A. Landry To my knowledge, I don't know of any in my parish that is being used for agricultural purposes.

Mr. Avant None in Lafourche Parish is used...

Mr. A. Landry Except around Cloverleaf Farm, which has been pumped and drained. That's the only area that is now being used for agricultural land.

Mr. Avant I was just wondering how much marshland we are talking about that wouldn't fall under the category of agricultural land because it's grazing land.

Mr. A. Landry I would think the acreage used for grazing, Mr. Avant, would maybe include about ten percent of the marshland acreage of Lafourche Parish.

Mr. Schmitt Is it true that you can only reserve the mineral rights for a period of ten-years subsequent to the active sale unless there is oil already struck on the land?

Mr. A. Landry That is correct, Mr. Schmitt.

Mr. Schmitt Any new sands which would be struck after that ten-year period of time would then go to the new owner?

Mr. A. Landry That's correct, and...Mr. Schmitt, if you are to determine the fair market value of marshlands you will have to--as my understanding in doing appraisal work--that you would have to look at some comparable and to my knowledge--after twenty years in the Clerk's office--I haven't seen one sale of marshlands in my parish. Therefore, there is no way to determine what it is selling for.

Mr. Schmitt Would it be good to put on the rolls at fair market value insofar as this would increase the taxes on this property and cause this to get into trade--in commerce?

Mr. A. Landry I don't think it would make that much difference to the contrary. I believe that by using if for the use value, that the assessors would determine more money than they would with fair market value.

Mr. Schmitt By use value, do you mean for use of oil on this marsh?

Mr. A. Landry No, sir, for the use that marshland is being used for such as: leasing for camp sites, for duck ponds, and for trapping leases and so forth.

Mr. Schmitt In other words, you are saying that based upon an acre...as an example, one acre, that they would get more revenue by having ten percent or whatever percentage of use value?

Mr. A. Landry That is correct.

Mr. Schmitt Than you would of ten percent of fair market value?

Mr. A. Landry That is right.

Mr. Schmitt I don't agree with you.

Mr. A. Landry That's my understanding from the assessors, and I believe they are right.

Mr. Schmitt In other words, like, if you went up there and you tendered them an offer of a thousand dollars an acre, and they turned you down; it wouldn't be fair to assume that their property is worth more than one thousand dollars an acre and the assessor couldn't put that on the rolls at one thousand dollars an acre?

Mr. A. Landry Mr. Schmitt, I would have to disagree with you that an offer is not a sale. When a person doesn't want to sell something, you can offer him whatever price you want; I do not believe that makes it a fair market value.

Mr. Schmitt One more question, isn't "use" considered in the valuation of property no matter what type of determination that you make--fair market value one of the criteria is use? Isn't that correct?

Mr. A. Landry You would have to ask that to the assessor, I'm not that sure about that.

Mr. Schmitt Aren't you restricting it just to use by the...

Mr. A. Landry Not the board, and we have already restricted the use of timberland and also of farmlands.

Mr. Schmitt So, if they don't use it at all, then, they don't have to worry about this, is that correct?

Mr. A. Landry Well, I don't think you have to worry about it; they are going to use it; they are going to trap the nutria, because they are going to trap the muskrats; they are going to lease camp sites; they are going to have duck ponds, some of these persons will want to go out and hunt.

Mr. Willis Ambrose, this is a friendly, for the record, question. Do you distinguish between marshlands and swamplands?

Mr. A. Landry Well, certainly.

Mr. Willis And would the distinction be that on swamplands, timber may grow, while on marshlands timber does not grow?

Mr. A. Landry That is correct, Mr. Willis.

Mr. Willis Now, suppose you have swampland on which timber does not grow. Do you say that that is the same as marshland? Watch out, now.

Mr. A. Landry Well, I guess if it would be marsh, it would be marshed but a swampland where timber doesn't grow is very unusual.

Mr. Willis So, then, that type of land where it is either denuded or timber does not grow and it is swampland would then be the other properties spoken of?

Mr. A. Landry That's correct.

Mr. Willis And that would go for actual cash value.

Mr. A. Landry That's right.

Further Discussion

Mr. Jack Mr. Chairman, fellow delegates, this is another--you might say--exemption, this amendment. I'm against it. Now, yesterday for this use method, we passed one on these old homes. Last night I get in my room, I'm reading through that little thing tells you about visiting around. I see where those old homes that collect high as two and a half per visitor. Marshlands, what I know of them, are an investment. I don't...what is use of it to fix assessment is a nebulous thing. Now, I know that a use for a basis of an assessment is going to be very low; it's going to be lower than a person's home as of, even with the big homestead exemption --bigger than we got. Now, if you are going to go putting marshlands under that, why not put homes under it, so we can assess them for nothing, cause the use for our home is to raise kids. You don't make any money out of having a money. So, let's... why don't we just...if we are going to get ridic-

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ulous, practically exempt and say farmlands, old homes, people make money charging people. Why not in the homes where we raise our family, let's just be ridiculous and say "nobody pays any taxes," then you put it all on industry, then where you are? Now, this thing is just getting ridiculous. I don't know what will be the next exemption. So, I say, let's vote this down.

Questions

Mr. Lanier Mr. Jack, how much marshlands do you all have in Caddo Parish?

Mr. Jack I don't know if we've got any. We might have some rich people that own a lot of it down there, with a lot of oil on it; I just don't know. Now, I think, you are protecting the rich man with a lot of this stuff. There is a lot of "humbug" in this thing. Nobody has defined what the use is going to amount to. I don't have to live down there in a marsh to know anything about it, I'm no marsh rat, go ask one of them and he ain't going to know nothing about it.

Mr. Wattigny Delegate Jack, I just wanted to ask you how much timberland you have in Caddo Parish?

Mr. Jack I wouldn't..when I have any work like that I get a timber estimator, but I wouldn't from driving around over it think that we have near as much as lot of other parishes in north Louisiana. I'm not sold on that thing itself, it's pretty close about how I decide on it. But, timberland is different from marshland. Timberland has got a definite time for the market, when it grows to a certain length, it's sold. They are going to make an income tax on it. Now, I just don't think they are the same. You have your think, and I'll have my think. I think marshland and timberlands are two different things.

Mr. Nunez Mr. Jack, you said that we are adding another exemption. Aren't we doing exactly what we have done to the other revenue producing areas of this state, such as: agricultural, horticultural, timber, and etc? Marsh property in south Louisiana is becoming very valuable. If we leave it at the --don't you agree--if we leave it at the fair market value, we are going to be doing an injustice to those people just like we are doing an injustice or would have been doing an injustice to the timber people, the agriculture people, the horticulture people, and anybody else we put in a use value rather than a fair market value.

Mr. Jack I don't think they are similar at all. If you are going to follow through, I think you ought to put in the same categories you put in marshland, any vacant land whether it be a little city lot or not because it's got a potential anywhere in Louisiana or oil and/or gas label. So, I just think this...that's my think. You have your think. We just vote on it as far I'm concerned. That's my opinion, that's what we are supposed to have, and we are supposed to express it. Thank you.

Further Discussion

Mr. Arnette There are a couple things about this amendment that disturb me. The first being that the marshlands, for the most part, are owned by large, large companies. They are very valuable lands, mostly for the oil underneath them. If they were sold on the fair market, they might sell for five, six hundred dollars an acre because of the oil. But, under use value, supposed they got somebody trapping on them, it's worth about two dollars an acre. So, they are going to be taxed on the basis of two dollars an acre, which is use value, instead of the five hundred dollars an acre which it is really worth. This is the thing that worries me a little bit. Maybe we ought to start taxing these marshlands for what they are worth, get these big companies to let go of them and let some of

you and I own some of these marshlands. That's one reason I oppose this amendment. I don't think we ought to jump into this thing before we know the consequences of it.

Questions

Mr. A. Landry Mr. Arnette, are you familiar with the collection of severance tax in Louisiana whereby three, six, eight coastal parishes with all of these marshlands take in a hundred and ninety-two million dollars to the state, when the rest of the state only collects seventy-three million dollars?

Mr. Arnette Well, Mr. Landry, that makes absolutely no difference here. I'm talking about marshland that is undeveloped oil wise. It has no oil production on it, whatsoever; it is just suspected that there is oil there. We don't have any severance tax income from that.

Mr. A. Landry Are you familiar that we do not assess the oil under the ground, that all we assess in the parishes is the well itself?

Mr. Arnette I realize we don't assess the oil in the grounds, but any sale of land necessarily includes the price of what they think the minerals down there are worth. So, you are actually taxing them whether you say you are or not.

Mr. A. Landry Well, what differences do you find in marshlands with farmlands and timberland?

Mr. Arnette Because, in most cases in farmland, you have a man who is out there making his living on it. He is not sitting back, somewhere up in New York City and planning to drill some oil wells back there and make a killing. He doesn't depend on that for his living; that's just a lot of extra income for a rich man up in New York City. We are talking about a man who gets down, who owns a little farmland and who tries to make a living off of it, that's why we put him at land use.

Mr. A. Landry Do you realize that many people make their living on these trapping lands and, of course, the higher the taxes naturally the higher the rental to these poor people?

Mr. Arnette There are a few people that do make their living there. But, I would say, ninety-nine percent of it is leased by these people and they don't pay the property tax of that.

Further Discussion

Mr. Nunez Mr. Acting Chairman, ladies and gentlemen of the convention, I thought the previous question was ordered, but we have heard two speakers against this amendment since then; so, I thought I would give you a bit of information that I am particularly interested in this amendment, simply because I think it's a good amendment. It does with marshlands exactly what we have done with timber, with agricultural, with horticultural. If we don't do this, contrary to what Mr. Arnette says, the marshlands isn't owned by the big landowners like probably the timber company. Many years ago our marshland was divided into certain lots, acres, and tracts because of trapping rights, because of oyster rights, because of all...of duck hunting lease right. In my area particularly, I have two hundred and sixteen hundred acres of marshland. The ownership is very diversified and mainly it's local ownership. I fear that if we don't do this, if we don't pass this amendment and that marshland is becoming higher and higher. I just attended a land use symposium, whereby the federal government is going to get involved and they are starting to tell us what to do with our seacoast areas becoming valuable from a recreational standpoint, is becoming valuable from an estuary standpoint, it is becoming valuable from many other standpoints. Besides that, there are speculative values not mineral in place, but possibilities of minerals. Some of our marsh-

land is selling for one, two, and three and even four hundred dollars per acre. If we allow the assessor in those areas to assess this at fair market value, I'm afraid you are going to be confiscating a lot of our marshlands that are valuable lands. Now, I think we are only doing the same thing that we have done for the other areas that have a use value. We are putting it on a use provision, whereby, these lands will be taxed for ad valorem purpose for what they are used for. I think it's only fair that we do this. So, certainly, we ask you to go along with this amendment... sea grant program at L.S.U., I think, I don't know where they got the figure from, but if I recall right, and I see Mr. LeBleu laughing because they valued some marshlands when they take into consideration the estuary value of the... in the nursery value of our marshlands at eighty-six thousand dollars per acre, I think that's the correct figure. I thought it was sort of phenomenal, and I still think it is. But, those people are supposed to be expertise in the subject--and I'm not--but, those are the type of values they are throwing around. So, maybe that's a possibility in the future we will have to look forward to, that type of value on marshlands. So, we are asking you to go along with this provision. We think it's a good one and it's in line with what we have done in this convention with other similar type lands.

Question

Mr. Anzalone Sammy, would it do any good if I got up and said I was against it?

Mr. Nunez Well, you would probably help.

Further Discussion

Mr. Tapper Mr. Acting Chairman and fellow delegates, I rise in support of the amendment. I'll be very, very brief. Of course, I know Mr. Arnette must have been joking when he said, "Let's tax them pretty heavily," so that maybe...maybe he can own some of the land that these other people have. If we took that position on all the property, we may as well do away with private property in Louisiana, and let's just let the state own it all. But, to be serious about it, we are doing the same thing for the farmers. Now, you know we have no limitation on the farmland. A farmer can own two hundred thousand acres of farmland and this... and it will be assessed in the same manner. I urge that you support this because this idea that all this land is owned by people from up in New York who are planning to come down here and punch holes and strike oil, you, you who live in this part of the country--the lower part of the country of the state where the so-called oil lands are--you know how few and far between the oil fields are on this marshland. This idea that there's oil all under this marshland is really a ridiculous idea. They have been drilling for years, and years, and years, and there aren't that many fields compared to the number of hundreds of thousands of acres that we have in Louisiana. I urge that you support this amendment.

Further Discussion

Mr. LeBleu Mr. Chairman and members of the committee, I was late getting here this morning and just walked in. I had offered this amendment the other day, but it hadn't come up. It kind of caught me off guard this morning. But, one thing that I think should be brought to your attention that hadn't been mentioned was the fact that much of this marshland is good for no other purpose except nursery areas for the shrimping industry. Last year, the shrimping industry, alone, brought in approximately one hundred million dollars to the fishermen in Louisiana. In my parish, the three Menhaden Fish Plants that we have there, by their catches alone of menhaden which is processed into fish meal--which is used for fertilizer and animal feed--these landings of menhaden fish put the small

town of Cameron rated number ten, in the whole United States, in the landing of fish. Both the shrimp and the menhaden pass a certain cycle of their life span in the nursery areas. Some of this marsh is six, or eight, ten feet deep. There's no way in the world that a man in the cattle business would turn his cows out, in a place like this, to graze. In the shallow areas of the marsh, it is used for cattle grazing, but it comes under a different classification. As I understand it, there are now five classifications of marsh in the state. I think they are: Fresh Water Marsh A and B, Salt Water Marsh A and B, and Trapping. Trapping is a thriving industry and a livelihood for a good number of people in our area, but it doesn't near compare with the shrimp and Menhaden industry. So, you have a company that owns a good bit of marshland. He has to pay taxes on it, but there's no way in the world that he gains one cent return from the shrimp that are produced or the menhaden that are produced. Yet, he has to pay taxes. The state gains revenue both from severance tax on the shrimp as well as the menhaden. Senator Nunez brought out the fact that the sea grant people out here at L.S.U.--and I believe I still have a couple of friends in that program out there--recently valued this estuarine area at eighty-three or eighty-six thousand dollars an acre. Now, if you took ten percent of that that's eight hundred and thirty, eight hundred and sixty dollars an acre. Now, how in the world could people pay taxes on that kind of property when they're getting no revenue whatsoever out of it? It just doesn't make sense, and I think maybe some of the opponents of this amendment are just trying to make a mountain out of a molehill. All this will do is put nonproductive land in a lower classification, just where it ought to be.

Questions

Mr. Goldman Mr. LeBleu, at ten percent of eighty-six thousand is eighty-six hundred. Did you know that? Not eight hundred and sixty.

Mr. LeBleu Thank you, Mr. Goldman.

Mr. Chatelain I would like to find out, in your opinion, if there's a distinction between the lands, for instance, that's known as wetlands or lands in the area of the Atchafalaya Basin than there is in marshland. Would there be a distinction, in your opinion?

Mr. LeBleu Well, as I understand it, Mr. Chatelain, marshland doesn't have any trees on it and swamp-land does. You have a certain amount of swamps in the Atchafalaya, and you, also, have some marsh in the lower end.

Mr. Chatelain Well, as I appreciate your amendment, then, you intend that the marshlands normally would be considered lands bordering the saltwater or the Gulf of Mexico, that area in there. Is that correct--marshlands?

Mr. LeBleu Did you say bordering on the Gulf?

Mr. Chatelain Yes.

Mr. LeBleu Well, of course, all of...practically all the marshlands now border on it.

Mr. Chatelain That's what I say. Your intention is that that would be defined as marshland.

Mr. LeBleu Yes, sir.

Mr. Chatelain But, it would not mean that it would be anything as far up in the mainland as, perhaps, the Atchafalaya Basin. Is that correct, sir?

Mr. LeBleu Well, that's my interpretation of it, Mr. Chatelain. However, the assessor would see it...that would be his privilege. But...

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Mr. Chatelain In other words, the intention of your amendment is that...of this amendment is not to include the Atchafalaya Basin in this amendment. Is that correct?

Mr. LeBleu Yes, sir.

Mr. Chatelain Thank you.

Further Discussion

Mr. Alario Mr. Vice Chairman and fellow delegates, I stand, also...rise to ask your favorable vote on this amendment. I want you to know that we consider the marshlands in Jefferson Parish and the other coastal parishes in this state very valuable to us in shrimp production. These are very...lands that are very much needed, and I'm afraid if you follow Mr. Arnette's suggestion that you tax these lands high enough to force these companies or whoever owns them to sell them, that what you're going to do is tax them at a point that these lands would now have to become developed in order that these people can get their money back. If you begin developing these lands and bringing in money producing effects for it, that you're going to destroy the marshlands and, therefore, hurt the shrimp-ing industry and the fishing industry in south Louisiana which is very valuable to the income of our people and, certainly, just as important to the state as farming is. I very much hope that you would consider this and vote favorably on the amendment.

Question

Mr. LeBleu Mr. Alario, isn't it a fact that if, in case a gas well would be discovered on any of this property, then the gas well is then put on the assessment rolls at...

Mr. Alario That's correct, Mr. LeBleu.

[Previous Question ordered.]

Closing

Mr. A. Landry Ladies and gentlemen, I'll be very brief in closing. I would like to point out the fact that in the coastal parishes there are more people making a living off of the marshlands than there are on farms. I ask your favorable vote on this amendment.

Questions

Mr. Hernandez Mr. Landry, Mr. LeBleu made the statement that some of this land was valued at a tremendously high price. Wasn't that estimate of value due to the potential minerals under the soil?

Mr. [A.] Landry I would think that possibly when L.S.U. or whoever the professor at L.S.U. made these values, they considered the oil possibilities more than anything else.

Mr. Hernandez Which, you agree, is not taxable in the State of Louisiana?

Mr. A. Landry That is correct.

Mr. Hernandez Wasn't there many, many years prior to the discovery of oil down there that this marshland was not even considered of enough value to count, hardly, just almost a drug on the market, is that not true?

Mr. A. Landry It must not have been considered valuable because the state sold it all.

Mr. Hernandez There's one thing that I want to clear up...

Mr. A. Landry As you recall, at fifty cents an acre.

Mr. Hernandez Something like that, yes, sir. Now, Mr. Chatelain brought up the fact that the Atchafalaya Basin was different. Isn't the Atchafalaya Basin, in its entirety, considered timberland? Do you remember in timberland we have tide-water cypress and other hardwoods? Isn't all of that considered in that area?

Mr. A. Landry I am not familiar with the Atchafalaya swamp, which I call a swamp. I've been through it over that new highway, and I would consider that as cut over cypress or swampland.

Mr. Hernandez Or other hardwood land?

Mr. A. Landry That's right, and not marshland.

Mr. Hernandez No marshland at all in there, is there?

Mr. A. Landry Not that I saw while crossing the Atchafalaya swamp.

Mr. De Blieux Mr. Landry, do you know who owns these lands?

Mr. A. Landry Yes, I know of some of them that own part of it.

Mr. De Blieux Isn't it owned, mostly by oil companies?

Mr. A. Landry Not all, but not by oil companies, no, sir. They are owned by land companies, not oil companies. Eventually, after they have brought these lands, some of them may be in the oil business now, but they were not bought by oil companies. They were bought by land companies and were used mostly for trapping, at one time.

Mr. De Blieux Well, now isn't the fact that most of the people who do the trapping on those don't own those lands? The only thing is that they just have trapping rights on those lands.

Mr. A. Landry That is correct, but I want to call your attention to the fact that everyone, every individual landowner in the parish of Lafourche, from the Intercoastal Canal to Leeville, if they're own a one arpent by forty arpent tract on either on the left or the right bank of Bayou Lafourche, owns approximately seventy-eight arpents of highland and the rest of it is marsh, also.

Mr. De Blieux Now, isn't it a fact that most of the people who are making a living off these lands don't pay the land taxes on it, that it's paid by the owners of the land?

Mr. A. Landry That is correct, but the more taxes you put on them, the higher the rentals are going to be.

Mr. De Blieux Isn't this, also, another way to get the big landowners some tax breaks?

Mr. A. Landry I don't think it is, no more than it is giving the big landowners who own timber.

Mr. Nunez Mr. Landry, can't most of these criteria and questions and categories be as defined by general law in the practice of setting the use value?

Mr. A. Landry That is correct, and the assessors, of course, will use the basis.

Mr. Willis Mr. Landry, isn't it a fact that the greater percentage of the marsh or swamp lands are owned by land companies in all of our Acadiana Parishes, and that these lands companies, the stockholders in which, are from other states?

Mr. A. Landry That is correct, Mr. Willis. Over sixty percent of the lands in my parish are owned by outsiders. If you look at our assessment roll,

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you will find that they pay one-third of the taxes of the parish of Lafourche.

Mr. Willis Now, isn't it a fact that in projection of the question by Mr. . . .

Mr. A. Landry Hernandez.

Mr. Willis . . . Mr. Hernandez, that St. Martin Land Company which owns--and I'll tell you you can take my word for it--the greater portion of the Atchafalaya Basin in my parish--and which is a corporation from Ohio and no stockholders in Louisiana--that the Atchafalaya Basin is silting over in places and that one of our delegates will be an architect to build an over a million dollar project to attract tourists, and that it is silting over such that it will be very valuable lands--and owned by foreigners who won't pay the tax.

[Amendment adopted: 83-28. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendment No. 1 [by Mr. Weiss]. On page 2, between lines 7 and 8, in Floor Amendment No. 2, proposed by Delegate Rayburn, and adopted by the Convention on October 19, after the language added by the amendment, add the following: "Notwithstanding anything in this Constitution to the contrary, in order to provide equitable tax relief similar to that granted to homeowners through homestead property tax exemptions, the legislature may provide for tax relief to residential lessees in the form of credits or rebates only if the estimation of all administrative expenses does not exceed the total credits and rebates authorized."
Amendment No. 2. On page 2, between lines 7 and 8, delete Floor Amendment No. 1, proposed by Delegate Johnny Jackson, and adopted by the Convention on October 20, 1973.

Chairman Henry in the Chair

Mr. Henry Explain the amendments.
All right, read the Chatelain amendment.

Amendment

Mr. Poynter He's going to go with his own amendment first.
It's an amendment sent up by Delegate Chatelain.
Amendment No. 1. On page 2, between lines 7 and 8, after Floor Amendment No. 2, proposed by Delegate Rayburn, and adopted by the Convention on October 19, 1973, delete Floor Amendment No. 1 proposed by Mr. Johnny Jackson, and adopted by the Convention on October 20, 1973.

Point of Order

Mr. Gravel Mr. Chairman, this matter has been considered and disposed of by the convention, and I don't think that this proposed amendment is in order. I object to it.

Ruling of the Chair

Mr. Henry Mr. Clerk, let me see the amendment.
It in effect. . . it does delete the Johnny Jackson amendment of. . . that we adopted on Friday. The amendment is out of order. Your point is well taken because it does, in reverse, what we did in the affirmative on Friday, Mr. Chatelain, so the chair would rule that the amendment is out of order.

[Amendment withdrawn.]

Mr. Henry All right, read the Weiss amendments, then.

Mr. Poynter All right, I just read the Weiss amendment. He's going to offer the Weiss amendment. Do you want to coauthor that amendment, Mr. Chate-

lain? Mr. Chatelain adds his name as a coauthor to the Weiss amendment, and offers it. . .

Mr. Henry Read it, read it, Mr. Clerk.

Mr. Poynter I've already read it, Mr. Chairman.

Explanation

Mr. Chatelain Mr. Chairman and fellow delegates, I think on last Saturday this convention made a hasty and grave mistake. I would like to read to you, again, the Johnny Jackson amendment which passed last Saturday. I think we were in a hurry to get out of here. I think it was a mistake we have made; we have made other mistakes, and I would like to have you seriously consider reconsidering this on this basis. The Johnny Jackson amendment reads:

"Notwithstanding anything in this Constitution to the contrary, in order to provide equitable tax relief similar to that granted to homeowners through homestead property tax exemptions, the legislature may provide for tax relief to residential lessees in the form of credits or rebates."

This is a simple relief of taxes to renters. All this time we've been speaking about tax relief for homeowners. Please listen to what we've done. "The legislature may provide for tax relief to residential lessees in the form of credits or rebates." Can you imagine, my fellow delegates, the complication of this situation? There are hundreds and thousands of small people in this state, some of them who have built all their lives to have a little apartment house in the back of their home, or a little rental. . . part of their own home, a little duplex or a small apartment complex, or even some of the larger apartment complexes. These people will be concerned about this amendment. This amendment does nothing but give the legislature a right. It's a permissive legislation that means nothing. The legislature can do this without this amendment. We've been mindful all throughout the debate here, for the last. . . since July 5, not to clutter the constitution with amendments that are unnecessary. This certainly is an unnecessary amendment. I believe that you're going to cause a lot of problems. I can envision when we give this printed document out for the people to read, it's proposed that we're going to have tabloids made and given to every person in this state who wants to read this document. I can envision those people who are going to oppose this constitution, going out and will frighten a lot of these small owners--small duplex owners, small people who have homes in their backyards that they rent out, apartment owners who have problems. Who is going to do their bookkeeping for this, when this person goes over to make a claim? We were passed out, yesterday, a form that has been used by other states. People are going to be concerned. Who is going to make. . . who is going to do the bookkeeping for these people? After all the complication involved in this system trying to return rebates to people--a rebate on what? What does the word "rebate" mean? How can you give credits to something in a situation like this? It's going to be complicated matter that you are really throwing to the hands of the legislature. We are here for the purpose of writing a constitution, not doing legislation. I would hope that you could consider this. The Weiss amendment, which I'm coauthoring, simply does away with that amendment and brings it back where it's a little bit watered down, and I'll say it personally, in a situation where we can get out of this. I would certainly hope that you would seriously consider doing away with this terrible mistake that we made on last Friday, and try to let's do away with this and go with the Weiss amendment. Thank you very much.

I move that we. . .

Questions

Mr. Velazquez It seems to me that this only covers a person who has a lease. Suppose the person who

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is renting the apartment does not have a lease?

Mr. Chatelain Well, that's exactly right. I mean, you got...it's a complicated...it's very poorly worded, Tom, in my opinion. This thing frightens me when I look at it. It's very poorly worded.

Mr. Velazquez No, no, I'm looking at the Weiss amendment.

Mr. Chatelain Oh.

Mr. Velazquez That's the one that appears to me to be the one that is very poorly worded.

Mr. Juneau Mr. Chatelain, do I appreciate the amendment which you have coauthored as being similar to the Jackson amendment in that neither mandates the legislature to do anything? Is that right?

Mr. Chatelain They do not, but...

Mr. Juneau So, so we're really not fostering on the people any kind of mandate unless the legislature would deem it advisable, is that right, under either amendment?

Mr. Chatelain This is correct.

Mr. Juneau Okay. Secondly, as this amendment is drafted, who is going to make this estimate? When is this estimate going to be made? Who has the authority for it--this estimation you refer to?

Mr. Chatelain Well, the legislature, wouldn't you think?

Mr. Juneau Well, I don't know. I wouldn't know who would make it. That's the problem.

Mr. Chatelain Well, the whole thing is thrown to the hands of the legislature. This is why? I'd object to the whole thing.

Mr. Juneau Well, then, let me ask you this, Mr. Chatelain: that's what you object to, but this amendment, itself, throws it in the hands of the legislature, does it not?

Mr. Chatelain Exactly.

Mr. Juneau Well, what's the difference?

Mr. Chatelain The difference is this: look at the bottom, last sentence, there. "If the estimation of all administrative expenses does not exceed the total credits and rebates authorized," that's the way that I think the legislature is going to be less apt to look at it. I think they are going to put it back in File No. 12 for a long time.

Mr. Juneau All right, if the legislature has this mandate, it's still unclear to me. You say that the legislature will determine that the estimate of administrative expenses will not exceed, before it grants it.

Mr. Chatelain This is exactly right. I can envision this going to a committee. Some legislator, maybe Mr. Jackson or others, will propose this in the legislature. It will go to a committee, and the committee will look at it as we do here in this Constitutional Convention. They will say, "My goodness, this thing is unwieldy. It's impractical." Therefore, it won't even come out of committee.

Mr. Juneau Under the rules of the legislature, Mr. Chatelain, of the Jackson amendment, wouldn't the...wouldn't such...or any such legislation have to go to committee, anyway?

Mr. Chatelain It certainly would.

Mr. Juneau So, what's the difference.

Mr. Chatelain The difference being in the last sentence, here, if you'll read it, Mr. Juneau. It says very specifically, where the Jackson amendment does not, that "if the estimation of all administrative expenses does not exceed the total credits and rebates authorized," because we can get ourselves in the situation, here, that's going to be unwieldy, sir.

Mr. Arnette E.J., I read your amendment, and it seems to me that it doesn't do away with the Johnny Jackson amendment, it merely puts a reasonable limitation on it. Is that not the way you see it?

Mr. Chatelain That's exactly right. What I had hoped to do, Mr. Arnette, and the Chair ruled me against me. Mr. Camille Gravel called...I tried to eliminate it in its entirety. In this business, you do the best you can, and this is the best we can come up with.

Mrs. Warren Mr. Chatelain, Mr. Johnny Jackson's amendment did not mandate the legislature. But, don't you think that a property owner that has rent property in his backyard and all these kind of things that you mentioned would be inclined to be more honest if he knew that the renter was going to be able to go and look on the tax rolls and see if his taxes went up when he raised his rent? Now, I'm of the opinion, because I got this from somebody and I'm not going to call their name, that sometimes people go up on rent and put it on the fact that their taxes have gone up. But, their taxes didn't go up, but they went up on the rent. Now, don't you think it would be...make them kind of honest if we kept Mr. Jackson's amendment?

Mr. Chatelain Well, Mrs. Warren, as I can appreciate it--and I want you to know one thing. I do not own one piece of residential rental property. I do not own any interest in apartment houses. I don't have anything to do with this. But, as a businessman, I can envision a lot, a lot of problems involved in...with this thing in structure. I honestly can see many problems involved there because, first of all...

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, the only problem concerned with this amendment is that the proposer wants to defeat the possibility of giving some tax relief to those people who need it worse--those people who are tenants and have to rent a place to live, those people who cannot afford to buy or own a home. Those are the ones who need tax relief. We're giving homestead exemption to those who own homes. Thank the Lord I'm in that classification. But I held a little rental property, and I'll say this: the people who live in the rental property pay more taxes in proportion than the homeowners do because the landlord has to collect enough money to pay the taxes. Whenever you don't want to help poor people, I think it is a crime against justice and equality. Now, that's...I ask you, therefore, to defeat this amendment because this particular language on the end of the proposed amendment as adopted the other day by Mr. Jackson will only add burdens to the legislature. There's nothing in here that says the legislature has to grant credits or rebates. The only thing that's necessary for them to do--it's an authorization to them as to the census of this Constitutional Convention that we ought to give some sort of a tax relief to renters as well as to the homeowners. Therefore, I ask you in all good conscience, let's have equality of government and let's don't put the tax burden upon the people who are least able to carry it.

Mr. Chatelain Mr. Chairman and fellow delegates,

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after persuasion from some of the strong delegates in this Constitutional Convention, and after re-considering the fact that one is about as bad as the other, I think that we will withdraw this and come back at a later date with something, maybe, that would be more...be stronger. Thank you very much.

[Amendment withdrawn.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Gauthier, et al.]. On page 1, line 31, after the word and punctuation "years." add the following: "fair market value and use value of property shall be determined in accordance with criteria which shall be established by the legislature and which shall be uniformly applicable throughout the state."

Explanation

Mr. Gauthier Mr. Chairman, and members of the delegation, this simply establishes that the legislature will set up one method, or set up the criteria for establishing the fair market value, so that the percentages we have adopted can be applied to the fair market value of property throughout the state, which is reached by one method. If you do not provide this, what can happen is several different methods of determining the fair market value can be used, and consequently, you're going to come up with the same inequities that we in this convention have been trying to avoid. For instance, you could use the test of a willing buyer and a willing seller. You could use the test of neighborhood value, what homes have sold for in that area. You could use a cost method. There are many different methods which have been recognized by the courts. If you do not provide that one method would be used, let the legislature determine the criteria, how can you determine what the assessment would be? You have no way of knowing. I suggest to you that if we don't adopt this amendment, you'll be providing for inequities that presently exist. At this time, I'd yield to any questions.

Questions

Mr. Tapper Is this not identically the same amendment that we defeated on yesterday?

Mr. Henry Read the amendment that we took up yesterday. I don't think it is, but read it, Mr. Clerk.

Mr. Poynter I looked it up to see, Mr. Tapper. The amendment that was offered yesterday--find it on page four of your journal if you've got it there on your desk--was offered by Delegate Abraham, and it read "the legislature shall provide a uniform method for determining the fair market value of property throughout the state."

Mr. Henry It's not the same amendment, Mr. Tapper.

Mr. Tapper The difference then, Mr. Chairman, is between fair market value and use value, is that right?

Mr. Poynter That's the primary one, and there's some...

Mr. Henry I think it's substantially different.

Mr. Poynter ...kind of language difference, but it does include use value, you're correct about that.

Mr. Gauthier In response to Mr. Tapper's question, this amendment is very similar in nature. However, if you will remember yesterday there was some objection to the amendment saying that use value should also be included in the amendment. This was the Abraham amendment on yesterday. In this

amendment, we have also included use value. Therefore, methods of determining the true value or fair market value will be applied to all property, even property that has been classified as in Section (E). I think it will produce a fair and equitable situation so that people throughout the state will know what to apply the percentages in the exemption to.

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, I rise in opposition to the amendment I'm certainly not against the intent of the amendment. I believe that they are trying to, in fact, establish fair market value somewhere with some criteria that would serve the whole state, but, I think this is impossible. I don't think that somebody from Caddo Parish, and somebody from Jefferson Parish and somebody from Claiborne Parish can, in fact, get together with a criteria that will establish a fair market value on properties in every parish of the state. I think the local boards, the local realty boards, the local real estate people, the people who are familiar with the specific problems in a parish can come up with a specific criteria that will establish fair market value in that area and every assessor in every parish will have to have evidence to this in his parish, and will be able to, in fact, show the taxpayers that he has arrived at a fair fair market value within his parish with the people that he is serving. I would urge you to defeat this amendment, and not confuse it any more.

Questions

Mr. De Blieux Mr. Mire, doesn't the law, at the present time, contain provisions for determining the actual value of property?

Mr. Mire As I understand the law today, it tells you that you've got to use actual cash value, or... it does not tell you exactly how to arrive at that.

Mr. De Blieux Don't you know that the sections of the present statute provide for the records, and so forth and so on, and how the assessors can arrive at the value of property? Haven't all the assessors been furnished a manual under that provision, by the Tax Commission, in determining the value of property?

Mr. Mire Yes, sir. We all were handed a manual. This was about six years ago and, Senator, I'll say that anybody who can take that manual, read it, and come up with a determination on it as to establishing any accurate value, he's some sort of Houdini, because you could come up with forty different bases from that very same manual. I've got both volumes; they look like two sets of encyclopedias. You'd have to read six months in them to be able to come up with anything close to a determination, and these are the very kind of things that I don't think you could work out of.

Mr. De Blieux Well, wouldn't it be better that the legislature provide you some sort of guideline--simple guidelines--for determining the value of property? What reason do you have to object to the legislature setting those guidelines where all the assessors would be using the same type of guidelines in determining the value of property? Why should they object to that?

Mr. Mire Senator, I'll say again that I have no particular objection to this. I just don't think they can come up with workable guidelines. I think this is going to have to be left up to the local tax assessor with his local real estate people; people who know that real estate, know the values, to come up with guidelines. Then I think he's going to have to, in fact, be able to verify that he has made a good appraisal, a good solid appraisal that will stand up in court or to any test.

Mr. De Blieux Now, don't you know that the legis-

lature would look to the assessor to aid them in bringing...in providing for these uniform guidelines?

Mr. Mire I think we're trying to do the same thing. We're just trying to do it differently, I think, really.

Mr. Willis Mr. Mire, since these three questions are friendly ones, I ask you to put a question mark to each statement. Isn't fair market value, actual cash value, and a hundred percent of value, one and the same thing?

Mr. Mire Yes, sir. Very much so.

Mr. Willis And don't you determine either of those by use of comparables or what a willing seller would pay to a willing buyer...reverse that...what a willing buyer would pay to a willing seller on a free market?

Mr. Mire That's absolutely right, Mr. Willis.

Mr. Willis Now, do you agree that we, as individuals, have differences of opinion on the application of those formulas and guidelines that are proposed by this amendment?

Mr. Mire There's no question about that.

Mr. Willis Now, finally, isn't it a fact that the institute of real estate appraisers, which does instruct on guidelines on how to appraise property in Chicago, has three volumes of books of guidelines?

Mr. Mire That's absolutely true.

Mr. Willis Now, how do you expect the legislature to ever cope with, or to come out with all-encompassing guidelines unless it stays in session three hundred and sixty-seven days a year?

Mr. Mire You exemplify my point very well. Thank you.

Further Discussion

Ms. Zervigon Mr. Chairman, and delegates, I rise in support of this amendment. In answer to some of the questions raised by Mr. Mire on the subject, I have no doubt that a house per square foot in Caddo may be different in value than a house per square foot in Baton Rouge. What this would direct the legislature to do, is to say whether or not an assessor shall take square footage into account when he makes his assessment--not how many dollars per square foot he will assess a house at, but whether or not that's one of the criteria. After that, how he uses them depends on the value of property in his parish. We've established this for use value, as we must. We must also set up criteria for other assessments, so that we know that the same factors are in the mind of my assessor, as are in the mind of your assessor. That other variables come into play are inevitable, but at least this man is working on the same factors and criteria. Thank you.

Questions

Mr. Derbes Ms. Zervigon, as the constitution as we've presently proposed it, as it's worded, wouldn't it ultimately leave the definition of use value and fair market value up to the courts? In other words, what I'm saying is if the legislature can't act to define these terms, then the only proper body for definition of these terms would be the courts, isn't that correct?

Ms. Zervigon You're right about fair market value. I believe that we've said that the legislature must set criteria for use value, but for fair market value, of course, that's right, because when I go in and say I'm being unfairly assessed in

relation to the property in other parishes, the courts must decide whether or not I'm being unfairly assessed. To do that they must compare one parish with another, and if the legislature would set the criteria we wouldn't get into that box; we'd know exactly where we stood.

Mr. Derbes Wouldn't the legislature be a better forum for definition of these terms than the arduous and detailed and protracted process of the judiciary?

Ms. Zervigon I think that's very much so, Mr. Derbes, for several reasons. Number one, we're all represented there. The assessors could help devise the criteria that would be developed by the legislature. If they turned out to be wrong they could be changed at the next session rather than having to institute a lawsuit which might take years and years in order to overturn the criteria set by the court. In the third place, you might not know what criteria the court is operating on. They really wouldn't have to disclose it, but, the legislature...it would all be set out. I must say, I wonder why there is opposition to this. It seems to me that if we all want to be fairly assessed, and if the assessors want to be setting our assessments fairly, then rules of the game are imperative.

Mr. Pugh If it's so easy for the legislature to define criteria, pray tell why have they not in condemnation cases for these many years, so that we wouldn't have to litigate this question of what fair market value is?

Ms. Zervigon Mr. Pugh, I don't believe I said it was easy. I said it was important, and I said it needed to be done. I said I thought that the criteria, at least, needed to be uniform across the state. One of the reasons, in answer to Mr. Derbes' question, that I said that I thought the legislature was a better forum than the courts was that I did say that I thought it was difficult, that they might need to change the criteria from year to year if they found that one was not applicable, and with the courts you would have to institute another court case in order to get that changed over. But, no, I never said it was easy. I think the whole property tax question is a very difficult question, because what looks like a fifteen thousand dollar house to you, looks like a twelve thousand dollar house to me. All I'm saying is the legislature would say you count the number of bathrooms or they would say that you don't.

Further Discussion

Mr. Fontenot Fellow delegates, I don't want to be repetitious. Some of these speakers have already mentioned to you what some assessors use as fair market value. In my own committee--Revenue, Finance, and Taxation--I asked some of these assessors, "What do you use to determine fair market value?" One assessor would tell me he'd use a cost basis; whatever you bought the house and the lot for, that's what he'd assess it for. Some of them told me that they'd look at the other houses in the neighborhood, and assess it based on the average of those houses. I think that you need some kind of uniform criteria statewide to determine fair market value. We're not trying to say that a house, just because it cost exactly the same to build it in Ville Platte, ought to be assessed exactly the same as in New Orleans. We're not trying to say that. We're just trying to say that there should be some uniform criteria to allow these assessors to determine a fair market value. These assessors that get up here and say, "Well, let the assessor do it, he's the expert." Well, you know and I know that the assessor is no more of an expert, unless he's some kind of real estate appraiser, than any other politician. A lot of these assessors are just, like I said, politicians; they run for the office. What makes

them think that they can assess property any better than anybody else? Some of these assessors are attorneys; some of them were real estate people. But, that doesn't necessarily mean that they can determine the value of a house any better than you or I. The thing that concerns me, every time we try to set up some uniform criteria, these assessors jump up and say it's not any good. What are they afraid of? It's not a bad amendment, this is a good amendment. If we don't adopt this amendment, the same thing that is happening right now is going to continue in the courts. In the past, assessors have determined fair market values on their own without any uniform criteria statewide. They have set their percentages on their own without any uniformity statewide; that's what led to the court litigations. Now, if you allow them to set fair market value without any uniform criteria, it's going to lead to more litigation. I'm just saying we ought to let the legislature set up some criteria or else the courts are going to do it. I urge the adoption of the amendment.

Further Discussion

Mr. Tapper Mr. Chairman and fellow delegates, I rise in opposition to this amendment on several counts. Number one is that it is identically the same as the amendment that we rejected on yesterday, and I disagree with the Clerk. However, since it's been ruled that way and we're considering it, let me just point out a few things to you. Number one, about this argument about the court, that if you don't set this up by the legislature that the courts will have to determine this. I'll guarantee you that even if the legislature does set it up, the very first assessment that will be made will be brought to the courts, and the courts will have to decide it anyway, whether or not they're using this so-called criteria properly, and equally, and fairly, and impartially. But, the most important reason that I oppose the legislature setting up this criteria is because of the realistic position that I think we should all take, and that is, we all know that...let's say that I build a home that is worth, or rather, cost me a hundred thousand dollars, but I build it in a slum area. By the time I complete that home it may not be worth eighty thousand or fifty thousand dollars, although I have paid a hundred thousand to build it. The same thing applies to a business or any other type of property. It depends on where it is located. Now, as far as setting up a criteria, all these words sound good; make it uniform throughout the state. But, I believe that it is impossible for the legislature to do this, and not only that; the people of the particular parish or district--assessor's district--elect their assessor. The assessor is the one who is supposed to go out there and see whether or not this hundred thousand dollar home, or twenty thousand dollar home, or two hundred thousand dollar business is really and truly worth what the criteria, or so-called criteria, might say it is. Ladies and gentlemen, I urge that you defeat this amendment because all this will do is add to the constitution, add chaos, and it'll have to be decided in the courts anyway. I urge your rejection of this amendment.

Questions

Mr. Burson Mr. Tapper, weren't you one of the attorneys that signed this sheet that was passed out yesterday saying that if a local option method of assessment were adopted there couldn't be a provision for a statewide homestead exemption?

Mr. Tapper Yes, I was.

Mr. Burson Well, the only question I have is if you must have a uniform statewide ratio, how in the world will this achieve uniformity unless you have a uniform statewide method of deciding what fair market value is since those are the things that you multiply together, you know, to get the tax?

Mr. Tapper Well, Mr. Burson, in the first place, you're not going to have uniform assessment throughout the state even though you do have a criteria set up by the legislature. The criteria will be applied in accordance with the circumstances in a given area.

Mr. Burson So, what you want then is a little uniformity, but not too much then, is that right?

Mr. Tapper Well, I don't think your question deserves an answer, but, no, you're incorrect.

Mr. Burson Well, what you're saying...you just got through saying that we won't, then, have a uniform statewide assessment, is that right?

Mr. Tapper No, that's not right. I said that it is impossible for the legislature to set up a criteria for the entire state, because the members of the legislature, by a majority vote, could set up a criteria, and those in the minority, the districts that they represent might have altogether a different situation than the districts that the majority of the legislature represents, and they won't have any knowledge at all about the type of property in that area.

Mr. Burson Mr. Tapper, do you know that comparable sales in every case that I've ever seen involving valuation of fair market value for condemnation, were the determining factor?

Mr. Goldman Mr. Tapper, with all the variables that go into real estate values and into the materials that go into building a house or building, could you tell me about how many individual items in the criteria that the legislature would set up, about how many there would have to be in order to be fair to everybody, and to get a full list of criteria, how many volumes that would take?

Mr. Tapper I think that would be ad infinitum, Mr. Goldman. That's why I say it's impossible, and it's impossible to adjust to it.

Further Discussion

Mr. Anzalone Ladies and gentlemen of the convention, I really don't think that I'm going to tell you what position that I'm going to take, but I would like to just pass on a few thoughts to you. You know, yesterday when we talked about local option--oh, no, couldn't do that--too confusing. We had to let the people know exactly where they stood. All this sliding scale business was bad. You take a man with a house...yes, sir, put ten percent on it so he'll know exactly what he's got. We got some talk about the sliding scale being unconstitutional. Of course, when you take that ten percent, or five percent, or fifteen percent, or whatever it was, you had to multiply that by a fair market value; of course, your fair market value is just a very, very small part of this solution. But, now we've come up today and we say, "Oh, we got uniformity." We only got seventy different ways in the State of Louisiana to arrive at fair market value--just seventy. At least with the local option, you didn't have but sixty-four. Now, you think about this for awhile. If it was unconstitutional to have a sliding scale on your percentage basis, why in the name of goodness, isn't it unconstitutional to let seventy different ways come about to assess property and arrive at seventy different figures? It just doesn't make any sense. Of course, you know the real reason why you don't want to put this down, because if I'm lucky enough to have fifteen pieces of property across Tangipahoa Parish, it's going to carry my name in fifteen different places on those assessment rolls. Then when this Board of Review, that's going to cure all of our ails, takes a good long look at it they're going to say, "Is that Joe's hundred thousand dollar piece of acreage there?" "No, that's not it; that's that two thousand dollar shack that he's got rented; that's why he's got that hundred

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and fifty dollar assessment on it."

"Oh, I was just wondering."

"Well, where is it?"

"Well, we've got to take that one back and straighten it out."

Now, if we're going to talk about uniformity, let's have some uniformity. If it's good to have it on a percentage basis, then by God, it ought to be good to have it on a fair market value.

Questions

Mr. O'Neill Mr. Joe, the only thing you didn't tell us was what Aunt Mary thought.

Mr. Anzalone Aunt Mary said it was good.

Mr. Winchester Mr. Anzalone, how would you write a manual and define humane consideration? How would you handle a home that was termite-ridden? How would you handle a home that was like another home, but it had no paving? How would you handle a home that had no sewerage against one that had sewerage? Could you put all this in a manual and set all of these reasons out?

Mr. Anzalone Mr. Dan, if you're talking about fair market value of something, yes, sir, you've got to take all of that into consideration. I never said your job was easy.

Mr. Winchester But, Mr. Anzalone, when you assess a new home, you assess it on the basis that it is. Then you get...a manual would do nothing but confuse. We'd go to court every time it did not follow one of those criteria and we would have to prove that we followed every one. We would have to...what you want to do is say St. Mary Parish would be exactly like Caddo; we'd have to have it on the very same basis that...

Mr. Anzalone Now, Mr. Dan, you know as well as I do that that is entirely incorrect, because the fair market value of similar houses located next to the golf course in Shreveport is certainly not going to be worth any...it's going to be worth a heck of a lot more than the identical house sitting on chicken farm road in the fifth ward of Tangipahoa Parish. Now, you know, when we talk about uniformity that we're not taking a similar house in a similar locality and saying that you've got to put the same identical value on it somewhere else.

Mr. Winchester The assessors do that, but how do you put it in a manual?

Mr. Henry The gentleman has exceeded his time.

Further Discussion

Mr. Conroy I rise in support of the amendment. The concept of fair market value is essentially what a willing buyer will pay to a willing seller. Obviously, that concept can apply only to property which is readily saleable. The problem area, in connection with our ad valorem tax system, exists where property is not readily saleable. This provision might have some application to homes, but frankly, I think it would have very little application to homes and residences throughout the state. I think that, mostly, it would be applied to other types of properties which are not readily marketable. To determine a fair market value for property which is not readily marketable, can often be a challenge, and can often be interpreted in many different ways. In the estate tax...federal estate tax field, in inheritance tax field, as some of you attorneys know, there are significant differences in views as to how fair market value should be determined as to property which is not readily marketable. The federal estate tax regulations go in considerable detail as to exactly how these things should be determined. We get back then, to the concepts that I have referred to before regarding the integrity of a tax system, its

predictability, and the ability of people who are subject to the tax to know how it's to be applied to them as well as the uniformity of the tax throughout the state, or the approach to the tax. I think that the greatest thing we can do in this Constitutional Convention is to assure the people of this state a uniform tax base. From that, the varying local entities can assess the necessary millages that they need, but there should be a predictable uniform base in this state, and for that reason, I urge you to adopt this amendment to permit further advance in an area that this state badly needs advances in.

Further Discussion

Mr. Deshotels Ladies and gentlemen, Mr. Chairman, you know I'm surprised at still being surprised. But, last week when I left here, last Saturday more particularly, I said "Well, we've got it nailed down." We can stop worrying about Orleans affecting us; we can stop worrying about Jefferson Parish coming in and ruining our tax base, possibly ruining some of our businesses, because I think we've finally got it down. We've got a thirty thousand dollar homestead exemption; we've got ten percent assessment on land; we've got ten percent on improvements; and we've got fifteen percent on businesses. Now, I'm finding out that we really didn't have that. We've got what somebody else is going to make fit into that ten percent assessment. Let me talk a little bit about what I've been thinking about while hearing some of these talkers come up. You know, the assessors come out and say "Well, it's impossible to get that kind of a plan through the legislature." I don't understand that. I don't see how the legislature will ever legislate in the area without getting advice from the assessors. Who do you think is going to write that legislative act if it's not going to be the legislators...I mean the assessors? Do you think that the legislators will go to the sheriffs to write it? All of the criteria that they've been using in their assessments will be in the act. Now, what about some uniformity in arriving at the fair market value? Well, let's talk about what's right. Isn't it right that property that is valued at the same thing...now we know what we're talking about when we say what something is worth. Shouldn't it be taxed the same? Shouldn't it be assessed the same in the northern part of the parish as it is in the southern part of the parish? Now it might be, and most assessors, I'm sure, would assess it the same way. But I feel that most assessors would feel very comfortable to say "Gentlemen, I've got a list. This is what I've got to consider when I come at your assessment. Now, you've come to talk to me about my assessment being too high this morning. I tell you that I have no choice. The legislature has set this out". I think that the assessor would feel mighty comfortable--I know I would--that I'd have some kind of system of fairness, and not say that it's an arbitrary thing about the way I feel about you, how many votes you can get in for me at one end of the parish, or some other less worthy criterion. Now, the proposal provides that the legislature can bring the state back into the property tax business. If we have no criteria for arriving at fair market value from one parish to the next and even within the parish, then why--how--how can you feel the act...that we will not be in the same property tax problems as we are right now. We would be. I think that it would be very, very to our advantage to have some criteria when we go into court to try and show that we do have a constitutional provision. Now, gentlemen, it's not true that you can't get some formulation for arriving at assessments. You all do that. Let's be consistent. We told people that we were doing one thing for them; let's do that. Let's support the amendment; vote for it, and be done with it, and really stand up for what we say we've been doing. Thank you.

[Motion for the Previous Question on the entire subject matter rejected: 19-87.]

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, my remarks on this will be very short. The thing that's involved in this particular amendment here is whether or not the legislature is going to be able to set up procedures by which a taxpayer may have an opportunity to contest his assessment. If they can lay down a guide rule by which the tax assessors shall use in valueing property, then they're going to have some sort of a guideline knowing what was taken into consideration in the assessment of his property. Without such procedure then it's going to be left to the absolute discretion of the tax assessors, and each one of them may use a different procedure in determining fair market value. Now, what is fair market value? That's what this amendment provides for--for the legislature to determine what fair market value is. We're getting down to specific assessments. If you're going to have uniform fair market value, uniform assessments, why not have uniform procedure for determining the fair market value and determining those assessments. I ask you to approve this amendment.

Questions

Mr. Roemer J.D., don't you think this amendment is at the very heart of what we're trying to do in this convention, and that is apply our laws uniformly and equally statewide?

Mr. De Blieux Absolutely. That's what that is all about. Without this, you don't have that uniform procedure. Then, we'll be right back where we are right now. In fact of the business, the law provides for that now, but it's just not being followed. That's what's gotten us into this dilemma. That's what brought about the court suit. If we can do this, we can eliminate those possibilities.

Mr. O'Neill Senator De Blieux, you implied that a person wouldn't be able to contest his assessment if this isn't adopted. But that's not true, is it? A person can always contest his assessment.

Mr. De Blieux Well, it would depend upon what kind of rules the legislature set up for it, and I just wanted to be sure that the taxpayers know where they stand.

Mr. Planchard Mr. De Blieux, am I to assume that the legislature has not the right to do exactly what you're saying now?

Mr. De Blieux They may be, but nevertheless, that would kind of give them the authority to do it and spell it out from the constitution.

Mr. Planchard Mr. De Blieux, why would you think that there'd be any difference if we passed the law or put it in the constitution?

Mr. De Blieux Well, we've put a lot of other things in this constitution I thought the legislature would have the authority to do, Mr. Planchard, so I just don't feel like these few more words are going to make that much difference. At least it will be the consensus of the convention that we should have uniform assessing procedures throughout the State of Louisiana. That's what it would amount to.

Mr. Winchester Senator De Blieux, we have certain property in St. Mary Parish that has been inside a levee district for years...We have certain property in St. Mary Parish, and I'm sure in other parishes, that has been inside of a levee district. A number of years ago the government came along and paid a very nominal right to have...to let the people stay in the levee district. The floods come along every now and then, and they get no recompense or get no contribution at all. How would you handle a situation like that? Also we

had a recent flood in South Louisiana and in parts of North Louisiana--certain property is subject to floods. How would you handle that situation? What would be the sale value of property like that? What would be a machine shop that was under water for six months? What would be...how would you put it in a manual about an oil company on a riverfront which was three months underwater? How do you write all that into a manual?

Mr. De Blieux Mr. Winchester, there's a provision in the law now with reference to property that has been flooded. Since the legislature was able to do it at that particular time, I think they'd be able to do it under this particular amendment, to take that into consideration. That's why we want this in the constitution, so the legislature can properly take care of it. There'd be no question about the right of the legislature to handle those situations.

Mr. Pugh Senator De Blieux what kinds of concerns me is I guess I've got about fourteen volumes in my law library on criteria for fair market value. I believe that would be a little too much to put in the statutes. Don't you think that the same result that you desire could be accomplished by having the Tax Commission submit to each one of the assessors a general rule of thumb applicable throughout the state to the various properties? Then at such time as they review it, if he did not comply with those rules of thumb, then they can change the assessment as the law provides without having to get the legislature to write volumes concerning criteria.

Mr. De Blieux Mr. Pugh, as you well recognize, before the Tax Commission would be able to do that, the legislature would have to authorize them to do that. That's why we need the provision.

Further Discussion

Mr. Schmitt It's my understanding--and I have seen an assessment book which presently exists, and it's approximately five inches thick. I think that there're too many factors and too many criteria possible for this to be enacted in any type of a reasonable and fair and applicable law. Although we've seen a lot of statements before our committee with reference to assessors, we really haven't seen that many people come and complain about any of the actions that these people have taken as being unfair to one particular group of people. I would trust my assessor, and I feel that the determination of fair market value is not that hard of a determination to make. I don't believe that you need these strict criteria. I believe that there are too many individual factors involved which can affect this, some of which have been brought out before. As an example, if you live in a depressed area, if you live near a housing development which has no market value of the buildings in there which might lower the value of your home, how can this all be taken into consideration in a statewide act? I trust my assessor, and I think that that's his job, assessing, and he's had a lot more experience at it than I do. I am against this amendment.

Questions

Mr. Nunez Mr. Schmitt, do you mean to tell me...do you believe that to achieve uniformity in a formula you should take half of that formula, and set half of it as being uniform and the other half you're not going to set as being uniform? You allow sixty-eight or seventy people to set their own procedures. My question is you take...we've set a percentage factor, and there's two factors to this formula: one is percentage; the other is fair market value. But, we are going to allow the voluminous material that exists today to dictate fair market value and not set guidelines by the legislature. Do you believe that's the way to set uniformity in this state?

Mr. Schmitt I think you're going to obtain uniformity; there's not that much of a differential in fair market value. I think that the assessors can come to this determination, and there won't be more than five or ten percent differential in property of the same class of property.

Mr. Nunez Mr. Schmitt, if you were a judge judging this case and you saw where the Constitutional Convention had set a six percentage--six percentage --and you saw where the legislature, or the constitution had directed the legislature to set a formula for fair market value and you were judging and trying to come up with a fair decision, wouldn't you be inclined to say that those people have acted in good faith and the assessors have and there is the guideline and there is the percentage; so therefore, there should be uniformity.

Mr. Schmitt No, but I believe that the assessor's closer to the problem--that the legislature can set up a general law, so that in many instances it will result in injustice. We were sent here for the purpose of achieving justice, not for the purpose of achieving injustice. As you know, I have been against many of the activities of assessors because there were certain problems which had developed in the past. I think that what we have enacted so far will cure those problems. These main problems were the fact that there was classification established by assessors on their own. But I think that the assessors can do their job, and that job is determining the fair market value and applying the percentages which we have established in this constitution to that valuation.

Mr. Fontenot Earl, you said that you looked over that book that the Tax Commission puts out to all the assessors. Do you recall when your own assessor from New Orleans came up before our committee and admitted to us that he never even saw the book the Tax Commission put out? Do you recall that?

Mr. Schmitt ...my assessor said that he went by the actual retail value which in my area is less than the state average. It's about once every five years. He puts it on at twenty-five percent of the fair market value. Recently, he put vacant land on at twenty percent of the fair market value in the newer area of Algiers, and that's at current fair market value. So, I think that my assessor is doing a darn good job.

Mr. Fontenot Right. He's following that criteria. Do you know my assessor is following a different criteria. You know what happened...

Mr. Schmitt You're talking about difference of percentages--that's the criteria. Current fair market value means current fair market value. Twenty percent of what--O.K? Twenty percent of current fair market value is definable, and I believe that it is readily...

Further Discussion

Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, I rise to urge your support of this amendment. It seems to me that if we do not pass this amendment, that all that we have done prior to this in this section is meaningless. It is also a question of whether or not we're going to be a state, or whether or not we are going to be sixty-four separate parishes. It is true that it might be difficult to establish a standard whereby the tax assessors might use it in their work. However, I would remind you that the deviation would be from this criteria, from this standard, rather than having seventy separate and different standards. I think it is a sounder basis for us to take the position of having the legislature suggest criteria. The deviation will be from that standard, rather than having all of the different standards. So therefore, I encourage your support of this amendment. Thank you.

Questions

Mr. Segura Reverend Stovall, do you know the definition of fair market value? This is really not my question, but it's leading up to my question. The words "fair market value."

Mr. Stovall I'll answer your question yes.

Mr. Segura O.K. Well, fair market value, as I understand it, is the value of the property that the market will bear. Meaning...now I represent some country towns like Jeanerette, Delcambre, Erath, Charenton, small towns like that. A building equally built, exactly the same, built in one of these towns, the market value there is not the same as the market value in a building of the same kind in New Orleans because the market is different --not the building. So, how are you going to set standards on an overall, uniform basis all over the state and get it fair for fair market value?

Mr. Stovall Mr. Segura, the amendment does not say that there would be complete uniformity. It does say that criteria will be established that will be guidelines for the assessors to use. I think all of us are mindful, as I said a moment ago, that there will be some deviation, but the deviation will be from a given rule. It will not be sixty-four or seventy separate approaches to the question of value.

Mr. Segura O.K. Then what you're saying is that, when you say the deviation, that some discretion should be used from one area to another or one building to another. Is that right?

Mr. Stovall Yes.

Mr. Segura O.K. Isn't that the system we have, or we're going to have, with an elected official who is the assessor who will use the discretion, and since he is--now remember--he is an elected official, not appointed. You, the people, will elect him.

Mr. Stovall Mr. Segura, the legislators are elected also. They are representatives of the people. We believe in a representative form of government, and I think the recent court decision calls for equity in tax assessments, and this kind of amendment here will bring about greater equity and uniformity throughout the state.

Mr. Segura I agree with you, if it could physically be done. My question is I don't think it can be physically done.

Mr. Stovall Thank you for saying you agree with me, Mr. Segura.

Further Discussion

Mr. Juneau Mr. Chairman, fellow delegates, I'll make my remarks very brief. It seems to me that we had a resounding mandate from this convention yesterday for uniformity. I'm going to be a little bit surprised, and a little dismayed, if those of you who expounded for uniformity, come again and say what we want today is an ununiform uniform system. If you don't adopt this amendment, that's exactly what you're going to do. I don't see what's wrong in telling the people of the State of Louisiana that you have a right to know what guidelines we're going to use to assess your property. Now, you know we're playing with words when we talk about "little particular districts, little particular areas." You can make those general guidelines. We're not talking about detailed specifics; we're talking about guidelines. That can be done, and the biggest answer to those of you who would be opposed to this amendment is that we've known what we've had in the past, and that doesn't work, gentlemen. We've got to have uniformity. If you want to play on words, vote against this amendment because you just created a figment

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of the imagination. I submit to you that the people of this state have a right to know how, basically, you're going to tax their property, and on that basis I think that the legislature can come up, as they have in other states, with general guidelines.

Mr. Chairman, if there are no other speakers on the list, I would move for the previous question.

[Previous Question ordered.]

Closing

Mr. Gauthier Very briefly, Mr. Chairman. I have learned. In Parish "A" and Parish "B" you and I go out; you live in Parish "A"; I live in Parish "B". We pay the same amount for our land; we pay the same amount for our construction. Your assessor uses one method of determining the fair market value; mine uses another. You pay taxes; I pay none. Now, I ask you to think about this. Is this reasonable? Is this fair? Is this equitable, and is this what you want to do? I also suggest to you that we're missing some of the points, I believe, in that this is not only applied to movable property or immovable property...rather it also applies to movable property. What criteria do you use there? Do you use the wholesale value, the retail value, or what value? Again, you have room for inequities. I suggest to you that the only equitable way to do it is to allow the legislature to establish criteria to be used uniformly throughout the state. I urge the adoption of the amendment.

Questions

Mr. Burns How did you vote on the Abraham amendment yesterday?

Mr. Gauthier Mr. Burns, I voted "no" on the Abraham amendment yesterday, and I'm going to be very honest with this delegation. I was upstairs consoling Joe Anzalone on his local option plan. I got back late; I missed the discussion, and I asked one of my neighbors whether it was good or bad. He said "It's definitely bad," and I voted against it. I admit to being sleepy. I'm not going to tell you who that neighbor is; I will tell you that on my left sits Reverend Stovall, on my right sits John Alario, and I'll let you make up your own mind.

Mr. Willis Mr. Gauthier, you agree that this amendment has nothing to do with uniformity; that it has to do with definition. Isn't that correct?

Mr. Gauthier That's correct.

Mr. Willis Now, you agree with the fact that we have three branches of government: judicial, legislative, and executive. Now, don't you agree that the judicial branch of government has already defined fair market value and use value and has given the guidelines for anybody with the ability to read?

Mr. Gauthier Burt, for once I disagree with you totally in that the method of arriving at fair market value by judicial interpretation can be and is different.

Mrs. Warren Mr. Gauthier, have you ever heard that old expression, "It ain't who you are but who you know"?

Mr. Gauthier I'm sorry, Mrs. Warren...

Mrs. Warren Have you heard the expression, "It ain't who you are, but who you know"?

Mr. Gauthier Yes, ma'am.

Mrs. Warren O.K. If this amendment passes, won't the assessors have to know everybody?

Mr. Gauthier That's correct. I'll agree with you.

Mrs. Warren Thank you.

[Record vote ordered. Amendment adopted: 63-49. Motion to reconsider tabled.]

Recess

[Quorum Call: 99 delegates present and a quorum.]

Amendments

Mr. Poynter Amendment No. 1 [by Mr. Perez]. On page 1, line 29, after the words "Louisiana Tax Commission." delete the remainder of the line and delete lines 30 and 31, both inclusive, in their entirety.

Amendment No. 2. On page 2, between lines 7 and 8, insert the following:--Mr. Perez, for clarity, I added this: "On page 2, between lines 7 and 8, after the paragraph (F) added by the Convention Floor Amendment proposed by Mr. Rayburn and adopted on Friday, and prior to the Paragraph (H) added by Floor Amendment No. 1 proposed by Mr. Mire and adopted on the other day, October 23, 1973, insert the following, and make that a 'G': "(G) All property subject to taxation shall be reappraised and valued in accordance with the provisions of this Section at intervals of not more than four years." --That'd make it follow the Paragraph (F) on homestead exemptions and go before the Paragraph (H) which dealt with an effective date which was offered by Mr. Mire and adopted on yesterday.

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, if you will recall on yesterday I had offered an amendment which would have provided that when property was reappraised by the assessors, that it would be reappraised at fair market value. The question was raised with respect to use value and whether or not there may be some confusion. In order to be sure that there was no confusion I withdrew the amendment and have reprepared this amendment which I don't believe that there should be any opposition to, and all it does is to delete the reference which says that all property subtaxation shall be reappraised and then it...was not more than five years, and if you remember on yesterday we changed that to four years, and to delete that from Section (B) and add a new...rather from Paragraph (B) and to add a new paragraph which would make it clear that when we do reappraise that you reappraise in accordance with the provisions of this section, that is meaning to determine either fair market value or use value, whatever may apply. I don't believe there should be any objection to the amendment. If there are no questions, I move the adoption of the amendment.

[Amendments adopted without objection. Motion for the Previous Question on the Section rejected: 49-53.]

Recess

Vice Chairman Roy in the Chair

[Quorum Call: 90 delegates present and a quorum.]

Amendments

Mr. Poynter Amendment No. 1 [by Mr. Casey]. On page 1, delete line 23 in its entirety, including that portion of Floor Amendment No. 1 proposed by Delegate Mire and adopted by the convention on October 17, 1973, affecting said line 23, and insert in lieu thereof the following on line 23:

"1. All land-----15"

Amendment No. 2. On page 1, delete line 24 in its entirety, including that portion of Floor

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Amendment No. 1, proposed by Delegate Mire, and adopted by the convention on October 17, affecting said line 24, and insert in lieu thereof the following:

"2. Improvements for residential purposes-----15%"

Amendment No. 3. On page 1, at the end of line 25, change the figure "15%" to "20%".

Explanation

Mr. Casey Mr. Chairman, and delegates, just a few minutes ago, I happened to meet Mr. Burson on the elevator and he made the comment, "Do you sort of feel like you're going to Custer's last stand?" I think the analogy may be appropriate. However, I feel that it's important that before we get off of this topic--and I know it will be very soon, and I do not intend in any way to delay the deliberations of the convention; I think we will have a vote on this section very soon--I honestly feel that I must, at least for the record, offer this amendment and express my feelings at this point, that in discussion, discussing Section 1, I must express first of all my personal dissatisfaction with the percentages that we have established, and also point out that, as Section 1 stands at this time, I personally cannot either vote for Section 1 or for this particular proposal. I'm offering this amendment because I feel quite firmly and strongly and convinced that Section 1 as drafted will be detrimental, not only to my city, to my municipality, but also possibly to many or most of the taxing districts and governing authorities existent in the State of Louisiana. I know, I'm the first to admit, that if the assessors do their job properly after the adoption of the new constitution--and I'm sure they will because they're honorable men--that some of the difficulties and problems with the assessors' plan, as we term it today, and as it exists today, maybe will be taken care of. But, as long as we're adamant about sticking to the percentages of ten, ten and fifteen, I feel quite strongly that we're contributing, that we are contributing in this constitution to the erosion of the tax base of local government, and that we're successfully eliminating from this tax base the homeowner who now pays a portion of his fair share of the taxes, and as I have said on many, many other occasions, the homeowner, under no circumstances during this Constitutional Convention, I know has made no contact with me as a delegate asking for relief because the homeowner and most of the homeowners that I know of, of course, are in the city of New Orleans. They are not asking for relief from taxes. I know many of the homeowners in the parishes surrounding the city of New Orleans feel that it is their responsibility to pay their fair share of the taxes, and I am also the first to admit that local government will not lose in amount of tax dollars; it is the shift of the tax burden that I must oppose, away from the homeowner who is now paying his share, and I have a feeling away from the owners of large buildings and large businesses, and maybe large industry that I feel is now paying a substantial share of the burden, and who are we shifting that burden to? We are shifting the burden in the city of New Orleans, for instance, to the tenants which comprise about sixty percent of the population of my city, and also to the owner of the small businesses, such as the shoe repair shop, and the laundry, and the small restaurant, and the small grocery store. These are the people that will be stuck or will have the increase of fixed or attached to them to pay the shift in this burden of taxation. I feel also that a few parishes have, and are doing their proper job in arriving at assessment ratios. I feel we are doing our job in the city of New Orleans; I feel that Caddo Parish is, and there are other parishes that are meeting their burden, that are paying their burden and who are now following the law, and I feel quite strongly that these areas that are now following the law, are the very ones that are being penalized. There are many delegates here in talking about percentages

who are well informed on the real estate ad valorem tax area that percentages really don't matter, and they readily admit that maybe most of the parishes could easily live with ratios of fifteen percent, twenty percent, or twenty-five percent, that these percentages really don't matter because when you get into a future section, you have the right or the responsibility to adjust your millages, to increase your millages, or decrease your millages, and that's where our problem lies. With a higher percentage in the city of New Orleans, we would have a right to increase our millages or decrease our millage, but in the city of New Orleans, particularly, if we are confined to a ten percent ratio, we must then increase our millage, spread the burden, and therefore affix a greater responsibility or burden to the tenants and to the owners of small businesses. At this time, it's estimated that in the city of New Orleans the average assessment might be seventeen, eighteen, nineteen, or twenty percent, maybe more, and we will feel a great impact or effect of the assessors' plan. What is the overall impact? That is part of the problem; we really don't know what the problems are, and I don't think that our decisions today are based on accurate, intelligent statistical information. We have no sound basis for agreeing to, at this time, ten, ten, and fifteen, and we have taken away from local government the flexibility that it really needs to operate its business. It really needs that flexibility to establish its own tax base. I have a chart which indicates assessment percentages or assessment ratio for the entire...all of the parishes throughout the state, and it's not a recent study. It was a study made by Public Affairs Research Council, and to me, the percentage ratios are staggering as compared to what we are setting forth today in our new constitution. For instance, according to this chart or table, the assessment ratios in Caddo, 31.5 percent; East Carroll, 24.5; Assumption, 23.5; St. Mary, 23.5; Iberia, 23.1; Tensas, 22; Madison, 20.2; St. Landry, 20.2; Avoyelles, 17.8, and I'm skipping over parishes. There are only approximately a dozen parishes that fit into the ten percent ratio or less, and I think with this plan we are doing a great injustice to all of the parishes throughout the state, and those at this time that have the low ratio, let's say, as Jefferson Parish, Mr. Chehardy, I realize that you may have a problem in Jefferson; I realize there may be a problem in St. Bernard, but those parishes also have the right and the duty under this constitution to adjust the millages, to decrease the number of millages so that their people in their parish will not totally pay any more tax dollars. Delegates, I cannot urge you enough to adopt this amendment as a possible relief to the many parishes who can better live with a higher percentage rate, and still have the capabilities to make the millage adjustments so that the people, overall will not pay any more taxes. I urge the adoption of this amendment, and I'll yield to questions.

Questions

Mr. Mire Mr. Casey, the figures that you were giving us from the PAR survey, is it not correct that that survey was done in 1958?

Mr. Casey Mr. Mire, I know it's an old survey; it's the only one I know of that's available, and I can't imagine that the percentages have been purposely reduced by the assessors over a period of time.

Mr. Mire To my knowledge the only statewide survey, did you know, that to my knowledge the only statewide survey PAR has ever made on ratios was in 1958, and wouldn't you admit...

Mr. Casey The only thing I have, Mr. Mire, is a page out of whatever study they have.

Mr. Mire All right, wouldn't you admit, though, that since 1958 property values have more than

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doubled in the State of Louisiana?

Mr. Casey Mr. Mire, I don't know what the increase has been. I know they have substantially increased in the city of New Orleans and in the parish of Jefferson. Those are the only two parishes I can speak for.

Mr. Mire Did you know that the assessors had made a statewide ratio study and made this available to the Revenue, Finance, and Taxation Committee in detail, and that it doesn't substantiate your figures at all?

Mr. Casey I'm not familiar with that study, or with those figures because I have not seen it, and I would hope, though, that the Revenue, Finance and Taxation Committee in working with these ratios had gathered as much information as possible, but what I am basing some of my statements on, are from some of the committee members itself, that have indicated to me that really they did not have enough information to make intelligent decisions, and that's really what we're lacking.

Mr. Flory Mr. Casey, aren't you in effect lowering the homestead exemption by setting residential property at fifteen percent based upon what's been adopted so far?

Mr. Casey Well, it depends how you want to put it, Mr. Flory. I would prefer to say that all we're doing is retaining what the law is today and that is that the homeowners are really under our law today, obligated to share and pay their fair share of real estate taxes, and that's all.

Mr. Flory But wouldn't it be unfair to have them paying the same thing that industry is paying?

Mr. Casey Now, Mr. Flory, first of all, you know that they are not paying the same thing that industry is because first of all the percentage is lower; that's number one, and secondly, they have a homestead exemption so that anybody under the assessors' plan who, today, now, before the adoption of this amendment, who owns a thirty thousand dollar home would pay no taxes at all. Of course, it would be proportionately reduced if you adopt my amendment, so that maybe somebody that owns, let's say, a twenty-six thousand dollar house may have to begin to pay real estate taxes.

Mr. Flory But, Mr. Casey, what you're doing, though, in effect is raising the city taxes, the municipal taxes on all other municipalities except Orleans by fifty percent over what's already been adopted by the convention.

Mr. Casey I don't know that, Mr. Flory. You might explain that for me.

Mr. Flory Well, the city of New Orleans is the only one exempt from city taxes on the homestead exemption, whereas, the rest of the municipalities in the state, you have to pay the municipal tax, and you do not get credit for it with your homestead exemption.

Mr. Casey Mr. Flory, as you know, that's been the law for years, and as you know, that the city of New Orleans is the only...first of all, is the only city that has lines coterminous with its parish, though that is our parish form of government. Those people who have homes in other parishes that are not located within municipalities, they have a complete homestead exemption, also.

Mr. Flory So, what you're saying, you're just compounding a felony.

Mr. Casey Well, Mr. Flory, that's your opinion, and I think if you wish to express your opinion you're entitled to take the floor.

Mr. Lowe Are you aware that there was an up-

dating of that 1958 ratio study that PAR made back at that time?

Mr. Casey No, sir. The only figures I have are the ratio study that is in my hand, and I don't know the year.

Mr. Lowe Well, I have an updating on that that was done by PAR and it shows 1970 ratios, and they took fifteen of the parishes, and it shows in here that eleven of the fifteen parishes, the ratio actually declined, and that's what I'm afraid that's happened to these figures, that we've had a decline in the ratios which would produce a drastic effect in raising the residential...I'm afraid that there would be a shifting from the industry to the residential. Secondly, do you know that...I believe that in many cases, raising land to fifteen percent, we would be raising it about three times what it is today, and in most cases, I believe by a hundred percent of what it is today.

Mr. Casey Mr. Lowe, I would suggest this: if you feel that you can vote for the increase in residential and not for the land, I'd suggest that you ask for a division of the question, and vote on those two items separately, and secondly, if only eleven parishes have had a decrease, according to the 1958 statistics, if this is 1958, then still the large majority of the parishes are well over ten percent.

Mr. Lowe No, but you've misunderstood me, Mr. Casey. Did you realize that I said that the updating only took into effect fifteen parishes, not the sixty-four parishes? The updating was a study of fifteen parishes, and of those fifteen, eleven had a decrease in the ratio, so you misunderstood me.

Mr. Casey Well, if the decrease was in any way substantial, you may have a point, but the percentages were so high to start with, that any small decrease really wouldn't matter at all.

Further Discussion

Mr. Slay Mr. Chairman, fellow delegates, if there's one person whose figures I would not want to question, it would be Mr. Casey's, and I'm not up here to question those figures that Mr. Casey did give us. However, as I look at the report put out by the Louisiana Tax Commission for 1970-71, and without calling any parishes, I noticed most all parishes have lands assessed at three or four dollars an acre. So, applying twenty percent, your land would only be worth about twenty dollars in some of these parishes. I know these figures were put out by PAR, but on the other hand, I question just how good figures that this organization might put out, can be. I want to speak to you just for a minute about these percentages and tell you that we've already set up percentages at ten percent of land and residential property and fifteen percent on all other property, and speaking to you, I speak for the Louisiana Assessors' Association, and say that we are against this amendment. I will not labor you with a lot of discussion that we've already been through, but I ask that you defeat this amendment. Thank you.

Further Discussion

Mr. Fulco Mr. Vice-chairman and fellow delegates, first of all, I definitely want to explain to you that I know very little about the assessor's business of assessment, percentages, ratios, millages, and so forth, but I've listened quite attentively to all of the speakers; I've tried very hard to understand as much of it as I can and as well as I can. Not knowing, as I admitted, very much about this business, we had a meeting in Caddo Parish in Shreveport last week. I think it was Monday, rather of this week. We had at this meeting all of the representatives of the governmental agencies. We

had the city of Shreveport officials; we had the school board, and we had the police jury officials, along with others. We went over the...Rayburn's amendment, and we went over the local option amendment. It was concluded at that meeting that we could very well go and stay with the Rayburn's amendment, as explained by our assessor, it was not at all acceptable to go with the local option amendment. Now, we today...I do and I know other members of the delegation, most of them, still favor the Rayburn amendment; maybe some of the others may not...may go along with the Casey amendment today. But, that's up to them. But, I want to make this point. I have seen where a person who owns a twenty thousand dollar home, and because of the ratio of assessments in Shreveport and Caddo Parish, and because of the millage rate, they have had to pay taxes in Shreveport for all of these years that they've owned a twenty thousand dollar home, and perhaps some homes in cases, where it was less than twenty thousand, but I'm using the twenty thousand figure because of this reason; first, based on a twenty thousand dollar home in Caddo, they, as I can recall, and I tell you I'm no expert, I know that the taxes have been several hundred dollars. Even including taking into consideration the two thousand dollar homestead exemption, and yes, it's true that our assessor is finally lowering the ratio of assessment. Now, everyone has admitted here--practically all of the speakers, and who knows a lot more about this than I do--has stated about Caddo carrying its fair share of the tax load in the State of Louisiana. No one has denied it; everyone has admitted that. Now, on this twenty thousand dollar home, under the Rayburn amendment, a ten, ten and fifteen percent would give this twenty thousand dollar homeowner a clear two thousand dollar assessment, and a three thousand homestead exemption which would eliminate him once after all these years of paying any taxes. Now, if we had to go with the Casey amendment, and go to fifteen percent across the board, that same person who had that twenty thousand dollar home because of an increase in the valuation of property, up to thirty thousand dollars, he would not receive any relief; he would not receive any exemption under the Casey amendment because his twenty thousand dollar home that he does not want to sell, that he wants to live in for the rest of his life, will now be assessed at thirty thousand dollars; it will carry the fifteen percent percentage on it; it would reduce it down to a forty-five hundred dollar assessment with a three thousand dollar exemption would still cause him to pay on a fifteen hundred dollar difference. So, that fellow who has that twenty thousand dollar home who's lived in it and paid his fair share of taxes for many years would still have to continue paying taxes even though the homestead exemption has increased from two thousand to three thousand, even though he doesn't want to sell his home where they say he can get thirty thousand dollars for it, but still he's going to be penalized and continue to pay a tax for the rest of his life. Now, let me conclude by saying this, that we can sell this constitution a lot better and lots easier to the people if we allow the ten percent increase...a ten percent assessment. But, if we go with the fifteen percent, we're going to have less homes... more homes on the tax rolls, and we're going to have more unhappy taxpayers, so let's kill the Casey amendment. Thank you.

Further Discussion

Mr. Jack Mr. Chairman and fellow delegates, I rise in opposition to this amendment. When we first started out this taxation stuff, as I told you frankly, is a weak field, so I went out and talked to people that I felt were knowledgeable about it. Now, last Thursday Mr. Fulco and I went over this matter and decided that we would like to have a meeting with all our taxing authorities in Caddo Parish in Shreveport, so we set up a meeting at the police jury, that was

this past Monday at 1:30. We had present Mayor Calhoun Allen, the Finance Commissioner, George Burton, Mr. Sinclair Coons, President of the Police Jury, numerous members of the police jury, and also, three members of the school board and everybody was invited. We told them we were concerned with two things, whether or not they approved the Rayburn amendment, there was ten percent, ten percent, fifteen percent and, of course, agriculture on a use basis, and with the roll forward and the roll back if there was any error. We asked, I asked personally everyone of those people I've named in those groups over the microphone at the meeting and individually, and they all said they were satisfied with the Rayburn amendment, just like I told you. I also was concerned about local option at that time; we asked them about that; they were all against it. So, there is the way they feel so there can't be any misunderstanding. The reason that I bring this up, when Mr. Casey was talking, he was mentioning about whether certain people, as I understood it, could live with the Rayburn amendment, that ten, ten, fifteen, and he mentioned Shreveport. Shreveport can. So, if Mr. Casey meant to include them, I have to differ with him. Now, where it appears to me that New Orleans gets into trouble is they are always wanting to have something different from the rest of this state. Now, they've got a parishwide tax. It's no excuse for the fact that their city limits cover the whole parish. They ought to have it a city tax, and they wouldn't be in that position of having the homestead cover that. They've got to be different. Well, now, just cause they're different, why should the rest of the state have to burden our people, whether, as pointed out by Mr. Flory, fifteen percent more city taxes by changing from ten to fifteen. Why should New Orleans legislate against people living in Shreveport? I resent the way they are trying to be different. Now, they've fallen in evil ways by having done that. Now, I say, "We've killed similar things to this, different percentages; we can keep on." I showed the courtesy of not moving the previous question on the whole section, and let Mr. Casey's amendment come up in those other two, but there must be a stop somewhere. Now, I say that I would be unfair to all the other sixty-three parishes if I voted for this and I think you delegates from New Orleans would be unfair. The correction should be made by the city of New Orleans, changing whatever's necessary in their charter they are raising to have that parishwide tax a city tax. So, I ask for the defeat of this proposal. Thank you.

[Motion for the Previous Question rejected: 14-81.]

Further Discussion

Mr. Landrum Mr. Chairman, fellow delegates, I rise in support of the Casey amendment. First time I approached this podium, I rose to speak for people in an area that was far away from the city of New Orleans, in some part of north Louisiana, because I heard somebody mention up here that somebody couldn't speak the English language--the French-speaking people, I believe, they were talking about at the time. I thought it was wrong. I thought we should try to do something to help them. Now, I'm asking you to help New Orleans, because what I believe we have done with this ten percent has hurt the city of New Orleans in such a way I wonder seriously whether or not the city of New Orleans can support the final document of this constitution. I don't want to see a year long's work going down the drain for nothing. I do believe with the Casey amendment, it is a good amendment. Actually, it is the very first amendment that I had last week to offer, but I would not offer it--some of the staff members could tell you about it--because I believed that's the figure we should be working at and especially with the three thousand dollar homestead exemption. That way the small homeowners are protected. We don't have to worry

about whether or not they would lose their homes. But, when we use the ten percent figure, we are talking about protecting somebody that don't really need the protection. Somebody with a hundred thousand dollar house--they don't really need that much protection. Mr. Fulco talks about somebody with a...paying fifteen hundred dollars...rather with a sixty thousand dollar home...thirty thousand dollar home, I believe, he used the figure. Now, in the city of New Orleans that person would only pay sixty dollars in taxes. Certainly, with a thirty thousand dollar home...we need to work in such a way that every delegate can leave from here fully supporting this constitution. I am almost certain that what we have done were to make it very difficult for the New Orleans delegation to support what has been done here today, or rather last week. I think we should increase that percentage, and fifteen percent certainly isn't a large increase. We mentioned something about the five years, the reappraisals. That first five-year period is going to bring in a great deal of money because we are going to reassess property that's been on the rolls for the last fifty or seventy-five years without being reappraised. But, after that five-year period I don't think the increase is going to be as great. I urge you to adopt the Casey amendment. No question.

Further Discussion

Mr. Conroy I support the Casey amendment. The figures that we are using here in the Casey amendment are the same that the very close minority of the committee had suggested in the so-called Newton proposal, which the committee adopted--the proposal that came out by twelve votes, and there were ten votes in favor of the Newton proposal; these are those figures. The only issue before you at the present time--and it is confusing to deal with these figures--but, honestly, the only issue before you is whether the homestead exemption level should be twenty thousand dollars or thirty thousand dollars. It has been my feeling throughout the consideration of this issue that a homeowner--a person who is able to acquire and invest and buy a home worth in excess of twenty thousand dollars--is able to contribute something to the operation of government. So, it's on that basis and that basis alone that I urge your support of this amendment. I think it's fair and reasonable. Remember that this does not affect the Rayburn proposal that would permit the increase of the homestead exemption up to five thousand dollars by a two-thirds vote of the legislature. That proposal would still be in, so that any time after January 1, 1978--if my computation to when that time would be--the legislature could increase the homestead exemption if it seemed appropriate and desirable at that time. But, I think, based on the considerations that we presently have--values as we presently know them--that a person who owns a twenty to twenty-five thousand dollar home is able to contribute something to the operation of government. I urge your support of the amendment.

Questions

Mr. Flory Mr. Conroy, if this should be adopted, do you then propose to change where the agricultural, timberlands, etc. would be fifteen percent of use value?

Mr. Conroy I don't have any plans in that regard, Mr. Flory. I don't know what Mr. Casey might do. I'm...as I said before, I'm considering and concerned only with the situation of the homeowner, a basic philosophy of whether a homeowner should bear some burden of the cost of operating government. I think because he gets those...the bulk of the services of local government, he should contribute to their operations.

Mr. Flory And, you also mentioned that the five thousand dollar homestead exemption would still apply to veterans?

Mr. Conroy Yes.

Mr. Flory Did you know if you've got a fifty thousand dollar home and you assess it at fifteen percent, and your tax base is seventy-five hundred, then you...Whereas under the five thousand exemption in the proposal at the present time he wouldn't pay anything, he would then the veteran, would be paying taxes on twenty-five hundred dollars?

Mr. Conroy Well, for the same reason that I feel any person who owns a home worth over twenty thousand dollars can pay. I certainly think that when you increase those figures to the level where you get to the five thousand homestead exemption, certainly he can pay.

Mr. Jenkins Mr. Conroy, you said that what we are really talking about is whether or not people with twenty thousand dollar homes are going to contribute anything, rather than thirty thousand dollar homes. Aren't we also talking about, though, a tremendous increase in taxes for all of those with thirty thousand dollar and above homes, because aren't they going to be paying taxes on an additional one thousand dollars of assessed value--which if you have, say, fifty or sixty mills, this is an additional fifty or sixty dollars a year that all of these people above...above in these higher brackets are going to pay?

Mr. Conroy I'm not sure where that ship would wind up, Mr. Jenkins, really not.

Mr. Lanier Mr. Conroy, this increase in the assessment ratio would make a substantial difference, wouldn't it, in a parish like mine where we have a large number of nonexempt millages?

Mr. Conroy Mr. Lanier, I don't think so, because it's juggling numbers; it's just a relationship for these numbers. I don't think it would make a substantial difference. I don't follow in what regard you think it would.

Mr. Lanier Well, for example, is it not true in Ward 1 of Lafourche Parish where we have twenty-one mills that are nonexempt, this will increase substantially, won't it, about fifty percent the taxes that would be paid on those twenty-one mills?

Mr. Conroy No, because of the millage adjustment provision which you will find later in this article, it won't result in any increase there. If the values go up, the things...this total millage would have to be adjusted to come out with the same number of dollars. So, it really shouldn't...

Mr. Lanier The nonexempt mills?

Mr. Conroy It should not affect it; it really shouldn't.

Further Discussion

Mr. Stagg Mr. Chairman and fellow delegates, I have a great deal of respect for and friendship with my fellow delegates from Caddo. But, I've got a slightly different flavor out of the meeting with the public officials in our parish than they did. I think that before that meeting was a contrast between the percentages in the Rayburn proposal and the local option. In face of the problems presented by the local option, then they said they would have to be able to live with the Rayburn percentages. What I wanted to say, while I'm on my feet and taking up your time, is that in Caddo Parish at the time of today we have homes assessed, particularly new homes, in the twenty-five percent bracket--that ratio--commercial property at thirty percent, and inventories at fifty percent, which is probably the largest ratio of assessments in the State of Louisiana. When these are cut to ten and fifteen, a drastic shift is going to occur between the tax amount in total dollars paid by homeowners and the tax amounts

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paid by business, industry, storeowners, and the like. This is not something that has been a matter of political concern to the people of Caddo Parish. They have been able to grin and bear the taxes that are paid on their homes, and most of the homes in the parish do pay some taxes. The shift of the burden of taxation from homes to business, under the Casey proposal, will be less drastic; it will be easier for the taxing authorities of Caddo Parish to live with and in the case of those nonexempt millages, the millage deferential will not be quite so large as it would be upon the proposal under debate as Rayburn's ten, ten, and fifteen percentages. I therefore, Mr. Chairman, do urge support for the Casey amendment. If there are no other speakers, I move the previous question on the Casey amendment.

[*Previous Question ordered. Record vote ordered. Division of the Question ordered.*]

Closing

Mr. Casey Mr. Chairman and delegates, I'll be extremely brief because I'm sure most of the delegates have their minds pretty well made up. But, I want to just clarify one point. This is not just a New Orleans problem. I happen to be here, certainly, because I'm very interested in the welfare and stability of the tax base of the city of New Orleans. But, I think all delegates should share this same interest that I have for my city, should share that same interest for their areas. The fifteen percent figure, as somebody has just pointed out, is much closer to the median which now exists, is much closer to the percentages which now exist, than does ten percent. It is my humble opinion that the changes, the shifting of the millage, would be far less and have less effect in more parishes if we used the fifteen percent than if we go down to the ten percent figures. This is not just a New Orleans problem because I know, certainly, that many people living in rural areas share the same concern that I do, feel quite strongly, that if the homeowners in their parishes do not share in the tax burden that apparently in their areas it will be the farm that must shoulder the tax burden for the services of their parish. So, think not for a moment that this is a city of New Orleans problem, it's a State of Louisiana problem for all local taxing districts. Mr. Flory brought up the point about the veterans' exemption on a fifty thousand dollar home. I would suggest to you, in my humble opinion, that if a veteran owns a fifty thousand dollar home, maybe he should well pay taxes on two thousand five hundred dollars. Remember this, that we are giving the veterans under this plan more than he has today. Today his exemptions terminate in five years, and granted we passed new constitutional amendments to give them exemptions for additional five-year periods, for that was one of these days coming to an end. I think it's time when a veteran establishes himself in society, and that we have paid in society our debt to him, that maybe a veteran should share this burden. As a veteran, I make this statement. As many veterans here, I'm sure you all feel that you should pay your fair share of the tax burden in your parishes. I would strongly urge that this amendment is highly important to all areas of the state. I urge your adoption.

[*Amendment No. 1 reread and rejected: 33-83. Motion to reconsider tabled. Amendment No. 2 reread and rejected: 33-83. Motion to reconsider tabled. Amendment No. 3 reread and rejected: 32-83. Motion to reconsider tabled. Motion to suspend rules for the purpose of limiting debate to five minutes on each amendment rejected: 27-75.*]

Amendments

Mr. Poynter Next amendment is a Burson amendment, as follows:

Amendment No. 1. On page 1, at the end of line 16, delete a portion of the word "through-" and at the beginning of line 17 delete "out of the state" and insert in lieu thereof "within each parish or multi-parish district"

Amendment No. 2. On page 1, delete lines 24 and 25 in their entirety--I think we need to add: including the Floor Amendment thereto, Mr. Burson-- and insert in lieu thereof the following:

"2. Improvements for Residential Purposes-----10-15%
3. All Other Property-----15-20%"

Amendment No. 3. On page 1, delete lines 26 through 31, both inclusive, in their entirety and insert in lieu thereof the following paragraph:

"(C) Assessors shall determine the fair market value of all property subject to taxation within their respective parishes and districts and the percentages thereof to be used to determine assessed valuation. However, the assessors of the parishes comprising all or part of a multi-parish district shall determine the fair market value of all property subject to taxation by the multi-parish district and the percentages thereof to be used to determine assessed valuation. All public service properties shall be valued by the Louisiana Tax Commission.

The percentage of fair market value first used after the effective date of this constitution in determining the assessed value shall not be changed unless and until the percentages set forth in Paragraph (B) of this Section are changed by constitutional amendment. All properties subject to taxation shall be reappraised at intervals of not more than four years.

Make a couple of technical corrections. First of all, the last sentence Mr. Burson does not wish introduced. The last sentence relative to "All properties subject to taxation shall be reappraised at intervals of not more than four years." Furthermore, he does not wish to delete the sentence added by prior amendment "Providing the fair market value and use value shall be determined in accordance with criteria established by the legislature and uniformly applicable." So, the instructions would read: On page 1, delete lines 26 through 31, both inclusive, in their entirety exclusive of that Floor Amendment which added that last sentence at the end of line 31. So, that sentence would be retained. Again, delete the last sentence or paragraph, if you will, of the proposed Paragraph (C) contained in Amendment No. 3.

Explanation

Mr. Burson Mr. Acting Chairman, fellow delegates, in the pursuit of scholastic perfection of uniformity, I feel that we are in the role of Don Quixote. We are tilting with windmills, the power of which we do not know. I find myself in the role of Sancho Panza here. I wish to introduce some unpleasant facts. I am not clairvoyant. But, it requires only the exercise of common sense to certain facts to show you what will happen. I use my parish as an example only because it fits in the category of those that have assessed at a somewhat higher rate. The break point of homestead exemption at the present time in our parish is approximately ninety-five hundred dollars. If you will look at the schedule that has been prepared by PAR as a result of their last survey--the one they did in 1971--you will find that the break point of the homestead exemption varies from eight thousand dollars in Orleans to twenty-six thousand in Jefferson and Lafayette, and thirty thousand in Alexandria. You have had a great variation, statewide, in the extent of homestead exemption--the effective rate. I challenge anyone to get up to this podium and read from the Bussie decision anything that says that you cannot have a different effective rate of homestead exemptions. I was for the option plan that lost yesterday; however, that is neither here nor there. The plan that I am offering here begins with the committee proposal and offers the

potential for those parishes that have assessed at a higher rate to elect one time--and one time only --through their assessor, to continue to tax at a higher rate on residential property and all other property. The variation of percentage there is only five percent, and they can do it only one time. Once they have made this election, they cannot change that ratio until such time as there is a constitutional amendment changing the ratios that are permissible. Also, I have provided that a multi-parish district must determine the same ratio and the same fair market value. I ask you to consider this amendment in order to minimize, if you will, the disruption that will be caused primarily--not only in the city of New Orleans, but in certain rural areas in this state where assessments have been at a higher ratio. Now, I recognize that most of the parishes are not in this category. But, most of the parishes could elect then to take the ten and fifteen, you could leave the fifteen and twenty percent alone. I ask you to consider that this would permit the homestead exemption, truly, to vary between thirty thousand and twenty thousand. But, those parishes that would elect the twenty thousand would unquestionably be, such as mine, in a category where they had had much less of a homestead exemption before. If we elected the twenty thousand homestead exemption, we would have more than doubled the effective rate of homestead exemption in our parish. I ask you to consider these census statistics that we were given which show, quite clearly, that with the ninety-five hundred dollar break point that forty to fifty percent of the homes in St. Landry Parish have been contributing something to the support of their public parish institutions, whereas under the committee proposal as it stands now, less than nine percent of the homes will pay any tax. Now, these aren't statistics that PAR gave me; they aren't statistics that I dreamed up; they are U.S. Census statistics, and I don't argue with them from my practical experience as a lawyer. Now, once you have taken off all of the property owners but ten percent of the taxpayers, I have asked again and again from this podium: who will pay the tax? It seems to me you either have to get the money from the state, or you've got to shift the burden radically to those who are left. Now, in our parish in 1973, the total taxes paid were two million, one hundred and ninety-one thousand dollars. The homestead exemption under the situation where about fifty percent of the homes were exempt accounted for an additional seven hundred and fifty thousand dollars through the revenue sharing fund. If you adopt the committee proposal without giving us some option here, you are going to increase that seven hundred and fifty thousand to at least half a million dollars by any estimate that we can come up with. More importantly, by taking eighty percent of the homesteads that are presently on the tax rolls off the tax rolls, you are requiring those who are left to pick up that half million dollars. You are requiring them to pay it. That is not equitable and it's not fair because our parish doesn't have the large industries, such as many of your parishes have, to pay this tax. It will have to be paid by small home-owned businesses, by farmers who are the productive elements in our society. You will be shifting this tax burden entirely to them. I ask you to look carefully at Section 5 of this committee proposal because I really feel that a lot of us haven't looked carefully at it. It says quite clearly that "it will be the mandatory duty of all taxing authorities to adjust their millages proportionate to adjustments in assessment values so as to produce the same dollar amount of revenue. Such millage adjustment shall be made without regard to limitations contained elsewhere in this constitution." That means that the farmer or the small businessman, who may be paying twenty-five or thirty mills now in the Sixth Ward of St. Landry Parish, will now be paying fifty or sixty mills at least. It doesn't matter how low you drop the ratio on his property; if he is the only one left to pay the tax, he is going to pay at least two

or three times the tax that he is paying now. This is not fair; it's not equitable. They are not the only ones that think it's not fair and equitable. I am convinced, and I would not have offered this amendment if I were not. In the conversations I have had with my constituents, they all agree that it is only fair that everyone carry his fair share of the load. The social and political consequences of this will be to shift the burden of taxation from a stable middle-class situation where everyone pays a small amount of tax to one where a small amount of people will pay a very great deal of tax. I think what it will do, assuredly, is you will create a taxpayers' revolt--at least in my area where you have not had any before. This taxpayers' revolt will be among the opinion makers in society who can have...or do have the means to make their opinions heard. You are also, inevitably, diminish the tax base for future industrial inducement bond issues in rural areas that do not have a great deal of property other than homesteads to include in their tax base. I ask you in all candor to consider whether these weighty arguments--and I think they are weighty; you're talking about a social and economic revolution of sorts--do not counter-balance quite satisfactorily the doubt in some people's minds that you absolutely must have the same rate of homestead exemption for everybody, everywhere in the state.

Questions

Mr. Pugh Mr. Burson, do you realize by not saying ten or fifteen percent, that you allow, or would allow an assessor in a parish to assess every other house at ten, then the other house at fifteen?

Mr. Burson No, sir. That is not correct because I require a uniform rate within each parish, I marked out parish district by Amendment No. 1.

Mr. Pugh Do you realize that would allow Bossier Parish to have ten percent, and Caddo Parish to have fifteen percent?

Mr. Burson Yes, sir...

Mr. Pugh So part of the property in Bossier Parish lies within the city of Shreveport, and part of the property of Caddo Parish lies within the parish of Bossier?

Mr. Burson Yes, sir. That's right.

Mr. Avant Two short questions, Mr. Burson. What are you going to do if you've got a multi-parish district with an even number of assessors, and they divide equally on what they want to do?

Mr. Burson Well, you have got a situation there that somebody's got to determine which one will prevail...

Mr. Avant You don't provide how that's going to be determined, though, do you?

Mr. Burson I think that would be a fit subject, perhaps, for an amendment. But I'm not concerned about it because I think that in a situation like that, they are going to split the difference on whatever they are assessing.

Mr. Avant Now question number two, this next to the last paragraph there, that's just going to insure that they use the highest percentage that is possible in the very beginning, isn't it?

Mr. Burson No, sir. I don't agree with that.

Mr. Avant Well, they can't...if they start off on the low side, they can't go to the high side without a constitutional amendment, can they?

Mr. Burson That's correct.

Further Discussion

Mr. Winchester Mr. Chairman and fellow delegates, the Louisiana Assessors' Association opposes this amendment. It is our belief that in trying to cure some of the ills that the opponents to the assessors' plan, that these amendments will create many, many more problems. The variance between the ten and the fifteen, and the fifteen and the twenty, does violence to the homestead exemption, and, therefore, we think and know that it is unconstitutional. It creates the necessity of multi-parish districts which also create more problems. For these reasons, I ask that you vote this amendment down.

Chairman Henry in the Chair

Questions

Mr. Burns Mr. Winchester, is that correct? I understood that a question asked by Mr. Avant to Mr. Burson, that if the assessors throughout the state chose fit to start out with this higher rate of this high percentage of taxation, fifteen and twenty percent, that it could never be lowered unless we had a constitutional amendment. Is that correct?

Mr. Winchester That's my understanding.

Mr. Chatelain Mr. Winchester... Delegate Winchester... a home now assessed for twelve hundred dollars in the old system that now exists, worth twenty thousand dollars when we reassess all our properties in the years to come, it will be assessed at twenty thousand dollars at fair market value. Fifteen percent would be three thousand dollars. Now I can grant you that three thousand dollar homestead exemption would take care of that. But how about the cities, like the city of Lafayette, we have a parish with sixty-five percent of the people living in one city. Well, it would not exempt any of the city property. Is that correct?

Mr. Winchester That's correct.

Mr. Chatelain Well, wouldn't it be a burden if you'd go above ten percent, wouldn't it be a burden on those people?

Mr. Winchester Yes, sir.

Mr. Chatelain Thank you.

Mr. Winchester There's many, many cities that would be affected... maybe three hundred.

[Previous Question ordered.]

Closing

Mr. Burson Mr. Chairman, fellow delegates, I heartily ask you to consider a fact that time and time again from this podium, we have heard the argument that we needed flexibility in the legislature; we needed flexibility in the judiciary; we needed flexibility in the executive. The only thing that I'm asking here is five percent flexibility in the rates to be applied, improvements on residential property, and other property. It seems to me that that's not much to ask to avoid a complete disruption in considerable areas of this state. I think it's workable. I think it's something that everybody here could live with. If we don't get it, the only thing that I know that sustains me is the fact that I am a Catholic and I do believe in miracles. The last time we had a recorded miracle in St. Landry Parish was in Grand Coteau, but it was in the nineteenth century which may have more to say about the faith that people had in the nineteenth century as against what we have now. But I understand from the reading I have done that miracles usually occur near a natural spring. So if this amendment loses, I am going to go out and find myself a natural spring and sit

there and wait until I see the archangel drive the chariot down with the money that we're going to need to run our operation.

Thank you.

Mr. Henry You lost some Protestant votes on that just because we didn't understand it, Mr. Burson. You understand that?

[Record vote ordered. Amendments rejected: 33-84. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1, this is the Denny amendment.

On page 1, between lines 25 and 26, insert the following Paragraph:

"Commencing with the first regular session in the year following the end of three years after the effective date of this constitution, and thereafter at five percent intervals, the legislature shall fix the percentage, not to exceed twenty-five percent of the fair market value applicable to each classification, including agricultural, horticultural and timber lands, for the purpose of determining assessed valuation. Lands of all types and improvements for residential purposes shall not be assessed at a greater percentage of market value than other property, and the maximum percentage fixed for any classification shall not be more than one-half higher than the minimum percentage."

Explanation

Mr. Denny Mr. Chairman and delegates to the convention, this amendment, as you can see, is somewhat different from the series of amendments which we previously have discussed and defeated. I do not propose an amendment which would require local option. I propose an amendment which will not freeze into the constitution forever, or until the constitution itself is amended, the specific percentages which we have thus far adopted. My purpose in placing this amendment before you is, because very frankly, I do not know, and I do not believe that anyone else really knows what the effect of reappraisal of property and the application of these percentages to those... to the reappraisals, will have (a) on the tax base, (b) on the millage rates, (c) on whether or not the tax burden will be shifted from one class of property to another. I do not think that anyone here can tell us the exact results of what will happen under the provisions which we have thus far adopted. I do not believe that we should freeze these percentages into the constitution.

I point out to you that Section 5 of the proposal before you provides for a roll back or a roll forward in millages so that the cash taxes which are received by the individual governing bodies, will be the same. I point out to you Mr. Willis' chart which he was kind enough to furnish us today on arithmetic. I tell you that not only does the tax rate have to go up and down, but the tax base which will affect bond issuances, will also have to change because when you apply one to the other, you affect the amortization of the bonds which are issued.

Now school boards right now, are limited, are limited, for example, to issuing bonds to the extent of twenty-five percent of the assessed valuation within their taxing district. The Local and Parochial Proposal No. 17, in Section 40, has a similar type of limitation, not only on school boards, but also upon parishes and municipalities. We do not know what the effect of these percentages, and the possible increase in market values, will have upon these. But I point out to you that if the overall tax base in any taxing district is lowered, then your bond issues, necessarily, will be reduced. On the other hand, if they are increased by virtue of this, and, therefore, your millage is rolled back, you may run into a situa-

tion where the local taxing district has authority to issue more bonds than it can possibly amortize when the millage has been rolled back. It seems to me that we have attempted in this constitution to avoid freezing things, figures particularly, into the body of the document. We have tried to be flexible. The entire purpose of this amendment is to permit us to retain that flexibility. I do not argue that there shall be a difference between residential property, land, or industrial property. I do provide, however, that lands of all types and improvements for residential purposes shall not be assessed at a greater percentage of market value than other property. I provide that the maximum difference between the low assessed valuation, or percentage, if you...the low percentage, and the maximum percentage shall be no more than fifty percent of the low.

For example: if the legislature finds that ten percent, as we have fixed in this constitution, is too high, they can reduce it to five percent, which would mean that other property could be...that the maximum percentage applicable to other property would be seven and a half percent. On the other hand, if the ten percent and the fifteen percent are not enough, they could be increased so that you could have, for example, fifteen percent on land and residential property, and twenty-two and a half on commercial or industrial property. I repeat, we don't know, nor do the assessors know, what the results of the reappraisal and the application of the percentages which we have in this constitution will bring forth. We have no real guarantee of real reappraisal. We have it written in the constitution, we had it written in the Constitution in 1921, and the assessors have uniformly advised us that, for the most part, we have not used fair market values in assessing property over the years. It is true that many assessors have tried to correct that in recent years.

I checked with Mr. Mire just before I spoke, and I told him I was going to say that the Assessors' Association hasn't seen this amendment and, therefore, it can neither support it nor oppose it. I am told by Mr. Mire, however, that he believes that the assessors would oppose the principle of the amendment. I'd say to you that the principle of this amendment is a principle which this constitutional convention has already adopted. We want to avoid amending the constitution. We want to keep the constitution as flexible as possible. I say to you that this amendment will permit us to retain that flexibility. I, therefore, urge you to adopt it.

Question

Mr. Avant Mr. Dennery, this raising of assessments that's contemplated by this, or lowering them, and I'm thinking of raising them, would be by a simple majority, not a two-thirds vote. Is that correct?

Mr. Dennery Yes, sir, Mr. Avant. I have it worded so that it would be a simple majority. If the convention feels it should be two-thirds, it could be amended. But it will be uniform throughout the state.

Further Discussion

Mr. Slay Mr. Chairman, fellow delegates, in looking over this amendment, I see it's things that we have talked and fought over for the past two weeks. If we adopt this amendment, that we will have to go back where we have been and start all over again. As you read this amendment, you will find many things in here that are wrong. I think all of you have heard the argument so much that it would be not necessary for me to go into it. While Mr. Mire might be opposed to the principle of it, I'm opposed to the principle, the theory, and everything else behind it. On behalf of the Louisiana Assessors' Association, we urge your defeat of this amendment.

Mr. Chairman, if there are no other speakers, I

would move for the question.

Question

Mr. Dennery Mr. Slay, I didn't understand exactly what you said about there are many things in the amendment which you oppose, and they've all been discussed. I'd like to know which specific ones have been discussed, sir.

Mr. Slay One of the things as we have approved, the use value of land for assessment purposes. This does away with use value, in my opinion. It says, and let me read, "not to exceed twenty-five percent of fair market value applicable to each classification, including agricultural, horticultural, and timber lands." It doesn't say anything about use. That's one of the things I wanted to point out.

[Previous Question ordered. Record vote ordered. Rules Suspended for the purpose of withdrawing the Amendment: 99-6. Amendment withdrawn and resubmitted.]

Amendment

Mr. Poynter All right. It's the...what happens is you insert the words "or use value"..."or use value"...in two separate places, the first of which is on line six where it...star the amendment...where it says "fair market value, add or use value applicable to each classification." The sixth line of the amendment. In similar fashion, the third to last line which commences, "of market value", and it should be "or use value"..."of market value or use value than other property and the maximum percentage..." etc.

Explanation

Mr. Dennery In closing may I thank the convention for permitting to make this amendment. This was inadvertently left out, and Mr. Slay called it to my attention when I asked him the question. I certainly anticipated leaving "use value" in here. I respectfully urge you to vote for this amendment.

Question

Mr. Slay Mr. Dennery, this still would not require the legislature to use "use value". They might use "use value" if they want to, but they don't have to do it, do they?

Mr. Dennery Well, Mr. Slay, I didn't change anything else. I think the balance of the article as it stands requires "use value". I forget the section...the letter, but it requires "use value", and this was the intention to put it in here.

[Previous Question ordered. Record vote ordered. Amendment rejected: 33-78. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 98-22. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter Section 2. Rate of State Property Taxation; Limitation

Section 2. The rate of state taxation on property for all purposes shall not exceed, in any one year, five and three-quarter mills on the dollar of its assessed value.

Explanation

Mr. Alario Mr. Chairman, fellow delegates, Section 2 is offered by the committee in the Committee Proposal 26 which simply allows the state, the legislature sees forth in the years to come, the necessary to raise additional revenues for state use to be, probably doled out to local communities

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in some way, and whatever use they may find, that they may impose the following three-quarter mill statewide tax, if that's what they decide to do, and shall be limited to the five and three quarter mill tax just as they are presently limited. You previously voted not to delete this section in the manner as was offered by another delegate when he said that the state would not get into the property tax business. I think you've more or less decided on this issue once before. I'd ask that you'd vote favorably on the section so that we might move along.

Questions

Mr. Roemer Mr. Alario, the report by half plus one of the committee, which is Committee Proposal No. 26, as I read it, calls for the state to, at some future date, to get back in the ad valorem tax business. Is that correct?

Mr. Alario It doesn't call for it to have to get back into it, but it does allow it to get back into it.

Mr. Roemer I understand. But at the same time, the allowance is only to the extent of five and three quarter mills. Is that correct?

Mr. Alario It's limited to five and three quarter mills. They couldn't go any higher than that amount. That's correct.

Mr. Roemer How much money, John, do you know that would amount to if it were to happen in the next year or so, and the state were to levy the full five and three quarter mills? How much money are we talking about?

Mr. Alario Buddy, before reappraisal, we're talking about last year when we got out of the property tax business, my memory serves me right, we were talking in the neighborhood of twenty-eight million dollars.

Mr. Roemer What is the total budget of the State of Louisiana this year, John?

Mr. Alario In state...in revenues that we receive? We are talking about a little over a billion dollars.

Mr. Roemer The...including the federal monies that we spend, say...

Mr. Alario Well, when you say two billion, you are talking about inter-agency transfer funds, and federal funds...

Mr. Roemer Somewhere between one and two billion dollars is the budget now. It's apt to grow in the future. Is that correct?

Mr. Alario That's correct.

Mr. Roemer Wouldn't you suggest, or wouldn't you believe that the five and three quarter mills, which would yield twenty to thirty, to thirty-five million dollars in the next few years, isn't that fairly miniscule? I mean, really, what have we done here?

Mr. Alario Well, Buddy, it is a small amount as compared to the total budget. But let's look at just what might...what the legislature might decide they might want to do with these funds, and I'm certainly not advocating it because you are looking at one who doesn't intend to vote this year, next year, or years to come on raising any taxes. However, I don't know if I might change my mind in future years if the need arises. The teachers' cost of living raise, for instance, where estimates were given to us, might run fourteen million dollars, or twenty-eight million is twice that amount of money. We talked about instituting statewide plans for vocational education.

We passed a bond issue in the legislature to allow bonds to be sold to build these schools in the neighborhood of some fifty million dollars. We were given estimates that it would take us some nine or ten million dollars to operate those schools for salaries and supplies to operate vocational training in this state on a full-scale basis. Twenty-eight to thirty million dollars is three times that amount of money. So, in effect, this five and three quarter mills if put on, certainly would be covered under homestead exemption, wouldn't hurt the small homeowners, but it would provide, possibly, for cost of living increase for teachers, and it may possibly provide for better opportunities for people in this state to be educated under vocational training. I'm just telling you what twenty-eight million dollars might be able to do for you in this state. It might be able to raise the old age pension in this state for those people who certainly are in need of it. It might be able to provide better services in our charity hospitals. Twenty-eight million dollars is a heck of a lot of money.

Mr. Roemer Is this the same limitation that we had in the 1921 Constitution or in the constitution we work under today. Is it a five and three quarter?

Mr. Alario That's correct.

Mr. Tobias John, what would be the effect of deleting this section?

Mr. Alario The effect would be, as I see it, Max, would not allow...the state to be in the property tax business as such.

Mr. Tobias Isn't it just the exact opposite?

Mr. Alario ...wait. What it would do would be to allow the legislature to go above the five and three quarter mills.

Mr. Tobias In other words, it would allow them, subject to what apparently, we will have a two-thirds vote to raise taxes.

Mr. Alario That's right. The two-thirds vote would still remain.

Mr. Champagne Did we not vote, did the people not vote to take this out...to take the state out of the property tax business?

Mr. Alario Did what, Mr. Champagne?

Mr. Champagne Did...was not there a vote to take the state out of the property tax business?

Mr. Alario There was a vote to remove the five and three-quarter mills tax.

Mr. Champagne Right. So, in other words, at the present time, in the present 1921 Constitution, there is no such authorization as this.

Mr. Alario No, sir. The authorization is still there. All it did was remove the five and three quarter mills tax.

Mr. Champagne All right, the authorization is no more there than if we delete this section.

Mr. Alario I don't follow your thinking on that.

Mr. Champagne What you are saying is this five and three quarter limitation is not in the 1921 Constitution. Is that correct?

Mr. Alario No, sir, I'm not saying that.

Mr. Champagne Wasn't that taken out?

Mr. Alario I'm saying the legislature is presently limited to the five and three quarter.

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Mr. Champagne They are limited in the constitution?

Mr. Alario That's right.

Mr. Champagne It was not changed.

Mr. Alario No, sir...

Mr. Champagne That is in the present constitution.

Mr. Alario All we did was take away the tax.

Mr. Stagg Mr. Alario, with this provision in the new constitution, then this would be the total amount that the state could levy if it went back into the ad valorem property business, would it not?

Mr. Alario That's correct, Mr. Stagg.

Mr. Stagg If there was an amendment before the House to delete this section, then is it your opinion that the state could (1) go back into the ad valorem tax business, and that the rate would be unlimited as to the quantity [quantity] of mills that they could levy?

Mr. Alario That's correct, Mr. Stagg. My understanding is that unless you prohibit the legislature from doing anything, they may just do that.

Mr. Stagg It is, as a proponent of this measure, it is your feeling, then, that they ought not to be an exclusive area of taxation reserved to local government so that local government only could levy an ad valorem tax. In other words, you would be opposed to an amendment entirely prohibiting the state from invading the ad valorem tax field.

Mr. Alario I would be opposed to any amendment that might allow the state to get any larger than the five and three quarter mills tax, Mr. Stagg.

Mr. Stagg All right.

Mr. McDaniel Mr. Alario, this convention expressed itself Saturday that it didn't want to prohibit the state, at this time, from getting out of the ad valorem business. For those of us that want to keep property tax as the mainstay of local government, don't you think the next best alternative is putting a low ceiling in case the state gets back in?

Mr. Alario That's correct, Mr. McDaniel. That's why I'm advocating we ought to at least take this preventive measure.

[Previous question ordered on the Section. Section passed: 101-19. Motion to reconsider tabled. Motion to waive reading of Section 3 adopted without objection.]

Explanation

Mr. Planchard Mr. Chairman, fellow delegates, I'd like to remind the other delegates that we still have 3 (A) involved, but later an amendment will be put up to take it out since we have already taken care of the homestead exemption. That brings us to Section 3 (B) which the committee has treated as an exemption all public property. I think it's self-explanatory, and there should be no question here.

In Section 2, of course, this is self-explanatory; we exempted those items which had been exempted before, but, there are some items which were included from the 1921 Constitution, and the additions thereto. We changed the wording in some respect from the 1921 Constitution, to be certain that there was no question that the committee did not want to tax religious institutions or church related properties. You will note that the changes

that we have made would include, rather than just schools and colleges being exempt, that we included the word "universities," which leave no doubt that all schools, universities, and colleges, would be exempt from the ad valorem property taxes. We also exempted items which were devoted to charitable undertakings, but we specifically stated that hospitals, nursing homes, homes for the aged, convalescent and rehabilitation facilities, institutions for treatment, rehabilitation, and care of the physically and mentally handicapped or retarded, orphanages, child and/or day care centers, which are organized as nonprofit corporations under the Louisiana nonprofit corporation law, or which are exempt from federal and state income taxation laws, which are licensed and regulated by the State of Louisiana. Now, this is a change because we have specifically stated that these nonprofit corporations which are undertaking this type of thing is exempt. Now, heretofore, we have not been taxing hospitals, nursing homes, and the likes. However, just recently the problem has come to the front, that some of the assessors have taken hospitals and put them on a per bed basis, and they're taxing them without any regard whatsoever, with whether they were profit or nonprofit organizations. Surely, I think that anyone would have to agree that we do not want to tax a nonprofit corporation which is doing something for the people of this state. The problem was shown to the committee. We discussed it over and over. It was not a simple matter to resolve because we certainly felt that any profit organization should pay its fair share of taxes, but, in the last analysis, after all the discussion, this is the language that we did come up with. We have a provision which makes certain that they don't only have to have the endeavors that we've set out, but they must not be used for any purposes, or that they cannot be used for any purpose for a profit or income. So this is the best language we could come up with, and on the particular day the voting occurred, out of the committee, we had fourteen for it and three against it. The next section is Section (D). You'll notice we've exempted all of the items that we had in the 1921 Constitution, except we included stocks and bonds, except bank stocks which shall be assessed and taxed solely as provided by law; and this is the new addition to that particular section. Section (E). We exempted all motor vehicles used on the public highways--this is in the 1921 Constitution. Section (F). It is the ten year exemption for industries and the industrial inducement provision in the present 1921 Constitution, except we included a provision therein, which, in addition to having to go to the State Board of Commerce and Industry, and to have the approval of the governor, we went one step further in this particular writing and said that the local governing authority must, in addition, give its approval to the ten year tax exemption. Section (D) throughout, is exactly the old constitution, 1921 Constitution, and I don't think there's any change whatsoever. Section (H). We said that additional property may be exempt from taxation, if authorized by two-thirds vote of the elected membership of each house of the legislature. In other words, here's the super majority again; we're carrying it throughout. Mr. Chairman, I'll answer any questions.

Questions

Mr. Roemer A.J., you went over Section (D) which points out a multitude of exemptions--these are the ad valorem taxes. You talk about some changes; I think you might have missed a few that I can remember in committee. I would draw your attention, am I not correct, to lines 5 and 6 which exempts all personal property used in the home or on loan in a public place. Didn't the old law have a one thousand or a two thousand dollar threshold effect, above which they were not exempt, below which they were exempt? Isn't that a change? Didn't we make that change?

Mr. Planchard That's correct. I appreciate it.

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Right.

Mr. Roemer In addition, on line 11, the word "mardi gras carnival," that phrase--isn't that an addition?

Mr. Planchard It's a change of wording, but that is an addition, yes.

Mr. Roemer Right. Then again, on lines 18 and 19, commercial vessels used for gathering seafood for human consumption--I'm assuming we're excluding the menhaden boats, and that sort of thing. Isn't that an addition to this constitution?

Mr. Planchard Yes, that's an additional wording. Right.

Mr. Roemer I wonder if you'd be willing to tell us your personal feelings on all of these three or four pages of exemptions? Do you feel that it might be just as much protection for the people, and certainly lead us to a more cleaner, easier read constitution, if we would put these in the statutes in the form of a two-thirds vote? I notice, for example, that we give the right in (H) for additional exemptions by two-thirds. Why can't we give the same right for the removal of exemptions by two-thirds?

Mr. Planchard Well, to answer your questions, Mr. Roemer, you want my personal feeling and this is my personal feeling. First, I think that we on the committee did our best--and you included--to have some kind of a balance in our tax structure. I think we've set it up in that fashion. I think we've given exemptions where exemptions are due. I think we have a balance between the people, giving them an exemption through the homestead exemption, giving them the exemptions through the special exemptions to the hospitals and nursing homes, and that type of thing. I also think we gave the corresponding balance when we gave the ten year tax exemption to industry. But, to further answer your question, I personally, and I think it was the feeling of the committee, that we should not take these exemptions all in one, and put them into a schedule. I still see the schedule as a fictitious thing, and I have not seen it up to this point. Consequently, I think it's important that we include it in this constitution.

Mr. Roemer I see. You wouldn't support an amendment which would put these exemptions under the two-thirds rule of the legislature then?

Mr. Planchard No, I would not.

Mr. Roemer Including the ten year tax exemption for an industry, you wouldn't want to see that removed? Were you a strong supporter of the ten year exemption?

Mr. Planchard Yes, I am a supporter of the ten year exemption.

Mr. Roemer The question was your position on the ten year tax exemption, A.J., which is in this section. What's your position on that? You've given the committee's position. Would you support putting that in the statutes with the two-thirds?

Mr. Planchard Buddy, here again, if we're going to have the balance that I'm talking about, I see no reason why we should put that in a special schedule, and not put the other exemptions. I can't justify it, other than the religious exemptions.

Mr. Roemer So, then your position would be that you would support treating all exemptions the same. That is, putting them all in the super schedule for two thirds. Could you do that?

Mr. Planchard I will back the committee proposal, and include them in the constitution as we have them.

Point of Information

Mr. Fontenot Under the assumption that we're going to have many amendments to all these particular paragraphs, could it be possible that instead of taking the whole section up at one time, we could vote paragraph by paragraph?

Mr. Henry We're going to go with the amendments that way, but we can't adopt Paragraphs (A), (B), (C), because we don't have the mechanics to adopt them that way.

Questions

Mr. Jenkins Mr. Planchard, I want to ask you first of all about part (C). The common factor that seems to unite all of these different entities that you have is the fact that they are not profit making, is that correct?

Mr. Planchard Or religious connection, yes.

Mr. Jenkins I don't understand the relationship between profits and property taxes. The property tax is not a tax on profits, is it, but rather a tax on value for services received?

Mr. Planchard You're absolutely correct. This is not a tax on profit.

Mr. Jenkins Well, then what rationale can you use other than pure politics to justify such exemptions as these?

Mr. Planchard It's very simple, and my explanation is this. If we do not exempt these institutions in the constitution, if we do not give them a break, then where do they go for their help? They are not a profit-making organization. So, consequently, they have to get it by gifts or otherwise from the people of Louisiana, and this is, in effect, saving us tax money because these people are actually devoting, not only their time and their energy for nothing in a nonprofit institution, but they are helping you so you will not have to pass taxes to take care of these indigents or these people in this condition. This is why I am for it.

Mr. Jenkins Well, if you have a situation where, say, a church is operating a day care center, and one block down the street a private citizen is operating a day care center, and the city and the state are providing the exact same services to both of them, isn't it only fair that both should pay for those taxes, and that we shouldn't favor one and tax another on some grounds, such as whether or not they make a profit, because the poor day care center that is owned by a private person will have to pay these property taxes even if they have a loss, won't they?

Mr. Planchard They would.

Mr. Jenkins So what's the rationale for that then?

Mr. Planchard Do you know of any day care centers as such that are profit making?

Mr. Jenkins Yes, there's a vast number of private day care centers in this state--thousands.

Mr. Planchard Are they making money?

Mr. Jenkins Well, some of them do. The others go out of business.

Mr. Planchard Then they should pay taxes. If they're not making any money we shouldn't burden them more by making them pay.

Amendment

Mr. Poynter What it does, in essence, is delete

old Paragraph (A).

Amendment No. 1 [by Mr. Mire]. On page 2, delete lines 12 through 32, both inclusive, in their entirety and on page 3, delete lines 1 through 4, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 3. Other Property Exemptions

Section 3. In addition to the homestead exemption provided for in Section 1 of this Article, the following property shall be exempt from ad valorem taxation: (A) All public property."

Explanation

Mr. Mire Mr. Chairman, fellow delegates, this is really a technical amendment. It's only taking out the provision for homestead exemption in this particular section as we had removed it and put it in Section 1 as adopted by the convention, and I move the favorable adoption of this amendment.

Questions

Mr. Pugh Mr. Mire, a matter that concerns me, and it's related to the original Section 3 as compared with the Rayburn amendment. The original Section 3 used the phrase "however," before the word "veteran." That is not the case in the Rayburn amendment. I believe that it's the intention of this convention that a veteran gets five thousand dollars exemption,--and over sixty-five get it--a nonveteran gets three thousand. I want to be absolutely sure, and as a matter of record for this convention, that you don't add the five and the three together. The reason I state that is for we who are veterans of both World War II and the Korean War, we got five thousand in each instance; there was an attorney general's ruling that said we could stack it and get ten. For the record, I ask you, is it not the committee's intention that the five and three not be added together to make eight?

Mr. Mire You're absolutely right, Mr. Pugh. That was not the committee's intention. The committee was very distinct that the veterans should get a five thousand dollar exemption, and all homeowners that are not veterans get a three thousand dollar homestead exemption, and both could not be put together.

Mr. Pugh And the same is applicable to one over sixty-five, as contrasted with a three?

Mr. Mire That's absolutely right, sir.

Mr. Pugh Thank you.

Mr. Champagne I just want to make it abundantly clear, too, that a veteran gets one five thousand, not for each time he was a veteran.

Mr. Mire That's absolutely right, Mr. Champagne.

[Amendment adopted without objection.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Newton]. On page 2, delete lines--this hasn't been passed out, it will be momentarily--12 through 32, both inclusive, in their entirety. On page 3, delete lines 1 through 32, both inclusive, in their entirety--we probably ought to add there, Mr. Newton, "and including the Mire amendment", which was just adopted--and on page 4, delete lines 1 through 32, both inclusive, in their entirety. On page 5, delete lines 1 through 32, both inclusive, in their entirety, and on page 6 delete lines 1 through 32, both inclusive, in their entirety. On page 7, delete lines 1 through 13, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 3. Other Property Exemptions

Section 3. The exemptions from ad valorem taxes provided by Article X, Section 4, of the Constitution of 1921, as amended are retained in effect.

The legislature, by favorable vote of two-thirds of the elected members of each house, may exempt other property from ad valorem taxes, and amend or repeal any exemption. This Section shall not apply to homestead exemptions as provided in Section 1 of this Article."

Explanation

Mr. Newton Well, it's really a very simple amendment. It takes all of these exemptions out of the constitution, makes it statutory material, and allows the legislature the flexibility to change exemptions as economic conditions would change. Now, let me tell you something. In the committee hearings and the discussions that I've had with the various groups of people who have these exemptions, it was their feeling that if any of them were retained in the constitution--and they wanted their exemption retained in the constitution, and I don't blame them for that--but, the position also was that if they were all taken out of the constitution, that they were all treated alike, then this was alright. Now, I'm talking about industry, I'm talking about agricultural interests, and things of that nature--timber people. As long as they're treated alike, and treated fairly, that's all they want, and this amendment does that. It certainly deletes a lot of material from this proposal--almost, I'd say better than half of the material of this particular committee proposal. Now, when you start getting into these exemptions, you're going to see--if this amendment is defeated and you start talking about these exemptions one at a time as we did in committee--then you're going to see exactly how statutory this material is, and the complications that come with defining nonprofit organizations and nursing homes, and things of this nature, and I urge the adoption of the amendment. I'm sure there are going to be some questions.

Questions

Mr. Duval Autley, there's no doubt, is there, that we will have a schedule on the proposed new constitution; isn't that right?

Mr. Newton I'm sure we will; yes, we'll have to.

Mr. Duval Of course, there was a schedule in the '21 Constitution; isn't that so?

Mr. Newton Right.

Mr. Duval Certainly, a provision like this could be placed in the schedule, could it not?

Mr. Newton I think Style and Drafting could do that.

Mr. Munson Mr. Newton, I listened to your remarks on this amendment. Would you mind enlightening me a little bit more and letting me know what your real reason is for taking them out of the constitution, and into the two-thirds statute?

Mr. Newton What's the real reason?

Mr. Munson Yes, sir.

Mr. Newton Well, frankly, Bob, to provide some flexibility on these things. I think that some of these nonprofit organizations that are running nursing homes, and running hospitals, if they're church oriented or something like that, they ought to be exempt. But, I don't know how we can spell it out in here and be fair to the church people, and still have the tax placed on people. If you're a nonprofit corporation, that doesn't necessarily mean that you're not making money out of it, you see?

Mr. Munson Yes, sir, I see. But, we're not just talking about church nonprofit organizations, are we, in your amendment? You're talking about all

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tax exemptions, aren't you?

Mr. Newton That's correct, except for homestead exemptions.

Mr. Munson Except for homestead. Do you realize how much you lessen the chances of passage of a final document if your amendment passes?

Mr. Newton I really don't think it's going to have that effect as long as everybody is treated equally.

Mr. Munson I think they'll get clobbered.

Mr. Landrum Mr. Newton, the effect of your amendment is to remove nursing homes, church-related nursing homes, even though...

Mr. Newton I don't think they're exempt now, Reverend Landrum.

Mr. Landrum What about the schools...church-related schools?

Mr. Newton This would not remove any exemptions at all, Reverend Landrum. The existing exemptions would be continued just as they are now. They would be subject to a two-thirds vote of the legislature, and the legislature could...add...

Mr. Landrum Well, in other words, you mean to take it out of the constitution and make it statutory material?

Mr. Newton Yes, sir. All existing exemptions would be continued.

Mr. Landrum Don't you think there's a reason for the legislature voting on it in the first place? Why now...why make it statutory material?

Mr. Newton Well, because...maybe, we're going to have to go through the discussion of all of these things before you're going to understand the difficulty in trying to define what a nonprofit hospital is, or something like that.

Mr. Landrum Hospitals, schools, churches, not necessarily in that order, I believe they should be in the constitution.

Mr. Newton I believe they should be exempt too, and I just don't see the legislature...

Mr. Landrum I'm saying that I believe they should be in the constitution. I don't think that we should leave it to the legislature that they may be able to change it from year to year. We've got prayer right now...you can't pray in the schools right now. I think some things need to be locked in the constitution.

Mr. Newton Well, that's one thing you can't lock in.

Mrs. Warren Did you notice Mr. Lennox's amendment? I think it would have solved a lot of our problems if he had come out with it, instead of trying to pass the buck to the legislature.

Mr. Newton Well, it's not a question of passing the buck to the legislature. There may be some other things that might need exempting somewhere further down the line; this takes care of that. Some of these things, at some future point, might not need to be exempt, and the legislature could handle that. I just don't think there's any way in the world that the legislature is going to tax church property. I don't have any problems with that.

Mrs. Warren Well, did you know that I might be a little bit different because if a church is operating at a profit, they've got as much right to pay taxes as me, and I'm a member of the church?

Mr. Newton That pays taxes that's operating at a profit?

Mrs. Warren If they are operating at a profit... if they're operating something for a profit, they have as much right to pay taxes on property as anybody else.

Mr. Newton Well, if they do, then the way this thing is drafted now, they wouldn't be paying any taxes, Mrs. Warren.

Mr. J. Jackson In my district, I have a couple of nonprofit, community based recreation centers. In addition, I have a couple of nonprofit community based drug abuse clinics. Under the present provision as in Committee Proposal No. 26, do you feel that I'm covered? Mr. Planchard says yes.

Mr. Segura Autley, I just want to make sure I understand this thing right. Does that mean, if this passes, that the legislature--I'm not saying they would or the probability that they would--but, they could tax any church or nonprofit organization that...owned property? They could pass, with two-thirds vote, they could impose a tax on them?

Mr. Newton That's right.

Mr. Segura But, if we had constitutional status on these, that they could not?

Mr. Newton Not without a constitutional amendment.

Mr. Segura That's correct. Well, don't you think we should give them constitutional status?

Mr. Newton Well, obviously I don't. I wouldn't have brought this amendment up here.

Further Discussion

Mr. Womack Mr. Chairman, members of the convention, I think we should brand this really what it is. This is your next major tax structure base right here. Let's just look at the legislature, or you take yourself as an individual in the legislature from the urban area that has no particular interest in agriculture, and they come up with an option of a tax program that you either remove these exemptions on somebody far removed from your district that doesn't vote for you, or you put a tax on your local people. What are you going to do? The exemptions are coming off. Let's go a little further, then. Your church-related programs, the community programs, and, Mr. Jackson, I believe you brought up just a minute ago that you had some of your local community programs. It's going to be a lot easier for me to vote to put a tax on your community program than it's going to be to put a tax on my people and I can put the tax on your program by removing this exemption. It's very simple. I haven't done anything but eliminate something; I go home and say, "Well, I eliminated something that should have been off anyhow." Let's take the tax exemption that's going to the shipyards today, and Avondale alone has some eleven thousand employees that the sales tax exemption that they enjoy today is well the difference between them being located in Louisiana or being outside of Louisiana. If I'm given a choice to vote a tax on my people or take the exemption off of Avondale Shipyard, the tax is going to come off of Avondale Shipyard, the exemption. So, let's face it; this is what's going to happen. Let's look at the opponents. I'm trying my dead-level best to find a reason to be for this document on final passage. As many of you know, I voted against a lot of the proposals we have. There's no way for me to accept this amendment here and be for it, and not even to be quiet for it. It's about the only thing I know of that I'll quit running my own business and quit work to get out and open the campaign for. You may say, "Well, if

you don't do it, I'll do it." That's your privilege. Your hospitals, your schools, everybody says, "Well, they won't be anyhow," but my main objection to this is that this is your next major tax base structure, and I don't know where or when it's going to come. Suppose that we don't quite raise the revenue. We're giving it all to the farmers, to industry, to the homeowners everybody but the little merchant today, and the small homeowner in town, that has to pay his local taxes, municipal taxes, is getting just a little bit better break. We're giving him something for nothing. You're not giving him anything. Somewhere down the line, somebody's got to pay for it. There just ain't no free lunch. Now, while you are looking at the tax exemption, you say we've given that landowner something, but keep in mind that there is literally millions of acres of land in Louisiana that the owner is not the operator. You're going to take the farmer that's struggling, trying to mortgage everything he has, selling advance under sales contracts which many of them were required to do today, at a substantial loss, because it did insure the loan enough that they could raise finances in order to buy equipment in order to produce, and you're going to take the exemption off of their crop. Their crop is their equipment.

Questions

Mr. Lanier Mr. Womack, do you know if any other states in the United States have all of these long, extensive, complicated exemptions in their constitutions?

Mr. Womack Well, I don't know what other states have, and if I was really interested in benefitting from what Arkansas and Mississippi has, I'd move to Arkansas or Mississippi. It just so happens I like Louisiana; I like what we've got here, and I'm not trying to improve on what Arkansas's got; I'm trying to protect what we've got in Louisiana; I'm trying to make what we've got here a little bit better, if possible.

Mr. Lanier Are you a citizen of the United States?

Mr. Womack A citizen of the United States?

Mr. Lanier Yes, sir.

Mr. Womack I think that's...I'd have to say, kind of an asinine question. I think...

Mr. Lanier Well, if your rationale is followed through, what do you think about the United States Constitution that doesn't have all of these complicated, extensive exemptions in it either?

Mr. Womack I'll let you answer that since you have a right to the floor.

Mr. Stagg Mr. Womack, in the exemption in the words of this amendment, is it not your opinion that the deletion of all of the present exemptions...or rather the inclusion by reference of the Constitution of 1921 into this constitution, is one of the things that from the beginning of this debate on July 5, we have tried to exclude; that is, having to keep on your desk a copy of the old constitution in order to know what the new constitution means?

Mr. Womack I haven't quite figured out your question.

Mr. Stagg Well, we are including by reference, articles from the 1921 Constitution, so you'd have to keep both of them on your desk to know what the new one meant. Are you for that or against it?

Mr. Womack I'll just say that I'm against this amendment. Now, I don't know what you keep on your desk.

Further Discussion

Mr. Planchard Mr. Chairman, fellow delegates, we keep hearing about this fictitious thing that we're going to pull all of the revisions that we do and put in a schedule. When we speak of a schedule, what are we speaking of? We're speaking of taking items from this constitution and moving them over to another. But, I thought my job was, when I came to this convention, was to rewrite this constitution, and to determine for ourselves whether or not an exemption should be kept, or whether it should not be. It's for us to decide. I feel very definite that the committee in its wisdom over ten months decided overwhelmingly to report to this convention the section as we have reported it. If we did not think that the revisions were necessary, we would not have made any revision. If we thought that it should be put in a schedule as it was, we would have recommended that. We did not choose. Now, let's take this from a more practical standpoint. The statement has been made that we have written our constitution and everything that is necessary. Well, let me submit to you right now, anything that comes from this point on, all we can do is go downhill. If you start taking out exemptions, I'm going to tell you right now, you have never seen the likes of the mail that you're going to get. All we can do at this point, if we do not include those favoritisms that we have in this constitution right now, if we don't protect them for the future, look at the diversity of the individuals and the people that will be against it. Now, the statement was made that we heard from several groups, and they said, "If you take me out of the constitution, that is fine if you take everybody else out." I wonder how they feel at this particular moment; I did not get that connotation from them. The connotation I got from everyone of them was, we like to remain in the constitution, that we have something there that we can depend upon. If you turn us over to the legislature for our exemption, then we never know. We're not talking just about one exemption; if you'll notice, we're talking about all exemptions. Here we are trying to get a balance in our taxes; in our whole concept to ad valorem property taxes, and an answer to one of the questions of the Federal Constitution, why they do not have it. In the Federal Constitution we have no ad valorem property taxes. This is our state ad valorem property taxes that we are discussing now, but I submit to you, ladies and gentlemen, if you've ever defeated an amendment, for God's sake defeat this one at this particular time. Now, after we've gone through each one of these exemptions, and if you want to take out any of them, or if you want to add any of them, and then you decide that we should not have them, then all right. I will abide by this body and your decision. But, for God's sake do not, do not take it out before you've even discussed them, before you even know what is included in each one of these exemptions. It's far, far too important, not only to you as individuals, but to the State of Louisiana. So, I beg of you, for God's sake, defeat this amendment.

Question

Mr. O'Neill A.J., if this amendment is adopted, why don't you describe the scene that's going to be going on on Sunday mornings right before this constitution comes up for a vote?

Mr. Planchard I think that's self-explanatory.

[*Quorum Call: 107 delegates present and a quorum.*]

Further Discussion

Mr. McDaniel Mr. Chairman, fellow delegates, I rise to oppose this amendment for several reasons. I think the two previous speakers have hit on many of them. What I have to say might be a little amplification of what they had to say. I think

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in this one area here we can give more people more reasons to vote for this constitution than probably any other area. What we're talking about here is a cross section of exemptions; if you look at them, they embody the social institutions that most of us support; they deal with the economic interests of this state, which most of us feel they need to be adequately covered. There are reasons here. Look at each one of these individually. Look at those two pages of exemptions. Most of them have a reason in fact for being included there. Many, many of them, you and other people like myself, worked like the dickens to get included there, and were approved by votes of the people, in constitutional amendments over the years. Let's give the people the assurance that by us coming together here we're not undoing what the will of the people has been over these forty some odd years. There are good reasons for most of them, all of them, in fact. I can support them, them in their entirety. You look at these economic interests, look at the social portions of our nonprofit organizations, and they have a good reason to be there. I think when we decide here the matter of public policy, we're going to take these things from the warmth and safety of the constitution, and subject them the wet wool of the legislature to change by two-thirds vote. I don't believe that the people will buy it. I have heard, and from what little I have seen, as long as the legislature is in session, someone has got to be there to protect and to keep these interests. The implication is here, and I think it's real, that this could be a way of eroding the tax base or increasing the tax base; this five and three-quarter mills we just put on is on property. If, by a vote of the legislature we could begin to take these exemptions away, the effective tax base could be raised. This five and three-quarters mills, in terms of the income it would produce, could be much more than a larger limitation just on the property that's included now. I think there are many reasons for keeping them here. I can see that, over a period of time as exemptions are removed, we are going to gradually draw the line right up to the churchhouse door. I don't believe anybody wants to do that, and I urge defeat of this amendment.

Further Discussion

Mr. Landrum Mr. Chairman and fellow delegates, I rise to oppose this amendment. Very little could be added to what has been said already. I do believe that the churches or church-related schools and nurseries, not designed really to make money, but to help young boys and girls grow to become responsible citizens of this state and this country of ours...Someone mentioned about Avondale. Well, I have members of my church who are employees of Avondale, and while I think Avondale is serving a very useful purpose in this community, if I had my way, I would tax Avondale, before I would tax the church or church-related properties. Now, when I say church-related properties, I'm not talking about churches that have industries or churches that conduct and have supermarkets. These type of businesses are able to pay taxes. It's a money-making outfit, and I think they should pay taxes. But, now when you're talking about schools, nurseries, or hospitals, then, no, I don't think they should be taxed. My goodness, Charity Hospital right now it's hard to find a place for people to enter a hospital. I don't think you'd want to make that grave mistake of taking these areas out of the constitution. I think they should be in the constitution, and be proud that they are there. I think we should look even further. Many things that people are talking about today, to me are very serious things. We hear talk about our news media, doing away with them, and while I disagree with them at many times, I still believe that a free country should have a free press. We talk about the church. We have removed prayer out of the schools. I think these are dangerous steps that we're making. We're talking about removing the

president; we are hurting our country if we don't know it. I think we ought to take a little time, and find out what we are doing. I would hope that you would defeat this amendment.

Further Discussion

Mr. Guarisco Ladies and gentlemen of the convention, I think we came here with one purpose in mind, and that was to write a constitution, and while I know that we can't write a modern constitution because a lot of people feel that the people won't pass it, or a pure constitution, so to speak. I certainly don't think we should clutter up the constitution with these ridiculous legislative and statutory exemptions. Now, I don't think anybody in this room can deny that taxation, tax exemption is a legislative matter. It is nothing else but a legislative matter. Now, I will accept and recognize one single, sacred exception and support it, is a homestead exemption, but when you put gas line fuels, and bags, and bells, and sacks, more fuel rights-of-way by the state, and so forth, how in the world can that be constitutional dignity is beyond me. If you don't adopt this amendment, take my word, labor has one coming in; industry has something else coming in; and Mr. Pugh probably got Aunt Millie something for her, and so forth down the line. Louisiana already has more protections than any other state insofar as taxation is concerned. California just thought up, and Governor Reagan is all over the newspapers with the idea of a two-thirds vote of the legislature. They've never heard of that in California. We already have it; that's a protection. We've already protected the ad valorem taxation insofar as the state's concerned to a five and three-quarter mill limit. I am not going to give these people of the state these exemptions in the constitution merely because they refuse to grow up. I didn't come here to prostitute myself to those people, and if the constitution is a better document than they deserve, then too bad for them. I'll yield to any questions.

Questions

Mr. Fontenot Mr. Guarisco, you said this material was statutory. Don't you agree if this is statutory you're going to vote against it? Don't you agree that also some of that...what some people call verbal garbage in the Bill of Rights—was also statutory, which your committee came out with before this convention floor?

Mr. Guarisco No, but I think a lot of people--and that disturbs me--a lot of people worry more about their pocketbooks. I saw one delegate fly clean across the room like Peter Pan when we finished the homestead exemption, but I didn't see any excitement over individual liberties and dignity and freedom from discrimination, and equal protection of the laws.

Mr. Willis Tony, you referred to the home as sacred. What adjective would you modify the church or religion with?

Mr. Guarisco I'm not going to exempt the church, in lieu of worshipping thereof or trying to enter the Kingdom.

Mr. Willis Well, do you deny that it is as sacred as the home, if not more so; that it is the House of the Lord?

Mr. Guarisco I'm not afraid that a responsible legislature is going to by two-thirds vote take away the religious exemption.

Mr. Willis What about our responsibility?

Mr. Henry You've exceeded your time, sir.

Further Discussion

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Mr. Comar Mr. Chairman and members of the convention, I rise to oppose the Newton amendment for two primary reasons. Number one is, under this plan, the legislature by a two-thirds vote could override the action of the people who in the past have voted to place these exemptions in the constitution. I don't think it's right to give the legislature that power. The second reason is this, I have been working with the Committee on Revenue and Taxation over a period of about five months to try to clear up the language in Section (C) of the exemptions and to extend that language to certain things not covered in the present constitution. These would include the nonprofit hospitals, nursing homes, nonprofit homes for the aged, and other types of facilities which are being operated largely by religious bodies in this state of every denomination, and also by certain nonprofit corporations who are attached to, but not directly affiliated with churches. This is important that we exempt these types of institutions, because they do provide services for the people of the state that the state does not provide itself, such as childcare institutions and nursing homes, and the hospitals, of course, where the cost is skyrocketing. I think that the language that we have here, with maybe some minor changes, is good language, and it came out of committee by a fourteen to two vote. I would like to have Section (C)...I'd like to have everyone support Section (C), and defeat the Newton amendment. Are there any questions?

Questions

Mr. J. Jackson Mr. Comar, just awhile ago I was attempting to ask Mr. Newton about recreation centers and drug abuse centers. Under the provision as written, I believe it provides for drug abuse centers, but I'm not quite sure if it applies for recreational facilities that are not engaged for a profit, but to provide a service. Could you tell me where it's provided in here? If you want to do it at my desk, that's o.k.

Mr. Comar If it is not provided for, we can talk after we dispose of this other amendment, which I hope we will defeat. There are areas of concern such as the things, the drug abuse centers which you talked about, which have arisen since the 1921 Constitution. That's why we don't want to lock the door, and throw the whole thing back to the legislature.

Mr. Bergeron Emile, the main point that you brought out which struck home to me was that these exemptions which are in the constitution now and which we're talking about got their status by a voice of the people. Am I correct?

Mr. Comar That's right.

Mr. Bergeron Through constitutional amendments and the people expressed their opinions. So, you simply want to retain what the people have expressed their opinions on?

Mr. Comar That's right, and if we give it to the legislature, by two-thirds vote, they could override the entire will of the people by a two-thirds vote of the legislature.

Further Discussion

Mr. Chatelain Mr. Chairman and fellow delegates, I stand in opposition to the amendment, and I hate to do that, Walter; I really do. A lot of fine people are offering this amendment, but I think we came here for the purpose of writing a constitution, not to shirk our duties, and everything we don't like or is distasteful, turn it over to the legislature. I feel that this is a time to retain the friendship of the many people who are now exempted. I have this afternoon received two telegrams at my desk, and I've had five or six at my home yesterday urging me to support particularly Section (C) of this committee proposal. Let's look at this thing

realistically. We're speaking about the places of worship, residences of the clergy, places of burial, universities, schools, colleges, hospitals, nursing homes, homes for the aged, convalescent rehabilitation facilities. You're speaking of the physical and mentally handicapped facilities; you're speaking of all nonprofit corporations in this state. My fellow delegates, I would hate to think what would happen if we'd vote this amendment in. You'd have the greatest number of people knocking at your doors, at your offices, and calling you, and there'd be a deluge of people all over the length and breadth of this state pounding us, and I would dare that a great number of us would go to some of the neighboring states and get out of the State of Louisiana for shirking our duties. I strenuously urge that you defeat this amendment.

Question

Mr. Guarisco E.J., I guess if we were to pass... take these exemptions for these nursing homes out, that might be where you'd have to go after the people get after you, huh?

Mr. Chatelain I started not to accept your question, because I figured it would be something like that, knowing you as I do, my friend. You'll have to answer your own question.

Further Discussion

Mr. Champagne I'm going to be very brief, ladies and gentlemen; I simply want to say that for the first time you give a clear-cut decision to the people, if you should vote for this amendment. Granted we are possibly playing politics with this; this is an attempt to buy votes for the constitution, but after all that's the name of the game, getting enough people to vote for this constitution, and that's what I'm in favor of. If you take these exemption out, and you simply say, "In the old constitution, you had them, but in this one, they are not," then you're giving them all the reason in the world to vote against this new constitution. I will clearly and unequivocally state that if you wanted a perfect constitution, you would leave them out, but in many issues this is not a perfect constitution. It is the best constitution we can get, and have the people accept it. I suggest to you that we should have these exemptions in the constitution because it's simply a matter of numbers, and we get a new constitution only if enough people vote for it. I say that this is the way to get the votes, and this is the way that you will not have to explain at every crossroads and every place in the country, and say, "It is provided for you;" let's put these in and explain the other issues because we will have many, many issues to explain to the public, and I suggest you vote down this amendment and let's get about it and let's start putting these exemptions in the constitution.

Questions

Mr. Lanier Mr. Champagne, do you think we should perhaps buy some votes by putting the Bayou La-fourche Fresh Water District, or the Salt Lake Conservation District back into the constitution?

Mr. Champagne Mr. Lanier, those are not going to give us enough votes to put it in the constitution.

Mr. Lanier What about the Port of New Orleans? Do you think we could buy some votes by putting that in, Mr. Champagne?

Mr. Champagne I voted to leave it in, Mr. Lanier.

Mr. J. Jackson Provided that the convention votes down Mr. Newton's amendment, do you feel because of the various intricacies that are arising about including some particular concern for a category that may not be listed, that there ought to be a

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provision that says that the legislature can, by two-thirds vote, provide for the inclusion of other social agencies?

Mr. Champagne I definitely agree, and I think that's in the proposal, Mr. Jackson.

Mr. J. Jackson I looked for it under that section; it's not though.

Mr. Vick Sir, are you saying that this amendment is too futuristic?

Mr. Champagne I'm saying that this amendment is not realistic. I'm saying that this amendment is making a model constitution of which we have no intentions of selling to the people. I'm trying to be practical. I'm saying it's not realistic.

Mr. Roemer Unfortunately, we disagree here, Mr. Champagne. Are you trying to tell us that you support the watermelon concept of the committee proposal--a little something for everybody?

Mr. Champagne Let's say it this way, that I would like to--and I feel most people are like this, that they'd like to get a lot and take a little, but I think you can't get away with that. You have to give a little and take a little.

Mr. Chatelain Delegate Champagne, haven't you heard it said by some of these delegates that's around here now, that the more it goes, the less they'd trust the legislature?

Mr. Champagne I've heard that before I came here.

Further Discussion

Mr. Fontenot Fellow delegates, I also rise in opposition to the amendment. I'd like to address some of my remarks concerning what Mr. Guarisco stated. He stated that these exemptions were statutory in nature and not constitutional. I maintain that some of these past proposals we have passed are also legislative in nature and shouldn't be in our constitution. Nevertheless, they are in there for some particular reason, whatever it may be. Maybe the interest groups got to us, or whatever it is--they are in there. I don't see why we shouldn't put these exemptions in there. They may be legislative in nature. I agree with you. But they've been in the 1921 Constitution, and there have been amendments ever since leaving them in there. They have served their purpose. Mr. Guarisco maintains that the homestead exemption is sacred. Well, if you don't think the exemption on religious property is sacred, and if you don't think the exemption on agricultural implements and equipment is sacred in my area, and if you don't think the industrial tax exemption is sacred to some people, then you are very narrow-minded. All you are thinking about is the homeowner.

When I ran for delegate, believe it or not, I had more people in my area who were concerned about the exemption on agricultural implements and equipment. They didn't ask me to keep the homestead exemption or raise the homestead exemption. They just said, "Look, make sure that the legislature don't get to tax our agricultural machinery and implements."

I agree that we are trying to write the best document we can for our people in the state. I'm here for that very purpose. But I maintain that if you write the ideal constitution, it's not going to be adopted by the people in the state. There's just too many interest groups, too many factions; you've just got to give and take a little bit. The ideal constitution is not going to be adopted by the people in the state. Now I'm not trying to say that we're writing a less perfect document by including these exemptions. But I maintain we will have to include them to get this document passed. I think it's a political deal just like Mr. Champagne said. If you want to kill this

constitution, you take out all these exemptions and leave it up to the legislature. These people just won't understand the two-thirds vote being required to change them. All they are going to understand is that you took them out of the constitution. They had a safeguard right now in the constitution. You take them out, and I know in my area they're going to vote down this constitution. I might be with them.

I urge your rejection of this amendment.

Questions

Mr. Pugh Have we not steadfastly, through all of our deliberations, attempted to avoid any reference back to the 1921 Constitution to adopt in this constitution any of the provisions thereof by a general reference such as this?

Mr. Fontenot Yes, we sure have, and I wish we would continue doing this.

Mr. Guarisco Mr. Fontenot, would you agree with the statement or the adage that "the flowering thoughts of my mind are sometimes lost in the petals of my speech"?

Mr. Fontenot I'd agree to that.

Further Discussion

Mr. Winchester Fellow delegates, I am vigorously opposed to this amendment. In fact, I cannot go home if this amendment is not defeated. The unrest, the suspicion created, if this amendment is not defeated, would do more to defeat the constitution than any one act by this body. I've gotten hundreds and hundreds of letters, phone calls, been stopped on the street and asked to include the exemptions in the new constitution. These exemptions affect a large segment of the people back home. I think it is time to stand up and be counted. If we...if you would have wanted a perfect wife, you'd have married my wife. But, you compromised. So, let's compromise and put these things in the constitution. Let's don't take them out. I implore you not to.

[Amendment withdrawn.]

Amendment

Mr. Poynter [Amendment by Mr. Pugh]. On page 2, in Floor Amendment No. 1 proposed by Delegate Mire and adopted by the Convention on today, on line 6 of the text, after the word "property" and before the period "." insert the following: "used for public purposes"

So it'd really make that (A), or what used to be (B), read: "all public property used for public purposes."

Explanation

Mr. Pugh Mr. Chairman and fellow delegates, the purpose for this amendment is to be absolutely sure that upon the adoption of this constitution, that those properties which are acquired by governmental agencies continue to have ad valorem taxes paid by those governmental agencies upon such properties. As you all are doubtless aware, much of the homes, or many of the homes in our respective parishes, belong to either the Federal Housing Administration, Federal National Mortgage Association, or the Veterans Administration as a result of foreclosure proceedings. By their respective regulations, they follow and comply with the local laws of the respective states as to whether or not they pay ad valorem taxes. We cannot afford to lose this source of income. I suggest to you the simple adoption of the phrase "used for public purposes" will in fact nail down, without question, their requirement to pay these taxes.

I ask for a favorable vote on this amendment.

Questions

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Mr. Conroy Mr. Pugh, the present constitution simply uses the phrase "all public property," doesn't it?

[Amendment adopted without objection.
Motion to take up other orders adopted
without objection.]

Mr. Pugh Yes, I'm fully aware of that. I've also spoken with the general counsel in Washington, with the FHA and the VA, concerning the problem about the payment of ad valorem taxes in Louisiana.

Announcements
[I Journal 669]

[Adjournment to 9:30 o'clock a.m., Thursday, October 25, 1973.]

Mr. Conroy What is their position under the present constitution? That's what I'm interested in.

Mr. Pugh They are currently paying them, and I want them to continue to do so.

Mr. Dennery Mr. Pugh, what would the effect of your proposed amendment have upon those public buildings which turn over a portion of their property, for example, to blind people to operate businesses?

Mr. Pugh Turn over to what kind of people?

Mr. Dennery The blind people, the handicapped people, to run the sandwich shop or the cigarette counter. That's not a public purpose, then, is it?

Mr. Pugh There may be a question as to whether or not it's a public purpose. I say this, I asked Tom Casey about WASP to be sure they were included. I would rather have us make a small exception for that purpose than take any chance about losing all this revenue because they literally own thousands of houses in the State of Louisiana.

Mr. Dennery What about publicly owned vehicles? Would they be included when they are used by the people who drive them for...during the evenings, for instance?

Mr. Pugh Driving them where?

Mr. Dennery Other than on public business.

Mr. Pugh I believe that if a...you are talking about a federal?

Mr. Dennery Well, either a federal or a state or a parish or a municipal...municipality...

Mr. Pugh Of course, I'd be more...I'd be more opposed to their use of public property for personal businesses than I would the ad valorem concept, I'll tell you.

[Previous question ordered. Amendment adopted: 84-20. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendment sent up by Delegates Planchard and Comar.

Amendment No. 1.

On page 3, line 6, immediately after the portion of the word "gious" delete the semicolon ";".

Amendment No. 2.

On page 3, line 20, immediately after the word "law" and before the word "which" insert the word "and".

Amendment No. 3.

On page 3, line 23, immediately after the word "but" and before the word "exemption" insert the word "the".

Explanation

Mr. Planchard I think, of course, at this point, Mr. Chairman, it's self-explanatory. If you followed along with the amendment, it just makes it more easily understood, and I don't think there should be any question. It's purely a technical amendment.

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Thursday, October 25, 1973

Vice Chairman Casey in the Chair

ROLL CALL

[81 delegates present and a quorum.]

PRAYER

Mr. Tobias Lord, guide us in our work today; teach us that those who speak have something to learn from those wise enough not to. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation and other delegates, members of that committee:

A proposal making provisions for property taxation.

The status of the proposal is the convention has adopted, as amended, Sections 1 and 2 of the proposal. Presently has under consideration, Section 3, dealing with other property exemptions. In particular, the convention has been considering proposed amendments to Paragraph (C).

Amendment

Mr. Poynter The first amendment by Delegates Velazquez, Burson, Warren, Ambroise Landry, and Badeaux.

Amendment No. 1. On page 3, line 6, after the words "denominations and" and before the word "used" insert the words "religious orders".

Explanation

Mr. Velazquez Yesterday, there was a technical amendment by Mr. Planchard which removed the semicolon on line 6, following the word "gious," so that it now reads: "Property owned by religious denominations and used as residences for clergy or religious." In my district, we have a home owned by a religious order which is used as a residence for their retired members. In reading this, they did not seem to be covered. I know in other parts of Louisiana we also have retirement homes for elderly religious and for elderly ministers. This merely allows these places...these places which at the present time have an exemption to continue to have that exemption. It is purely a technical amendment. It changes nothing that presently exists. I urge its favorable adoption.

Questions

Mr. Burns Mr. Velazquez, would this religious order, would this include organizations such as the Masons and the Knights of Columbus?

Mr. Velazquez They are covered further on in this.

Mr. Burns Through what?

Mr. Velazquez They are covered further on. They would not strictly be a religious order. A religious order--I think they only exist--the Lutherans have them; the Episcopalians have them; and the Catholics have them. Nobody else...no other denomination, I believe, has a religious order, except those three denominations.

Mr. Burns Are you sure it wouldn't include them?

Mr. Velazquez I'm very positive of that. In order to be a member of a religious order, you must have taken, you know, a general vows. You must be a religious practitioner, other than a member.

Mr. Burns But, both of them own extensive property.

Mr. Velazquez Oh, no, this doesn't...this doesn't...all to do with Knights of Columbus halls, no, sir.

[Previous Question ordered. Amendment adopted without objection.]

Personal Privilege

Mr. Rayburn Mr. Acting Chairman and fellow delegates, I just want to call your attention to the many, many exemptions that we have in our proposal. We have some far-reaching, and I could not even tell you how far-reaching they are. There has been a considerable amount added that is not in the present constitution, today. I just wanted to call that to your attention because I can truthfully tell you that with the language that we have in our proposal, I do not know how far-reaching it will be to some extent--nonprofit corporations. I think that...that's highly questionable, what is and what is not a nonprofit. I just wanted to call the attention to the delegates and tell them to real...really proceed with caution in all these exemptions because some...we could make some mistakes that we'll regret on down the road.

Question

Mr. Mauberret Senator Rayburn, it says here, "owned by religious orders." I happen to have Station WVL, Channel 6, in my assessment district...Channel 4. It's owned by Loyola University. Would it go on the free tax rolls now, under this amendment?

Mr. Rayburn Dr. Mauberret, I really wouldn't know, and that's why I wanted to make the statement I did. We argued a lot of those things in the committee, and as you know, some attorneys said they would, and some said they wouldn't on various things that we have in this proposal. That's why...I personally am for keeping all exemptions we have for religious organizations and so forth, but I'm afraid with some of this broad language, we're going to take in a lot of things that's never been exempt, and it could be detrimental to the area that they're in.

Point of Information

Mr. Anzalone The copy that I have, line 5 on page 3 says, "places of religious worship; property owned by religious;" and then it says, "denominations," and now it says, "religious orders." I'm asking if this is the correct punctuation of this sentence, or if there are some changes that have been made in it.

Mr. Rayburn I think there have been some changes made. I believe the semicolon has been deleted, Mr. Anzalone. I think it has; I mean, we've made so many changes till I really can't tell you exactly what it does.

Mr. Poynter You are correct, Senator. You are correct, Senator Rayburn. That semicolon was deleted yesterday on a technical amendment.

Questions

Mr. Juneau Senator Rayburn, I think your point is very well taken. Don't you think it would be extremely beneficial, before we get into this, if someone were to outline what exemptions we presently have in our constitution and show what the changes are? I think that would be real beneficial to me.

Mr. Rayburn I really do, and I think the staff has prepared the language as in the present constitution outlining all exemptions. They also have the language that was added by our committee. Mr. Planchard and one or two other members were offered the amendments, and that's why I had asked them to explain them because I can truthfully tell you, in some

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instances, I have no idea. We did discuss it at length on the committee, and when I left, when I had heard the discussion, I was still lost. I have no idea how far-reaching some of them can be.

Mr. Juneau Well, my question is: wouldn't it be ...don't you think it would be a good idea if we'd have this total picture put out before we start single-shotting all these exemptions?

Mr. Rayburn I think it would. Mr. Chairman, if you have no objection, I would like to suggest that at this moment, since I have the microphone.

[Motion to suspend the rules to go out of the regular order for a ten minute explanation of Section 3.]

Point of Information

Mr. Velazquez I wanted to make a point of information before you went into the ten-minute special session. It's a point in reference to the point that Mr. Mauberret raised. My amendment only covered property owned by religious orders and used for the purpose of a residence for clergy or religious. It didn't cover things like WWL T.V. which is covered in another place, under a different classification. I just wanted that point made so that the people here wouldn't have the mistaken impression that we're trying to take wholesale lots of property off the tax rolls, which we are definitely not trying to do.

[Rules Suspended without objection.]

Point of Order

Mr. Avant I have here before me, the Committee Proposal No. 26 that says "Reprinted as Engrossed." It contains in Section 3, on page 3, what appears to be some typographical errors or grammatical errors in punctuation or something. Then, I understood somebody to say, "Well, all that's been changed." I just want to know: Is this the document that we have under consideration or is it some other document?

Mr. Poynter You've got the correct document. What was referred to...On yesterday, Mr. Planchard offered a set of technical amendments which did make some punctuation changes. In particular, if you'll look on page 6...you got your...page 6, right after the portion of the word "gious"...I'm sorry, not page 6, line 6 on page 3--page 3, line 6--that semicolon right at the beginning of the line after the portion of the word "religious" has been taken out.

On line 20 of the same page, Mr. Avant, at the beginning of the line after the words "taxation law" and before the word "which" the word "and" was inserted, on line 20. So, it would read, "taxation law and which are licensed". On line 23, at the beginning of the line, after the word "but," "same; but" the word "the" was inserted. Those were the technical changes that were made on yesterday. Now, or course, in addition to that, on yesterday, over on page 2, everything from line 12 on down through line 4 was stricken and replaced by an amendment offered, also, on behalf of the committee. I'm not sure whether Mr. Planchard was the lead author or Mr. Rayburn was, but it would now read, beginning, really, on page 3. You knock out the first four lines, and it reads: "Section 3. Other Property Exemptions Section 3. In addition to the homestead exemption provided for in Section 1 of this article, the following property shall be exempt from ad valorem taxation: (A) All public property," and by way of the amendment that was added yesterday, "used for public purposes. All public property used for public purposes." Mr. Pugh added that language.

Point of Information

Mr. Lennox It occurs to me that if my amendment is adopted, that it would shorten, considerably, any discussion of exemptions, at least insofar as they effect Paragraph (C).

Mr. Casey Mr. Lennox, we have already suspended the rules. We're in this ten-minute period, and I think we may waste more time by trying to go back into the regular order than to do that. Let's just go ahead and proceed, assuming that it's for a ten-minute period.

Explanation

Mr. Planchard Mr. Acting Chairman, fellow delegates, I refer you to your constitution in front of you, and I ask you to turn to page 274. There, you will find Article X, Section 4...or Section 2, Religious, Charitable, and Educational Property. You can read it as well as I can, but I'd like to read that article as it now stands in the 1921 Constitution...

Point of Order

Mr. Shannon Yes, sir. I thought Mr. Planchard was going to give us, line by line, the additions in this proposal over the...what's in the present constitution.

Mr. Casey Well, I won't tell Mr. Planchard how to handle it. I know he was instructed, under the suspension of the rules, to relate the information as to how the constitution exists today on exemptions. I would suggest that he clarify it as clearly as possible, and maybe line by line is the most clear...

Mr. Shannon Well, we all can read that here, but this is mixed all in here and there and yonder in this article, here.

Explanation continued

Mr. Planchard Mr. Shannon, I'll explain it as best I possibly can for you, and show you the deletions and the additions. Now, some of this article--of course, we started with the 1921 Constitution. We looked at it, looked at the exemptions that we have in the 1921 Constitution, and you can read it as well as I can. You will find that the first few sentences are exactly the same in the present proposal. However, we may have changed the wording for clarification, and I hope we have. The additions...the additions that we have put into this present proposal starts on line 12. Now, in line 9, of course, we had...we had referrals to, back in line 7, we had referrals to the places of burial. Now, we had a lot of discussion on places of burial, but places of burial was in the old constitution. We just clarified it to be sure that no one could go out and get a piece of property and claim it to be a cemetery and get tax exemptions on it. But, jumping down to the real additions to this particular section, I refer you to line 12. The only addition that we have in line 12, that they did not have in the 1921 Constitution, is the word "universities," as to make sure that there's no question that the universities, in addition to schools and colleges, would be included in the exemption. Jumping down to line 13, this is where the real additions have come in, and this is where a lot of questions arose. We included in the exemptions: "hospitals, nursing homes, homes for the aged, convalescent and rehabilitation facilities, institutions for treatment, rehabilitation and care of the physically and mentally handicapped and retarded, orphanages, child and/or day care centers which are organized as nonprofit corporations under the Louisiana Nonprofit Corporation Law." Now, at this point, your proposal reads: "or which," but that should read, "and which are exempt from federal and state income taxation law, and which are licensed and regulated by the State of Louisiana." Now, here is the area in which I consider we include the most. However, up to the point...up to this point, we were not taxing these organizations. It's just been in recent time, in fact, I think there's only one assessor that decided that hospitals were not exempt. So, without regard to the exemption that has been given to hospitals and nursing homes, began to set it on a per...or assessing it on a per bed basis without any regard.

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whatsoever, to whether or not it was a profit or a nonprofit organization. Now, we say, "Well, this is a big addition." But, look at what we're exempting here, and look back in the 1921 Constitution and see what was exempt at that point, and see what we took out. If you refer to page 274 of your constitution, I refer to about eight lines down. Not only schools and colleges were exempt at that time, but athletic and physical culture clubs, associations or organizations having and maintaining active membership of not less than one thousand members, being nonprofit sharing organizations holding in equipped gymnasiums, physical development classes open to all members, daily, except Sundays and holidays, under supervision of regular physical directors with juvenile and junior classes, promoting in all ages above eight years physical and health development. But, the exemption shall extend only to "property and ground thereto appurtenant, used for the above mentioned purposes, and not leased for profit or income." Now, we added that last few sentences to our proposal, to be certain that you could use the property that was exempt only for the purposes designated above in this section. They must not only qualify as a nonprofit corporation, but they must be for this purpose, and they must also qualify as a nonprofit corporation under the federal and the Louisiana income tax law. That narrows it down, believe me, to nothing but eleemosynary institutions and religious organizations that are giving something to the benefit to the people. We are not...we are not having to pay for that by our taxes, I assure you. The only thing we can do, if we do put a tax on these particular people that are giving their services and their time for the development of people--the old and the infirmed--then, certainly all we're doing is we are raising their inability to be able to operate. I don't think any of us could consciously want to tax these individuals or this type of property. I'm open for questions, Mr. Chairman.

Questions

Mr. Stagg Mr. Planchard, in...I note that in your section on exemptions you cover hospitals that are nonprofit corporations or are exempt under state and federal income taxation provisions. In Shreveport, the Schumpert Memorial Sanitarium is owned and operated by an order of Catholic sisters and up until this year have never been placed on the tax roll. The assessor of Caddo Parish, this year, did so, and that hospital has now gone to court about it. Another hospital, the Willis-Knighton Clinic is a nonprofit corporation under our laws, has never been subject to taxation, and this year, the assessor has placed them on the tax rolls. In your opinion, is the language which is proposed in this section designed to specifically exempt both that Catholic-owned and operated church-type hospital and the Willis-Knighton Clinic which is operated by a nonprofit corporation?

Mr. Planchard Yes, it is.

Mr. Stagg Thank you.

Mr. Pugh Was it your intention to exempt private foundations?

Mr. Planchard No, it was not.

Mr. Pugh Then, what you would do is exempt only those foundations who do not pay any income tax as distinguished from a private foundation that pays a four percent federal income tax. Is that correct?

Mr. Planchard That would be correct.

Mr. Burns Mr. Planchard, following up the question Mr. Stagg asked you, just now, let's take the Knight...the other named hospital which is, apparently, a nonprofit corporation. I don't know how it operates, but I'm just using that as an example. I was going to ask you this question anyway. A hospital that even though it's privately owned, but it's a nonprofit corporation, but suppose they charge the

forty and fifty dollar a day going fee for a room and have no charitable services whatsoever. Do you mean that that will be exempt under this...this section?

Mr. Planchard I...to answer your question, I think that they have to have some charitable undertakings in order to qualify under the federal regulations. That...of course, we're not trying to help private organizations just because they are nonprofit. That's why we included, and they must qualify under the federal regulations as far as income tax is concerned. They have to have charitable undertakings. They just can't be...

Mr. Burns It's a going thing now, that is over in my region, for doctors to get together and build a little hospital or a clinic, they call it. The chances are they incorporate under a nonprofit where they have no charitable rooms or anything. Would they be exempt under this?

Mr. Planchard We have no intention of exempting those, no.

Mr. Burns How about the privately owned nursing homes that charge four and five hundred dollars a month with no charitable rooms?

Mr. Planchard If they have no charitable undertakings, they they can't qualify either.

Mr. Riecke Mr. Planchard, I had a long distance call asking me to determine, definitely, if the Y.W.C.A. and the Y.M.C.A. were covered under our protection. The Y.W.C.A. called me and asked me to determine that...or the Y.M.C.A., too, I guess, but I didn't hear from them.

Mr. Planchard Well, I think that we certainly intended to have the Y.M.C.A. and the Y.W.C.A. included as an exempt...

Mr. Riecke Well, I looked at it, and it wasn't clear to me, and I'm just wondering. Where would they be covered; under what section of your...

Mr. Planchard Well, I think they can be either considered as "clubs organized for charitable and fraternal purposes and practicing the same."

Mr. Riecke I can't...come again?

Mr. Planchard I say, I think they would fall under the organized such as "lodges and clubs organized for charitable and fraternal purposes and practicing the same."

Mr. Riecke Have there been any court interpretation of that? Is that in the old constitution?

Mr. Planchard No, I don't think there's ever had to be any court interpretation of it.

Mrs. Zervigon Mr. Acting Chairman, my question is for you. The purpose of the suspension of the rules is only to discuss Paragraph (C) of this section? Mr. Acting Chairman.

Mr. Casey I'm sorry, Mrs. Zervigon, what is your point?

Mrs. Zervigon My question is of you. Was the suspension of the rules only to discuss Paragraph (C) of this section?

Mr. Casey It was, Mrs. Zervigon, Section 3, Paragraph (C).

Mrs. Zervigon O.K. Thank you very much.

Mr. Anzalone Mr. Planchard, the first sentence beginning on line 5 now reads "Places of religious worship, property owned by religious denominations and religious orders used as residencies for clergy or religious." Is that correct?

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Mr. Planchard That's correct.

Mr. Anzalone Now, I further ask you, Mr. Planchard, does this...or is it the intent of your committee that this sentence would place on the tax rolls places like WWL-TV?

Mr. Planchard ...We had no specific intention of WWL-TV. I don't think WWL-TV...well, I don't know. I don't know what their setup is, business wise, but if it's for income or profit then they aren't going to be exempt either. But, if it's for religious purposes...Joe, well excuse me, what you just read to me is used as residences for clergy or religious, not WWL New Orleans; it's not included in that sentence.

Mr. Anzalone Well, Mr. Planchard, since we are going to make this thing clear and understandable to the public, let me ask you the specific question since you have served on revenue and taxation for the last nine months. Under the provision, as is now written, is WWL-TV going to go on the tax rolls?

Mr. Planchard You will have to ask your assessors from that area. I don't know.

Mr. Velazquez Did you know that everyone in the city of New Orleans knows that WWL-TV is not a residence for clergy or religious, and that it is on the tax rolls and has been on the tax rolls for many years?

Mr. Planchard Well, I'm glad to know that also.

Mr. Comar My question was similar to Mr. Velazquez. We have checked with the assessor from that area and WWL-TV is on the tax rolls, is that your understanding?

Mr. Planchard And, we have no intention of taking it off the tax rolls.

Mr. Casey That was just brought out by Mr. Velazquez.

Mr. Lennox Did you know, Mr. Planchard, that if my technical amendment passes WWL-TV will stay on the tax rolls?

Mr. Planchard You're right, Mr. Lennox.

Mr. Chairman, to further clarify Mr. Lennox's statement or questions, he does have an amendment which he considers is a technical amendment; it will be in line 25 after the word "least": it says "or operated commercially for a profit." So, that will be a further explanation that WWL-New Orleans cannot get off without paying taxes.

Amendment

Mr. Hardin [Assistant Clerk] [Amendment by Mr. Lennox] On page 3, line 25, immediately after the word "least" delete the remainder of the line and insert in lieu thereof the following: "or operated commercially for a profit."

Explanation

Mr. Lennox Ladies and gentlemen of the convention, I believe this to be an amendment technical in nature, and I further believe that at least a substantial majority of the Committee on Revenue, Finance and Taxation agree with that conclusion. They will, in turn, endorse the adoption of the amendment. The amendment simply acts to establish, clearly, the intent of this convention to prohibit ad valorem tax exemptions on properties owned by eleemosynary corporations and used in commerce for profit in competition with enterprise.

Questions

Mr. Conroy Mr. Lennox, at the present time under the present provisions of the constitution, privately owned schools which have a curriculum comparable to the public school curriculum are exempt from ad

valorem taxes. Would your amendment in any way affect that status?

Mr. Lennox Absolutely not. I think that any privately owned school in the elementary, secondary, or for that matter, higher education which now has the exemption from ad valorem taxes would continue to enjoy the same exemption.

Mrs. Zervigon Mr. Lennox, is this your amendment that's a full paragraph long?

Mr. Lennox No, Ma'am. This is an amendment with five words "or operated commercially for profit." and I think it deletes the last two words of that particular lettered paragraph as well.

Mrs. Zervigon Well, I appreciate your reading it again, because I didn't have a copy. The question I want to ask you is, are you sure you can put those words in that place and allow Ochsner Clinic, which is a nonprofit corporation, to be tax-exempted and still let WWL be taxed. How do you define "profit" in that situation?

Mr. Lennox Well, before I can answer your question, I have to understand that now...I must admit that I do not understand your question.

Mrs. Zervigon Well, you're talking about exempting things that are not operated commercially and for profit, right?

Mr. Lennox Well, I think the reverse is the case, but, let's go ahead on that premise.

Mrs. Zervigon Now, I had too many negatives in. WWL is operated for a profit. How you define "profit" when they make money on their advertising? Does it go back into the religious order?

Mr. Lennox Well, my amendment, and I think I understand your point now; my amendment would give no consideration whatsoever to the ultimate end of the profits. If a religious order operates an office building for profit in competition with an adjoining office building and the profits from the office building operated by the religious order go to the religious order, they would still pay taxes just like any other commercial citizen.

Mrs. Zervigon Well, then, Ochsner Foundation Hospital where there is some money made, but it's paid out in salaries to the directors of the foundation, and, therefore, not considered profit, that wouldn't come in the same category?

Mr. Lennox No, the difference here Ochsner Foundation Hospital is not in competition with enterprise as nearly as I know.

Mrs. Zervigon Well, I have two questions on that point. One, you don't say in your amendment--as I understand it and as I say, I didn't get a copy--that it depends on what they are in competition with but rather what they do. Is that not correct?

Mr. Lennox Well, I regret that you didn't get a copy of the amendment. If it would help any, I'll read it for you. It was prepared by the staff on my instructions, and I think it fits in this place properly.

Mrs. Zervigon But, you're not defining WWL by... with whom they compete, are you? You are defining them on their own terms?

Mr. Lennox I'm not defining WWL-TV at all. I am simply saying that corporations, eleemosynary corporations engaged in commerce in competition with enterprise shall enjoy no advantage by prohibiting ad valorem taxation exemptions from those corporations.

Mrs. Zervigon Well, is not Ochsner Clinic, for example, in competition with proprietary institutions like the Montelepre Clinic?

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Mr. Lennox I do not believe the case, and I believe that there are other exemptions that cover hospitals adequately.

Mrs. Zervigon Thank you. I understand what you're out to do. I'm just not at all sure that this does it.

Mr. Lennox Well, I'm sorry you're not sure. I'm sorry I haven't been able to convince you that you should be sure.

Mr. Dennis Mr. Lennox, I have the same problem that Mrs. Zervigon has. I have a hospital in my parish operated by a Catholic order. They do charge people money for going there and they do make an operating profit which goes back into the hospital; it's reinvested. In other words, they don't pay dividends to anybody, but they do...you could say they make a profit, at some point, which is plowed back into the hospital to keep it operating. Now, wouldn't this make it impossible for that hospital to enjoy a property tax exemption, and why not?

Mr. Lennox No, sir. It would not accept the property tax...it would not affect the property tax exemption on any nonprofit hospital in this state. I am a trustee of the Methodist Hospital in New Orleans. I would have the same problem that you say you have in your local area. If I thought for one minute I would be imposing ad valorem taxes on the Methodist Hospital in New Orleans, taxes they can ill-afford to pay, I wouldn't be proposing this amendment now.

Mr. Dennis Well, don't you think that you should more carefully define what you mean by "a profit" in order to be sure to do what you are trying to do?

Mr. Lennox I think it's adequately and carefully defined at the moment. Now, if you disagree, I'm sorry.

Mrs. Warren Mr. Lennox, if a hospital, nonprofit, has what is known as maybe a hotel-motel reservations for people coming in that's not in the hospital--like people come from other states--and they come in and they rent what you call a suite. Is that taxable or nontaxable?

Mr. Lennox I would say it would be taxable. If it's operated in competition with commerce, it would be taxable. I would like to add that those facilities would not be used in any way involving patient care.

Mr. Dennery Ed, my question is directed at what does the final clause in this paragraph, which you have amended, to what does it apply? It says "But, the exemption shall extend only to property and grounds thereunto appurtenant." Now, does that apply to everything in Subparagraph (C)?

Mr. Lennox I'm not an English major, but that's my interpretation that that semicolon following the word "same;" and when you read the balance of lines 23, 24 in their full context and add to that my amendment; it would affect all of the foregoing up to line 5.

Mr. Dennery Well, that's my interpretation also, Mr. Lennox. But, then, how do you account for your statement that all nonprofit hospitals, for example, which are listed in line 13 would automatically be exempt? In other words...

Mr. Lennox Because, I believe a nonprofit hospital does not operate its facilities or lease its facilities in competition with enterprise.

Mr. Dennery But, that's not what you said in your amendment. You merely said "are not operated for profit." Is that correct?

Mr. Lennox That's correct. I don't believe a nonprofit organization operates for profit.

Mr. Dennery Well, you're talking about for the profit of the stockholders or for individuals...

Mr. Lennox Well, that's the definition of profit. Now, I think you're talking about cash flow and not profit where a hospital sustains at the end of a given period, the income of the hospital exceeds its expenses. That is a cash flow; that's not a profit. A nonprofit organization does not earn profit as I understand the law.

Mr. Dennery Well, there may be some question about definition. I would be inclined to think that the questions previously asked you are...

Mr. Lennox I'm sure some lawyer will raise that question before it's all over. But, I can tell you this, that if you adopt this Paragraph (C) in its present form, you will be fifty years deciding what it means.

Mr. Duval Ed, I'm just trying to find out exactly what the intent of your amendment is. As I understand it, the present constitution provides for an exemption, except for "leased property." Is that right? You are adding the word "operated." Is that right?

Mr. Lennox Correct.

Mr. Duval Now, when you say profit, if a corporation is exempt under the...for taxing purposes has an exemption, that would not necessarily be the criterion. Is that true?

Mr. Lennox Correct. I don't want to beat WWL-TV to death, but, maybe this is the best example. WWL-TV or the Society of Jesus owns the physical properties in which WWL-TV are housed. They do not lease them; they own them themselves; they operate their own commercial corporation there; they are on the tax rolls. I just want to be sure that that corporation and other similar corporations competing with enterprise stay on the tax rolls.

Mr. Duval Now, is WWL a separate corporation from ...

Mr. Lennox I believe it to be a separate corporation.

Mr. Duval Well, then wouldn't it be on the tax rolls?

Mr. Lennox I'm not sure that that's the case, or I wouldn't have this amendment before you.

Mr. Duval All right. Now, how do we determine when...what is the criterion to be used to determine if an outfit, if a corporation is a profit making corporation, since it may be a nonprofit corporation for legal purposes, in that it doesn't distribute dividends to its stockholders and other such criterion? How do you determine when it's...

Mr. Lennox Again, I say to you, a nonprofit corporation does not sustain a profit.

Mr. Duval In other words, on the books of that corporation, any corporation that's in the red is fine. But, if it's in the black, it's a profit making corporation.

Mr. Lennox It, also, does not sustain a loss. It merely has a deficit or it has a cash flow beyond its expenses.

Mr. Duval All right. Does that mean it would have to distribute all of the surplus back into salaries or back into capital outlay?

Mr. Lennox Absolutely not. Do these corporations pay federal and state income taxes? Do they report to the state and to the federal government their incomes and expenses and pay taxes thereupon? I submit to you, they do not.

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Mr. Duval So, you are saying that these cor...in order...these corporations will be the ones...if a corporation puts all...back all of its profit into the corporation or into salaries would then it be ...not come under your amendment?

Mr. Lennox Absolutely not. I think it would have to be a bona fide nonprofit corporation.

[*Motion to recess for five minutes adopted without objection.*]

Recess

[*Quorum Call: 93 delegates present and a quorum.*]

Questions

Mr. De Blieux Mr. Lennox, I would like for you to give me an illustration of how this amendment of yours would apply to a nonprofit corporation engaged in some activity that might be considered in competition with private enterprise.

Mr. Lennox Well, first, I think the definition of commercial activity--there is substantial jurisprudence in this state and elsewhere that commercial activity is defined as that which is on a reasonably continuous basis. If you had a church fair for two or three days at St. Francis of Assisi Church, that would not be considered commercial activity unless it's on a continuous day-to-day basis which, I believe, would not be the case in those instances. Now, I'm not sure that I answered your question.

Mr. De Blieux Now, if you had a church that operated a bookstore that might be across the street from a private bookstore, that bookstore would not be exempt, as I understand it.

Mr. Lennox It would not be exempt.

Mr. De Blieux Now, we have some hospitals here in Baton Rouge that have gift shops in those hospitals. Under your definition those gift shops would not be exempt?

Mr. Lennox I think they would be exempt.

Mr. De Blieux Why would they be exempt when the bookstore would not be?

Mr. Lennox Because, the income from that is usually by the hospital auxiliary as is in the case with the hospital I'm familiar with and that is a nonprofit corporation in itself.

Mr. De Blieux Well, if they are operated by the hospitals, even though they might be as a part of the hospital? I'm just asking that question.

Mr. Lennox I believe that they would continue to enjoy exemptions. The gift shops are actually in the hospital facility itself; it would be difficult, if not impossible, to say which part would be exempt...which part of a building would be exempt and which part would not.

Mr. De Blieux Well, to give you another illustration here. Our Catholic Life Center is the home of the diocese, the chancellor and everything. They have a bookstore. Would the operation of that bookstore be exempt, or would it not be exempt?

Mr. Lennox I'm sorry, Senator, I'm having difficulty hearing you.

Mr. De Blieux You understand what I'm speaking about?

Mr. Lennox I did not hear your last question. I'm sorry.

Mr. De Blieux The Catholic diocese has a bookstore in which they sell religious books of all kinds,

school books and so forth.

Mr. Lennox Where is that bookstore located?

Mr. De Blieux It's located in...is a part of the Life Center itself; that is where the chancery offices and so forth are located.

Mr. Lennox It's part of the chancery office?

Mr. De Blieux It's part of that...

Mr. Lennox I would say it would be exempt. On the other hand, if that same bookstore were located in the central business district of the city of Baton Rouge and it was selling books, however limited the scope might be in competition with enterprise, it would not be exempt.

Mr. De Blieux Well, in other words, your exemption would depend upon where the facility is located, rather than who owns it and operates it?

Mr. Lennox Perhaps that's true.

Mr. De Blieux Now, we have the same situation with L.S.U. L.S.U. operates...it's a university, and it operates a bookstore which is in competition with bookstores right there located next to the campus?

Mr. Lennox So?

Mr. De Blieux Would it be...would L.S.U. be exempt or would it have to be taxed?

Mr. Lennox I think L.S.U. would be exempt.

Chairman Henry in the Chair

Mr. De Blieux You see the problems here?

Mr. Lennox In a different light.

Mr. Stinson Mr. Lennox, don't you think maybe if you left off the last words "for a profit," would that serve the purpose, or you don't want to serve that purpose?

Mr. Lennox No, I did not...I wanted to leave those words on, specifically, but I did leave off the two last words in the committee proposal which said "an income." I think if you left the committee proposal intact and the words "an income" remain, you would really have a problem. I think all of your little church bazaars creating income where you have similar commercial activities within nearby range might be affected by ad valorem taxation.

Mr. Stinson I understand in New Orleans some fraternal organization has an office building that they rent. Now, if they take the rent and spend it for the purpose of the organization, that would not be for profit?

Mr. Lennox It wouldn't make any difference to me what they did with it. If it...

Mr. Stinson It wouldn't to you, but what about the law?

Mr. Lennox My interpretation of what my amendment would do; it would require that a religious or an eleemosynary organization which owns commercial properties and operated those properties or leased those properties in direct competition with enterprise would be prohibited from having ad valorem taxation exemptions.

Mr. Stinson I, also, understand in New Orleans that there is a church, or churches, that operate parking lot facilities in competition with private. If they took the proceeds of that--and all churches need more money and no church operates at a profit--could they continue in that without being taxed?

Mr. Lennox Mr. Stinson, if there is a church

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operating a parking lot in competition with commerce in New Orleans, then that church ought to be taxed just like its competitor. I don't care what happens with...

Mr. Stinson I agree with your argument. But, will this take care of that, wouldn't this...

Mr. Lennox I think it would. That's exactly my point.

Mr. Champagne Mr. Lennox, would you agree with me that probably we will never settle all of the problems of the world, even if each and everyone of us would ask you a question today?

Mr. Lennox Absolutely.

Mr. Champagne Thank you.

Mr. Lennox I'm going to add that I'm going to get someone else to handle my technical amendments in the future.

Mr. Jenkins Mr. Lennox, you know I certainly favor what you are trying to do. But, my question is, do you think that as a convention we have devoted enough attention and study to this whole question in this Section 3 for us to, first, understand what we are voting on as a whole and, second, to be able to come up with something that makes sense? Or, do you think we need to devote some more time and study to this, maybe by passing over it?

Mr. Lennox Let me answer your question. I think, perhaps, you have asked two questions--let me answer them in turn. One, I, for one, have not devoted enough time to the matter of ad valorem taxation to know all the answers. But, I'm not sure that if we stayed here for three or four years--and I oppose that with all the vigor within me--that we would ever have all the information you and I think we should have. I am going to oppose if there is ever any movement to extend the deadline on this convention beyond January 4, that's when you are really going to hear from me.

Further Discussion

Mr. De Blieux Mr. Chairman, ladies and gentlemen, from the questions that I have propounded to Mr. Lennox, I am of the opinion that we are getting into a category which is going to be very hard to administer and define. Without some recognition of a right to the legislature to provide the rules and regulations under which this amendment would operate, I just feel like we would be better off if we did not adopt it. Therefore, I'm opposed to this amendment because as you can clearly see from Mr. Lennox's reply whether or not some of these exempted categories would be applicable...would be where they would be located, not who owned them or operated them, but where they would be located. I think that's a poor definition to define a commercially operated organization or nonprofit organization, insofar as the status of this particular exemption is concerned. I just feel like that we are opening up something which without some legislative interpretation, or legislation, or a PAR interpretation; we would be in litigation all the time on this particular section. I think we would be better off if we did not adopt this amendment. It's...like we have the proposal at the present time, it applies to where an organization--a nonprofit organization--leases property, yes, certainly that should be subject to ad valorem taxes. But, where it might have a building in which it is operating as an auxiliary--some bookstore, or some gift shop, or something of that sort--more of a convenience to its organization and members than it is for making a profit, I certainly think we would be engaging in a dangerous activity to try to cover that. Therefore, I ask you to vote against the amendment.

Questions

Mr. Womack Senator De Blieux, might this not go

[1920]

far enough to put all of Tulane University on the tax rolls--everything they own?

Mr. De Blieux What is that?

Mr. Womack Couldn't this possibly go far enough to put everything Tulane University owns on the tax rolls?

Mr. De Blieux Well, it certainly could. Any activity that would be conducted in competition with somebody who does the same thing commercially, it might be--could well be.

Further Discussion

Mr. Fontenot Mr. Chairman, fellow delegates, if you would pay close attention, I think we could kind of clear up some of these problems against the amendment.

I'm also against the amendment. We fought this same section in committee, I guess, for three or four days. We just went continuously trying to figure out exactly how to handle these particular situations. Now, if you follow carefully with me, you got an exemption for these hospitals, nursing homes, homes for the aged, and all these religious organizations. Then when you get down to line 23 it says, "but the exemptions shall extend only to property and the grounds thereunto appurtenant, used for the above mentioned purposes, and not leased for profit or income." Now, first of all, to get the exemption, you have to be--if you are a hospital or nursing home--you have to first meet the standard of the Louisiana nonprofit corporation. Then you also have to be exempt from federal and state income taxation. Now, if you operate it yourself, you're going to be exempt if you meet these two qualifications. Now, if you don't operate it yourself, the committee was trying to keep these organizations that are nonprofit, and don't pay any income tax, from leasing it to somebody else; and, therefore, we put in the words, "and not leased for profit or income." So, if you operate it yourself, and you follow the standards in the particular section, then you're not going to be taxed on your property. Otherwise, you will be taxed on your property.

Now the way I see it, line 23, "but the exemption shall extend only to property and grounds," etc..., applies to the whole paragraph. So, where you have these religious organizations doing...operating things that would compete with industry or the local businesses, then they will be taxed. So I don't see any problems. I don't think we need to adopt Mr. Lennox's amendment. I think the committee came out with the words that were better suitable for the whole problem that we will face. I think it would be better to reject the amendment and stick with the committee proposal. Further, I think it would possibly be better if we went and looked at Mr. Shannon's amendment, which would clarify that line 23 and make sure that that last sentence applies to all the above part of the section. I think that would clarify the problem that we have. I think it would be better. I think we could move on a lot quicker.

If there are no more speakers, I move the previous question.

[Previous Question ordered.]

Closing

Mr. Lennox Ladies and gentlemen of the convention, to be very brief, I think the key word--Mr. Fontenot raised a point that I think, perhaps, I didn't clearly handle--the real deficiency in the committee proposal as I see it is the word "leased." It does not go far enough. I think when this becomes... when it comes time to interpret the meaning of this judicially, that the word "leased" is going to mean "leased" and nothing else.

Now in conclusion, I submit to you that the intent of this amendment simply and clearly is to establish the intent of this convention to prohibit ad valorem tax exemptions on properties owned by

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eleemosynary corporations and used to create a profit in competition with enterprise.

Thank you. I urge your support, and I ask a record vote.

[Amendment adopted: 66-47. Motion to reconsider tabled: 58-48.]

Amendment

Mr. Poynter The next amendment is sent up by Delegate Lowe.

Amendment No. 1

On page 3, line 19, immediately after the word "Law" and before the word "which" delete the word "or" and insert in lieu thereof the word "and".

Explanation

Mr. Lowe Mr. Chairman and ladies and gentlemen of the convention, I don't mind telling you that I think we are dealing with something highly complicated. I hope when we finish this particular part of the section that we won't lay it on the table. I'd like to take a look at it after we've done what we've done and been able to go back and talk to some people about it.

Now, when we discussed this in committee and Mr. Planchard came up with his proposal, I was concerned as everyone else was that we wanted to exempt certain organizations, and there were others that we did not want to exempt. If we could put that in the proper context and format, I'm sure we would be where many of us want to be. My amendment merely strengthens, I believe, assuring that we do, in fact, exempt some of the people that we want to exempt. On line 19, if you read with me—we could start at 17--it says...it continues saying "day care centers which are organized as nonprofit corporations under the Louisiana profit...nonprofit corporations law." It says "or." But my amendment changes it to "and" so that you would have to meet two criteria: "and which are exempt from federal and state income taxation." Now I'm not trying to tie the exemption to income, because I don't believe the exemption should be based upon income. What I'm trying to build into this section is a continuing policing provision as to which corporations will apply. The federal income tax law presently has very technical provisions for meeting standards whereby you are exempt. What I'm saying is that at least we would have some criteria. An organization would have had to file for an exemption letter with the Federal IRS, have received that exemption letter, and then we would know at least that they had met certain requirements spelled out by the IRS. At the moment, the IRS is being very diligent about requiring exemption letters. They are policing, very diligently also, the taxing of these corporations. Many of these corporations get involved in unrelated business activities. When these corporations get involved in unrelated business activities, it's possible that they have taxable income, because gross income of any unrelated trade or business which is regularly carried on by these exempt organizations is subject to income tax. Now, there's a deduction that's allowed for any ordinary and necessary operating expenses in connection with producing that gross income. So, actually, what I'm trying to say to you is that we're building into this some policing provision to make sure that we continue to exempt those organizations that we are aiming at.

Now I'm coming with another amendment that says that they should be completely--instead of just being "or exempt from federal and state income tax," they say "completely exempt from federal and state income tax." Now, frankly, I'm not sure what I'm doing, and whether I'm affecting private foundations or not affecting private foundations. I'm concerned about that. But, if we have to deal with this today, I just have to go with the best I think I can go with. If we have some time and we don't lay it on the table, if we've made some errors maybe we can come back and correct them. I've talked to some different people that think that we're not doing violence, and one or two think maybe we are. I'll be perfectly frank with you: I'm confused.

So, I ask you to vote for my amendment, to at least put into this constitution a provision that we'll at least know we're gauging whether an organization is exempt or isn't exempt.

I yield to any questions, Mr. Chairman.

Questions

Mr. Jack Mr. Lowe, on your amendment, let me ask you this. I understand from some people that on these nonprofit corporations the federal government does have a small income tax. Is that right? You're a CPA. You should know.

Mr. Lowe Well, actually, what happens is if you have some unrelated taxable income, you are organized as a tax-exempt organization and you file for an exemption letter, and you meet certain criteria, and this is what you say you'll be doing. Then if you come up, and a small part of what you're doing on a regular basis is unrelated to what you said you were going to be doing, then you have some gross income from some unrelated business activity. If that income from that unrelated business activity is not completely offset by ordinary and necessary business expenses related to that activity, well then you could have taxable income.

Mr. Jack All right. Let's...so I'm thinking specifically of the Willis-Knighton Hospital in Shreveport which is nonprofit.

Mr. Lowe Which is a private foundation.

Mr. Jack All right. Private foundation--nonprofit. Now, with your amendment, if they don't have any income from any outside thing, and it's just from the hospital, they'll be exempt. Is that correct? Under this?

Mr. Lowe As I appreciate it. The laws were changed on private foundations just recently, in the last two or three years. They are very complicated. I don't mind telling you. I don't follow the private foundation laws closely because I don't deal with any private foundations. But the laws are there, and I'll be...I hasten to tell you that what we are doing today could possibly affect the private foundations. I'm not sure.

Mr. Jack But...let me ask you this. Don't you think it's a good idea to exempt a hospital that qualifies under the Louisiana Nonprofit Corporation and puts all of their income into paying for the upkeep of it and all, has no outside income? Don't you think that's worthy of an exemption?

Mr. Lowe Well, Mr. Jack, I know you'd like for me to say yes. I really didn't rise to support the exemptions being in the amendment...the constitution...or oppose it. The thing that I arose for was that if we are going to exempt certain organizations, I hope we don't extend it too far. That's the main purpose for which I arose.

Mr. Jack All right. I have my last question, and I hope people will listen to this because to me this is important. Now Mr. Lowe, we are writing...Mr. Chairman, I ask for some order because, while I'm not talking up there, I think it's important. Now this is important, and I hope everybody will listen. Now we are writing in this constitution an exemption for Louisiana things. Now if you change "and"... change "or" to "and" which are exempt from federal tax--let's take that--we are not going to be dependent whether this exemption stays on Louisiana law. We're going to be letting the federal government decide what our exemption is. In other words, if the federal law changes their income tax and starts taxing private things like this that come under nonprofit even if they don't make it in something else, then this is going out the window. So, we're going to let the federal government run us on whether we have the exemption or not. Doesn't that amount to that if we pass your...amendment?

Mr. Lowe I would guess that the effect of what

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you say is correct. But, on the other side of that, Mr. Jack--I'm not an attorney--but I would assume that almost anyone can go and organize under the Louisiana Nonprofit Corporation Law. Now once you've done that, maybe you can do nothing else to meet any other criteria and go on your merry way. Whether you are actually exempt or not exempt is not left up to how you are organized, but what happens after you are organized. So, you're organized under those acts. You do nothing that is nonprofit, and yet we're still exempt. Now I don't like the federal government getting involved, but I don't have any other criteria to put in this constitution if we're going to deal with this particular subject here. I'm not ready to just throw the door wide open to any organization doing anything that they want to do, at any time they want to, and we not put ad valorem taxes on them.

Mr. Avant "Monday," I think you and I are on the same wave length. If you don't put that "and" in there, if you leave it "or", any lawyer can sit down and have his secretary type up a corporate charter and say "we are organizing this corporation under the Louisiana Nonprofit Corporation Law," whether in fact it will be operated later on as a nonprofit corporation, and you've got an exemption. Right?

Mr. Lowe That's what I told them in committee, and the "or" was supposed to have been taken out; and inadvertently it wasn't. I'm glad you, as an attorney, have stood up and asked the question because that's the way I appreciate it.

Further Discussion

Mr. Planchard Mr. Chairman, fellow delegates, in all fairness to Mr. Lowe, I want to state at this time that when the committee considered this proposal, we did change the word from "or" to "and." But it has come out in the proposal "or." So, I do want to point it out that we had changed it to "and." That's what we really voted on. If we should consider the "or" better, of course, I'll leave that up to your interpretation. But, in fairness to Mr. Lowe I do want to make that statement that it was intended for that to be "and" rather than "or". We wanted both qualifications rather than one or the other.

I would like to point out to some of you at this particular time, we are worried about whether or not you are a noncorporation, or you qualify under the Nonprofit Corporation Law. Think of how simple it will be if we begin to have nursing homes, hospitals, etc., qualifying under Nonprofit Corporation Law of this state. It is a simple matter for the legislature in any session, each year, to change the qualifications for nonprofit corporations, or they can exempt all hospitals that qualify nonprofit. They can say that they cannot be, period. So, I'm not worried about this nonprofit idea. The legislature can take care of those problems if they arise. If there is a group of doctors that get together and all of a sudden form a nonprofit corporation as a hospital, the legislature still can take care of that situation. So, we don't have to get that detailed in our proposal. I suggest to you that you think in that light when we are speaking of a nonprofit or a profit corporation.

Question

Mr. Abraham A. J., is the committee submitting an amendment now to change the word "or" to "and"?

Mr. Planchard The amendment right now is to "and" ..to change it to "and," yes.

[Previous Question ordered.]

Closing

Mr. Lowe Mr. Chairman, ladies and gentlemen of the convention, I hope you will listen to me and listen to me well. I said to you that I'm not sure what this "and" will do, and I'm sincere about that.

I'm concerned about the private foundations. The other thing that I said to you is that I hope that if we adopt this "and" and the other parts of the amendments that are coming afterwards, that we will not lay this on the table, that we will at least have time to come back and look at it again, because I think it's important what we're doing.

Now on the one end, I don't want to leave any organization that incorporates under Louisiana Nonprofit Corporation Law free of income tax. As I appreciate it, anyone can go in and incorporate under that act. If that's true, well we left the door wide open. Now the other end of that, if we put an "and" in, and we get some private foundations caught, that may be bad. So, I don't know if there's a solution. I'm getting here and I'm telling you frankly that I don't have a position one way or another, except to put in this constitution something that may be acceptable that's going to tax the people you want to tax, and not tax the people you want to tax. I don't know if I'm doing that with the "and." So, you can vote accordingly.

Questions

Mr. Denney "Monday," when you add the word "and" or replace the word "or" with the word "and," it requires it then to be a Louisiana nonprofit corporation...

Mr. Lowe Moise, I'm not hearing you very well. Excuse me.

Mr. Denney I say it would require that the corporation be organized under the Louisiana Nonprofit Corporation Law. Let us assume the possibility of a corporation which was organized elsewhere under a Nonprofit Corporation Law, which comes into Louisiana and is a true nonprofit corporation and is exempt from federal and state taxation. They would then be subject to ad valorem taxes if you used the word "and." Is that correct?

Mr. Lowe I would say so. Of course, that criteria that was put in there is not my criteria, Moise. It's the committee's, and I don't think it's adequate. I hate to leave it like it is. I hate to do anything with it. I would rather pass over it. But it is before us at this moment, so I don't know what to do except, in my humble way, try to do something with it that I think will help.

Mr. Pugh Mr. Lowe, as I understood from what you said a minute ago, and what you said here, it was your intention that private foundations be exempt from ad valorem taxes. Is that not correct?

Mr. Lowe I would think there's a lot of private foundations, possibly like Ochsner Clinic and these others, that certainly should be treated just like some other nonprofit organization...hospitals are, Mr. Pugh.

Mr. Pugh Well now, if Ochsner's is a private foundation, then Ochsner's would not be exempt if you used the conjunction "and," because a private foundation necessarily is required to pay four percent federal income tax on certain of their activities.

Mr. Lowe Mr. Pugh, I made it clear to this convention that that's exactly what I thought was happening, I was afraid of it. Now on the other end of it, if we don't put an "and," I think any organization can go and organize under the Louisiana Nonprofit Corporation Act and not deserve the exemption and get it. Now I don't know the answer, Mr. Pugh. As I say, it's before us and I'm trying to deal with it. I think if the convention has listened, they know the problem. If you think the "and" is bad, well, please vote it down. I'll go along with you. I just don't want to see the door open to exemptions for anyone that feels like they want to get together and form a corporation and say, "we are nonprofit," irregardless of what they're doing. I don't think any of us want to do that. That's what we have before us right now, the...

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Mr. Pugh I'm not quarreling with you at all, Mr. Lowe; I just think that simply it can be stated. I think you can get the results that you want, but not here.

[Record Vote ordered. Amendment adopted: 92-18. Motion to reconsider tabled.]

Amendment

Mr. Poynter This is the Flory amendment and I... in the text of it, there is one change I wish to note.

Amendment No. 1

On page 3, at the beginning of line 12, immediately after the word and punctuation "profit;" and before the word "universities" add the following: --and here's your change: "property of". Insert the words "property of bona fide labor organizations representing their members or affiliates in collective bargaining efforts;"

Again, at the beginning of the language and the text to be added by the amendment, add the two words "property of" immediately before "bona fide".

Explanation

Mr. Flory Mr. Chairman and delegates to the convention, the addition of the two words "property of", it was suggested that in order to clarify the amendment that I add those words. What the amendment does is to embody in the constitution the present, existing practice in the State of Louisiana. We're not asking that any additional exemption, or any exemption that we do not enjoy today, be granted to union halls in this state. The reason for the exemption, of course, is that they are a nonprofit organization, having been certified as such by... in the Internal Revenue and also under Louisiana law. We have enjoyed this exemption for a number of years under the present constitution. The reason for the inclusion of this language is to clarify the situation as it regards properties of unions today. To those of you who are not familiar with union halls throughout the state, their prime purpose is--it may have one office, telephone, etc.--but is for a meeting hall, generally once a month, or not more than twice a month, where members get together to discuss their business.

Now, secondly, they are used as a means of training in the apprenticeship training field. This is where their classes are conducted in training apprentices to become journeymen in the various skills and occupations throughout the state.

Mr. Chairman, I would ask for the adoption of the amendment. Again I state that this writes into the constitution exactly what the situation is today.

Questions

Mr. Roemer Gordon, I'm sure you've heard the phrase *deja vu* [vu]. Don't you get the impression that that's what we're doing here--you know the feeling --I've been here before? That's what that means. As we talk about these exemptions over and over again and what they might mean, what they could mean, what they ought to mean, don't you get the feeling that we would be better off as a convention, and the people would be better off in this state, if we took all of these detailed exemptions and treated them the same: that is, put them in the statutes and not in the constitution? What's your opinion of that?

Mr. Flory Mr. Chairman, so there'll be no misunderstanding as to the position that I take as regards exemptions, period, I would have no objection if you eliminate all the exemptions in this state with the exception of that as to what applies to churches. But, all I say to you is I want to be treated as I am today, and no different from anybody else. That's all.

Mr. Duval Gordon, this is just for information purposes; do you feel like your amendment is included under the language of the committee proposal? Do

you think that a union hall would be exempt under the language of the committee proposal as it is? Or, do you think there's a question?

Mr. Flory I think there's a question. Let me cite to you, Mr. Duval, why.

Under the language "organization formed for fraternal purposes"--and this was the authority granted by the attorney general years ago in giving to the union halls their exemptions--rather than that question arising again and possibly fostering litigation, we wanted to specify clearly in the constitution so there'd be no question. That was the reason for the amendment.

Mr. Schmitt I think I understand your point now. Would this exemption apply to union halls which as, for example, rent out their halls for dance purposes and receive income for this?

Mr. Flory Mr. Schmitt, as I appreciate the whole exemption section would be applicable to the provision in the last sentence whereby it would not be leased or operated for a profit by the amendment that Mr. Lennox applied it certainly, we would want that to apply in the situation that you mentioned.

Mr. Schmitt That's fine.

Further Discussion

Mr. Lennox Mr. Chairman and fellow delegates, Mr. Flory has accurately described the effect of his amendment. I think that, as a matter of fact, union halls are now exempt from ad valorem taxation under a ruling of some attorney general. I'm not sure how far this goes back. There are many trade and professional association buildings which also enjoy the same exemption under the same ruling, as I understand it. Now, while we are imposing taxes on residential property--and I agree that every citizen should bear his fair share of the load of supporting a central service--we are now saying we want to exempt properties owned by unions, or for that matter, Chambers of Commerce. Now Mr. Flory again has stated his proposition fairly and accurately.

I'm going to vote against this amendment. However, if you should, in your wisdom, decide that this exemption should remain, then I'm coming back with an amendment that gives the same exemption to business and trade-related groups, and I would hope that I get fair treatment on that.

Thank you.

Further Discussion

Mr. Smith Mr. Chairman and fellow members, I intend to talk very briefly. I'm opposed to this amendment and any other amendment that changes the committee proposal. I was a member of this Revenue and Finance and Taxation Committee. We have studied carefully...I expect we worked as hard, if not harder, than any committee and met more times, trying to come up with something good. It may not be perfect. But, I feel like if we're going to keep adding to this exemption, we're going...it's making it ridiculous. We are going to milk this cow dry, as somebody said awhile ago. I think that charitable, religious, and fraternal organizations that are for that purpose should be exempt, if that is the purpose. But we are going to keep adding to this list; we have others, as far as...like Mr. Flory said, if this is intended, then let's leave it like it is. But, if we are going to keep adding and making it more and more, then we're not going to be able to have any taxes. As our homestead exemption, homes now thirty thousand, fifty thousand exempt; we're going to have an industrial tax exemption to come up in a little while and exempt all new industries. Probably all we're going to have to tax is the great big homes and the corner grocery store. I'm not for taxing people. But we've got to have ad valorem taxes for certain amounts to run our parishes and our towns. We need it. But if we're going to keep on adding to these exemptions, we're going to make it ridiculous, and we just as well do away with the

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whole ad valorem tax.

So I say, gentlemen, let's slow down on this and quit adding these things to it. Go along with the proposal of the committee which was thought out, which was carefully thought out. So, it may not be perfect. We can change some of it that's not perfect. But I ask you to please, go with the committee in this instance. I feel like we have a good proposal here.

I thank you.

Further Discussion

Mr. Velazquez Mr. Chairman, fellow delegates, I rise in support of this amendment. I feel it's a fair and an equitable thing to do. I feel that these halls...also serve as meetings for local groups and for civic organizations, and they serve a definite educational function in the community. For this reason, I support this amendment, and I urge you to give it your favorable vote. Thank you.

Further Discussion

Mr. Abraham Ladies and gentlemen, I am becoming truly alarmed at the course that this article is taking now. I share the fears of Senator Rayburn and Mr. Smith. Property taxes are something that the legislature's dealt with for years, and has no real easy answer to it. It's something that the committee has dealt with for the last eight months, and this is the best they've been able to come up with. Here we are on the floor of this convention, and in a matter of a few hours are going to try to establish the whole tax structure for this state. I submit to you that this is wrong. Where do we draw the line on this? I am real concerned about the number of amendments that are coming up on this proposal. None of us, I feel, are in a position to know all the ramifications of what we're doing. We're playing with dynamite here. I deplore all these amendments being offered. I think we'd better leave well enough alone. I am concerned about the exemptions that are in the committee proposal as it is. I think we've gone too far there. I'm going to have to go along with the committee from the standpoint that they have spent more time on this than what we have spent. I'm going to have to go along with their judgment on this, and I beg of you: let's quit offering all these amendments. The first thing you know, we're going to exempt everything from this state, because when you exempt labor organizations; Mr. Lennox has one for private business organizations; you've got the American Legion, the VFW; you've got all kinds of private clubs. I think we'd better leave well enough alone, and let's go along with this committee proposal and draw the line there. I urge the rejection of this amendment and many of these others that are coming up.

Questions

Mr. Newton Mr. Abraham, did you know that as of right this minute I doubt very seriously that there's a majority of the committee that agrees with that committee proposal on these exemptions?

Mr. Abraham Well, if the committee itself cannot agree in toto on this proposal, then how are we going to expect this convention to write the thing?

Mr. Arnette Mack, do you own that corner grocery store everybody keeps talking about?

Mr. Abraham I guess so.

Mr. Alexander Mr. Abraham, are you aware of the fact that labor unions are presently exempt?

Mr. Abraham I'm not going to quarrel with the fact of what's actually being done now. The only thing I'm saying is the more we write in this constitution, the worse it's going to be because we don't know where it's all going to end up.

Mr. Alexander Are you also aware of the fact that not to exempt labor unions could vastly...adversely

affect your parish where there are many powerful labor unions in Calcasieu and Lake Charles?

Mr. Abraham Do what now?

Mr. Alexander I said, "Are you aware of the fact that to tax labor unions could adversely affect the economy of your parish and your city, Lake Charles, Calcasieu, where there are many powerful labor unions?"

Mr. Abraham Mr. Alexander, I could make the same statement about anything; to tax anything could adversely affect the economy.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I have for a long time attempted to stay off of this microphone when dealing with this property tax issue, on any matters which would go to the heart of the problem. But, I think the time has come for us to understand and to realize what it is this is all about. Local government, day by day, is getting more demands from their constituents to provide sewerage, to provide water, to provide libraries, schools, mosquito control districts, on and on, and on, and on. We have provided a thirty thousand dollar homestead exemption for homeowners. We are now engaged in an exercise of futility in extending, and extending, and extending the exemptions from ad valorem taxes. Where are we, engaged in local government and in school problems, going to find the funds needed to provide these necessary services if we are going to engage in continually expanding and extending the various exemptions from the payment of ad valorem taxes? I had hoped to wait until a later time to get up and say what I have just said. The only reason I rise at this time is because of the fact that I asked the author of this amendment if he would limit this particular amendment to the use of labor organization property to that...to their labor halls, such as similarly was done with regard to religious property where it says, "property owned by religious denominations and used as residences for clergy or religious." The point that I'm making now is that this provision would extend a complete exemption to all property, all property, owned by labor organizations with the exception of that which is used and operated commercially for profit. It would provide the opportunity for thousands of acres of land to be purchased and taken off of the tax rolls. It would provide for additional exemptions. I stand before you now and ask you, please, let's think of what we're doing. Let's realize that it's very easy to vote for those various causes which sound good up here; but when we return back home and have to find those dollars to operate our local governments, let's just remember that the people back home want to see these improvements, and if you take the tax base away from local government, from the schools, then we're going to come to a screeching halt as far as being able to provide the services for the people in our local communities. I therefore, unfortunately, have to object to this particular amendment, but my remarks, I hope, will be taken as general in nature, so that we will be a little more sober in our reflection with respect to all of the various amendments which would extend the further exemptions. I'll yield to questions.

Questions

Mr. Arnette Mr. Perez, do you think we're getting to the point that Ambroise Landry said the other day, to me personally; he says, "We're getting to the point where we're demanding revenue and no taxation."

Mr. Perez Well, I think it's all very nice to think in terms of exempting everybody from paying taxes, and that's the problem I was trying to address myself to: where are we going to provide those services if we have no base upon which to have ad valorem taxes so that we can provide those local services?

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Mr. Willis Mr. Perez, my interrogation may be a series of, say, three questions. Put a question mark to this: There are five levels of governmental taxation--the state, the parish, the municipality, the district, or the schools--isn't that correct? Those are the only five.

Mr. Perez On a local basis.

Mr. Willis Isn't it a...well, four on a local basis?

Mr. Perez Within the state, yes.

Mr. Willis Four, on a local basis.
Well, you're talking about those four. Now, it's like the fingers on the hand. Now, aside from the state, isn't it a fact that--and I say this with much submission that you may be screaming before you're stuck--isn't it a fact that we're only talking about one type of forty-four types of taxes in Louisiana, property tax?

Mr. Perez That's correct, yes.

Mr. Willis So that it may be that the governments which you think are in a pinch can look to the other types of taxes and not solely to property tax. There are forty-three other kinds.

Mr. Perez Well, as far as local government is concerned, we are virtually restricted to property tax and, in a very limited way, to certain sales taxes.

Further Discussion

Mr. Roemer Mr. Chairman and fellow delegates, like Chal'in, I hesitate to rise at this time. I hoped that I could delay or wait till a more appropriate time to give my few remarks in regard to these exemptions. You know, the problem of taxation has been a problem for mankind as long as mankind has had government, because taxes pay for our government. You remember in the Bible, Joseph and Mary were in transit on the night that Jesus was born because of a tax call. You know French kings have been deposed because of taxes; you know that English kings have been beheaded; you know the American Revolution was begun on the phrase of "taxation without representation, never." Now, the problem with taxes is that nobody wants to pay, but everybody wants the services that they provide, and that's what we're talking about when we're talking about exemptions--those who do not wish to pay. I submit to you today that we have neither the expertise nor the time to set down, in a constitution that may last for four decades or ten decades, who shall be permanently exempt from their fair share of taxation. I completely agree with Mr. Perez that we have virtually taken the local governing districts and authorities out of all taxes save property taxes, and now we're trying to cut their tax base even more. I took the position in committee, and take it again before your consideration, that what we need in this constitution is not page after page of exemptions, but page after page of equal treatment for all the people, and an exemption is not that. You know it and I know it. Now, yesterday we had an amendment that would try to delete this section. It was defeated--not defeated, we had to withdraw it. It was obviously going to be defeated. The basis of that defeat, I think, was the religious grounds. I accept that. I would hold that perhaps they should be in the constitution, but not these other things: not my combine as a farmer, not a nonprofit corporation that we can't even define here; not that, not me. I don't need that exemption in the constitution. You give me a legislative vote and I'll accept that. Let's write a clean constitution, but more important, like Sixty says, "Let's know what we're doing." I submit to you that we don't know what the effects of what we've done here with nonprofit corporations, with oceangoing vessels, with shrimp boats, with farm combines, with household property. I could name a hundred of them that we've got here that we may have covered, or we may not have covered. The point is this: if we don't

know what we're doing, then why do it? Who are we protecting? In our haste to protect a few, then we might have hurt us all. I think that the English philosopher, Marlborough, said it the best, "When it's not necessary to change, it's necessary not to change." I think we ought to leave this material in the statutes.

Questions

Mr. Burns Mr. Roemer, I don't know whether you can answer this question or not. I wanted to ask a previous speaker because he referred to the union either owning thousands of acres or perhaps could buy thousands of acres at some future time. Do you know if a union owns any other property, statewide, now but their union meeting hall?

Mr. Roemer I don't know, Jim. I want to make this point about this particular thing...

Mr. Burns I'm just asking this for information.

Mr. Roemer I understand. I can't answer your question, but I do want to take this chance to say this: I think the unions ought to be in here if all these other things are. Let's treat everybody...let's put them all in here, but I'm for taking them all out.

Further Discussion

Mr. Schmitt The unions, the hospitals, the nursing homes, and all of these other exempt type organizations continuously need the services of the local governing authorities in the State of Louisiana. If we grant these absolute exemptions to these organizations, they'll be receiving the services without having to pay for it. The problem might not be so extreme in Orleans Parish, but what about a small parish which has no ability to prevent one of these corporations from coming in, one of these nonprofit type corporations? What about a hospital which comes into one of these areas? Who's going to provide the fire services? We saw recently how--I believe it was in the town of St. George--one of the fire districts had problems because of the fact they could not provide the services in their...for their own homes, let alone for some other type of nonprofit type organization which would not have to foot any of the bills to support the services necessary for this particular institution. All of these institutions want better services for themselves. Of course, the elderly who are in these different types of institutions,--these nursing homes,--expect and deserve protection for their lives from fire, protection for their lives from people who would come and attempt to force themselves upon them, to rob these places. They deserve police services, but at the same time perhaps, we might take into consideration at some time in the future...it might be necessary for some time in the future for these different types of organizations to pay for some of these services. I don't think that we should grant this absolute type of an exemption. The unions are some of the people who are always going out and asking for more and more services for their people. Any time that state government or city government doesn't provide something that the union thinks should be provided for a particular area, they are the first to come forth and clamor. Yet, here they are asking for this particular exemption. The unions are not the only ones who are guilty of this abuse. The unions are not the only ones who are coming forth and asking not to pay their fair share of taxes, yet to enjoy all the benefits that our government provides; there are others. I feel that the legislature should have the right to either add or delete exemptions, other than the homestead exemption, by two-thirds vote of both houses of the legislature. I don't think that there will be any problems for the unions to get their bona fide type exemptions from the legislature, because I think that they, by far, have, probably have, as much or more power there than they have in our halls before us right now. I also think that these other types of institutions, for example, the nursing homes, and hospi-

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tals, and so forth, will be able to present their arguments to the legislature, but we're not in a position right now to hear all of these arguments. In committee we heard these people for hour on end, and I tell you, if you allowed these people to come and speak before you at the present time, we'd never get finished with this constitution. I therefore, feel that we should have at the end of this section, if we decide to keep it in the constitution, a provision that would allow the legislature to add or delete these exemptions by two-thirds vote.

Further Discussion

Mr. Newton I just want to make one point, and I hope you'll listen to me. When you're talking about taxation and the exemptions from taxation, you're talking about social legislation, and that's exactly what you're talking about. I don't have the wisdom, and I don't think the majority of the delegates here have the wisdom, to write social legislation into a constitution which we hope is going to last for at least fifty years. I really hope you will think about that. I'll try to answer any questions.

Further Discussion

Mr. Landrum Mr. Chairman and fellow delegates, it's not every day that I get a chance to agree with Mr. Perez, but certainly, I agree with him this morning in part. I, too, believe that unions should be taxed. Now, I'm saying this in front of men who supported me in every election I ever ran, sitting right here in this audience today. So, what does this do for me politically? I don't think it will do too much good, but in all honesty, unions are able to pay. They are able to pay, and what we have been doing here, with the many different exemptions of folk who are able to pay we're saying to these people, "you don't pay nothing." Now, the question was asked, "Where does the money come from?" Where are we going to provide services for the different cities? You know exactly as I do, that the money's going to come from poor black people and poor white people. They are going to be the ones to pay for it. Maybe not in the homestead exemption, but in some other form they're going to pay for it. Now I will support this amendment; I don't like it, but I'm going to support it simply because we have too many other things that should be left out--too many other things. When I stood here yesterday and told you about the church, that when the church leaves out the churchhouse, the pastor, the parsonage, the school, the nursery--when it leaves that area--then I believe the church should be taxed; but we got people here with a hundred thousand dollar homes, only going to have to pay two hundred and eighty-something dollars a year in taxes. No way can I see that. Absolutely, I see what we are doing. What we are doing: we are absolutely destroying our work; that's what we're doing. Now, Mr. Chairman, if I'm in order, I would like to move at this time that we would defer action on the entire article, on the entire article, and take up another article--education, some other article--and go after this one last; and we go into a Committee of the Whole where we all will be able to hear all the information and be able to disseminate the information and come up with something that I believe would be sound and reasonable to work with, if I'm in order.

[Motion ruled out of order. Previous Question ordered.]

Closing

Mr. Flory Mr. Chairman and delegates, I hope not to take too much of your time in closing on the amendment. Let me say to you that I know that some delegates have circulated the hall and said that under the amendment it could be possible for a union to buy large tracts of land and hold that land for future development. First, let me suggest to you that that money doesn't exist with which to purchase such property; secondly, that their bylaws don't allow it. The amendment is drawn the way it was drawn...Mr. Arnette came to me, I believe, and asked

me to insert the words "property of" which I agreed to do, and I did it for this reason: because it relates itself to the union halls which I mentioned earlier. Now, Mr. Perez has spoken in opposition to this thing, and let me tell you something about when it talks about property. It also includes several thousand dollars worth of property that the unions bought and donated--I'm talking about generators, skill saws, all kind of tools with which to go down and build homes free of charge in his parish after a hurricane destroyed them. They would exempt that property; that is true, and I think it ought to be because it was for a charitable purpose. Now, let me tell you something else to you. If...it's been suggested by Mr. Perez that I insert the words "property of bona fide labor organizations used in representing their members." Let me suggest to you if I did that, I would not be fair with the convention, because that would allow me to build an apartment complex solely for the use of my members and would not be on the tax rolls, and I don't think that's fair if it's for a profit making venture and I voted for Mr. Lennox's amendment because I thought it was proper. I think it's a profit making venture; it ought to be taxed. Now, let me say something to him about as far as the tax base is concerned. I would like to ask, not only him representing local government, but the rest of the people in this state representing local government, who's joined with them time and time and time again in the legislature to increase the taxes upon our own people to help better finance local government? We don't want to get out of paying our fair share of taxes. We want to pay our fair share. But, we don't want to pay any more than our fair share. We enjoy this exemption today; I'm not asking for anything that we don't have today. All I am asking for is that we clarify it in the constitution, just like everybody else. Yes, sir, I'll yield.

Questions

Mr. Stagg Gordon, as an example of the problem in my mind, out on the Airline Highway, I think there is a carpenter's hall that is in the upstairs of a commercial building, the downstairs of which is rented out, I presume, for some commercial operation. How would this exemption affect, for example, that particular union?

Mr. Flory It would be assessed according to its use. The commercial part of it would be assessed for commercial purposes; the meeting hall would be assessed as a union hall.

Mr. Nunez Mr. Flory, what concerns me...
As you know, I got a large union hall in my delegate district and my senatorial district--I just spoke with my assessor--now that is exempt for ad valorem taxation purposes. But, they utilized the hall, not only for meetings and union business, etc., it's rented out on a...you got to rent it; you got to ask for a rental a year in advance to get it, and that's income property. They also have a number of office buildings in there, and they utilize it for various other commercial enterprises, and it produces income. Now, they do tax that hall for that purpose. There is...it is on the rolls, and I think the attorney general, or Johnson over here at the tax commission, said that's the way to handle it. Now, I would be for you if that's the way this amendment allows the assessors to continue to handle it: to exempt the particular facility that is used for your meetings, etc., but to pay taxes on the other part of it that is used for income property. The way I read your amendment, I have a doubt that you are exempting totally from all ad valorem the particular facility that you're talking about. Is that not correct?

Mr. Flory No, sir, you're not correct. I tell you that the practice that you mentioned in St. Bernard is exactly the practice today, and the fact that, if you read the last sentence, it says "used for the above mentioned purposes and not leased or operated"...

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[Record vote ordered. Amendment adopted: 83-32. Motion to reconsider tabled.]

Recess

[Quorum Call: 82 delegates present and a quorum.]

Amendment

Mr. Poynter Next set of amendments are offered by Delegate Lennox.

Amendment No. 1. On page 3, delete lines 21 and 22, in their entirety and at the beginning of line 23, delete the word and punctuation "same;" and insert in lieu thereof the following: "Louisiana; organizations such as lodges and clubs organized for charitable and fraternal purposes and practicing the same, and properties of nonprofit corporations devoted to the promotion of trade, travel, and commerce, and trade, business, and industry and professional societies or associations provided such property is owned by nonprofit corporations or associations organized under the laws of the state of Louisiana for such purposes;".

Explanation

Mr. Lennox Mr. Chairman and fellow delegates, as you will notice, the substantial portion of the first two lines, if not all of my amendment, simply incorporates the language of the committee proposal. Thereafter, I add as exempt entities those nonprofit corporations normally associated with the business community. Now, the same arguments that Mr. Flory presented in behalf of exempting union halls and appurtenant facilities would certainly hold true in this particular case. All of the properties involved in this amendment are now exempt from ad valorem taxation under the same attorney general's ruling that Mr. Flory mentioned to you in support of his argument exempting union halls. I submit to you, as I did earlier, that these are no new exemptions, and that fair play would dictate that you adopt this amendment as well. Now, at this point, I'll yield to questions. I think Mr. Flory adequately argued the subject matter, and I won't waste your time with any further arguments.

Delegate Leithman in the Chair

Questions

Mr. Anzalone Mr. Lennox, would you agree that in the spirit of consistency, if someone thought the last amendment was a little bit ridiculous and voted no, then most certainly they would think that this one was a little bit ridiculous, and vote no again.

Mr. Lennox I'll vote no, if you vote yes, Mr. Anzalone.

Mr. Anzalone No, sir. I voted no last time, and I'm going to continue to do the same.

Mr. Lennox Well, as I told you earlier, I voted no the first time. I think that neither of these should be exempt from ad valorem taxation, certainly in the constitution. But, inasmuch as the majority of the members of this body have seen fit otherwise, I would certainly think that fair play would dictate that you give the same consideration to those corporate entities which enjoy similar exemptions at this time.

Mr. Jenkins Mr. Lennox, contrary to Mr. Joe's idea that if you were against the last one, you ought to be against this one. Isn't it true, that since we adopted the last one, the only consistent thing to do is to adopt a similar provision here?

Mr. Lennox Well, I hope that's true because that's what I plan to do. I opposed the first, and I told you in advance of the voting that I opposed the first. I also told you that if the first amendment --Mr. Flory's amendment--passed I would certainly

expect that you vote and I vote for this amendment.

Mr. Duval Mr. Lennox, this amendment as the Flory amendment, neither of these provisions are in the present constitution; are they not?

Mr. Lennox The only provision I know of in the constitution has to do with a specific building devoted to the promotion of trade and commerce in Orleans Parish; that section of the constitution escapes me at the moment. But, as you notice, in the language I have placed here, it takes that specific exemption out, and it incorporates that among others.

Mr. Duval Now, the Flory amendment, that was not in the constitution either, was it?

Mr. Lennox I don't believe the amendment you have before you now is in the constitution now, nor was the Flory amendment. I think that in both cases these properties have been exempt from ad valorem taxation based on a ruling of the attorney general.

Mr. Duval So, what we're doing now is adding to the very lengthy 1921 Constitution by the Flory amendment and this amendment; are we not?

Mr. Lennox How could I answer other than yes.

Mr. Rayburn Mr. Lennox, would you know how many organizations that you're now covering that's not presently covered, and what we're talking about in exemptions in the local community? Would you have any idea of knowing how far-reaching this amendment is? I'm of the opinion that most of the things mentioned here are already exempt. Am I right or wrong?

Mr. Lennox Well, they are already exempt, Senator Rayburn, only under the same attorney general's ruling that Mr. Flory cited in support of his particular amendment. The union halls are not exempt in the constitution, as such, as I understand it. They are exempt, as are these properties that you're looking at on that amendment, under a ruling of the attorney general, and under no specific section of the Constitution of 1921 as amended. Now, let me answer your first question, if I may. I do not believe, in all candor, that you are exempting any other buildings that are not already exempt under your attorney general's ruling. This simply places the exemptions that are now available to these nonprofit corporations under the attorney general's ruling; it puts it in the constitution, just as you did earlier with union halls.

Mr. Rayburn Mr. Lennox, what I'm trying to define, though: are you giving some clubs, organizations, or lodges a privilege that they don't enjoy today?

Mr. Lennox Senator, that portion of my amendment is in your committee proposal, and I just picked up those first lines. I don't have any strong feeling about clubs or lodges. But, your committee proposal--apparently there was some consensus among you on that subject matter. That wording came from your proposal, not...no pride of authorship on my part.

Mr. Nunez Mr. Lennox, you and Mr. Flory's both mentioned that the attorney general--and I'm going to vote for yours, as I voted for his--as your attorney general has made this opinion, but haven't attorney generals been known to change their opinions? Don't we change attorney generals in this state quite often, every four years or so?

Mr. Lennox Well, I believe that the opinion that Mr. Flory made reference to is one of some long-standing maybe twelve, or fourteen, or fifteen years, and no subsequent attorney general has seemed to issue a contrary opinion. But, I must agree with you that the attorney general is a human being and subject to the same element of error that you and I might be subject to.

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[Previous Question ordered. Record vote ordered. Amendment adopted: 81-27. Motion to reconsider tabled.]

Amendment

Mr. Poynter Next amendment sent up by Representative Johnny Jackson and Mr. Velazquez.

Amendment No. 1. On page 3, line 17, immediately after the word "centers" and before the word "which" insert the words and punctuation "and, recreational facilities".

Explanation

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I'm going to withdraw my amendment. I withdrew my amendment because I think at some point we ought to recognize just what we're doing here in this convention. I, too, like many delegates, have a vested interest. I do not believe under the present committee's proposal that recreational nonprofit centers are covered, particularly, if I look at that section that said convalescent and rehabilitation services...facilities. You know, we don't...in a sense, I guess you can say that for a certain portion of the day we convalesce, and hopefully, by recreational programs that we attempt to rehabilitate. But, I suggest to you that the reason I am drawing it is primarily because I, as one delegate, recognize that we're not really doing what we are responsibly supposed to do. I have no objections whatsoever if someone in the past,--and has a rightful status as a nonprofit organizations that engage in purely nonprofit services.--I have no objections for giving them tax exemption. But, I recognize every time you include or broaden the scope of tax exemptions somebody has got to take up that load. I recognize, also, that some of the exemptions that we're placing in this constitution is going to have a further devastating effect on the city of New Orleans. I suggest that it's going to have a further devastating effect on your present tax base in your respective parishes. I know it's nice and fine. I think it's very political for us to go back home and say to the taxpayers: we're giving you an exemption--property wise, social wise, fraternity wise, etc. But, I just hope some of us are in the posture to go back and say why we gave it to you on one hand, we're taking it back on another, because every time--and I think people ought to, particular for the press purposes--I personally believe that every time that you raise an exemption that means that local government and school bodies are going to have to find some other method of providing the funds that are lost. I suggest to you that in the past it has been the history of this state that that has been in the form of income taxes and sales taxes. Whereas, property owners and people who are tax-exempt may receive--let's say persons who are tax-exempt--may receive presently, under this exemption we're giving them, maybe fifty dollars, but over the course of a year they can pay high as three hundred dollars in sales tax or income tax. I suggest that the best way to do this is to: one, maintain all exemptions prior to us working on this article in effect, and that leave this matter up to the legislature where it can adequately determine by any vote that you want --a majority or a super majority vote--the best criteria for determining what nonprofit organizations are and who should be exempt, particularly in terms of justice to those local parishes and governing bodies--particularly the school systems--at least set up that we have a warranty criteria other than the fact that we want to make...get some political notes--I'm not suggesting that everybody can't, ... who came to this platform wants to get political note, but at least, you know, besides using the sole criteria--the overriding criteria--of getting political note for ourselves back home. Again, I say I have a vested interest, and I know that, as a director of a recreational center that was nonprofit, that it wasn't clear if we were eligible for a tax exemption, because the present constitutional provisions didn't adequately cover this. I didn't ask for an attorney general's ruling. But,

I would think that most of these organizations who were in here are taxpaying citizens. They do not wish to see at the expense of them getting an exemption that government fails and our school system fails, that government services are decreased and the education of our youngsters are decreased. I don't think that there is one organization exclusively that wants to get the favoritism of an exemption at the expense of having this...the effects of this tax passed on to someone else. So, I seriously hope that presently as we have drawn...as we have amended this committee proposal, I suggest to you that--and maybe this is coming strange for someone who's been in this posture before--but I suggest to you that it is very broad, very broad. I want to clarify that I'm not suggesting that you take out...clearly define nonprofit organizations that are entitled to an exemption. But, I am suggesting, that the manner in which we're pursuing this issue, that we don't really recognize what a hundred and thirty some-odd delegates can do to the tax base, because we do all have vested interest, without recognizing the fiscal effects on our local governing body. So, for those reasons, I reluctantly withdraw my amendment.

Questions

Mr. McDaniel Johnny, did I understand that you're willing to draw the line at the exemptions at this point, if the others are withdrawn?

Mr. J. Jackson I am willing to draw the line at this point. I suggest that we do...we have included some already that I think that we don't recognize, because of the manner of the language, how broad that is to let some other organizations similar get in. I think that those exemptions that were justified and creditable in the 1921 Constitution--I think they ought to be retained. I don't think we ought to take things away from people which we have justifiably given to them. But, I personally feel that if we continue at the pace that we're going, that we're going to wreak havoc on the entire state, particularly in the city of New Orleans, where we got to make up based on this convention's action. We got to find at least fifteen percent assessment ratios somewhere else to make up that money.

Mr. McDaniel Did you know that I have an amendment a little later to clarify a specific area? I share your concern, and did you know, I'd be glad to join you in trying to mount enough support to cut it off right now?

Mr. J. Jackson Mr. McDaniel, I would hope that: one, we would mount enough support to cut it off. Now, I don't want to cut it off just for the sense that I don't want people with justifiable exemptions to get exempt. But, I think, we ought to even look at what we've done up to date in saying that all... just in simple language--I think I recognize truly the effects of Mr. Newton's amendment at this point that was rejected by the convention.

[Amendment withdrawn.]

Personal Privilege

Mr. Drew Mr. Chairman, ladies and gentlemen of the convention, I don't believe I've been to this podium since we completed the Bill of Rights proposal, and certainly, I claim no particular knowledge about taxation and tax structure of this state. Unfortunately, due to illness in the family, it was necessary that I miss two complete weeks of this convention. I regretted it very much at the time; today, I am very happy that I was able to miss two weeks, and I can tell you why. I have been one of the most severe critics of the critics of this convention since I came down here, particularly in July. I have thought that much of their criticism was unwarranted, and I've taken bitter issue with them on it, but during those two weeks I was able to sit back in the place that they're sitting and take a bird's-eye view of this convention. I think it would be well if every member of this convention

would do the same thing, because I can assure you you would not be happy with what you saw, and I was not happy with what I saw, looking at this convention from the layman's viewpoint, the nonmember's viewpoint. We have been in this convention working hard, and I don't question the dedication of any member, but I think we have failed to see the forest because of the trees. This proposal that we're on is undoubtedly the most important proposal that will be presented. I hope that you will stop at this stage of the game, and take a long hard look at what this convention has done. I don't think I could have contributed anything particularly had I been here; I wish I could have contributed something. There are things in this proposal that have been adopted up to this point that make it totally untenable, and every amendment that we take up makes it even more so. We're going on and on and on. I jokingly said in September that I would offer an amendment prohibiting taxes, and double state services, and leave it up to the Senate, because we in the House would not be able to do it; maybe the Senate could. It seems that is the ideal, the ideology of this convention today, is don't pay any taxes, but get your state services; and your state costs are going to continue to rise. What you have adopted is going to bankrupt my parish, with your ten and your fifteen percent. Thank God, the people of this state have never complained about paying taxes as long as they got a reasonable value for their tax dollar in services, and I don't think they are going to complain in the future, as long as they get the services they pay for. I think we have gone off on a tangent that can totally wreck the constitution. I hope before this thing is completed that we will go back from the very beginning, and take a good look at what has been done on this taxation proposal up to this point. Let's not be so unrealistic as to believe that a state's local government can operate without a sufficient base for taxes. At this stage they do not, in my opinion, have that tax base. Let's let the people pay their share of taxes so that they can have the services that they are entitled to. Without taxes, there can be no services. I think that ten and fifteen percent is totally unrealistic, and as I said, those figures alone will bankrupt my parish. I think there will be a lot of other parishes will be bankrupt because of that same figure. I have not been sold on the bugaboo that you cannot regulate your millage according to a normal valuation, and come up with something that the people can live with. It's something that has been held up as totally unacceptable to the people. But, in effect, I think what we're doing is pulling a fraud upon the people by saying, "We're going to put your home on the rolls at ten percent." Can you imagine the person who is able to afford a thirty thousand dollar home objecting to paying some taxes for the benefits that he derives from owning a home? It's no sacred privilege that should be totally exempt. On our veterans--and I am a veteran who served overseas for twenty-six months--we have already enjoyed five extensions of our homestead exemption, three extensions. Now, we are putting it in permanently. I came back whole, the vast majority came back whole, and I don't think that the vast majority want a continued handout. You have a lot of professional legionnaires and professional VFW people who feel that they are obligated to press you for that. Let's give those disabled veterans unlimited exemption, and let those of us who came back whole pay their fair share of taxes. Thank you.

Chairman Henry in the Chair

Personal Privilege

Mr. Pugh Mr. Chairman, fellow delegates, I trust I am not imposing on either the rules or your time by appearing here on personal privilege. I do so with a lack of knowledge of how else I could submit this to you. I suggest that insofar as Section 3. Subparagraph (C) and the rest of the alphabetized subparagraphs are concerned, that we pass over it, and we do so for this reason: that we ask the staff to prepare for the benefit of all the delegates a

listing of each of these proposed exemptions, one by one; not (A), (B), (C) and so forth, one by one through 34 or 35 or whatever it is. I suggest at the same time that they be kind enough to underline those which are presently in the 1921 Constitution. I suggest further that they footnote it to indicate those which are in the '21 Constitution which the committee did not feel should be in the '74 Constitution. Then we can intelligently look at the subject, and we can make a determination numerically on each of these as we come to them. I believe we'll save an awful lot of time. At the same time, if the staff would inform the Chair of the section and paragraph in the '21 Constitution, in which this underlined material may be found so that upon inquiry we can find out that fast how it was expressed in there. I, therefore, if it be in order, move that we pass over the remainder of Section 3, so that we may take up Section 4, and that the staff be instructed to do as I have just suggested.

[Motion to pass over Section 3.]

Point of Order

Mr. Flory No, Mr. Chairman, I want to raise a point of order of whether or not he can make a motion when he's speaking on personal privilege?

Mr. Pugh I hope I didn't offend the rules. I started off by saying that I apologized, if you will, in advance, if I were doing so.

Questions

Mr. Blair Mr. Pugh, in your request for the staff doing all this work, would you add one more thing?

Mr. Pugh Anything you'd like.

Mr. Blair What would it cost one way or the other with all these exemptions that we have put in recently? In other words, we have loaded this wagon. Now, can you ask the staff to give us what it's going to cost one way or the other, as far as ad valorem tax is concerned?

Mr. Pugh You may ask them to do it; I think it would be vital information, but I'm not too sure we'd have it by Jan. 4, 1974.

Mr. Blair I think they could come up with a reasonable answer of what it's going to cost. Don't you think so?

Mr. Pugh I'm not quarreling with the concept.

Mr. Blair Well, I'm trying to find out whether or not I want to go with your motion or not. Unless you have that, I can't go with it.

Mr. Pugh I'll ask that the staff do that if this is what you'd like.

Mr. Landrum Mr. Chairman, I'd like to offer a substitute motion if I'm in order. That we would skip the entire article and move to the next three articles and complete those three; then we would go into a Committee of the Whole to deal with the tax problem.

Mr. Henry Well, of course, you've got a dual motion. Your motion, I assume, is that we return this proposal to the calendar subject to call. Is that it?

Mr. Landrum If that's what it takes, yes, sir.

[Substitute motion to return Committee Proposal 26 to the calendar, subject to call.]

Point of Information

Mr. Newton Could you explain to me how, if this motion carries, and this proposal is tabled, how we're going to be able to complete the article on

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local government? How are we going to be able to complete the one dealing with levee districts and things of that nature until we get this tax problem straightened out?

Mr. Henry Mr. Newton, this motion is not debatable. You can vote for it if you like it, or against it if you don't like it.

Point of Information

Mr. Lennox What would be the status of Sections 1 and 2 of Committee Proposal Number 26, if this proposal or motion passes?

Mr. Henry They have been adopted, and when it's called, if it's returned to the calendar, when it's called from the calendar the only way you could consider the content of Sections 1 and 2 is to call from the table the motion to table the motion to reconsider those two sections.

[Substitute motion rejected: 9-104.]

Further Discussion

Mr. Conroy While I understand the purpose of the motion, the reason I'm here is to object to it, to tell you that it's not going to do any good. We have wrestled with this problem in committee; we have tried to determine what the proper exemptions were. We came up with a certain set of exemptions. The kind of information that's sought with regard to economic impact or effect, we've been unable to ascertain in the committee over a period of eight months. Every time you start dealing with the exemptions, even if you have a list here, you're going to have a new list in a few minutes of other ideas and other exemptions that will occur to people as you consider the list that would be made up now. This has happened before in committee; it's going to happen here on the floor. People, as they read over these exemptions, discover new exemptions that they would like to have, or modifications of exemptions that are in there. It's going to continue ad infinitum. I think that what we're doing, and we have to recognize it, is we're attempting to legislate. We shouldn't be doing it. That's the reason we're having this problem. It's simply not constitutional material. We have prepared an amendment to submit to this convention which will retain as exempt public property owned by religious denominations not used for...not operated commercially for a profit, and placing the rest of the exemptions in statutory stature, subject to amendment by two-thirds of the legislature, and I think that the thing for us to do is to get to that amendment and stop the hassling and wrestling over which exemptions...how they should be worded and how they should be listed 'cause we'll be here forever. Thank you.

Questions

Mrs. Zervigon Mr. Conroy, I'd appreciate it if you would comment on Senator Blair's question. Isn't it a fact that for this economic impact information to be useful to us at all, we'd have to have it parish by parish?

Mr. Conroy And city by city.

Mrs. Zervigon And exemption by exemption, parish by parish, and city by city. That's an awful lot of information to try and digest.

Mr. Conroy And multiparish districts.

Mrs. Zervigon And school board by school board. Thank you very much.

Mr. Conroy School board by school board, and it's simply not available, is what I've said. We've been unable to find it ourselves. We asked the same questions, but we never were able to get any answers.

Mr. Conino Delegate Conroy, you stated that there is an amendment to come before this convention. Would you state whose amendment it is, please.

Mr. Conroy I'm sorry, what did you say?

Mr. Conino You stated that there's an all-inclusive amendment to be presented to the convention. Would you state who the authors are?

Mr. Conroy I can't remember who all the authors are. There's Mr. Lanier, Mr. Roemer, Mrs. Zervigon, Mr. Newton, myself, Mr. Johnny Jackson, Mr. Tobias, Mr. Abraham, Mr. Bergeron.

Mr. Henry O.K., that's enough. The amendment's up here. You've got Newton, Roemer, Duval, Lanier, Guarisco, Conroy, Gauthier, Zervigon, Johnny Jackson on the amendment.

Further Discussion

Mr. Rayburn Mr. Chairman and fellow delegates, let me say in the outset that if I thought passing over this proposal would help in any way, I'd be for it. But, we have passed over, in the last six months on the committee that I chair, discussions relative to exemptions, and I just want to relate my experience. Every time you pass it over, somebody thinks of something new that night and comes back with a different idea that morning. Now, let me say here and now this proposal contains some things that I think should not be in it, and I so stated that earlier. But, I'm prepared to try to live with it. But, I'm reminded here today of a rodeo I attended sometime back, and they had an event there called a wild cow milking contest. I don't know how many of you have ever attended a wild cow milking contest or not, but that means that everybody that participates gets a bucket, and they all try to get a little milk. The one that gets the most and returns back to the finish line first is the winner. It looks to me like with these exemptions here that we have now entered into a wild cow milking contest, and I want to say here and now that that old cow, named Flossie, is just about dry. I have no quarrel with the present exemptions that we have in our constitution. I think that our forefathers knew what they were talking about when they placed them there and the legislature, later on down the years, probably made some mistakes, but they thought they were doing right. But, I cannot see for the sake of the people in this state how we can keep on, and keep on, and keep on exempting, and then demand the benefits from the legislature; and where is the money coming from? How are you going to do what you're supposed to do, and lower government and state government when you're bound and tied with exemptions; some of them are justified and some of them are not justified. We have a provision in our proposal that says to remove an exemption it will take a two-thirds vote. The committee overruled me and put that in there, and I'll live with it. Just at the last session there was some quarrel on fairs and festivals, whether or not they should pay sales tax. We got Mr. Traigle; he prepared a bill. He says "I'm willing to try it for a year." We adopted it by a majority vote. Now, if we see we've made a mistake after a year or two years, it's going to take a two-thirds vote to remove it, two-thirds. I've never seen so much two-thirds business in all my life, two-thirds. I'm looking in the near future where you'll have to get a two-thirds majority before you can serve in the legislature or anywhere else, if they continue this two-thirds business. I think that we need to do this: We need to put all this, what I might call "playing"; I see so-and-so got a little exemption; I'll try to get one. We're going to milk the old cow dry, may I say. Why don't we go along kind of on the lines we've been going on? I have never heard a quarrel, with my twenty something years in public office, on exemptions. If the day comes that someone in this state needs one, I think they know how to get it; they've been pretty successful in the past. I don't know why; they're smarter now than they've ever been: they know more today than they used to know, and I don't know why we can't take care of them somewhere down the road. But, I hate to see us get in the predicament we're in at this moment, where so-

and-so gets a little exemption and so-and-so wants a little exemption, I'd better get one for him, too. Somewhere down the line the people, the people that you and I represent are going to have to make up the difference. I don't really believe you want it that way. Let's get something that we can all live with, something similar to what's in the constitution today. Help those that need help and try to hurt as few as we can, and go ahead and make a little progress, and move forward in our state. That's what we're down here to do, and that's what I hope you do. It's awful easy for you to sit there and say "exempt this and exempt that," but I've got to take a little different view. If I'm in the legislature, if you exempt Jack Jones or Johnny Jones or some other Jones from taxes, and you hurt a local community or you hurt the state treasury, I have the responsibility of making it up, not you...or those who might follow me. That's what I hope you think of. I'm for helping everybody in this state that needs help, but on the other hand, I believe we're fixing to let this thing get out of hand with these exemptions. We're fixing to do something that might cause a heavy burden on your children and my children and their children. I don't think you want to do that. Santa Claus is gone. When I was a kid, I thought there was one. When I got a little older, I realized there was none. Those days are not here anymore. Someone has got to pick up the tab; someone has got to carry the load regardless of what you and I do. Let's don't let this thing get out of balance. Let's don't make a joke out of this. I'm a little leery at this moment; I'm afraid some people in our midst might be trying to load the wagon where the horse will balk. I don't know whether you know what a balking horse is or not; he's one that when he decides to stop, you can't make him move if you build a fire under him. I hope that don't happen to our proposal. We've worked long and hard; it's not perfect, and I'm not going to tell you it is, but I believe the people of this state can live with it, and I hope you don't bog it down. Thank you.

Questions

Mr. Avant Senator Rayburn, you've heard, of course, that the sport of baseball and football and boxing is not like they were years ago--that it was a much better sport then. Would you believe that apparently the sport of wild cow milking has gone down in the Florida parishes because as I remember it there wasn't a pail. It was a wild Brahma cow, and a Ne-Hi pop bottle.

Mr. Rayburn That's exactly right, Mr. Avant, but now they use a ten-quart bucket, and the top on it's that big; they don't want to miss a drop.

Mr. Roemer Sixty, I heard in committee several times, you make the talk, the speech, the comment that as far as you were concerned personally--I don't mean to put you on the spot now, if you don't want to comment on it--but, I remember your saying that as far as you were concerned personally and what was right and what was equitable, that you'd just as soon take all these exemptions out of the constitution, clean the document up and leave it to the legislature. Can you hold with that feeling or would you like to comment on it?

Mr. Rayburn Mr. Roemer, I said this, and I've also said this to the people who enjoy the best exemptions that I represent. I've looked them in the eye and told them this. They seem to all be for equalization. The only way I know to make taxes equal is to treat everyone equal. There's no way you, with a big exemption, can be equal to me if I don't have one. I've said that and I stand on that.

Further Discussion

Mr. Pugh Mr. Chairman, if it's in order, I'd like to withdraw the motion, and hopefully Bessie won't kick the bucket over and burn the barn down.

[Motion withdrawn. Motion for the

Previous Question on the Section rejected: 17-90.]

Amendments

Mr. Poynter Amendment No. 1 [by Mr. Newton, et al.]. On page 2, delete lines 12 through 32, both inclusive, in their entirety and on page 3, delete lines 1 through 32, both inclusive, in their entirety and on page 4, lines 1 through 32, both inclusive, in their entirety, and on page 5, lines 1 through 32, both inclusive, and on page 6, lines 1 through 32, both inclusive, and on page 7, delete lines 1 through 10, both inclusive in their entirety. That's just 1 through 10, now, on page 7, and insert in lieu thereof the following:

"Section 3".--Mr. Newton, when we get in there at the appropriate place, I want to add some language that indicates including all the floor amendments to page 3 in particular which we've got in there make sure those are all deleted.

"Section 3. Other Property Exemptions

Section 3. (A) In addition to the homestead exemption provided for in Section 1 of this Article, the following property shall be exempt from ad valorem taxation: (1) All public property. (2) Property owned by religious denominations or orders which is not leased or operated commercially for profit. (B) All other provisions for exemptions from ad valorem taxation operative at the time of the adoption of this constitution are retained in effect. The legislature, by a favorable vote of two-thirds of the elected members of each house, may amend or repeal any exemption provisions other than the homestead exemption provided for in Section 1 of this Article and the exemptions provided for in Paragraph (A) of this Section."

Amendment No. 2. On page 7, beginning on line 11, delete "(H)" and insert in lieu thereof "(C)".

I might point out that this amendment, as opposed to some prior amendments, retains old (H) on page 7, but changes that, just changes the designation of it to Paragraph (C).

Point of Information

Mr. Burns Point of information, Mr. Chairman, if this amendment were adopted, what effect would it have on the amendments that were adopted this morning?

Mr. Henry Well, now I believe that it's been cleaned up here at the desk to which in effect would repeal those amendments, would it not, Mr. Clerk?

Mr. Poynter Yes, Mr. Chairman.

Mr. Henry Or delete those amendments.

Mr. Poynter It would strike out the entire section, including all of the amendments to the section with one exception: it would leave old Paragraph (H) which is on page 7, but would renumber that paragraph or reletter it, and designate it as Paragraph (C).

Explanation

Mr. Newton Well, I think the amendment is self-explanatory. I hope that it removes the major objections which I ran into yesterday with the first amendment, in that it exempts the property of religious organizations. It does something else: it treats all other segments of this state equally and fairly.

I'll be happy to yield to any questions.

Questions

Mr. O'Neill Mr. Newton, under the proposal as it now stands, as it's now amended, are there any exemptions that we put in that were not included prior to this time, either in statutes or in the constitution?

Mr. Newton There are several. Well, of course,

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there aren't any statutory exemptions from property tax. There are several exemptions, I believe; I know there are several that have been added to the proposal that are not presently in the constitution.

Mr. O'Neill Like which ones? I'm not sure.

Mr. Newton Ah...I think we added shrimp boats, other kinds of fishing boats. There are some that have been taken out. There were vessels of some sort or another; I think somebody has an amendment to put them back in. There were some that were taken out. Yes.

Mr. Willis Mr. Newton, if this amendment were to pass, it would be a complete wipeout of the balance of the section, wouldn't it?

Mr. Newton Except Section (H) which is changed to Section (C)...to Paragraph (C).

Mr. Willis If it does pass, it would allow the Legislature to tax the property of churches, schools, hospitals, homes, nonprofit organizations by two-thirds, wouldn't it?

Mr. Newton No, it would not.

Mr. Willis Well, now, since the committee has delineated all of the exemptions, don't you think that we would be derelict in our duty in not delineating them as this...the sense of this convention is? That to present to the people, instead of confessing our inability to do so...by this amendment?

Mr. Newton I think that our inability to delineate these things, as you say, is that we're drafting social legislation. It's a very difficult thing to do...if you expect it to stand up for fifty years.

Mr. Willis Well, aren't you passing the buck to the legislature to do likewise?

Mr. Newton I don't think I'm passing the buck to the legislature.

Mr. Willis Well, don't you think that this convention is as capable as the legislature of delineating exemptions?

Mr. Newton As a matter of fact, I do not because...hold up for fifty years or longer.

Mr. Roemer Mr. Newton, let's get to the truth of this thing. Don't we provide in that amendment for the homestead exemption to continue in the constitution?

Mr. Newton Absolutely.

Mr. Roemer Don't we provide in that amendment for religious property to be exempt from ad valorem taxes in the constitution?

Mr. Newton Absolutely.

Mr. Roemer Don't we also provide that all the other exemptions in the '21 Constitution be put in statutes, only subject to change by a two-thirds vote?

Mr. Newton Absolutely.

Mr. Roemer Then we haven't eliminated the exemptions, have we?

Mr. Newton We haven't removed a single one.

Mr. Roemer Thank you.

Mr. Newton We haven't added to them either.

Mr. Perez Mr. Newton, the present constitution, Article X, Section 4, provides as follows: "The following property and no other shall be exempt from taxation."

My question to you is, assuming yours would pass,

would you be agreeable to an amendment which would say, "The following property and no other shall be exempt from taxation"?

Mr. Newton Except by a two-thirds vote of the Legislature. Yes, Chalin.

Mr. Perez That's not the question I asked.

Mrs. Zervigon Mr. Newton, couldn't it be said in answer to Mr. Willis' question that we are no more derelict in our duty here than we were with respect to judicial districts when we failed to outline them, but left them to a two-thirds vote of the legislature?

Mr. Newton That's a very good point, Mary.

Mr. Goldman Mr. Newton, just to get everybody's mind at ease, would you answer these questions for me? In Section 3, Paragraph (A), or rather in Section 3, Paragraph (A), down underneath "all public..." in Number (2), whatever you call it, Sub-paragraph (2), "property owned by religious denominations or orders which is not leased or operated commercially for profit", would that not include churches, homes for the pastors or religious community, schools operated by the religious...by the churches, hospitals operated by the churches, etc.?

Mr. Newton That's right.

Mr. Goldman That would include all those as exemptions, wouldn't it?

Mr. Newton That's the intention of the...

Mr. Goldman Now as far as Mr. Willis' question about us not taking our responsibility and leaving it up to the legislature, isn't it the responsibility of the legislature to either exempt or not to exempt properties from taxes?

Mr. Newton That's my feeling. Yes. I don't think we can do it for all time.

Mr. Deshotels Mr. Newton, in two parts; first of all, I notice that on your Subsection (1), you have "all public property." Do you recall yesterday when Mr. Pugh amended that to read "all public property used for public purposes"?

Mr. Newton Yes.

Mr. Deshotels You effect a change there, don't you?

Mr. Newton Yes. I think that was probably inadvertent. But I'd be willing to support an amendment to add that line.

Mr. Deshotels Secondly, Mr. Newton, the way your amendment is drafted, the legislature could add new exemptions in the future if they wanted to, couldn't they?

Mr. Newton That's correct. They could.

Mr. Deshotels That's not the way the constitution is written at this time, is it?

Mr. Newton No, that is not. But it...the committee proposal has that provision in it. I think, in answer to your question, I think Senator Rayburn put it very well that if the legislature makes a mistake one year, then they can come back and correct it the next. I think that's why this is necessary.

Mr. Rayburn Mr. Newton, is it not true that all the additions that our committee placed in this proposal were placed there about the last one or two days of our meetings?

Mr. Newton Yes, sir, it surely is...

Mr. Rayburn Is that not true that they just came out, they just rained down like something falling

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from the heavens?

Mr. Newton It was like kids with a new toy, Senator.

Mr. Rayburn When we did not, when we barely had a quorum?

Mr. Newton That's correct.

Mr. Rayburn When we barely had a quorum and that's how all these extra additional exemptions got into this proposal. Am I not correct?

Mr. Newton Yes, sir. You're correct.

Mr. Hernandez Mr. Newton, on page 4, Subparagraph (F), the State Board of Commerce and Industry is provided for. That is, that's the only thing I can find left, as proposed to take care of Commerce and Industry. Your amendment will entirely eliminate that. Is that correct?

Mr. Newton My opinion is that it would be transferred to the statutes along with the other exemptions, subject to a vote of two-thirds of the legislature to change it.

Mr. Hernandez Are there any provisions providing for that that you know of?

Mr. Newton I'm sorry, sir. I didn't hear you.

Mr. Hernandez Any method provided for, to do that?

Mr. Newton Through the transitional schedule.

Mr. Chatelain Delegate Newton, in your Section (B), "all other provisions for exemptions from ad valorem taxation operative at the time of the adoption of this constitution are retained in effect". That means, sir, does it not, that places of burial, worship, universities, schools, and colleges, and hospitals, etc., that are now being operated by these various places will retain the same status, sir?

Mr. Newton Yes, sir.

Mr. Chatelain It'd have all the same status it now has?

Mr. Newton Yes, sir. We wouldn't change a thing.

Mr. Conino Delegate Newton, I call your attention to the second sentence, "the legislature, by a favorable vote of two-thirds of the elected members of each house, may amend or repeal any...exemption provisions." Right? This includes educational and all the other eleemosynary institutions, etc. Isn't that correct?

Mr. Newton That's correct.

Mr. Goldman Mr. Newton, in Paragraph (B), it reads, "may amend or repeal any exemption provisions other than the homestead exemption provided for in Section 1 of this Article, and the exemptions provided for in Paragraph (A) of this Section", which includes "all public property, property owned by religious denominations or orders which is not leased or operated commercially for profit." Is that not true? The legislature couldn't change that.

Mr. Newton The legislature could not change that. No.

Mr. Anzalone Mr. Newton, was there any discussion during the hearings on your committee as to the constitutionality in view of the Fourteenth Amendment to the United States Constitution of all of these exemptions that you all are giving here? I'm talking about under the equal protection clause. Do you feel that these are constitutional in light of that, or probably, maybe, are not...some of them are not?

Mr. Newton Eddie, I just wouldn't know. We didn't

really consider it, frankly. I just couldn't answer you off the top of my head. I wouldn't even try to.

Mr. Anzalone Well, do you know of any court tested case where any one or all of these things have been given judicial sanction as being constitutional, out of the 1921 Constitution?

Mr. Newton I don't know of any. I don't know whether they are or not.

Mr. Pugh Mr. Newton, I wasn't on your committee so I don't know. But a member of the staff just came over here and volunteered to me that the only provisions that are not in the 1921 Constitution, which your committee put in here, are the ones relating to stocks and bonds, and he says "commercial vessels gathering seafood for human consumption." Now were there any others that were not in the 1921 Constitution?

Mr. Newton Mr. Pugh, I really couldn't answer that. I wasn't at all the committee meetings, and particularly the ones where they were dealing with a lot of these exemptions...the final ones.

Mr. Pugh Assuming that we can identify, and that ought not be hard, the ones that are in the 1921 Constitution, do you object if they are stated in this constitution...the same ones that are in 1921, and we'll just name them, right here and be done with it?

I'm asking him.

Mr. Newton I don't have any serious objections to it, but I certainly don't think it's necessary, though.

Mr. Blair Mr. Newton, aren't you really just unloading the wagon partially?

Mr. Newton I'm sure trying to, Senator.

Mr. Blair It kind of got a little heavy, and let old Maude kind of pull it on out. You're actually just unloading that wagon so we can survive with it?

Mr. Newton I think so, and so we can get to moving on, Senator.

Further Discussion

Mr. Abraham Mr. Chairman, ladies and gentlemen, I rise in favor of this amendment. I'd like to point out to you that the present constitution, and Committee Proposal 15 as it's presently drafted, provides that the power of taxation shall be vested in the legislature and shall never be surrendered, suspended or contracted away. I don't think we are doing anything here but reaffirming that power or that right, or that privilege that they have. We've argued here for I don't know how many days on this thing. We've suspended the rules. We went into a Committee of the Whole; we heard various speakers come up here and talk about problems of state revenues and how complex the situation is. Here we are trying to lock all these things in the constitution in spite of what these people have told us. You heard Senator Rayburn talk about the problems that are involved. You've heard him say that at least, if we did nothing else but keep the provisions we had in the present constitution, we would be better off than adding to and adding to. I submit to you that this amendment here does just that; it keeps the provisions of the present constitution on the statute books. It takes a two-thirds vote of the legislature to change it. In another section of the revenue article we provide that the legislature, by a two-thirds vote, can change the taxes. We fixed the homestead exemption in this constitution so I don't think that's any problem. I think this is the best way and the only way we can handle this situation because times are changing. State revenues are going to change. We're going to have to leave it up to the legislature to be able to handle

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these problems as they arise. Throughout all this whole convention we've heard about the legislature's hands being tied. Well let's untie them a little bit, now. If we can't depend on the legislature to resolve our problems, then we're all sunk.

Now, I'm not worried about the exemptions in the present constitution, because I don't think there's going to be any real problem with these. I know there're some minority interests who presently have exemptions now who don't want to lose them, but I think that they will be able to muster up a one-third vote, if necessary, to prevent the repeal of those particular ones that they want.

But really, we've belabored this point for many days. I just think it's time we got off the subject and moved on to other things. Time is getting short. I think this is the best way and the most flexible way that we can handle our problems. I don't think we'd be doing any violence to this constitution; I think that we'd be helping the state a great deal. I think the citizens of this state would approve of the action we take if we turn this type of thing over to the legislature.

I ask your favorable vote on this amendment.

Further Discussion

Mr. Jack Mr. Chairman and fellow members, I rise to oppose this amendment. I think it is our duty to pass on these exemptions. I know it's a hard job, but the people are looking to us to do it. We passed on the hardest part of this proposal, the homestead exemption; we passed on the part about the percentage of taxation and those things, in this proposal. We all knew that this Committee Proposal No. 26 was going to be one of the most difficult we have. Now I'm not hollering at anybody, I'm just saying it looks to me like some of us don't want to face up to all this hard work that we're presented with. I don't think we should leave it up to the legislature. The people expect us to pass on this. You've worked on this proposal for months. We are rewriting the Constitution of 1921, so why in the world does this amendment use a big part of the amendment taking up exemptions that were in the Constitution of 1921. Just read that on page 274 of your little loose-leaf book. Those exemptions in there, some of them are ridiculous this day and time. Now, let's see what you are leaving out of the material we have before us under Section (C). You are leaving out everything under nonprofit corporations. I know there is a lawsuit pending to try to hold that these things named there like nursing homes, etc., come under that amendment of 1936 as places devoted to charitable undertakings. But you're not going to win that suit because nonprofit corporations, the hospitals, nursing homes, homes for the aged, convalescent, rehabilitation facilities, institutions for treatment, rehabilitation care of the physically and mentally handicapped or retarded, orphanages and child day-care centers, they are not charitable institutions, but they are very necessary.

[*Quorum Call: 81 delegates present and a quorum.*]

Mr. Jack Mr. Chairman and members, I don't want to rehash that, but I do want to say that it's wrong to just adopt what was in the 1921 Constitution by reference. A lot of them are not good; a lot of them are bad, a few are good. Now I know it takes time to handle this, but that's what we are down here for. Now, we've adopted...we've got in Section (C), which we haven't adopted yet--but till this came along, it was assumed we would...we've got things that are very necessary that be exempt and you know it, or you would have opposed them. But you want to take the short way to go to the legislature. They're going, to begin with, have their hands full. This is our duty. If we're going to adopt any exemptions, we ought to do the whole job, not a third of it. What you're going to do, look on page 3 of Proposal 26, you're just going to pass over the most necessary thing that didn't even exist when you had the Constitution of 1921 passed, didn't even exist, most of them in 1938, when you

passed this amendment, the last amendment on these exemptions. Those nursing homes, homes for the aged, hospitals that are not charity or religious but are under nonprofit, convalescent, rehabilitation facilities, institutions that treat rehabilitating the care of physically and mentally handicapped or retarded, orphanages, child and day-care centers, which are organized for nonprofit.

Now let me tell you. Those are nonprofit things and they are needed things. If they are taxed they are going to go out of business, because they cost a lot to build, and they'd have a high fair market value. I say let's do our duty and let's take this up, as a constitutional convention. You know we've limited the legislature to sixty days. All the stuff put on them, they're not going to be able to do it in sixty days. They can't handle it...

Further Discussion

Mr. O'Neill Ladies and gentlemen of the convention, I rise to oppose this amendment. I rise to oppose it for several, and I think probably very good reasons. If you look at the amendment itself, you find that it adopts by reference the 1921 Constitution. The argument is that, "Oh, we're going to put all these things in the statutes and it's going to take a two-thirds vote, and it's going to be transitional measures, and it's going to be this, and it's going to be that." Well, I wonder if the same people who are proposing this amendment intend to vote for those when it does become a transitional measure. I really do wonder about that. We have no assurances right now what things are going to be in the transitional measures, if we can make these things two-thirds, and what's more, if we can adopt the 1921 Constitution by reference.

Now look at the amendment closely. It says "it exempts all public property." Well that's a complete change from an amendment that we adopted yesterday. I believe it was Mr. Pugh's amendment. While they says, "Oh, yes, we're going to except it," it's not in this amendment and it should be in this amendment. You know, I can foresee now that maybe this amendment isn't as bad as it looks, as there probably will never be a tax increase in the legislature after this. All they're going to do is repeal an exemption; they're going to repeal this exemption, and they're going to repeal that exemption. That's how they are going to raise taxes. I guarantee you it's easier to get a two-thirds vote to repeal an exemption than it is to get a two-thirds vote to raise a tax. The legislature from here on out is going to be after those statutes and transitional measures that we don't know anything about yet. That's how tax revenues are going to be raised.

I cannot imagine an industry moving into this state and being told it has a ten year exemption and then the legislature being able to cut it off after one year. Those are the kinds of things you are setting up. I think that maybe the cart is pretty full. But maybe it's necessary to leave a few of these things in here to provide some stability, to provide some assurances, and to provide some peace of mind for different groups and different people. After all, all these groups and all these special interests, and all of this and all of that, I bet if you add them all together you've just about got the total population of the state in some special interest group, or some other special interest group. You know the same people, or many of them, who are on this amendment, most of them favor unlimited taxes by a majority vote of the legislature; at least I know some of them do. I think they see this as the way to increase tax revenues without having to raise taxes-only to repeal exemptions.

Therefore, I ask you to vote against this amendment. Be very selective about future amendments with different exemptions. I think most of us can be pretty happy with what we've done to this point. Most of us can be pretty happy with the exemptions that we've provided so far.

Thank you.

Questions

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Mr. Newton Mr. O'Neill, do you really believe that the Board of Commerce and Industry could sign a contract for an industrial exemption for ten years, and that the legislature could come along and take it away from them?

Mr. O'Neill By a two-thirds vote you provided that, Mr. Newton. It's in the constitution; or it would be.

Mr. Newton Doesn't this constitution provide that the legislature shall pass no law which impairs the obligations of contracts?

Mr. O'Neill Well, we haven't adopted anything yet that says there's going to be a Commerce and Industry Board, either, Mr. Newton. For all I know, you are going to be against that.

Further Discussion

Mr. J. Jackson Mr. Chairman and ladies and gentlemen of the convention, I don't have much to say than what I said this morning because I seriously believe that that did help a little bit. I think some people understand the kind of devastating effect that we are having on the local governments and school boards.

But let me suggest to you...I received a couple of letters this morning from some of my nonprofit agencies. They say that they want to have their tax exempt status retained, and some of them want to get in. Now organizationally, they may benefit...as I understand Mr. O'Neill said...but individually they don't recognize that organizationally they may save a hundred dollars on their exemption...but individually, when the local government goes back and says we've got to raise the millage, or we've got to have an income tax, or we've got to pass a sales tax, that individually they're going to be paying as much as seven, or eight, or ten times as much as they got from that organization homestead exemption. So how can we suggest in any pure conscience that homestead...that the exemptions as we've elaborated them so far provide the kinds of necessary relief for social agencies and agencies that are provided in the nonprofit purpose. I think if we just seriously look at it for what it really is, you know it's a good gesture on the part of us as convention delegates, and even on the part of the legislature, but in reality...in reality, and I think there is some historical reference for it, that we tend to make it up by asking them to give more in another manner.

The reason I rise in support of Mr. Newton's amendment besides what I've just said, is that I, personally feel that if I have a justifiable reason for wanting to be tax exempt, then I can come to the legislature, and the legislature could adequately determine it. Does anyone in this convention have the feeling of assurity that under the present language, that we are now providing a door whereby organizations that we don't want tax exempt, can get in? I mean, if you are assured of that, then, I tell you, vote your convictions.

Personally, I think the amendment does, is that (1), it provides that we recognize and we sanction existing constitutional exemptions and authorizing the legislature, who could spend time...yeah, we have annual sessions, but we do have committee hearings...we do have prefiled bills, we do have the mechanism and the research staff to extensively look at each and every individual exemption that comes before us. I do not see very seriously how we could, in good conscience, and I can understand some of the reservations, but I don't think we can in good conscience say that we are going to allow for broad exemptions, not recognizing, (1), that it's going to decrease our governmental services; (2), that we're going to have to pick it up, you just can't operate government and don't provide services. You're going to have to pick it up, and that most likely you're going to go with the sales tax or you're going to go with an income tax. I just wonder what New Orleans is going to do to recover that fifteen or ten percent that we lost based on the assessment ratio. I am seriously suggesting

that even with my renter's provision, I was...I heeded the advice of delegates who felt that we should not mandate the legislature because we didn't know the fiscal effects of it.

I suggest that those who are just as sincere about their various exemptions, take the same posture. We cannot change this next year. The legislature can, if it gives an unwarranted tax exemption, can change it year by year. But this constitution, you can't do it. That means for another fifty years, you multiply that times the amount of unwarranted exemptions, and you try to determine the fiscal effects on your school districts, on your drainage districts, on your governmental services. I suggest seriously that you support the Newton amendment because it provides us with an amenable compromise. It doesn't hurt anybody.

[Motion to suspend the rules for the purpose of taking a trial vote on the amendment rejected: 41-72.]

Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise in opposition to the amendment. I do so, because I do not believe that we ought to lock into this constitution some exemptions and then say to not only to those people, but everybody else, then you got to go to the legislature either to retain it or to get something new if you are entitled to it. Now, let me suggest to you. The question was asked me from the floor this morning by Mr. Roemer if I thought all of the exemptions ought to be out of the constitution. I have no quarrel with that. If you take all of these exemptions out of the constitution--and I'm talking about all of them--including that billion dollars that's on the exemption rolls that we saw on the thing that's been passed out in St. Charles Parish. You take that out of the constitution, and then say everybody goes equally to the legislature by a two-thirds vote, fine. But, let's don't say to the half of the population of this state those with a vested interest, you now got an exemption; you got to go to the legislature to keep it. Those of you on this side that want it, you got to go there and try to get it. Now, if you're talking sincerely about building a tax base equitably that Senator Rayburn was talking about as far as exemptions are concerned, let's abolish exemptions; let's get away from them; let's do it on all taxes--like sales taxes--where you got forty exemptions. The only person who pays it is the consumer. We are going to do away with exemptions, let's do away with all of them, and then let's start from scratch. But, this amendment does not do that; it doesn't do that. Let me ask you this question. What does it mean when it says "all other provisions for exemption," provisions where, the statutes, the constitution, the attorney general's opinions, or what? Now, if that's what it means does it then take a two-thirds vote of the legislature to suspend one of those provisions that is not in the constitution? I just suggest to you that we ought to face the issue squarely. If they are entitled to exemptions they ought to be in the constitution, and they ought to have constitutional protection. If not, and they want an additional exemption, they can go the route of amending the constitution and that way everybody is on an equal footing. I'm willing to pay my fair share of the taxes, but, I don't want to pay one penny more, not one penny. But, I want to pay the full amount that I ought to pay.

Questions

Mr. De Blieux Mr. Flory, wouldn't this amendment do exactly what you have stood there before that mike and advocated that the legislature could reexamine all these exemptions which we had. Then they could take out those exemptions which wasn't... which we have been complaining about? I think you and I have been complaining about the same exemptions all of these years and it will give us a chance to reexamine them, isn't that correct?

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Mr. Flory No, sir, that's not what I have been advocating from this microphone today. I have said in the past, and I said again just now, I think that you ought to take all of the exemptions out. Let the legislature by a two-thirds then grant if you want...everybody start even, fine; I'm all for it. But, I don't want to lock half of them in and half of them out.

Mr. De Blieux Wouldn't the legislature be able to do that under this amendment?

Mr. Flory Under this amendment? Yes, sir, they could show favoritism. I have been down that road, Senator, I have heard you say when...

Further Discussion

Mr. Duval Mr. Chairman, fellow delegates, I realize that the convention is probably intensely interested in this, that's why I didn't waive. I think a few points should be made. One, the first question we should ask ourselves--and I have been wanting to say this for a long time--the first question we should ask ourselves is: (1) Is this of sufficient constitutional sanctity to place in a constitution? Have we all thought as to what a constitution really is? It's a basic statement of organic law. We are now attempting to legislate. We are now attempting to discern what exemption from property tax is meritorious and what is not. You get into many questions of philosophy, of sociology, of economics all of which can best be decided by a legislative body. This is not a legislative body. The reason that Louisiana needed a constitutional convention, and the reason it so desperately needed it, is because we have an archaic and unwieldy constitution. If you ask the voter now--the voter--if you go out and ask the voter what's wrong with our constitution, and he will say it's too long and it's too full of vested interest. I think we have a mandate from the public to come up here and to attempt to take specific vested interest out of the constitution. We are not completely doing it, that is no doubt, because we are allowing the exemptions to be repealed by a two-thirds vote. That is not a utopian thing. But, at least, these exemptions are taken out of the constitution; we have also added more and why shouldn't we add each one that has any bit of merit to it all? Who are we to judge right now in this body without facts, figures, etc., determining what effect it's going to have on the financial condition of the state? We are writing a constitution that can respond to the public's real needs, to the voter's real needs, that is, be futuristic enough so that Louisiana can be a modern state, so that we are not trapped by archaic history, not trapped by the selfish vested interest. Of course, many of us have vested interest. Of course, we want our vested interest in the constitution. But, why shouldn't my vested interest be in the constitution and yours should? Why should that be? That's why you have a legislature to deal with those problems. The two-thirds vote is merely a requirement to protect those who have gotten their specific exemption in presently. I would like to point out some other things. We have all talked about trusting the legislature or not, etc. By a two-thirds vote the legislature can put any tax that's constitutional on the people. A tax that is far more onerous than the ad valorem tax because the states not even in the ad valorem tax business right now. We should keep in mind that the ad valorem tax is assessed locally at present and the states not even in the property tax business at this point. So, the state...are we worried about all the state raising taxes here. But, the states not in the property tax business, it would be for a purely local point. Another point, by a two-thirds vote, the state could pass a sales tax or some other type of tax which really is terrible or increase the income tax statewide. So, I'm wondering what validity these arguments have. What I'm saying is this, I think the primary purpose that we are up here is to make this a constitution and not a statement of legislative principles which is what our present constitution is. Also, by a majority vote the

legislature could repeal the nonprofit corporation law. Another thing I might point out is that some of the...if you look carefully at some of the amendments we have adopted, I want any of you to tell me the effect they really have on the financial structure of the state. I want some of you to tell me what the words means. I would like to ask you what the heck is it? What does profit mean? Does profit mean income? Does it mean coming out in the black or what or in the...I just don't think the case...it can be answered the way they are written. I think there is nothing to stop a whole plethora of amendments from being introduced right now.

What I'm saying is I think this is a reasonable, intelligent amendment. I think it will...a lot of people have told me "Well, this amendment it will kill the constitution, because your vested interest won't be in there." Well, I'm telling you the more opposition we have from vested interest the better constitution we have. The more the people of this state will vote for it, too.

Further Discussion

Mr. Anzalone Ladies and gentlemen of the convention, I kind of wish I had talked to Aunt Mary last night, and maybe I wouldn't be so confused today. But, let me give you the benefit of just a little bit of short-minded legal thinking and see if I can get you not to answer the question but to think in these terms, because I honestly don't know the answer myself. Now, there are those of us who live in the country who want to protect these agricultural products while owned by the producer, agricultural machinery and other implements used exclusively for agricultural purposes, I guess just about as much as anything in the world. But, let me throw this out to you. Supposed just by some stretch of the imagination that some guy that owns a printing press somewhere or a printing shop comes up and he says, "Why is it that agricultural machinery is exempted and my machinery is not?" Some court, somewhere, says, "Mr. Printer you are right." This provision in here says, "that agricultural machinery is to be exempt is unconstitutional, then it's out." Now, how do we get it back in? We don't, because we have now...got to go to the people with the constitutional amendment. That's wherein the problem is going to lie. The man who owns a commercial vessel that is used strictly for gathering seafoods for human consumption, why is it that his neighbor who owns a boat on which freight is hauled would have to pay a tax and he would not. Suppose that this were declared unconstitutional; it's out of the constitution and we don't get it back. I am asking this convention to search its mind to think that those of us who want some of these provisions in here might not have a better chance with the legislature rather than the courts coming up with a decision to say that they are unconstitutional. Now, I've done about exactly three minutes worth of research on this subject and this is what I have come up with. There must be substantial equality of the tax burden amongst classes. Any deferentiation between the classes must be reasonable and fair within each class and between classes. Now, when we go to talking about something like this, are we talking about something that is truly constitutional or the possibility of something that is unconstitutional? If we have something that is unconstitutional that we are tremendously interested in, we are never going to get it back in this constitution unless we are able to do it through the legislature. I don't know the answer. I haven't had time to find out what it is. But, what I'm asking you is that I do know that the Fourteenth Amendment and the equal protection clause of the United States Constitution has been stretched just about as far as it can go. I can't see any reason why it can't be stretched a little bit further if it hasn't already been done so. Now, you have heard every member of this committee get up and say, "Well, we have never thought of the possibility of these things being unconstitutional." But, I ask you, search your conscience, is this fair? If it's fair and if it's equal, it passes the test. How

in the world can you say that something is equal? A man whose got his farm machinery exempt but a man whose got a wrecker in his garage has got to pay taxes? A man who holds agricultural products for resale, pays no taxes, but a man who keeps goods in his store pay taxes? Is this fair and equal? I don't think that it is. But, I want to keep the agricultural products in here. The only way that we are going to be able to do it is that if it is ruled unconstitutional, is that we are going to come back to the legislature and say, "No, we don't want a constitutional amendment." Now, we are going to be satisfied to put the grocery store on it as an exemption.

Further Discussion

Mr. Reeves I realize that many of you have made up your minds with a lot of help from our friendly lobbyist behind the rail, as well as our friendly lobbyist within the rail. So, there is really no sense in me belaboring the point to an excess; but, I will say this. Nobody, and I think it's said quite well right behind me on the Chairman desk, there is a little sign that says, "Nobody said it was going to be easy," and it's not. Nobody said it was going to be easy to take out these exemptions and to place them in the statutes where they rightfully belong, nobody said this was going to be easy. For the first time or one of the few times in the history of this constitutional convention, so far, you have been called upon to answer a question that has troubled the people of the State of Louisiana for some ten years. Ten years that they have really known that there is a problem with the Louisiana Constitution and that thing is this. That there are too many, way beyond too many, statutory items within the Louisiana Constitution. I ask you to consider this amendment favorably. I realize first of all that you are going to have to stand concretely, unequivocally. But, for the first time, you are going to have to stand on one side or the other. The sheep and the goats, what are you? This decides what you are. If you have sold your soul to the lobbyist of the great State of Louisiana and to the special interest of the State of Louisiana, then you are going to vote no --there is no sense in me belaboring the point. But, if you are concretely, fully believe that the State of Louisiana has had a new birth of freedom and that this state shall join the states of the United States and that they shall have a legislature that is able to stand up and be counted and work for a change, and to do things better--then you are going to vote yes. For what we are doing here is telling the Louisiana Legislature "Look, this is your opportunity. Stand up and be counted." We are giving them the authority of deciding exemptions. We have two sides to this particular question. The first side are those that want their exemptions continued. This side includes a lot of good people --agricultural--everybody wants agricultural machinery, farm animals exempted from taxes. There is no problem to this. But, for God's sake, do you need it in the constitution? You are the laughing stock of the United States of America, and you are the laughing stock of the entire world. You've got a constitution that won't work, will not work, has not worked, and will never work the way you've got it written. You've got people sitting in the legislature that have been passing the buck to the people of the state and adding more constitutional amendments. But, this is the time to tell them "Look. Stop. We are not going to have a constitution anymore that's full of these kind of things. We are going to have a people...in a constitution that's responsible to the people of the state." This is what I believe. Second of all, you have those individuals that want other people's exemptions taken out. I happen to be among that group. I agree with Mr. Flory that industry does not need a ten-year tax exemption. I very strongly believe this. I'll tell it to the lobbyist standing up there you don't need it. If the State of Louisiana cannot attract you with the resources that the State of Louisiana has now, then go back to Chicago or go back to wherever you come from because we

don't need you. If we've got to stand on a ten-year tax exemption that is not equitable, that does not work, then let's cut it...it's time to cut it out, I'll agree to that. But, let's don't do it all of these little things in here now.

Further Discussion

Mr. Roemer Well, then, I'll make a few brief comments. I support this amendment because what it tries to do is in keeping of what everyone of us here was elected to do. That is, write a constitution that can: (1) be read and (2)... can stand the test of time. I submit to you that it is far more flexible and will mean far more longevity for this document...I would just like to point out that this amendment does not remove these exemptions. It does remove them from the constitution. Let's understand the difference. As I was saying, when I was interrupted, I submit to you in my personal opinion--for whatever that might be worth--that it is a step forward in this state to at least allow the possibility of legislative review for some of these exemptions, nothing more than that. On that basis alone, I can support this amendment. But, it does more than that. It locks in our homestead exemption, and I think we all join together in that. It locks in the exemption for religious property, and I think we all join in that. It locks in the exemption for public property, and I think we all join in that. But, it does allow, in the future, for the legislature to review these exempt items. On that basis, and I think that's enough, I ask for the adoption of this particular amendment. One final comment as to agriculture. Some people here who come from agricultural areas are upset by this amendment. I come from one myself. They say that the farmer has historically enjoyed this constitutional protection. They also say the legislature is slowly changing its composition from rural to urban. Some day might come when the legislature will do away with these agricultural exemptions. You know that's not the case, because the exemptions apply to the local taxing authority. Right now we have the state out of the property tax business; it can't come in except with a five and three-quarter mills maximum that never means very much money. So, basically, these exemptions effect the local taxing authority. Well, in whose interest is it to remove the exemption; it's not in the interest of Orleans to remove the exemption on combines in my parish because it won't help Orleans--think about that--it's only in the interest of my parish to remove the exemptions on combines. If what the farmers say is true, that is my parish is going to have less and less influence, then the exemptions will never be removed. Now, just follow the logic of that. I urge your adoption of this amendment.

Further Discussion

Mr. Champagne Your attention, please. I thought that when I was here yesterday we might have put and settled this proposal of leaving out the exemptions once and for all. But, it seems as if we may be here day after day on the same proposal. We are really not here arguing exemptions, just think for a moment, we have spent very little time deciding whether or not to include certain exemptions. We are simply arguing over, and over, and over again whether or not to include the exemptions. We cleaned up the 1921 Constitution list in committee. We did a very good job of it. We spent days at it, and we finally came up with a list of proposals that we thought satisfactory and sufficient. We destroyed scarcely a nickel's worth of revenue by the exemptions as listed by the committee. The two proposals and the two additions this morning did not cost local government or any government one red penny. But, what we are doing here is hashing over and over again, and there are those of us who believe we must come up and express ourselves, because there are some who insist--some purists in this organization who insist that we are going to leave everything to the legislature and they would probably have a constitution of about four sheets which would say

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the various branches of government, and will leave it all to them. I suggest to you, we have those same people on this same amendment and the same people that came here yesterday and spoke at great length about it. I ask you once again to defeat it again. Let's hope that they will not be here again tomorrow, next week, and the following week with the same proposal. Let's get to this thing. Let's try to settle these lists of exemptions. I urge you to allow me the privilege of joining with you once more in defeat of this amendment.

Vice Chairman Casey in the Chair

Further Discussion

Mr. Comar Mr. Chairman and delegates, I'll be brief on this. But, I wanted to bring to your attention Section 2 of this proposal...or Paragraph marked 2 of the Section 3 does not do what the authors purports that it does do. It does not protect the various religious denominations in this state who are providing services such as: nursing homes and other institutions which provide a specific service for the people and nonprofit in nature. This may protect the church, but the protection would end at the church door. I don't think that that is what the authors even intend. I think that they want to protect church related functions such as: homes for the aged, and the nursing homes I mentioned, and child care institutions. Well, let me give you an example of why it does not protect those types of religious related functions. I belong to the board of Christopher Homes, Inc. in New Orleans which is nonprofit organization sponsored by the Archdiocese of New Orleans but as a complete, separate corporate entity. All that it does--and none of us are paid--all that it does is to receive from the federal government funds for the construction of dwellings in New Orleans which are largely either bought or rented by black families or elderly people, both black and white. In that case, this is a nonprofit corporation completely separate; it is not a religious denomination; its board is made up mostly of lay people including lawyers, and doctors, and others who serve without pay. So, this section does not in anywise protect the religious related functions. I urge its defeat.

Questions

Mrs. Zervigon Mr. Comar, from whom do these enterprises like Christopher Homes need protection? Is it your assumption that you can't get one-third plus one, of one house of the legislature to protect the tax exemption for Christopher Homes and similar enterprises?

Mr. Comar Mary, I have been going to the legislature every year since 1952. I don't want to go another twenty years trying to do that. I do not feel that the legislative protection is sufficient when you are going in to borrow large sums of money from people, and to get large donations, and to even get federal funds to go into them and expect them to put money up for these and then have them taxed out of business by some fluke of the legislature.

Mrs. Zervigon Mr. Comar, are you aware that we got similar organizations from the Vieux Carre Commission who's on a fund raising drive from the Sewerage and Water Board who are afraid they couldn't float their bonds, and after they were removed in specificity from the constitution and left in only in general? They found their fears were false and that they can still raise money and float bonds and that sort of thing. Are you aware of that?

Mr. Comar Well, all I'm aware of is that this amendment does not give the protection which I think you need in order to be able to do the works that these churches are now doing.

Mr. Lanier Mr. Comar, you will agree that Subsection 2 does protect property that is directly owned by the church, will you not?

Mr. Comar Yes, this would be churches and in some cases schools. In a lot of cases schools themselves might be separate corporate entities.

Mr. Lanier But, if it is a separate corporation entity it is no longer the church, is it?

Mr. Comar That's right. But, the functions that they perform are largely because they are religious bodies, they perform these various service type organizations.

Mr. J. Jackson Mr. Comar, is it not true that presently, right now, that we have given the legislature and it always has been historically that matters of grave importance of constitutional nature, that we have given the legislature a two-thirds vote to implement constitutional amendments? Is that not true?

Mr. Comar That is true, yes, right.

Mr. J. Jackson So, that the matter of two-thirds in terms of reservations on the part that it can work for as well...well, I assume that you have some reservations about against. But, that's just the matter of the democratic process, whereby, the legislature can adequately determine with a super majority what will be best for the state.

Mr. Comar Well, I do not believe it is bad for the state to include these in the constitution. We differ on that point. But, I do think the protection is vital to these institutions.

Further Discussion

Mr. Jenkins Mr. Chairman, I would like to rise in opposition to this amendment, because I think it represents a false solution to the problem confronting the convention. I'm not satisfied with the section as it stands with these exemptions. I think some of them should not be in here. I don't agree with all of them. I agree with some of them. I don't expect to have a constitution that I'm going to agree with a hundred percent or be in entire agreement with. The problem that appears to me is the question of discrimination in our tax laws. The question of exemptions that shouldn't be there. The question of cases where there should be exemptions and none are provided. But, by taking this approach, we don't solve that problem at all, rather we compound it. We allow the legislature by a two-thirds vote to make our tax laws even worse than what we might provide here to take off some of the bona fide exemptions that ought to be provided and protected for the people of this state. You notice we are adopting by reference in this Subsection (B) parts of the 1921 Constitution, parts of the statutes I suppose. I don't know what we are adopting in that Section (B) and ratifying giving validity in this constitution; I just don't know. I don't know that what we are adopting there coincides with the things that we would be putting in this Section 3 without this amendment. We are adopting by reference and that's a very bad practice in a constitution. I have seen the legislative process and how it works. I have seen times in the legislature when you get a group of men tired after a long day, someone might start telling jokes, everyone loosens up a little bit, and under those circumstances people can vote for anything. There is no exemption so sacred that it might not be removed given the proper circumstances psychologically. A two-thirds vote is some protection but not enough. So, what I suggest is that we continue as we have been trying to solve the problems of these exemptions, include the ones that ought to be included, don't include the others. But, let's don't cop out. Let's don't make it possible for the legislature to do away with valid, legitimate exemptions that we need in this state. Let's defeat this amendment.

Questions

Mr. O'Neill "Woody", you have been in the legislature and would you agree that it's a lot easier to

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repeal an exemption than it is to put a new tax on some different group or the people?

Mr. Jenkins Well, absolutely, Gary, because no one wants to vote for a tax increase in the legislature. But, if you can disguise a tax increase as the repeal of an exemption, or the imposition of an assessment, or the imposition of a fee many people can justify voting for it when they can't vote for a tax increase. So, it's a lot easier to get a two-thirds vote for an exemption, to repeal an exemption rather than to increase a tax.

Mr. O'Neill Well, wouldn't you agree, too, that some of the people on this particular amendment... they weren't so much for brevity and for taking things out when they wanted to put the historic preservation district in, and the New Orleans Dock Board, and a few little things like that.

Mr. Jenkins Well, Gary, they are all our friends.

Further Discussion

Mr. Planchard Mr. Acting Chairman, fellow delegates, I'd like to call for probably a seventh inning stretch about now, and I'm going to take up about thirty seconds of my time for all of you to stand up, if you will, just for a minute right now.

Mr. Casey Mr. Planchard, we've tried everything else. I guess we may as well try that--a seventh inning stretch. Now, Mr. Planchard, you have their attention for thirty seconds. I wish you good luck after that. O.K. delegates, please take your seats now.

Delegates, please take your seats. Let's cut out the little gatherings over on my right. Give Mr. Planchard your attention. He now has two minutes left.

Mr. Planchard Thank you, Mr. Chairman. Fellow delegates, in the short time I have to explain this, let me say if I could reiterate everything I said yesterday and put twice as much emphasis on it today, I would do it. But I ask you to look at this amendment and see what it really does. I call it an easy road out, and that's all it is. This amendment, they say, is to clarify, but they do not like to have legislation in the constitution. But yet the same purists say to us "let's adopt by reference." Now, I don't think there's a lawyer in this place that can actually adopt anything by reference to another instrument, and what they're saying in effect is, "Let's adopt the old constitution," so every time we look at this provision, we have to go to another constitution, so we'll have two of them. Then go further. They're saying "adopt by reference", and let me read the language we're going to use in the constitution by reference. It says, as one of those exemptions, "places of religious worship, rectories, parsonages," etc., just like we have in the proposal of the committee, but it goes further. It says "schools and colleges," and then we really get into the constitutional material that they're talking about; "athletic or physical culture clubs, associations or organizations, having and maintaining active membership or not less than one thousand members." Is that constitutional material, being nonprofit-sharing organizations--no explanation of what a nonprofit-sharing organization is--is that constitutional material? Holding, in equipped gymnasiums, physical development classes open to all members daily, except Sundays and holidays, under supervision of regular physical directors; is that constitutional material? That's what we want to adopt by reference, with juvenile and junior classes promoting, in all ages above eight years, physical and health development. Now, is that constitutional material? That's what they're asking you to include under the guise of their trying to get away from legislative material that we have put in this proposal by the committee. Now, this proposal by the committee was worked over many times. It was not a last minute deal; no, sir, quite the contrary. I want to point out a little difference where they say property owned by a reli-

gious denomination. Is that everybody that says they're a religious organization? Is all their property exempt? We do not start with all property of religious denomination; we qualify it. We say places of religious worship, the church--the church-house; that's what we're talking about when we exempt. We thought about it long and hard. Property owned by a religious denomination, and used as residences for clergy and religion. This is not all property. You see, we had a little bit more thought than this amendment, and I want you to give it more thought. Now, I think the proper way to approach this thing, and I believe all of us, as delegates, came here for the same purpose, to re-write this constitution as we think it should be rewritten. Now...

Further Discussion

Mr. Gravel Mr. Acting Chairman, ladies and gentlemen of the convention, frankly, I've had some real concern about this particular amendment because I think that the purposes behind it, insofar as they've been expressed to me by some of the authors, are good. I think there is some effort made by this amendment to try to do the best thing for the constitution. But, the more I think about it, and the more I look at this particular proposal, the more I realize that it's a pure cop-out amendment. We're going to be forsaking our responsibility if we don't give consideration to the proposal submitted to us by the committee where clearly some exemptions that are in the present constitution have been rejected, and others have been recommended for our consideration. I think that we should not be irresponsible, that we should move forward and take the time necessary to consider the committee's proposals, and then to reach a final determination on a broad comprehensive exemption article so that the people of this state will know clearly which exemptions prevail and which exemptions do not. Finally, I want to make this statement. I think there is a radical departure by this amendment from the existing exemptions, insofar as they relate to properties used for charitable and religious purposes. There is no question in my mind but there has been relegated to a reduced exemption status, those religious corporations throughout the State of Louisiana; and let me make this observation to you--there are hundreds of them that would not be covered by the provisions of Section 3 (A), and, therefore, I don't believe that this amendment should be adopted by this convention, and I urge that it be rejected.

Questions

Mr. Duval Mr. Gravel, do you think we should list all the sales tax exemptions in the constitution also?

Mr. Gravel No, I don't

Mr. Duval Well, what's the distinction?

Mr. Gravel My understanding is that the committee has considered the ad valorem tax exemption, because the ad valorem taxes are provided for in the constitution. I don't believe there's any provision in this article about the imposition of sales tax.

Mr. Duval As a matter of principle, wouldn't the sales tax be a statewide tax right now as well as a local tax, and the ad valorem tax merely assessed upon a local level?

Mr. Gravel Mr. Duval, there's all the difference in the word because we're talking about the imposition of ad valorem taxes by local governing authorities, and a statewide plan of ad valorem taxation that has been constitutionalized. I think since we've done that, since we provide for a statewide homestead exemption from ad valorem taxes, we've got to treat it constitutionally. I think it's just in a different category than sales tax.

Mr. Duval Although, you do recognize, of course, that there are many other taxes and many other

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exemptions which are not in the constitution?

Mr. Gravel Yes, sir, I do.

Mr. Duval And these taxes and these exemptions could have a more pervasive economic effect, possibly, than the ad valorem tax?

Mr. Gravel If the taxes are provided for in the constitution, then I think the exemptions should be provided for in the constitution.

Mr. Roemer Mr. Gravel, on several occasions you've brought a message to us from the governor. Are you speaking for yourself now, or is this from the governor?

Mr. Gravel I appreciate you saying that. This is definitely not the governor's position, this is my personal position. As a matter of fact, the governor has on several occasions expressed the idea that there should be some proposal similar to this amendment whereby most exemptions should be left out of the constitution.

Mr. Roemer Well, then if we can talk about your personal opinion then, as I understand it, am I correct in my understanding, that it's your personal opinion that we ought to refine and perhaps expand the exemptions in the constitution rather than doing away with them?

Mr. Gravel Well, it's my personal opinion that there are one or two additional exemptions in the article that the...in the proposal of the committee that ought to be in the constitution, yes.

Mr. Roemer I see. So what you saying is that we ought to exempt Mardi Gras carnivals in the constitution, is that correct?

Mr. Gravel That's not one. Let me...

Mr. Roemer Well, if you support...

Mr. Gravel Just a minute, Mr. Roemer. I think that the committee has added certain exemptions that should be considered by this convention. I'll give you the best illustration that I can. I believe that stocks and bonds should be exempt, for example, and I think the convention should consider that.

Further Discussion

Mr. Womack Mr. Chairman, members of the convention, in my limited years in the legislature, I have probably seen more mistakes made under a condition that we have right now than any other time. That's when you get tired, you get confusion, you've argued over nine approaches, and directly somebody comes up with a compromise that violates every reasonable principle of right and wrong, and takes into consideration nothing that's building the country. Right now there are certain advantages--or we are told that they are advantages--that's enjoyed by industry because they feel that they have certain protection, because they are included in the constitution. This would take that out, and it would leave it to the whims of the legislature or to a two-thirds majority. I think, and I feel, in what we were told when we passed those things, that we are weakening our position as far as the industry. Now, we had someone get up awhile ago and say, "Suppose the man with the printing press would raise the question as to why he had to pay ad valorem taxes"...and I wish they would raise it a little bit, because there's somewhere between fifty and seventy-five million dollars worth of sales taxes going down the drain today, because certain advertising is not taxed. They also said, suppose that we give others exemptions like we do the shrimp boats. The shrimp boats are harvesting a crop, and you tax the crop when it's harvested. There's a number of reasons for these things being there. They said we have a mandate from the people. We had a mandate...if you're going to look at a mandate...We had a mandate from the people not to submit a lot of what we've submitted

now, because they killed the devil out of it in the last constitutional election. We're going back proposing now to take it out and stuff it in a document and put it in there, and say you're going to take what you don't want because we're putting something in here that you need worse than you don't need that. Then let's talk about the mandates of the people. I think it's time that we better had start looking for giving the people some reason to be for this thing. The uncertainty that we've got...they don't know what their taxes are going to be; they don't know what the assessment is going to be; they don't know what their exemption is going to be; they don't know the effect of changing the percentage factors. So the people that's going to pay the taxes don't know anything today, and you know how they vote when they have this uncertainty? I wish that I was young enough that I knew all the answers, but unfortunately, I'm not, and I guess I should offer my apology for that. But, let me give you another little item. When you have tax exemption on equipment--and today financing equipment has gotten to be a big item--you don't have the normal stockpiling of equipment and inventory that you used to have. The high interest rate has run the manufacturers out of it. You go place an order, you go to arrange for your financing, and a lot of the people that's operating on a pretty close straw today that's doing a lot of production but don't have the reserve to back them up financially, are not only having to sell ahead at lower prices, which has cost them a lot of money this year, but if they had to go in and have sizeable assessments and taxes put on the equipment, their ability to finance would be affected. This a very far-reaching item, and Mr. Jackson says, "What difference does it make because it's going to be a local deal." "Well, the five and three-quarter mills--if you put it back on a state level--I know is a state level tax, but the exemption is removing all local taxes, also. The poor people that get ready to vote the local taxes are not going to be the ones that own the equipment. Mr. Jackson, if you're offered an opportunity to vote as to whether you're going to put a tax on the combines in Franklin Parish, or tax the cab operators in New Orleans, I know which one you're going to vote to put the tax on. You know, when you start running, you've got a lot of young ones in here that just can't wait for time to campaign. They don't want to get any older right now, but they just can't wait, and they'd give up another year to get to start campaigning for the legislature tomorrow, and what are they going to say? I'm not going to vote to increase your taxes; and what are they going to do? They're going to vote to remove your exemptions. I didn't promise you I wasn't going to do that; no, I didn't promise that, but I'm not going to vote to increase the taxes. What have I got to go back and tell agriculture? I've been chairman of the agriculture committee, this term will be sixteen years, and there's a lot of people in the field look to me as to what you say. What have I got to go and tell them? You're surrendering this; you've got a chance to maybe save here. But, if the legislature--and most of them are urban today--I basically represent a District 20, I have to help represent District 19 because the Representative is ill, so I've got four parishes made right now for one vote. That four parishes has got one vote, six years ago they had four votes in the legislature. You think they're not concerned? Yes, I can tell you they're concerned, and what we had better do, rather than go ahead and say we're going to blanket this out, we might better take a little more time because this is the convention right here, and don't kid yourself. So I urge the rejection of this amendment.

Questions

Mr. Munson Mr. Womack, you heard Mr. Roemer, a moment ago, ask Mr. Gravel if he was bringing us a message from the governor, did you not?

Mr. Womack I thought I heard that, yes.

Mr. Munson Would you care to venture a guess as to which Mr. Roemer, Mr. Roemer quoted?

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Mr. Womack Well, I don't know just which one he was quoting. I can't tell you. But, I will tell you this: the governor hasn't--I can only speak for me--hasn't interfered with my position on this in the least. I know no position he's got.

Mr. Munson Let me ask you this, Mr. Womack. We have Section 3 (A), and then (1) and (2) Subsections in Section B. Now, I was gone for a couple of hours during the noon hour. I did not hear all of the remarks that have been made, but we have, in addition to the homestead exemption provided for in Section 1, the following property shall be exempt from ad valorem taxation: public property and property owned by religious denominations or orders. Why is there a distinction made between those two categories and all other exemptions?

Mr. Womack The only reason that I know of that they made that particular distinction is because, like they said this morning, we withdrew the amendment; we still think we ought to have the amendment, but we don't believe we can get it, so we will submit to the wishes of the church people and take them out, and go ahead with the others because we think we can pass it. You haven't changed your opinion as to what they thought by maybe...

Mr. Munson By, maybe...getting the support of some people. Is that correct?

Mr. Womack Yes.

Mr. Munson One more question. What do you think are the chances for the passage of this three million dollar proposal that we are supposed to come up with in January, if all other exemptions are taken out of the constitution and left strictly to the legislature where the people would have no right to express their opinion?

Mr. Womack Mr. Munson, I think that we are already in trouble with the passage of this document. I think each day that we're here, we're going backwards in our chances. Like I said awhile ago, we've got a document that I hope we can try to sell. It's going to be a hard job because the unknown factor is here, and you're not through with the unknown factors yet. Nobody knows the total effect that what we've done in this field of taxation, yet it's going to have.

Mr. J. Jackson Mr. Womack, I believe you was mistaken when you were quoting me about combines. That was Mr. Roemer. But, doesn't it say in Section (B) of this, that all other provisions for exemption from ad valorem taxation, operative at the time of the adoption of this constitution, are retained in effect? So, in other words, you're right; constitutionally we're providing for all public property and religious property, but we haven't taken out the exemption for the concerns that I appreciate that you have.

Mr. Womack Mr. Jackson, you are not taking them out. What you are doing is saying that the legislature, by a two-thirds vote, may take them out. I represent an area that is losing population. When I first came to the legislature, Jefferson Parish had two, now they have nine. The area that I'm involved in--that four parish area--had four, now we have one. What's going to happen ten, fifteen, or twenty years from now? When it comes time for you to vote taxes on either my combines or your cab driver, I know what you're going to vote. It's just that simple. When I go home to advise my agriculture people all over the state, I've got to tell them the hard-core facts, and this is what it is. Now, I want to tell you, a young fellow came awhile ago--and I respect everybody's position--he says, "This is so insignificant that five and three-quarter mills on your equipment probably wouldn't cost you over a hundred dollars." But, that doesn't include the local tax. He said, "This is just a drop in the bucket." If it's that small of a drop in the bucket, why are you all raising so much cane about it? You're willing to take a chance

on losing thousands of votes to try to carry a point. You're just that dead set on it, and I can tell you now, the people in that category are just that dead set against it. There's a lot of people that might not vote for it if they go to the polls, or vote against it. You're going to make them go to the polls with this; this is the problem.

Further Discussion

Mr. Fontenot Fellow delegates, I'll try not to be repetitious, but this amendment concerns me also, and I'm very opposed to it. I don't exactly know what the words mean, "All provisions for exemptions from ad valorem taxation operative at the time of the adoption of this constitution are retained in effect." Now, what does "retained in effect" mean? Does that mean that they're not in the constitution, that they're going to be in the statutes, or does it mean that we adopted them by reference? I don't know exactly what it means. Maybe our subcommittee on transitional matters can tell us. The most important part of this whole amendment is in the last sentence of Section 1. Everybody keeps quoting the first sentence; what about the last sentence? That's where it distinguishes how you treat some exemptions different from other ones. The legislature, by a favorable vote of two-thirds of the elected members of each house, may amend or repeal any of these exemptions. Why should the homestead exemption, and then the exemption of public property and religious denominations not be subject to the same scrutiny--two-thirds vote of the legislature? You know, yesterday, the same authors of this amendment, came up with an amendment providing that all these exemptions--all of them, not excluding number one and two--all of the exemptions would be up to the... subject to the legislature by a two-thirds vote. Before we had a chance to vote on it, they withdrew their amendment. Now, today they come to you with an amendment, but if you notice the difference between yesterday's and today's, they added number one and two on to their amendment. All of a sudden, overnight, public property and religious property came into the same category as the homestead exemption. Why, yesterday they didn't have it and today they have it? Now, our committee fought this same battle as to leaving the homestead exemption...leaving all the exemptions out or putting them in. We fought this battle many times. When it finally came down for the final vote, twenty-one out of twenty-one people voted to put them in the constitution. The only two people who didn't vote were the ones who weren't even there--Mr. Roemer and Mr. Smith. The rest of the people voted on a motion that we include all the same exemptions that we had in the 1921 Constitution. Nobody objected. All of a sudden, we came to the floor; some of these same people changed their minds. The question I'd like to ask--along the same line as Mr. Womack--is do you want to kill this constitution? We've alienated enough people along the line so far, and every day, like Mr. Womack said, we go further and further, alienating more and more interest groups. I know, in my area, if you take out of this constitution the exemption...on agricultural implements and improvements, as far as they're concerned, they're going to vote it down just like people in Jefferson Parish may vote it down for other reasons. In my area, the agricultural implements and equipment exemption is more important than the homestead exemption. Both of these exemptions are in the constitution right now--the homestead exemption and the agricultural implements and equipment exemption. Yet, all of a sudden, you're going to leave one in the constitution and leave the other one up to the legislature. Now, when a farmer in my area comes up to me...

I just have about thirty more seconds. When the farmer in my area asks me, "Is my exemption in the constitution?" I'll have to tell him his exemption is retained in effect, but the legislature can amend or repeal your exemption without you having to vote on it. Now, you think he's going to stand for that? I suggest he won't and he's going to vote down this constitution, and so will all the other farmers in the southwest Louisiana area. I urge your rejection

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of this amendment.

Further Discussion

Mr. Winchester Fellow delegates, we are passing the buck. You let me go home yesterday, but if I go home tomorrow, I know I will be asked by the people. "What type proposals and exemptions have you given us in the new constitution?" My answer would have to be, "I gave you the legislature."

"But, Mr. Winchester, we sent Mr. Bauer and Mr. Bella to the legislature. We sent you, Mr. Winchester, to the convention, and you failed." Please vote no. Do not fail the people who sent you here. Write a constitution for the people, and I urge rejection of this amendment. If there are no other speakers. I would move for the question.

Question

Mr. Lanier Mr. Winchester, in view of your position on this matter, would you also favor writing the exemptions on the sales tax into the constitution, to protect those people who don't own property?

Mr. Winchester I'll do anything to give the people a good constitution. A constitution that they can live with and have confidence in.

[Previous Question ordered.]

Closing

Mr. Conroy We started our work as a full convention on July fifth. We've now been in session as a Constitutional Convention for sixteen weeks. There are ten weeks left until January fifth. In that time, within that ten weeks, comes Thanksgiving, comes Christmas, comes New Years, and New Year's Eve. We're running out of time, precious time. We have spent two weeks on this proposal and we've covered two pages. We have four and a half pages of exemptions before us to consider if we do not adopt this amendment. We will be here, probably, for a couple of weeks wrestling with these if we do not adopt this amendment. There are many, many changes that people will urge in these. We will hear long arguments and tiring arguments about why this exemption should be retained, and why this exemption should not be retained. Some of them will be very serious to the economic impact on this state...some on certain groups. This amendment is designed to allow this convention to do what it was sent here to do, and that's to write a constitution; not to write a list of exemptions that are really statutory in nature--and we all know they are statutory in nature. We were sent here to write a constitution for the State of Louisiana. The only way we can do that is to hold the list of these exemptions to a minimum, in description, in this constitution. We have attempted to do that with this amendment. I urge your adoption of the amendment. There has been some criticism about the language of this amendment. I think that's just a smoke screen. I think those that have opposed this amendment have opposed it solely because there is one or more exemption, in the list of exemptions, that they would particularly like to have retained in the constitution. It's not necessary to do so. It will be retained effective by the two-thirds vote in the legislature; if there's good reason to change it, the legislature can change it, and will not change it without good reason, with the two-thirds vote requirement. We have done the same thing in Section 1, as far as reference to the existing constitution. If you'll look at the proposal that you have before you, and you read Paragraph (H) of Section 1, you'll find that there we retain certain provisions of the 1921 Constitution in effect. We did, effectively, the same thing when we dealt with the port commissions. We did, effectively, the same thing when we dealt with the courts in New Orleans. We did, effectively, the same thing in many places in this constitutional already. It is not anything new or novel that we are suggesting that we do here. This thing will be

handled in the schedule. It will be a good constitution if you adopt this amendment, and I urge that you do so, and I'll yield to any questions.

Questions

Mr. Alexander Mr. Conroy, under Subsection (2) here, which says that "property owned by religious denominations or orders..." Now, my church is not owned by a religious denomination. It's owned by an individual corporation which is the church itself; a denomination does not own it, as some other churches. Would it be covered under your amendment?

Mr. Conroy Reverend Alexander, it would either be covered under the constitution or under this two-thirds vote provision because the phrase "places of religious worship" would be retained. That's the present phrase in the constitution that would be kept by your two-thirds vote provision, and I think you'd be perfectly safe. The legislature is not going to fool with things like that.

Mr. Fontenot Mr. Conroy, you said that you think it would be adequate protection to have these in a schedule--these other exemptions. Well, why, between yesterday and today, you decided that public property and property of religious denominations would not be adequately safeguarded in a schedule? Why, overnight, the big change?

Mr. Conroy I think that in this constitution and other places, we have recognized that the problem of religion and religious freedom is a little bit separate and apart from other problems. We've given it special treatment before.

Mr. Nunez Mr. Conroy, you were a member of the Revenue, Finance, and Taxation Committee, were you not?

Mr. Conroy Yes.

Mr. Nunez Isn't it true that each one of these things that came up, contrary to what's been heard here, and I think it should be said, we had numerous votes on all of these things, and how were those votes? Were they unanimous votes all of the time?

Mr. Conroy Not by any means. They were usually split very close.

Mr. Nunez Didn't the Chairman have to break almost every vote we cast?

Mr. Conroy I can't remember whether we had to do that or not, but I know we had close votes, long discussions, and sometimes flip-flopped back and forth as we reconsidered issues and went back over them to such an extent that, I think, we finally just passed it out because we were tired of wrestling with it.

[Record vote ordered. quorum Call:
115 delegates present and a quorum.
Amendments rejected: 41-79. Motion
to reconsider tabled.]

Personal Privilege

Mr. Juneau Mr. Chairman and delegates, the reason why I now rise on personal privilege has nothing whatsoever to do with the amendment we just voted on. But, I've gotten to the point where I'm getting a little sick, personally, of hearing people take this microphone and this convention to ventilate their views about their negative thinking about this convention. You know we hear what the people negatively think at home. I haven't heard one person at home that I ever talked to, after we sat down and explained what we did, who said, "You've done a bad job." Now, when you get up here and you start talking about this convention and you say you know they don't know what we're doing. We're talking about ten percent. They don't know what...how much taxes they're going to pay. Well, why don't you tell the people at home if we don't do something

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in this Constitutional Convention, that they're going to be faced with a federal court order which calls for a hundred percent assessment in this state. I think it's also important that if you take a simple mathematical formula and add it up, what we have done, I think, in this convention is attempt to retain in this state--as best we could, considering all of the interests in this state--a status quo to the people so that they would not be heavily burdened with taxes. I submit to you that I had views that are different than the three thousand dollar figure. I submit to you I had views that were different than the five, the ten, the fifteen, or the twenty percent. But, on retrospect, if you will spend the time, and if you will take the effort to explain to the people in your district what we have done on the provision with regard to taxes, on the provision with regard to the legislature and the executive, I, personally, am tremendously proud of what this convention is, and I think the people at home are proud of it. So, I think that the issue is not how much time we spend up here in Baton Rouge because, personally, that aggrieves me. It's costing me money; it's costing you money. The people at home appreciate what you're doing. We're well under the budget; we're doing a good job; we're going to finish this convention. So, I say I'm tired of hearing it from the outside. Let's talk about what we're doing. If you want to say what we're doing is wrong, well, then give me the facts. But, don't give me the fallacious thought that people just don't understand what's going on because that's our obligation as delegates. Thank you very much.

Personal Privilege

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I concur with everything which Mr. Juneau has said except one thing, and that's the effect that if we don't do something about property taxes, everybody is going to be faced with one hundred percent assessment. That is the only thing that I disagree with him in. That is not true. The suit that is pending has the equivalent of treating all the taxpayers within a tax district the same and equal. It has no other effect except that, none whatsoever. There's nothing in that suit says that the tax assessors have got to put the property on the tax rolls at one hundred percent of its value. They have to treat them all the same way. That's all that suit is about. It has not been done; we just want to see that it's done, and that's it. Otherwise, I concur with what Mr. Juneau said.

Personal Privilege

Mr. Womack I want to take just one minute, Mr. Chairman. A few minutes ago a speaker that was on the other side from what I was indicated that Lantz Womack, because a position I took and other members here, because of the position we take and was the laughingstock of the parish, the city, the state, the nation, the entire world. I...I don't...I win some and I lose some. For the younger people that hope to run for the legislature, I think one of the first things you better learn is that you're going to win some and you're going to lose some. Most likely, the next item that most of the proponents have for here, even though it may be controversial, I might be on your side, and you may be a little bit happier. But, this is just the way the cookie rolls, and that's one way...one reason this form of government is as great as it is. But, I don't believe that any of us are the laughingstock, and I certainly respect your sincerity. I certainly have a right to my position. Thank you.

Personal Privilege

Mr. Munson I won't take but just one quick second, Mr. Chairman. I'm sure all of you know that I was violently opposed to this amendment that was just defeated. I'm glad it was defeated 'cause I think it could have destroyed everything that we did. I resented a question that was asked a few moments ago by Buddy Roemer and let it get the best of my

better judgment. I just wanted to take this opportunity to tell Mr. Roemer that if I hurt his feelings by the question that I asked Mr. Womack, I apologize.

Personal Privilege

Mr. Lowe Mr. Chairman, this is just a point of information. It doesn't have anything to do with what we just discussed. I was waiting for a time that was apropos to let the delegates know that this convention isn't the only ones that's concerned about taxes and exemptions. I received three calls from the Internal Revenue Service in New Orleans. It seems that they have a joint compliance program, and they have a team that goes around the state checking on whether the income tax law is being complied with. Mr. Antony Lamark tells me he's received three telephone calls saying that the delegates are not paying income tax on their per diem. I said, "Well, Mr. Lamark, I don't know how can they pay income tax on their per diem. They started receiving it in January of 1973, and they're not going to file their return until...after December 31 of '73. So, the only thing I'm here to tell you, gentlemen, is that the I.R.S. has their eyes on you. So, when you file your tax return next year, make sure you put your per diem on, do you hear?"

Amendment

Mr. Poynter The first amendment sent up by Delegate Pugh as follows:

Amendment No. 1. On page 2, at the end of the language added by Amendment No. 1 proposed by Delegate Pugh and adopted by the Convention yesterday, delete the period "." after the words "public purposes" and add the following: "or leased for private purposes."

Now, if I can help you all follow that, there's two amendments. You had the first amendment by Delegate Mire which came in and started Section 3 all over again. The first exemption was "(A) All Public Property." Delegate Pugh amended it to read yesterday, "All Public Property Used for Public Purposes." If this amendment is adopted, the first exemption would read: "All public property used for public purposes," you pick up, "or leased for private purposes."

Explanation

Mr. Pugh Mr. Chairman, fellow delegates, the purpose of this amendment is to satisfy the inquiries that were made by Mr. Denny yesterday. I have been told that a substantial amount of the properties in New Orleans that are publicly owned are, in fact, privately leased. This amendment, therefore, would provide that those properties that are publicly owned, but privately leased, will still be exempt from taxes. The whole purpose is as it was to continue to collect the ad valorem taxes from such properties as may be acquired by governmental agencies as a result of voluntary or involuntary foreclosure proceedings. It is my understanding that there are no objections from the committee relating to this proposed amendment.

Questions

Mr. Slay Mr. Pugh, do I read that right? Now, we're saying all public property is exempt from taxes that is leased for private purposes. Am I reading that right?

Mr. Pugh That is correct.

Mr. Slay Now, suppose the Small Business Administration takes a piece of property that they had made a loan on. Then, is that public property?

Mr. Pugh If they foreclose on it, are you saying?

Mr. Slay Yes, if they foreclose on it, it belongs to the small business administration of the U. S. Government.

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Mr. Pugh Then, they would own it; it would be public property, but it would be taxed.

Mr. Slay It would be taxed?

Mr. Pugh Yes, it would be taxed.

Mr. Slay But, now it...now, if they lease that little store for private purposes, under this it would be exempt, though, would it not, or am I reading that wrong?

Mr. Pugh That is correct, and it would have been exempt under the original committee proposal, also. Rarely, will any of these agencies lease the properties. What they will do is turn around and try to put them back in commerce by selling them. It's the period from the time they own them until they get rid of them that I want to be sure the federal government pays ad valorem taxes on it.

Mr. Slay Well, I'm not trying to raise a lot of questions, but I know of a lot of cases where the Housing and Urban Development owns a lot of houses, particularly in Alexandria. The Small Business Administration owns quite a bit of property that they are leasing, and that under this, now, it would not be on the tax roll, if I read it right.

Mr. Pugh That's correct. I will tell you that I've been foreclosing on FHA loans for twenty-five years, and there's only been one that I've ever seen that the FHA left anybody in the house. They make them get out of all of these properties. They don't lease them. They repair them, and they resell them. That's my experience.

Mr. Lanier Mr. Pugh, what is the present law with reference to the taxation of public property leased for private purposes?

Mr. Pugh I don't know whether you were here yesterday, but yesterday I had indicated to the delegation that the 1921 Constitution read as the committee initially had this provision to read. I stated that the policy of all the governmental agencies is to follow local law, and that as far as I was concerned, I thought it would be helpful to lock into our local law, in the constitution, the fact that those taxes would be paid. That's all. The only purpose for this amendment, today, is to satisfy the concern that some of the Orleans delegates had relative to not indicating that the public property that was leased out would be exempt.

Mr. Lanier Well, this property isn't being taxed right now, is it?

Mr. Pugh No, sir.

Mr. Jenkins So, then this would mean that if a public corporation, for example, expropriated property, took it and leased it out to private investors or private companies, no taxes would be paid on that? Is that correct?

Mr. Pugh That's correct, and they are not now.

Mr. Jenkins What would be the policy grounds other than the fact that that happens to be the status quo for exempting such people from taxes, when their competitors right across the street who are in exactly the same business have to pay taxes?

Mr. Pugh I do not disagree with you in philosophy. All I know is that a substantial amount of the property in Orleans is publicly owned and is privately leased. It was for that reason that I told Mr. Dennery I would be happy to submit this amendment.

Mr. Flory Mr. Pugh, I don't think you intend this, but let me pose this hypothet to you 'cause I know of a situation where it's been attempted in the past. Under what Mr. Jenkins asked you, where they--let's take a dock board or a governmental body could expropriate property or if they even had property and take, under a long term lease-purchase agreement,

lease to a corporation for sixty years and let them issue bonds to build a hundred and fifty million dollar facility on that, then I suggest to you under the language that you have here, they would not pay taxes for the duration of that sixty years. Did you know that?

Mr. Pugh Well, I do know that, that first of all, we don't have any docks up where I come from, and that as far as I was concerned, this was an amendment brought about because the Orleans delegation wanted it. That is its purpose.

Mr. Flory Well, it's my appreciation what they were talking about were the wharfs which was still retained as public property. But, when you say "or leased for private purposes," that lets you, then, get into the area of lease-purchase agreements. Under the present law in these situations, they pay an amount in lieu of taxes which would be the same amount should...would they be required. They do that in order to keep from paying federal income taxes.

Mr. Pugh I understand.

Mr. Kean Mr. Pugh, perhaps I should have raised this question yesterday when you had your first amendment. But, as I read this, the parish of East Baton Rouge, for example, owns some property which is vacant--just not being used for any purpose, at the moment. As I read it, since that property is not being used for a public purpose, the city of Baton Rouge or the parish of East Baton Rouge would owe taxes on it. But, if they turned around and leased that vacant property to some private person, no taxes would be due on that property. Is that the intent of this?

Mr. Pugh I don't believe that the courts would construe where East Baton Rouge Parish has a piece of property and for some period of time that property is vacant, and they are pursuing, as East Baton Rouge would, to find someone to either acquire it or to whom to lease it, they'd be obligated to pay the taxes on it. I reiterate again that this is something that Orleans asked me to do. I'm in favor of it for that reason.

Further Discussion

Mr. Dennery Mr. Chairman and members of the convention, when Mr. Pugh's amendment was adopted yesterday, it perturbed me somewhat because it seems to me that, for example, low cost housing projects throughout the state which are all public property, but which are leased for private purposes, would then have to go on the tax rolls. It also disturbed me because the dock boards wharfs and docks which are publicly owned, and the port commissions in all of the other cities which have port commissions which are publicly owned, are nevertheless leased for private purposes. Therefore, I felt that possibly the language which Mr. Pugh had put in his amendment, yesterday, would cause us some difficulty throughout the state on the question of whether or not housing authority property, stadiums, for example, which are leased for private purposes, auditoriums which are leased for private purposes, docks and wharfs which are leased for private purposes would all come under the ad valorem tax laws. Now, I did not...I did not...I did not intend, let me put it this way, I did not intend, by my requesting an amendment to this, to take into consideration Mr. Flory's suggestion or some of the other suggestions which were made. It seemed to me that Mr. Pugh's amendment should be reamended so as to express, specifically, what Mr. Pugh was talking about. In other words, all public property which has either been foreclosed by the public agency under a mortgage or taken over under "a dation" by the public agency while the public agency holds it should properly be on the tax rolls. I think that's what Mr. Pugh was aiming at. I can only tell you that the way it reads now, I consider it to be a very dangerous amendment, and it should be amended. For this reason, I suggest that you adopt this amendment and then make any other amendments to it that you deem

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proper, under the circumstances.

Questions

Mrs. Warren Mr. Denney, in the light of what Mr. Flory and others have said, don't you think it would be better to take a few minutes and work this out so we won't leave a gap here for everybody to come in, and yet and still, we could get what we wanted?

Mr. Denney Well, of course, it's Mr. Pugh's amendment. If he chooses to do that, I'd be delighted to work with him on it.

Mrs. Warren I sure hope you would.

[Amendment withdrawn without objection.]

Amendment

Mr. Poynter The next amendment is the Shannon amendment which goes to Paragraph (C).

On page 3, line 25, in Floor Amendment No. 1 proposed by Delegate Lennox and adopted by the Convention on today, after the word "operated" and before the word "commercially" add the following words: "or otherwise used".

Explanation

Mr. Shannon Mr. Chairman, fellow delegates, I talked to Mr. Lennox about this amendment, and he has no objection. As far as I know, there's no objection from the committee, also. It just clarifies some language that he had in there, and it further clarifies it. I ask that you adopt this amendment.

Questions

Mr. Lennox One brief question for the record. Mr. Shannon As I stated twice when I had the rostrum, on my amendment, the only purpose for my amendment was to establish the intent of this convention that eleemosynary corporations using their properties in commerce in competition with enterprise should not be granted ad valorem tax favoritism as against commerce. Does your amendment, in any way, disturb that intent?

Mr. Shannon Mr. Lennox, I will read it to you as it reads now, if you would like. It does...in my opinion, it does not.

Mr. Lennox That's enough, thank you.

Point of Information

Mr. Dennis Would you...would you please read it as it will read if it's adopted?

Mr. Poynter Picking up on line 23, Mr. Dennis. "But the exemption shall extend only to property and grounds thereto appurtenant, used for the above mentioned purposes, and not leased or operated or otherwise used commercially for profit."

[Amendment adopted without objection.]

Amendment

Mr. Poynter The next set of amendments is sent up by Delegates Champagne and Lowe, which goes to Paragraph (D).

Amendment No. 1. On page 3, line 27, after the words and punctuation "stocks," delete the remainder of the line and at the beginning of line 28 delete the words and punctuation "provided by law, and the tax" and insert in lieu thereof the following: "the tax on which shall be".

Explanation

Mr. Champagne Ladies and gentlemen, this is an attempt to correct a mistake and I have checked with my committee and there is no opposition, to

my knowledge. Originally, in committee, we're not arguing whether you want stocks and bonds exempt. We decided to exempt stocks and bonds, but it was pointed out at that time, by a banker on the committee, not myself, that bank stocks are, at the present time, taxed for ad valorem purpose in that the capital structure of a bank is taxed rather than, in addition to, the property of the bank--such as the building and the equipment. So, we did not want, by any means, to change this or exclude banks from being taxed. So, we added "except bank stocks." But, then I object to the point that a holder of two kinds of stocks--bank stock on the one hand, and other stocks in other corporations, for instance the A B C Corporation would interpret this as to feel that their bank stock was being discriminated against. So, we, at that point, added that the banking institution would pay the tax--which they do so now. To give you an example, in the bank in which I am associated with, we have a capital stock structure of approximately nine hundred thousand dollars on which we are taxed. But, the buildings and equipment is owned...that we own is approximately less than two hundred thousand dollars. So, what we want, at this point, is to simply say we would like to leave out the term "which shall be assessed and taxed solely as provided by law." We would like, as at the present time, to be taxed on the capital structure. In addition to that, we would pay tax on our banking fixtures and our equipment. We do not feel that banks should be done very much different from any other except that, as presently, they are taxed on their stock because banks deal in services which includes money, which, as you know, is not taxed. Therefore, we feel that it is just. We would like to keep it, but we do not want to get an unusually large tax or an unusually small tax. We have information from the Louisiana Banker's Association, and their attorneys are satisfied with this. But, they would...the material "which shall be assessed and taxed solely as provided by law" would prohibit these banks, possibly discriminate against them, and they do have objection to that material. It was done in error, it was done in good faith; it was done at a time in which we were trying to get our report out to this convention, so we could act on these provisions. That's why we make this correction at this time.

Questions

Mr. Avant Mr. Champagne, I guess this is the first chance I've had to ask this particular question. But, as I understand it, you were on the committee?

Mr. Champagne Yes, sir.

Mr. Avant Could you tell me why two individuals, both of whom have the same amount of capital, one chooses to take his money and put it in land, another chooses to take his money and put it in stocks and bonds that he buys at one of the brokerage houses. The man who owns the land pays an ad valorem tax and the man who owns the stocks doesn't. Could you tell me why that decision was arrived at?

Mr. Champagne Yes, sir. Mr. Avant, I was hoping that I would not have to present the question of stocks and bonds, only to get this amendment corrected. Then, if you didn't want it in here, you know, then prevent...delete it, you know, with a further amendment. But, in other words, all I want is we have a glaring mistake here that I'd like to correct. I'm not here to defend stocks and bonds. But, I could, if you wish, but I probably would have time enough, but I could give you that explanation. But what I'm trying now is not to defend stocks and bonds exemption, but merely to get a technical correction in the committee report.

Mr. Avant Do you think that somebody will be given an opportunity to answer that question before this is over?

Mr. Champagne I'll be glad to. The only thing, I'm afraid we'd run out of time.

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Mr. Avant All right, well, I'll ask it again.

Mr. Champagne Yes, sir.

I would appreciate your adoption of the amendment. It's strictly technical. As I say, we're not arguing stocks and bonds at this point, but we do have a glaring mistake that the committee would like to have corrected. Thank you.

[Previous Question ordered. Record vote ordered. Amendment adopted: 94-11. Motion to table reconsideration.]

Motion

Mr. Winchester I object to it. I don't think the thing was explained enough, and I think it means too much to go ahead and put it in there without a better explanation than we got. The two coauthors can't agree what was right and what was wrong. The Louisiana Assessors' Association president can't agree what is right and what is wrong on the thing. I think it's wrong.

I move to reconsider it.

Point of Information

Mr. Nunez I rise for a...in consideration to what he just raised a point of information. Who determines whether an amendment is technical or not, and announced from the microphone up there, "This is a technical amendment," and it comes out to be that it really is not technical in nature. It has some serious and far-reaching consequences.

Mr. Henry Senator Nunez, with the members of the committee, they went through these amendments up here and determined that these were technical or procedural more than...but the gentleman explained the amendment. People had chances to question him and chances to speak, Senator.

Mr. Nunez Well, what I'm saying, you said the members of the committee. Dr. Mauberret, Mr. Winchester and I are members and I didn't agree to no technical amendments.

Mr. Henry Well, were you up here, sir?

Mr. Nunez No, I wasn't.

Mr. Henry All right. Well, I'm sorry for the confusion, and I apologize to you for it, Senator.

Point of Order

Mr. O'Neill Mr. Henry, you gavelled that in. You know, the motion to put it on the table.

Mr. Henry No, sir; I didn't gavel it in. Well, you just are mistaken, Mr. O'Neill.

Point of Information

Mr. Winchester Can I make a substitute motion to reconsider?

Mr. Henry No, sir.

Mr. Winchester I want to reconsider it.

Mr. Henry No, sir. The motion has already been made to reconsider, and then to table the motion to reconsider. So, let's dispose of it.

Point of Information

Mr. Lennox I would like to have the Chair explain in detail just what we are voting on. I think there is some confusion.

Mr. Henry Well, it happened like this. Mr. Champagne offered his amendment which was adopted. The gentleman then moved to reconsider the vote by which it was adopted and to table the motion to reconsider. If the motion to table is adopted, then that locks in the amendment. There is no way we can

discuss it any more; we can't reconsider the vote unless we either have eighty-eight votes or a suspension of the rules. So, it boils down to the fact if you like the amendment, you will want to vote yes on this motion to reconsider. If you don't like it, you will want to vote no when the machine is opened.

[Motion to table reconsideration rejected: 48-50. Motion to reconsider.]

Point of Information

Mr. Tapper Is it debatable?

Mr. Henry Sir? Yes. The question of whether or not we are going to reconsider it is debatable, but the main notion is not. Mr. Tapper, if we vote to reconsider it, then we can debate the merits of the amendment. Is that what you are talking about? But, the merits of the amendments are not debatable at this point.

[Motion to reconsider adopted: 52-50.]

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, I think, really, we are just a little bit confused here. I think what this amendment intended to do is very good. All it intended to do and what it does is assess banks like all other properties in this state which, I believe, this is what everybody would like to do. It will assess a bank, based on its stock, at the fair market value of this bank's stock. It will allow a procedure at arriving at this fair market value, which this convention had agreed yesterday that the legislature could come up with a procedure. We're going to have to abide by that procedure that the legislature's going to come up with, and certainly they are going to tell us how we are going to arrive at a fair market value on bank stock. I don't see anything at all wrong with it; it's certainly technical in nature in a way that all it's doing is telling you that we are going to assess...making it clear that banks are going to be assessed like all other properties in that particular category, which is the "All Other Property" category of our proposal. I'll answer any questions that I can.

Questions

Mr. Bollinger Mr. Mire, excuse my ignorance, but I'm not clear on the difference between banks. Banks as a corporation do not pay property taxes?

Mr. Mire A bank does pay property tax. But, it pays property tax under a special act which, in fact, says that we must assess them based on their capital structure, on their stock which, of course, is what owns all of their other property. So, you are assessing them on a percent of all of their worth.

Mr. Bollinger Well, you're not double taxing banks?

Mr. Mire No, sir.

Mr. Bollinger You're not taxing banks and taxing the stock?

Mr. Mire No, sir. That's absolutely right, Mr. Bollinger.

Mr. Burns Mr. Mire, this is no different than the present law as to how bank stock is assessed and taxes are paid on it, is it?

Mr. Mire You're absolutely right, Mr. Burns. The only difference is that we are making the banks now with the same percent as all other properties. But, it's going to be basically the same way we are presently assessing banks.

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Mr. Burns In other words, this is not taking anything away or adding anything on.

Mr. Mire You are absolutely right, sir.

Mr. Winchester Mr. Mire, aren't you wrong when you say that this is the same way that bank stock is assessed now, when you know that it isn't assessed this same way now?

Mr. Mire Mr. Winchester, if you had listened to me, you wouldn't have asked that question. I answered Mr. Burns that it was the same way, meaning on stocks. But, I explicitly said that it was the same percent as we have in our proposal and not like the act calls for today.

Mr. Winchester Weren't we supposed to have the legislature to set out some rules on this--how we would do it, and how we wouldn't do it?

Mr. Mire The convention voted yesterday to do just exactly that.

Mr. Winchester All right, then. Why then would Mr. Lowe have told me that--and told you--that that was not so, that the legislature will have nothing more to do with this?

Mr. Mire He misunderstood your question. He thought you were talking about percent, Dan, and not about the method of arriving at fair market value. I asked him after, and he misunderstood your question.

Delegatè Reeves in the Chair

Mr. Fulco Mr. Mire, what are we to do now since there is a difference of opinion between two assessors, you and Mr. Winchester? Who are we to follow now?

Mr. Mire Well, Mr. Fulco, that's going to have to be your decision. All I'm telling you is what...I have explained to you how we assess it today. I explained to you how the committee intended that we do it...

Mr. Fulco Can we ask Mr. Chehardy?

Mr. Mire It's all right with me; you can ask anybody you want.

Mr. Fulco Mr. Chehardy, you advise us.

Mr. Duval Peg, just to try to get this straightened out for those of us who really want to find out what we are voting on, am I correct in assuming that what the purpose of Mr. Champagne's amendment does is to...so that bank stock will be assessed like all other property at fifteen percent. Is that right?

Mr. Mire That's absolutely right.

Mr. Duval Is that the entire purpose of the amendment?

Mr. Mire That's the entire purpose of the amendment.

Mr. Chatelain The question I would like to ask you is somewhat of an actual situation. We have a bank that has three hundred thousand dollars worth of capital stock, right?

Mr. Mire Yes, sir.

Mr. Chatelain In that bank there are many stockholders who own the stock.

Mr. Mire All right.

Mr. Chatelain The question I propose to you is this, sir. The bank will pay ad valorem taxes based on the three hundred thousand dollars worth of stock they have. Is that right?

Mr. Mire Well, that's how they do today.

Mr. Chatelain Fair market value, I mean, the fair market value of those...

Mr. Mire That's right.

Mr. Chatelain Fifteen percent of the...

Mr. Mire Correct.

Mr. Chatelain I, who own stock in this bank, and others, many others, will not pay anything on the stock. Is that correct?

Mr. Mire That's absolutely right, Mr. Chatelain.

Mr. Rayburn Mr. Mire, is it not true that this language was placed in this proposal at the request of Mr. Champagne who said it was agreeable with the banks at that time?

Mr. Mire Yes, sir. That's correct, sir.

Mr. Rayburn At that time there was no percentage figure established, and they wanted to take their chances with the legislature. Is that correct?

Mr. Mire Well...

Mr. Rayburn Now, all you are doing now is just taking out the provision here, where it says "as provided by law," and leaving it back along like all other properties.

Mr. Mire It will be assessed as all other properties. That's correct, sir.

Point of Order

Mr. Rayburn I have one question to the Chairman. Is Rule 57 in order now, Rule 57?

Mr. Reeves Leave me alone, Sixty. You can't put these Winn Parish people down.

Further Discussion

Mr. Lowe Mr. Chairman and ladies and gentlemen of the convention, I would appeal to you to listen to me for a moment because there was some confusion, and to a certain extent this amendment is technical; in another way it changes the concept. It's important that this amendment pass because we have changed some of the concepts of property taxes. Now, let me tell you what the problem is. At the moment, the legislature sets the percentage for taxing bank stock. Now, at this moment we know that in certain areas the tax base is going to change. For instance, in New Orleans where the base is now twenty-five percent, there is a chance it will go down to twelve and a half percent. When the base goes down to twelve and a half percent, the ad valorem tax millages automatically have to go up. Now, there is no provision for the bank stock's base being adjusted. So, if the millages go up twice what they are now in those areas where the base goes down, you have automatically doubled the tax bill of all banks, or the banks in those areas where they do go up. Now, let me tell you what the amendment is doing. The amendment is taking banks and treating banks just like other property. They are being taxed at the highest classification--fifteen percent. They are being taxed under this amendment at the highest classification--fifteen percent. I don't think we should tax anyone higher than the highest percentage that we are setting in this constitution. Now secondly, what it does that hadn't been done to banks before is that banks used to be taxed on the book value of their stock. Bank stock traditionally sells for amount well in excess of book value. Now, this constitution says that we should tax property at fair market value. This amendment fixes it so bank stock is taxed at fair market value. Now, I submit to you it's fair. I submit to you that you should know what you are voting on. I came up to speak on the amendment,

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but it seemed that everyone felt that we ought to move along, and no one wanted to hear too much of anything; so I sat back down. But, I do believe it's a good amendment. It merely does the same thing for banks that it does for all other property; it taxes them at fifteen percent which is the highest classification that there is; it taxes them, at fair market value, which is as high a value as you can get. I submit to you it's necessary, because we are not leaving it up to the legislature to set any other percentages on any other property. Secondly and lastly, if you leave banks without this amendment, many banks--probably over fifty percent--will find their tax bill more than doubled, and that's just not fair. I ask you to adopt the amendment.

Chairman Henry in the Chair

Question

Mr. Winchester Mr. Lowe, do you know that I'm not concerned about what the banks think or what's going to happen to the banks, because I'll tell you, and I'll tell you why. Right now, we assess banks on capital surplus and undivided profits. Some banks are fair, but do you know some banks lower the thing to where they hide two, three, four, five, six hundred thousand dollars that doesn't show in the capital surplus and undivided profit unless you can get that particular statement that they do not give to the assessors, they do not give to the tax commission? I'm not against banks. I have a brother-in-law that owns forty percent of a bank. But, all I want is that this thing be explained and out in the open. Do you agree with me?

Mr. Lowe Well, Mr. Winchester, I agree with you that it should be out in the open; they should be taxed fully.

Further Discussion

Mr. Velazquez Mr. Chairman, fellow delegates, I'm not going to stand up here and claim to be an expert on banks. But, a lot of people in our district just don't trust banks. We feel this issue is full of ramifications; it's full of twists, and it's full of turns. We could spend this entire convention just studying the banks and the bank structure of the State of Louisiana. But, fortunately for us, there is a mechanism in this state to handle things like this that require study, intensive study and is expert at making decisions. I'm speaking about our state legislature. The way this thing is written is the best way. Let's leave this thing alone; let the legislature handle it as provided by law. That's the way to handle this issue. I don't want to go home and have everybody tell me that I gave a million dollars away to the banks. I don't know whether I'm giving it to the banks or not. But, I know I don't want to stand up here and take money...and give money to the banks who don't need the money and take it away from some poor homeowner who needs the money.

Further Discussion

Mr. Winchester Mr. Chairman and fellow delegates, I'm not against banks or against anything. But, I certainly like things to be in the open. I like things to be understood by the delegates. I think it is my duty to bring to the attention of the delegates when I see something that I don't think is being handled correctly. When we discussed this in the committee, there was not this concept of what they are trying to do now. I think I would much rather leave this like it was in the proposal. We can then appear before the legislature when they set the guidelines as to how bank stock and banks shall be assessed. I would certainly appreciate, and I would like to make...well, I mean whether... I don't know what I have to do, but I would certainly like to leave it like it is now and defeat this amendment.

Questions

Mr. Burns Mr. Winchester, you made a statement just now that the banks could conceal or cover up or hide five or six hundred thousand dollars of its assets in its report to the tax commission. Do you not agree that every bank is under a very close examination from the Federal Deposit Insurance Corporation every year? If those records that they file, and if those examiners themselves investigate the bank's records and their statements, and if any bank did that, it would be easily discovered and that any taxing authority or assessor has access to the annual reports of the federal government?

Mr. Winchester Mr. Burns, I'll say this. They make one report to us. They make another report--it's on green paper--to the banking department. They don't give us the report that's made on the green paper. I'll also tell you this: that they have something in there that allows them to reserve a certain...it's no certain amount for bad debts. They can just grab any figure out they want...out of there that they want reserved for bad debts... they can grab any figure they want out for depreciation. Then besides that...and, Mr. Burns, if you will give me a day or so, I will show you; I'll bring those papers over here to show you that there is two different reports. I'm not saying that the banks are lying on anything. I'm saying there is one report that they make to the assessor and the tax commission. There is another report that they make to the banking department. I can prove that. If I'm wrong, then have...let some of them show me I'm wrong.

Mr. Burns If you have had that experience, instead of taking the statement that they furnish you with, why don't you just go to the FDIC and get the statement that their examiners have arrived at every year?

Mr. Winchester If you think it's necessary, I'll be glad to, Mr. Burns. My daddy was a banker all his life. I know a little something about banking.

Mr. D'Gerolamo Mr. Winchester, bringing this out in the open...

Mr. Winchester Sir?

Mr. D'Gerolamo In bringing this out in the open as you want to do, isn't it a fact that when Proposal No. 26 was being written, the bank interests, who were not aware of the low percentage that we adopted here, put this in here so they can go to the legislature in the event the higher percentage was on the stocks, they can go to the legislature and get it lowered? Now that this convention has adopted a low percentage, they want it...to protect it at the low percentage and take "as provided by law" out?

Mr. Winchester I would think that's it, Mr. D'Gerolamo.

Mr. Lowe Mr. Winchester, don't you realize that the way banks were taxed before that they were taxed on book value and the things that you say is true? But, don't you realize that this amendment taxes them on the fair market value, and more often than not bank stock sells at one hundred and fifty or two hundred times above book value, and seventy-five or eighty percent of the bank stock is listed on the stock exchange over the counter? You can get a price of what it's selling for, and these sophisticated investors--they know what they are buying. If they've a hidden reserve, they are going to pay for it. So, really, we are getting away from what you say is an inequity when you go to fair market value. Do you realize that?

Mr. Winchester All I'm saying is it was brought out...that it was brought up that this was a technical amendment that started the whole thing, and it wasn't a technical amendment...

[Previous Question ordered.]

Closing

Mr. Lowe Mr. Chairman, ladies and gentlemen of the convention, I know that you have heard some things up here and I want you to know that I came up to explain the amendment to you just as Mr. Champagne did. He was going to handle one part, and I was going to handle the other; it seemed that delegates wanted to move. So, out of courtesy to you, I didn't say anything. But, I want you to know that this is a good amendment; it's an amendment that's needed. We have made some changes in the basic ad valorem tax laws. We can't leave the banks in the position they are in. Now, would you sit and reason with me for just one moment. If you sit and reason with me, I think you're going to vote for this amendment because it's a good amendment. I rarely get up here and ask you to go with something. I get a strong feeling about something. In the early days of ad valorem taxes, I started to get concerned about the bank stock. I talked to the bankers. I talked to the lobbyists, because I could see what was happening. Now, let me explain point number one to you. In many areas the ad valorem tax base has been twenty-five percent or thirty percent or twenty percent. Lowering the classifications that tax base goes down. When the tax base goes down, the millages have to go up to get the roll up to produce the same taxes that were produced before. Now, when the millages go up, that's all right because the percentages have been lowered for every other class of property except banks. Banks are controlled by the legislature, and that percentage is left at thirty percent now. Now, if the millages go up twice, the tax on banks go up twice. They are already paying terrific taxes to which any assessor will attest. Now, the other thing that this amendment does, it doesn't favor banks. It says that the highest percentage that we have in this constitution is fifteen percent. Let's tax banks at fifteen percent. Why would you want them to be any higher than anyone else? The next thing it does: banks used to be taxed on book value, and you could hide big reserves and dress up the financial statement. This amendment says "banks will be taxed on fair market value." You know what stocks...bank stocks are selling for, most of them sell over the counter. You can get a quote anytime you want to pick up the telephone on most of them. Now, if we want to be fair to banks and fair to what we are doing in this convention, then I'm here to appeal to you to be fair. Tax banks at the highest percentage; tax them at fair market value, and I don't believe anyone can ask for more than that. I ask you to adopt this amendment out of justice to the bank...what the confusion that we have in ad valorem taxes, we have changed the ball game. If we have changed the ball game, we have to recognize it. I wouldn't come here asking you for a favor for anyone. I'm here asking you in equity to do what's just and right and proper. Don't, because there has been some confusion, just vote against this. I think you understand it now. So, I appeal to you. Let's be fair. Let's be equitable. Tax them at the maximum; tax them at fair market value; but be fair. I ask you to adopt the amendment.

Questions

Mr. Mire Mr. Lowe, isn't it correct that at least twice a year every bank has to publish in their local journal a certified statement of condition of their banks, certified by at least three of the directors under some judicial officer?

Mr. Lowe That's correct, sir. I'm glad you got up and said that because I've discussed this amendment with you, and you indicated to me that you saw nothing wrong with it.

Mr. J. Jackson Mr. Lowe, to make sure I understand it, is it true that presently that you have some banks that are assessed at a percentage of the book value?

Mr. Lowe That's right, Johnny.

Mr. J. Jackson Right, and probably sees the fifteen percent that we have set on all property. Like, for instance, you may have a bank assessed at thirty-six percent of book value.

Mr. Lowe O.K.

Mr. J. Jackson In that light of what you are requesting, would it be safe to assume that fifteen percent of market value is higher than that of thirty-six percent of book value?

Mr. Lowe It is for two reasons, Mr. Jackson. The number one reason is this: they are no longer using book value now, and fair market value will be used. You can ask anyone that fools with banks--traditionally stock sells for about one hundred and fifty times more or two hundred times what the book value is. So, that raises the base that they are going to be taxed on. Secondly, by the base coming down in many of these areas the ad valorem taxes are going up maybe twice the millage we have now. So, you will have twice the millage applied to what you had before.

[*Record vote ordered. Amendment adopted: 94-16.*]

Mr. Henry Mr. Champagne, do you want to come up and confess now? Tell us what you...I have never in this whole convention had anybody mislead these delegates like you do. I think you ought to apologize.

Personal Privilege

Mr. Champagne Ladies and gentlemen, I have no such intention. But, there are some of you who said that possibly your neighbor thought that maybe I was trying to put something over you. I would never do that, and those people who know me best say...would agree that that would never be my intentions to do that. I simply feel that it is a complicated matter that it took me many years to learn. You simply cannot explain this thing fully in three or four or five minutes before this convention. So, there is times in this convention when I have taken the word of some of you, and there are times when you must, on occasion, take my word. I was not, in any means, trying to mislead you. I was only telling you facts. I will be glad to explain to any of you at length how this is figured, how it goes about, and the whole story. Besides, I would be glad to give you facts on the taxes that banks pay in this state, how much they keep in their income, how much they retain, and how much dividends they pay. It is a revelation, I would be glad to explain to any of you individually at any time.

Question

Mr. Anzalone Mr. Champagne, is there any particular reason why early in the deliberations of your committee that the bankers of this state decided that they wanted to have their percentage governed by the legislature, rather than set into the constitution?

Mr. Champagne Mr. Anzalone, early at the beginning of this thing--was not early; it was at the very last moment...

Mr. Henry You all sit down and share this with one another, hear? We've got work to do here.

Point of Information

Mr. Lowe On reconsideration. Do you have to wait until the next legislative...

Mr. Henry We've done did it once. You can't do it twice on the same day, sir.

Mr. Lowe That's right.

Amendment

Mr. Poynter Amendment No. 1. On page 4, line 12--this is the Dennery amendment we had passed out--page 4, line 12, after the words and punctuation "owners;" delete the remainder of the line and insert in lieu thereof the following: "ships and

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oceangoing tugs, towboats, and barges"

Explanation

Mr. Dennery The purpose of this amendment, Mr. Chairman, ladies and gentlemen of the convention, is to put into the present draft the same language that presently exists in the current constitution. The reason for requesting that the constitution adopt this amendment--which I firmly and sincerely believe to be technical--is that under the new system of lash vessels, lighter aboard ship vessels, there is some possibility that such a barge or a lash would not be considered to be an oceangoing vessel. In order to avoid any questions about it, the committee chairman and Mr. Planchard agreed that they would have no objection to going back to the language that is currently contained in the constitution, which exempts ships and oceangoing tugs, towboats and barges.

I'll be pleased to answer any questions, Mr. Chairman.

Questions

Mr. Winchester Mr. Dennery, St. Mary Parish services a lot of offshore installations. They have oceangoing tugs; they have oceangoing barges. What would this do to the assessment of those oceangoing tugs and oceangoing barges that are now on the tax rolls?

Mr. Dennery Mr. Winchester, I don't think it would do a thing because these four words, or these four classes, are followed in the present draft on line 13 with engaged...

Mr. Winchester But not in the same order.

Mr. Dennery Yes, sir. In the same order. It will now read "ships and oceangoing tugs, towboats and barges engaged in international trade and domiciled in Louisiana ports," etc.

Mr. Winchester Well...all right we have tugs that work in Morgan City--work in the coastal waters. Sometimes they go to Iran; sometimes they go to the North sea; these barges the same way, what would happen to those assessments?

Mr. Dennery As I understand it, Mr. Winchester, the same thing that would happen now, while they are engaged in international trade, they would not be taxable; while they were not so engaged, they would be.

Mr. Winchester Well, when do you decide that they are in international trade, and how do you decide it ordinarily? They're here today, and they haven't assessed...

Mr. Dennery Mr. Winchester, to answer your question, I can only say to you, sir, as you told us, the assessors know their own business. Now, if the assessors can't tell that, I can't give you any real basic reason for it.

Mr. Winchester No, but you've changed a little... would you please read to me exactly how the old constitution reads, sir?

Mr. Dennery Yes, sir. It says "ships and oceangoing tugs, towboats and barges engaged in overseas trade and commerce and domiciled in Louisiana ports. But this exemption shall not apply to harbor, wharf, shed, and other port dues...and no ship, tugboat or barge operated in the coastal trade of the continental United States shall be within the exemptions herein granted." And that's exactly the way it reads.

Mr. Winchester All right. Now wait a minute. Let me ask you this: your amendment would...after the word "owners" on page 12...

Mr. Dennery No, on line 12.

Mr. Winchester On line 12 would say "ships and oceangoing tugs, towboats and barges...all oceangoing vessels engaged in international trade." Now, what is...that is certainly different, isn't it?

Mr. Dennery No, sir. I beg your pardon, sir. If you will read the amendment, we deleted the language at the end of that line, "all oceangoing vessels." That has now been deleted. So, in lieu of...in place of "all oceangoing vessels" we're putting back the language that presently is in the constitution, which reads "ships and oceangoing tugs, towboats and barges." Otherwise it's the same.

Mr. Rayburn Mr. Dennery, is it not so that the committee merely, when they reduced the language that is in the present proposal, that they were just trying to eliminate a few words, and there has been some question? The present language says "all oceangoing vessels," and the committee members felt that that took care of it. But there has been some discussion; so all this amendment does is place back the exact language that's now in the present constitution, word for word, comma for comma, and period for period.

Mr. Dennery That's exactly my understanding of it, Senator.

Mr. Nunez Mr. Dennery, along the same lines, doesn't this leave exactly the same way...if an assessor in coastal Louisiana was taxing, or had tugboats on the rolls, and they were paying an ad valorem taxation on those tugboats, that it will remain the same? You're not exempting them under your amendment. But, if they were in international trade, such as lash or some of these oceangoing tugs, and they were exempt, they would now still be exempt? That's essentially what you're doing... an error created by the committee in not putting it back the way it was.

Mr. Dennery Exactly. That's exactly right, Senator.

Mr. Flory Mr. Dennery, doesn't this guarantee that those people working on the docks in New Orleans...will now be able to continue working, because if they don't put this in there, these types of ships could move to Houston, Mobile, as their home port?

Mr. Dennery Very possible, very possible. That's one of the reasons that I...

[Amendment adopted without objection.]

Amendment

Mr. Poynter The next amendment is offered by Delegate E. J. Landry.

Amendment No. 1. On page 2, in Floor Amendment No. 1, proposed by Delegate Mire and adopted by the Convention on October 24th, on line 5 in the text of the amendment, after the word "taxation" delete the colon ":" and insert a semicolon ";," and add the following: "provided, however, that after the effective date of this constitution" (and really you need to add a comma there) "the exemptions contained in Paragraph F and G of this section shall not apply to taxes levied by any school districts:"

Explanation

Mr. E. J. Landry Mr. Chairman, ladies and gentlemen of this delegation, I'm going to take part of my time to thank you for what you have done for me. Now, you're not aware of it, but you have done something to help sell this constitution to the people of the State of Louisiana. I'm going to explain to you how you've done it. You owe me just a bit of time on personal privilege because of the fact that I have not missed one vote. I have not missed one

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discussion in committee or in this convention since the convention started. So, I'm going to ask you for the time that you owe me. Now, how did you help me to sell the constitution to the people in my area? When I say people in my area, I mean all of the people. I'm surrounded by over a billion dollars of tax exemptions. I'm surrounded by a school system that needs help. I've worked in this school system for over forty-five years. I have stayed there long enough to graduate everyone of my children from that high school that I worked in, and then to see that they got through college, but by the hardest. Now, what did you do?--This. The news media in this convention picked up the fact that the delegates of this convention gave me perfect attention and listened to what I had to say. My newspapers back home picked that up--big headlines --all over the parish, all of the people are respecting you and are giving me credit for being in a position to do something about this constitution when the time comes. Now, that's my personal privilege; my thanks to you. Now, at this moment, I'm not discouraged at this time of the day. I'm much younger than most of you. I'll be seventy years old come January the ninth, but that doesn't mean that I don't have a lot of energy left to do something for this state. Now, the product that I want to sell to you today...the product is a product that will cost money. I didn't come here to get an exemption; I came here to lay it on the line. I gave you evidence of the fact that I've fought this fight before. I've seen miracles happen. It wasn't long ago that I was in that legislature as a member of the legislative committee of the teachers of this state fighting for monies for your children. A miracle happened on the floor; capitulation took place. The leader of the opposition, his name was John Garrett, capitulated on the floor of the House and voted for the school children of this state. I still believe that industry is ready; industry is ready to make a contribution for my amendment. Look at it! It is for the children of this state. If ever you had an opportunity, if ever you had an opportunity to do something positive--not negative --with courage, you have it now. I've waited fifty-one years for this opportunity. I didn't know how it would happen. I had no idea, but when I pray with you in the morning, I keep thinking "Lord, give me the strength; give me the words; tell me how to do it." Now, this is a simple amendment. It's not hard to understand. It says "Now, at this time." Delegates, think this thing over and make it possible for industry to do themselves a favor. They need educated people; they need them in industry. I know they need them. They've told me so, and secretly, many times. They have told me that, "Mr. Landry, if we knew that we could figure out a way to vote for the children of this state, we would do it." I know what the opposition is going to be here; everybody is going to want to be in on it. But, I'm going to ask you, for once in your life, don't want to get in on this thing. Let the children of this state, the most important product that we have in this state...You've talked about everything but children, and this is your wonderful opportunity to do some good. Now, let me ask you--let me ask you to give this...I don't even have to answer any questions. This simple amendment is self-explanatory. It's been thought over for a long, long time by many people. There are people in this audience now who will speak to it. Then, you can ask them questions. This is an opportunity for you to redeem yourself. Let's start considering priorities. This is a priority. All the other services that we need in the parish--it's true; we need them; but of all the priorities this is the one at the top of the list. Ladies and gentlemen of this convention, I'm inspired because of the results that I got when I talked to the leaders of this convention. Now, I'm going to ask you to do what I feel that you are going to do. Thank you.

Further Discussion

Mr. Schmitt Mr. Landry indicated that this amendment was a product that he would sell, but I think

he's attempting to sell you a bill of goods. Let me tell you why. This Section G doesn't relate to his area. It primarily relates to the ports, and particularly to the Port of Orleans, which is presently, essentially, a free trade zone. Now, what happens if we adopt this amendment in Section G is eliminated insofar as these...one particular section is involved. Well, the first ramification will mean that instead of sending goods through the Port of Orleans, goods will be sent through other ports which do have the right to this free trade concept. I have conversed for many hours with Mr. Jim McDaniel, who has represented the farm interest, and he agrees with me that the Port of Orleans, and the other ports of the State of Louisiana intertwine with the needs of the farming areas of the state. The farming areas of the state provide many products which are shipped abroad, in particular, soybeans and other types of products. These have got to go through or presently go through the Port of Orleans. What happens when you eliminate this exemption which exists under the proposal, these products will be taxed. The end result will mean the loss of business for the Port of Orleans, the loss of jobs in that particular area, and the diversion of these products from the parish of Orleans and the State of Louisiana to other ports in the United States. I believe that the adoption of this amendment will be disastrous for the Port of Orleans, for the parish and for the state. I firmly believe that Mr. Landry has made an honest error. I don't believe that this Section G relates to his part of the State of Louisiana. I do feel that it is imperative that we adopt this Section G. In our committee we heard many hours of testimony with reference to this particular section, and it was felt that this part was very badly needed. It was virtually unanimous upon our committee that this particular section be adopted. I would request the convention to defeat this particular amendment and to adopt the Section G, the proposal from our committee. Thank you.

Further Discussion

Mr. Avant Mr. Chairman and fellow delegates, I'm not going to say much except that I'm going to say this. My Landry, whether you agree with him or disagree with him, is not trying to sell anybody a bill of goods. Now, first, certain things that should be stated: products in the stream of commerce as you know, Mr. Schmitt, in commerce that have not acquired a situs in this state are not subject to a state ad valorem taxation under the commerce clause of the federal constitution. Also, if they are in the free trade zone, even though they may have acquired a situs, they still would not be subject to taxation under federal law. So, that's not what we're talking about. But there are certain manufacturing industries situated in the Parish of St. Charles which do have tremendous stock piles of raw material imported from outside the continental limits of the United States from foreign countries. Particularly, I'm thinking of bauxite, that have acquired a permanent status in this state that are not in commerce; they have been removed from the stream of commerce, and they are waiting to be reduced and made into aluminum ore. Now, that's what we're talking about. Now, that is certainly not an attempt to sell anybody a bill of goods.

Vice Chairman Casey in the Chair

Further Discussion

Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, I rise in support of this amendment which Mr. Landry has presented to us. The English poet said a number of years ago, "woe be unto the land to hastening ills of prey where wealth accumulates and men decay." Too long in our state we have seen wealth accumulate and men decay. We have seen an inadequate standard of education. Certainly in this convention we have not faced squarely the needs of education and other services for our state. We have been primarily concerned with low percentages and high--and many exemptions. We have the greatest natural resources of any state in this Union,

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but we have the lowest standard of education and the lowest standard of income. We live in an urban technical, scientific society when men need to be educated. I submit to you that this simple amendment is a step in the right direction. It is one that calls for our serious consideration and I encourage your enthusiastic support of this amendment.

Questions

Mr. Winchester Is it...am I correct in my understanding that if this amendment is adopted, it would apply to every exemption? The school tax would not apply?

Mr. Stovall Mr. Winchester, it applies to the exemptions in Paragraphs F and G.

Mr. Winchester All right. Now, can I ask you another question? In Paragraph F deals with ten year exemptions, is that correct?

Mr. Stovall Yes.

Mr. Winchester Well, then a parish that had a two or three or four hundred million dollars of exemptions would have a big school fund whereas a small parish with no ten year exemptions would not have that same advantage, is that correct?

Mr. Stovall Mr. Chairman, I couldn't hear the question.

Mr. Winchester Reverend Stovall, it is my understanding that this amendment, as it would apply to Section F, would do away with a ten year exemption not paying school taxes. So, therefore, in a parish that had a three or four hundred million dollar exemption laws would have a lot...have much more school tax than a poor rural parish who had no ten year exemptions. Also, would not this lead to the doing away of the ten year exemption because school taxes in a lot of parishes amount to thirty to thirty-five to forty percent of the taxes paid?

Mr. Stovall That's my understanding, Mr. Winchester.

Mr. Thompson Reverend Stovall, can you hear me?

Mr. Stovall I can hear you.

Mr. Thompson We have about five parishes that have courts; what you want to do is tax all the agricultural products throughout Louisiana and just give it to these five school boards, is that what you're aiming after?

Mr. Stovall Mr. Thompson, I think that all of us should be willing to pay our way and our share of taxes. I think we should think more in terms of responsibility than we should of exemptions.

Mr. Thompson In other words, you want to...you want to build big schools in these five parishes at the expense of the rest of the state and the farmers. Is this correct?

Further Discussion

Mr. Mire Mr. Acting Chairman, fellow delegates, I reluctantly get up and oppose an amendment by Mr. Landry which, I know, is most sincere in what he's attempting to do. I rise in opposition to it for two reasons. First, it was not...this amendment has not...it is of a magnitude that I think it should have some hearings. I think we should hear from both sides of the picture. We're talking of a lot of money here. We're talking of a program that's been in progress in the state that has brought us industries that our state government is for, our legislature has been for. I don't believe that just in thirty minutes or an hour or two of discussion here, that we can get to all of the facts involved. Since I knew this amendment was coming up I have been talking to some of the representatives here with industry. I will be an author to an amendment

that will, in fact, take the industrial exemption out of the constitution if, of course, this convention goes along with us. I think it should be in the statutes. I think that it should be where it can be looked at, overhauled when it needs to be. But, I think it should have it's proper hearings. I think it should be looked at on all angles and all sides. May I just tell you one thing that I'm afraid this could do--something that happened in my parish years ago. We had Donaldsonville and the river front as a rich area and the school board people then and the founding fathers decided that Donaldsonville and the river area would be one school district. Gonzales and where I live was considered the woods. They said, "Well, you can organize a school district there if you want to," and we did. But, we couldn't build any schools because we didn't have any wealth. So, we went to them and said, "Look, let's consolidate this thing--let's put it together." They said, "No, we got the wealth, and we got the vote, and this is where we're going to stay." It stayed that way until industry came and wealth shifted over and came into East Ascension. Then, of course, we got to where we could build what we needed; then the clamor changed. Then they said, "Well, let's put it together." Well, we did put it together. But, when you take this rural area along this Mississippi River and say that all industries coming in here new, expanding, is going to pay school taxes, every parish along this river is going to be able to build anything that would be short of a little junior college, which I'm all for, but they are going to have the wealth to do that anyway. But, how about the bedroom parishes that are going to be next to these areas that are not going to have the benefit of these taxes, shouldn't they share a little bit? So, if a proposal such as this has merits, let's leave it to the legislature. Let's leave it to somebody who can look at it totally and fairly...and fairly come up with laws that will serve all of the people of this state. I urge that this amendment be defeated.

Questions

Mr. Lennox Mr. Mire, do I understand that you propose to author or coauthor an amendment which would delete in effect Section F, page 4, lines 28 through 32, and page 5, lines 1 through 32 inclusive, and page 6, lines 1 through 5, is that correct?

Mr. Mire This is the total constitutional portion of the industrial inducement program, yes.

Mr. Lennox All of Section F?

Mr. Mire Correct, sir.

Mr. Lennox If your amendment passes, thereafter the legislature would have to wrestle with this question and decide what is in the public interest?

Mr. Mire That's absolutely right, sir.

Mr. Lennox If that be the case, Mr. Landry's amendment would then be a moot cause, would it not?

Mr. Mire Yes, sir, it would be, sir.

Mr. A. Jackson Mr. Mire, you raised some rather significant questions, but isn't it important that we consider this when we talk about the whole problem of industrial inducement because one of the things they look at is the quality of the school system in each of the parishes and geographical locations? Isn't this true?

Mr. Mire That's very true, sir.

Mr. A. Jackson So, if we don't have a quality educational enterprise, then we aren't going to be able to attract industry to these communities. Isn't it true?

Mr. Mire That's true, if you don't have proper schools.

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Mr. A. Jackson One other question: Isn't it also true that industry is constantly requiring that we provide the kind of technically skilled individual in order that they can have the kind of labor force that they need? If this is true, then isn't this wholly depended on the educational enterprise in the state?

Mr. Mire What you're saying is absolutely true, and I have no objections to the legislature looking at it completely and fairly distributing these taxes. What I'm saying--and I'm using my parish--Ascension Parish. I'd say that fifty percent of the people that works in our plant don't live in my parish. They live in either Livingston Parish or one of the other parishes that does not have any industry. They're going to need these schools also, and I think they should be looked at more carefully than this. Allow those who have industries...

Further Discussion

Mr. Abraham Ladies and gentlemen, if you pass this amendment, you're going to kill the goose that laid the golden egg. You heard Reverend Stovall get up here and talk about how wealth causes decay. Well, I submit to you that the reasons we have some of the wealth that we have in this state...

Mr. Casey Let's see if we can't get about two or three people just to listen to your remarks, if that's possible.

Mr. Abraham What I'm saying is that the reason that we have some of the wealth in this state is because we have had a lot of people, governors, congressmen, legislators, civic leaders, and everybody else to go out and induce industry to come to this state. One of the means by which they have induced industry is through the ten year tax exemption. Right now, you've read in the paper of the governor making trips out of the state, and elsewhere abroad, trying to get additional industry to come to this state. If we remove this exemption, then how much chance do you think we're going to have of getting these people to come in? Now, I know some of you say, "Well, they're going to come anyway because we've got the resources." Well, let me tell you that these resources are fast playing out; there's a shortage of fresh water in this state--gas is short, so we're going to have to have something to get these people to come in. Now, these exemptions are not going to undermine the school districts in any way because at the end of ten years you're going to have them going on the tax rolls. I say to you that a half of a loaf is better than none. I'd rather give them an exemption for ten years and know that I'm going to reap the taxes from them after ten years than not have them come in here at all. Now, Mr. Landry--I'm not going to quarrel with Mr. Landry's statement that the schools need money and this type of thing. I don't disagree with that. But, we've stood up here and we've given exemption after exemption to one thing and another, and now we're going to try to gut this article here--this section here. I'm just telling you that we're heading down a dangerous path if we keep doing things like this. I have an amendment coming up which deletes both Section F and G if this amendment passes. I see no need to do that if we don't...unless we have to. But, if this is such a problem, then I had rather see the legislature wrestle with it, rather than us try to decide right here and now what's good for this state in this respect, because I don't think anybody in this convention is qualified to see what the entire results of this will be in the future. I ask the defeat of this amendment.

Questions

Mr. Burns Mr. Abraham, two questions: Do you agree that in all of our discussions with reference to taxation and the method of assessment, that the need for the schools has been of paramount interest and concern that they, the governmental entity that most needs the money at this time?

Mr. Abraham I would say that we have many needs, and I don't remember any discussion here that said the schools were paramount above all others. I have heard of a lot of needs in this state.

Mr. Burns A second question: Do you not think that any group or any industry that is now enjoying a seven billion dollar tax exemption in this state should at least pay a small portion of the expenses for the operation of the schools?

Mr. Abraham You seem to forget, Mr. Burns, that these seven billion dollars worth of exemption represent a large...much larger investment in this state which provide jobs for our people, which provide all kinds of income which brings in other people, other industries into this state, and that if you did not have this ten year tax exemption, you wouldn't have this industry in here.

Mr. Rayburn Mr. Abraham, it's my understanding that Mr. Landry intends to withdraw this amendment and delete particularly the G provision of it, and if he's going to do that, don't you think we're talking about a moot question at this particular time?

Mr. Abraham Well, his amendment applies to both F and G. If he withdraws the entire amendment, then it's moot.

Further Discussion

Mr. Chatelain Mr. Chairman, I'm speaking on behalf of Mr. Landry. I think there has been an error, and this is a real terrific shock to a lot of people. I think it should be because it involves a lot of Louisiana's tax base. I think Mr. Landry--is this correct, Mr. Landry--you'd like to withdraw this and come out with a new amendment--would read such as this: "The exemptions contained in Paragraph F of this section will not apply to any taxes levied by any school districts on any manufacturing establishments or in addition...or additions to any manufacturing establishments constructed after the effected date of this constitution." He'd like to withdraw what he has and come with this one, sir. It's being readied for distribution now.

[Amendment withdrawn. Motion to revert to other orders of business adopted without objection.]

Announcements [I Journal, 70]

[Adjournment to 9:00 o'clock a.m., Friday, October 26, 1973.]

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Friday, October 26, 1973

RDLL CALL

[82 delegates present and a quorum.]

PRAYER

Mr. Planchard Almighty Father, let this be a prayer, not only of myself, but all the delegates. I borrow the words from a poet, the name I do not recall. But, I say, "Let me sit in a delegate's seat, ... along the aisle where the race of yore go by: men who are as good, men who are as bad-- as good, as bad as I. Do not let me sit in the scorner's seat or wear the cynic band. Let me sit in the delegate's seat and be of service to man."

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PRDPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26 introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance, and Taxation, and other delegates, members of that committee.

A proposal making provisions for property taxation.

Of course, the status of the proposal, this convention has adopted, as amended, Sections 1 and 2 of the proposal, presently still has under its consideration proposed Section 3 which has been amended to deal with other property exemptions other than the homestead exemption.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Conino]. On page 3--this was distributed yesterday--on page 3, delete lines 5 through 25, both inclusive, in their entirety, including all Floor Amendments to those lines, and insert in lieu thereof the following:

"(C) (1) Places of religious worship; (2) property owned by religious denominations and used as residences for clergy or other religious; (3) places of burial and property held by any religious denomination or nonprofit corporation or organization for burial purposes, but the exemption shall not apply to unsold lots, crypts, or places for burial nor shall it apply to lands held for development as places for burial when so held for profit; (4) places devoted to charitable undertakings; (5) property of bona fide labor organizations representing their members or affiliates in collective bargaining efforts; (6) universities, schools, colleges, hospitals, nursing homes, homes for the aged, convalescent and rehabilitation facilities, institutions for treatment, rehabilitation and care of the physically and mentally handicapped or retarded, orphans, child and/or day care centers which are organized or operating as nonprofit corporations under the Louisiana Nonprofit Corporations Law and which are exempt from federal and state income taxation law and which are licensed or regulated by the State of Louisiana; (7) organizations such as lodges and clubs organized for charitable and fraternal purposes and practicing the same.

The exemptions shall extend only to property, and grounds thereunto appurtenant, used for the above mentioned purposes, and not leased or operated commercially for profit."

Point of Information

Mr. Lennox A point of information, Mr. Chairman.

Would this amendment eliminate that amendment passed under my sponsorship yesterday dealing with the exemption from ad valorem taxes of business-oriented trade associations?

..., I don't believe that's the intention of the author.

Mr. Poynter Well, as it's drawn, Mr. Lennox, it would do it, but the author says he doesn't want to and would like to modify it in some fashion so it wouldn't; but we're going to have to make some changes in it.

Mr. Lennox Then I would like to suggest that the Chair authorize the Clerk to make those changes.

Mr. Poynter The gentleman suggests, Mr. Chairman, he'd like to just withdraw it and have it redrafted to include that language and offer it at a later time.

[Amendment withdrawn.]

Amendment

Mr. Poynter Next amendment sent up by Delegate Arnette--a short amendment, goes to (C), page 3.

On page 3, at the beginning of line 12, in Floor Amendment No. 1 proposed by Delegate Flory and adopted by the convention on yesterday, at the beginning of the text of the amendment delete the words "property of" and insert in lieu thereof the words "meeting halls of".

If you don't have, still retained, a copy of the Flory amendment, after the word "profit" on line 12 of page 3, inserted the following: "property of bona fide labor organizations representing their members or affiliates in collective bargaining efforts". The effect of Mr. Arnette's amendment is to delete the two words "property of" and insert in lieu thereof three words "meeting halls of" bona fide labor organizations representing their members or affiliates in collective bargaining efforts.

Explanation

Mr. Arnette This is just a technical amendment. This is doing exactly what the authors of the previous amendment said they wanted to do--exempt their meeting halls; and I think that's exactly what we ought to do and make sure that's all that's exempt, is the meeting hall. This is to prevent, say, a union from having a high-rise apartment house and renting it to their union members at a very cut-rate or something like this. They're not a charitable organization or anything like this; they are a union. I think only their meeting hall ought to be exempt, and this is all it does; it exempts only a meeting hall which is what they said their intention was to do. There it's kind of a technical amendment in that way.

Questions

Mr. Velazquez Mr. Arnette, you intend to become an attorney, don't you?

Mr. Arnette What's that?

Mr. Velazquez You intend to become a practicing attorney?

Mr. Arnette I would like to be, yes.

Mr. Velazquez You're going to have an office with a desk, typewriter, some paper, some filing cabinets. Aren't these things essential to anybody to try to operate and help people, if you run any kind of business these days?

Mr. Arnette It'd be nice, yes.

Mr. Velazquez But, this thing you're giving here, the union won't even be able to buy a typewriter. They won't even be able to have a filing cabinet in the office. What are you trying to do?

Mr. Arnette I said "meeting halls."

Mr. Velazquez Meeting halls?

Mr. Arnette "Meeting halls" includes the property

in the meeting hall that is necessary to carry on the business of collective bargaining. It does not include, however, thousands of acres of land; it does not include the things like apartment houses or anything else the union may, in the future, own because of this particular section. It does, however, include in the exemption anything necessary to carry on collective bargaining at the meeting hall. It does not include many, many offices that they do not need, however, or any office building they, perhaps, rent out, which is what I want to prevent from being exempted. I just want to exclude exactly what the authors of that previous amendment said they wanted to exclude, which was the meeting hall.

Mr. Velazquez The way this thing is written, you can't even buy a paper clip.

Further Discussion

Mr. Flory Mr. Chairman and delegates, I hate to rise and start the morning off this way, but I thought we had resolved this problem yesterday, particularly in view of the fact that Mr. Arnette's the one that gave me the words "property of," and came to me and suggested I insert it in my amendment to clarify it as to what we were talking about. Now, the question comes up in his amendment that he's talking about--and, of course, I realize that he is an attorney, and I'm not--but I cannot for the life of me understand what the definition of a meeting hall is. If you know what a meeting hall is, is that where two people meet together and discuss business or what? What I had said yesterday was that the property that we have--and I discussed it, and I want Mr. Arnette to know--we don't own any large tracts of land. If we do, it's concreted over or it's blacktopped over for a parking lot next to the meeting hall. Nor could we buy any large tracts of land; and I think he knows that. But, what it would do, for example, under his amendment is that if we had some equipment that we used in charitable projects of reconstruction, or if we used sound equipment, for example, in handling national conventions or something as a public service, it would not be exempt under his amendment. I discussed all of this yesterday, and I would hope that you would reject his amendment and let's go on with the business of the convention. I'll be happy to answer any questions.

Questions

Mr. Velazquez Hasn't the sound equipment that you've referred to brought convention business to Baton Rouge that, except for the presence of this equipment, would not have come to Baton Rouge?

Mr. Flory That's correct, Mr. Velazquez, but I must say in all fairness that we would not perform this service for any profit making organization. The only service we would perform would be for a nonprofit venture.

Mr. Womack Mr. Flory, I've always had a curiosity to know; this sound equipment that we're using here today, is it part of AFL-CIO's package?

Mr. Flory It's owned solely, was designed and constructed by them only as a public service. Yes, sir, we own it.

Mr. Womack How much rent do you all get for furnishing this to the convention and the employees that go with it?

Mr. Flory Nothing, nor did we ask for anything.

Mr. O'Neill How many high-rise office buildings and apartment buildings do you all own right now?

Mr. Flory In the State of Louisiana?
Not one that I know anything about.

Mr. Henry I don't believe there are any other

questions.

Mr. Flory I would ask that you reject the amendment.

[Previous Question ordered.]

Closing

Mr. Arnette Well, I thought this was going to be a technical amendment, but I see I'm going to have to make a few more amendments--like in the first sentence of Paragraph (C), it says "places of worship;" I think I might have to add "pews, missals, Bibles, hymnals" and everything else in there to make sure that all this is covered, because Mr. Velazquez doesn't think it's going to be covered. So after this amendment, I guess I'm going to have to come with something like that. But, getting down to my amendment, it says, "meeting halls"; very simply, it says "meeting halls," which means a meeting hall and all the things contained in a meeting hall to conduct the business of the union. However, there are some meeting halls that aren't just meeting halls. For example, right here in Baton Rouge, right on Airline Highway, they've got a meeting hall on top of a commercial business. If my amendment is not adopted, that commercial business will have absolutely no property tax on it, absolutely none. I think this is a bad situation; we've got a piece of commercial property with no property tax because the present situation is that all property owned by a trade union or a union is going to be exempt. So, you're going to have all that property exempt instead of just the top floor, as is now the case, which is what my amendment seeks to do. It seeks to make the law exactly as it is now.

Questions

Mr. Flory Mr. Arnette, I believe you can read. Would you read the last sentence of that section as it's amended?

It says, "used for the above mentioned purpose, and not leased or operated for profit." Now, if the situation that you're talking about--and I told you about the situation to begin with; I told you it was assessed accordingly for commercial purposes, as it ought to be--and under this language, it would continue to be operated commercially; then it would continue to be assessed accordingly, and you know that.

Mr. Arnette No, Mr. Flory, see the difference is--and this is the difference to explain it very shortly--is that all the other things say universities or nursing homes or hospitals and used for the purpose that it was designed to; it says that in the last sentence. But, what your amendment said was "property", just "property"--not any property used for any specific purpose. It's not defined by that last sentence, and that's what I seek to do is define it, to put it down to a specific thing--the meeting hall. No, I don't know about any high-rise office buildings or apartment houses or anything else that's owned by any trade union in the state right now, but I foresee the possibility happening if they don't have any property tax on them.

Mr. De Blieux Mr. Arnette, I don't believe there's any difficulty or misunderstanding between you and Mr. Flory as to what should be exempt, but the question I have is, somebody trying to interpret this some fifteen or twenty years from now and no other language than what we have in this particular article here--whether it's your language or his language--wouldn't it make some sort of a difference? Isn't this a good reason why this should be left to the legislature to define what property is exempt and what is not exempt?

Mr. Arnette Well, Mr. De Blieux, I think you have a good point there, but this convention has chosen to put it in the constitution, and I think we ought

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to make it as clear as we possibly can. "Property" is all-inclusive, and "meeting hall" is not, and I think that was the intent of this convention: to place just "meeting halls" being tax-exempt.

Mr. Rayburn Mr. Arnette, would you define for me, in your opinion, what a hall is, or a meeting hall?

Mr. Arnette Well, Senator Rayburn, would you define "place of worship"?

Mr. Rayburn Yes, that's a religious place where people go and worship.

Mr. Arnette Well, O.K., then a meeting hall is a place where people meet to discuss things having to do with their trade union.

Mr. Rayburn I mean, what I'm talking about, though, Mr. Arnette, could they meet in some other place other than a meeting hall? I mean if they chose to rent a building to meet in, say? I just want to know how you...

Mr. Arnette Well, if they were renting a building, Senator, they would not have to pay any property tax anyway, because they'd be renting; they wouldn't be owning.

Mr. Rayburn ...Because some of them up in my section meet in a barn; I want to know whether that'd be included or not.

Mr. Arnette Well, it would if it was used for that purpose, Senator. Some churches meet in barns too.

[Record vote ordered. Amendment rejected: 29-64.]

Mr. E.J. Landry Mr. Chairman, I rise to get some attention in connection with the amendment that I was working on yesterday.

Mr. Henry All right. You want me to help you from here?

Mr. E.J. Landry I would very much so.

Mr. Henry Mr. Landry had the amendment up yesterday which we withdrew for the purpose, as I understood it--I was back behind here and I'm not certain--but I think you withdrew it to redraft it. Is that correct, Mr. Landry?

Mr. E.J. Landry Yes, it was prepared.

Mr. Henry When it was redrafted, it was redrafted as Paragraph (I) rather than where it had been. What Mr. Landry would like to do now is to move to take this amendment out of its regular order.

[Motion to take amendment out of its regular order adopted: 55-33.]

Amendment

Mr. Poynter Amendment sent up by Delegate [E.J.] Landry as follows:

Amendment No. 1. On page 7, between lines 13 and 14, insert the following:
"(1) The exemptions contained in Paragraph (F) of this Section shall not apply to any taxes levied by any school districts on any manufacturing establishment or an addition, or additions, to any manufacturing establishment concerning which a contract for exemption has been signed after the effective date of this constitution."

Explanation

Mr. E.J. Landry Mr. Chairman, ladies and gentlemen of the convention, I realize we have a short house; I know that there are many people here who know the ins and outs, the technicalities of doing

business in a convention. I realize that I'm naive. I don't have the knowledge to maneuver and to get things done. I realize that I touched a nerve; sometimes they need to be touched. But, I want to speak to you this morning even if it's only to develop a concept. I want you to realize that I feel that the development of the product, people, is the most important consideration of this convention. There is no more important project in the State of Louisiana than the building of a foundation for this state: children; we've spoken about everything but. Now I'm giving you an opportunity to let us know where you stand, at least to put it on the line. This amendment removes the objections that were expressed yesterday. It makes it more palatable to more people. This amendment relieves the tension that we felt yesterday in this hall. Louisiana now, as you know, has much exempt industry in this state. We have the potential; we have the ability. All we need is the will to make a commitment. To give you an example, Louisiana now operates under a system of spreading the wealth--let me speak of it in simple terms--of dividing the wealth to the children of this state, regardless of where they live, to give a basic educational program. I came here to represent all of the people. I came here from one of the wealthiest tax-exempt parishes in the State of Louisiana. Normally, I would be the last person to speak to this point. I have no pressure from anyone; I have no counsel from anyone. I come directly from the people of my parish. Not one local official, not one industrial person has spoken to me on what I should do since I came to this convention. Now, how to work it out depends on you. I am trusting that you, in your wisdom, not I--all of us know more than any one of us. You have an opportunity now to amend, to add to, to subtract from, but you have an opportunity now to touch the greatest source of wealth for the foundation of this state than you've ever had in your life. So, think it over, think it over, and join with me somehow in doing some good for your state through its educational program. There is no better way, and this is your opportunity. I thank you.

I am not able to answer any questions because the time is limited. I would like to ask others who are interested and concerned to take the floor and to answer and to help me.

Vice Chairman Casey in the Chair

Mr. Fontenot If he's run out of time, I was going to move that we suspend the rules to allow him more time to answer questions.

Mr. Casey He has not run out of time, but he merely refuses to yield.

Further Discussion

Mr. Avant Mr. Chairman...Mr. Acting Chairman and fellow delegates, I rise in support of Mr. Landry's amendment. In the parish of St. Charles, according to the figures, the published figures that I have seen, there's over one billion dollars of property on the exempt rolls. The parish of St. Charles, according to these same published figures, levies fifty-six mills. You can figure for yourself the annual tax revenue that has been lost in that parish by its schools and by its other public agencies as a result of these types of exemptions. Now, I refer you to the projet of the constitution that was proposed by the Louisiana State Law Institute under the research program that was headed by the late Dr. Kimbrough Owen and, in particular, to the section dealing with exemptions and the recommended deletions that were made by the Law Institute and by that group of scholars who worked for a number of years on that projet. The facts, and the figures, and the arguments are very well set forth in that document which I'm sure many of you have either read or have available for you to read. But, I just want to refer to one or two comments and facts that were brought out in that

study. Number one, their research revealed that of sixteen factors, that were considered by industry in choosing a place to relocate, that the question of ad valorem taxation rated number twelve. Consider the first four or five factors. First is markets; second was labor; third was transportation, and the fourth was materials. Number twelve was taxes, which rated above only these items: mergers, cheap lands, to be near the parent company, and banking facilities. The State of Louisiana has been blessed with many natural resources, the greatest of which, or one of the greatest of which, was a strategic location on the Mississippi River near deep-water navigation facilities. We have been blessed with abundant resources in oil and gas, and these, I respectively submit to you, are the reason that industry wishes to locate in our state, primarily. This study of the Law Institute indicated that one--and I make a direct quotation--"one of the most frequently advanced arguments for industrial exemptions is that they lure industries to the particular state or community." However, this argument is greatly weakened by the various surveys and reports cited, and they cite some surveys and reports in the research material which was incorporated into the project. They also say that the clear implication is that shifts in industrial locations that may have occurred in the years covered by their study were caused by factors other than variation in the tax burden.

All right. I refer you to this. I ask you to study it, and I ask you to support this amendment.

Further Discussion

Mr. Stagg Mr. Chairman and fellow delegates, I spoke yesterday afternoon late, when we had closed, to Mr. Landry in the gentlest terms I could muster, that I was somewhat resentful that he had kind of turned over this rock and says "now the rest of you stomp on these snakes." This morning he didn't want to answer any questions. He has opened up this can of worms, and I think it's our job now to shove those worms back into the can. I also wanted yesterday to address a remark to Mr. Reverend Stovall, late of Jefferson Parish, about how wealth does things and how it degrades people. I wonder where he thinks all of our education is being financed from right now.

I am from Caddo Parish, as you well know. We don't have any deep-water ports. We have to fight, scratch, and grab to get an industry to come into our parish. We have on the books in Caddo Parish one hundred and forty-six million dollars worth of tax exemptions. We are proud as the dickens of them because they are hard to come by. But we need them; we need this exemption because it brings to our parish the opportunity for our young people to get a job so that they don't go to Dallas, or to Houston, or to some other place to work. We expend a great deal of money, from their birth to their leaving home, on their education. Texas gets the benefit of that very huge public expenditure for education, and we lose the greatest possession this state has, and that is its young people. That's what this fight is all about. That's why Mr. Landry has brought this up, and then will not support his argument from this podium. I do not value that approach.

Mr. Avant, who preceded me at this microphone, talked about the project, saying that the exemption was twelfth in order of industrial attraction. Well, I point out to you that... to Mr. Avant, and to all of you, that that report was written twenty or twenty-five years ago. I wonder if he's got a current analysis that we could bring for the benefit of this convention. Children's education is important. But in Caddo Parish, where we have five hundred and eighty-two million dollar tax base, and a hundred and forty-six million of that is exempt for industrial purposes, let me give you a statistic. Our parish school millage is about twenty-five mills. But, our total parish-wide assessment, or taxes, are only thirty-two and a half mills. So the school taxes amount to seventy-seven percent of

the parish-wide millage. Now if you say we will give you an industrial exemption but we will open it to only school taxes, then instead of giving a ten-year exemption, you are giving one twenty-third...twenty-three percent of an industrial exemption to Caddo Parish. While in some of the parishes along the river that have all these other natural attributes, Caddo Parish looks bad by contrast. You release these exemptions from school taxes in my parish, and industry will be given seventy-seven percent of the tax load under the Landry amendment. I do seriously and strongly urge that the amendment be rejected, and that we move on to other things.

I'll be glad, Mr. Chairman, in the time left, to answer any questions from anybody because I'm very upset.

Questions

Mr. Burns Mr. Stagg, do you honestly believe, that if the industries are called on to pay their fair share of the cost of education in the State of Louisiana, that that would cause one industry to leave, or not come here?

Mr. Stagg Mr. Burns, I don't want to find the answer to that question after they've gone to the Houston ship channel and set up their business. I don't want to find out later that that was why we lost them. Why should the governor travel all over this country, and all over this world--and previous governors have done the same thing--to attract industry to Louisiana? What is the answer? The answer is jobs for our young people. If this is one of the inducements that gets these businesses here to furnish those jobs, then I say we ought to guard it and guard it carefully.

Mr. Burns I agree with you on that, but you didn't answer my question.

Mr. Stagg Well, heck I didn't. I told you the important thing was jobs. You can't counter that with any other specious argument.

Mr. Anzalone Mr. Stagg, Mr. Landry has kindly appointed me in his stead to answer any questions that you may have. Since you are, I see, visibly shaken by the fact that he didn't want to answer any, if you've got any, I'll stand right here and answer them.

Mr. Stagg That's not the way this convention proceeds, Mr. Anzalone, and you know it. When you take the floor, I'll have a couple for you.

Further Discussion

Mr. Gravel Mr. Acting Chairman, and ladies and gentlemen of the convention, I rise in opposition to this amendment. I don't know of any delegate in this convention that has engendered more affection or esteem than Mr. Landry has. I'm sorry to have to oppose this amendment because I know that it comes from him in good faith, and that he feels very strongly about the issue posed by the amendment. But let me say this to you. First of all, as was just pointed out to me by Mr. Slay, this amendment speaks of taxes levied on manufacturing establishments or on additions to manufacturing establishments. No taxes are levied in that particular manner. Actually, this amendment, as it's worded, is completely and totally unworkable. But that doesn't solve the real problem. That doesn't pose to you the real issue that the proponents of this particular amendment might propose in a properly drafted and drawn amendment.

The concept behind this is really to try to make industry pay more than its fair share of taxes in many instances. The worst thing about it of all is that it is not part of a devised, statewide plan. It's going to create all sorts of problems in the specific areas to which it might be applicable. We've been working for some time with the school board association, with the police jury association

and local governments to try to devise a revenue sharing plan that's going to be proposed to you when we get to the revenue sharing article in this section. When we do, I think there is going to be finally determined a provision favorable to the school boards throughout the State of Louisiana, favorable to education, whereby the concern and problem that the school boards have had with respect to a shrinking tax base, or a limitation of bonding capacity, will be substantially solved. This will be worked out in the revenue sharing plan, and will certainly assure education of a fair share of revenues from the state and of tax dollars from the state and from local governments.

Finally, I'd like to say this to you, that this kind of a proposal can do more to hamper and retard the growth of the State of Louisiana than almost any kind of proposal that could be submitted to you. One of the principal efforts that the state officials are engaged in at all times is the inducement of industry to come to Louisiana. Insofar as that effort and attempt is made, we are competitive with other states throughout the south, in particular. We need to maintain our industry inducement program, not penalize present or future industry, in order to insure the growth and prosperity of this state. The governor of this state is particularly concerned about the far-reaching effect that this amendment would have on the possibility that the state can grow and prosper. I can represent to you that he opposes, in principle, this amendment, and I do so now. I urge that the amendment be defeated.

Question

Mr. Stovall Mr. Gravel, you said that those who are supporting this amendment are making an effort to make industry pay more of its share. Do you know that our concern is not to make industry pay more, but to provide a sound tax base whereby the children of this state can receive adequate education?

Mr. Gravel Well, Reverend, I disagree with you. I don't think that this particular amendment has anything to do with a tax base. It is going to have bonanza effect in some parishes and no effect in others. That's really one of the principal objections that I have. It's not part of a state-wide plan. As far as I know, and I'm reasonably sure of this, the school boards do not support this amendment. As a matter of fact, it's my understanding that the school boards rejected a proposal similar to this at its last meeting. I don't have the full details on it, but one of the representatives of the school board told me that a few moments ago....

Further Discussion

Mr. Abraham Mr. Chairman and ladies and gentlemen of the convention, I had several questions I wanted to ask Mr. Landry. I will ask; how much industry does Mr. Landry have in his district? How much industry is now paying taxes? How much industry does now have exemption? If Mr. Landry is unable to answer any of these questions and to know factually just what he is talking about, then I challenge him as to how he can come up here and offer such an amendment.

Mr. Avant made a remark that one parish had one billion dollars in exemption. I ask him; how much industry is paying taxes now? What does he get? I ask him what does he hope to reap in the way of taxes from this one billion exemption; that these things are going to come on the tax rolls in a short period of time. And if we assess them at fifteen percent, as what we've got in the constitution now, in a proposal now, they're going to come on their tax rolls at an assessed valuation of a hundred and fifty million dollars. When you apply the millage to that, whatever you get, you're talking about a hunk of tax money.

Mr. Stovall says that he's not wanting to make industry pay more than their share of taxes. He wants a sound tax base for the schools. Well, then,

I ask him, if he wants such a sound tax base, then how could he have voted for removing of all these homes from the tax rolls, and this property from the tax rolls, by the high homestead exemption? In effect, it is going to bankrupt some of the parishes which do not have any industry to tax.

Mr. Avant made the remark that this is not an inducement for industry. But let me tell you that the projet study was made beginning back in 1948 or thereabouts, when there were plenty of natural resources. This is when industry started coming into this state, in the 1940's, and it came in because the governor of this state and many other officials went out and did everything they could to induce industry to come here. One of the inducements was the ten-year exemption. But let me tell you right now, that these resources are running short. At one time there was plenty of natural gas. There was plenty of river water for processing purposes, not just for navigation, but also for processing purposes. We've got plants stacked up and down this river now to where they are all taking water out of the river and putting it back in, and now they are having to go to fresh water with wells, and so forth, in order to have enough processing water. You all know, or if you don't know I can tell you, that the water table in this state is dropping, and there is a shortage of fresh water now. You people who are in agriculture know this. So we are running out of resources. But let me tell you what...where we would be if we did not have this industry in here. I can tell you where we'd be in Calcasieu Parish. Probably half of us would still be behind the plow. You heard Senator Rayburn make the remark here previously that he came from Mississippi to Louisiana in order to work in one of these plants.

In Calcasieu Parish, we've got four hundred and ninety-four million dollars of industry that's on the tax roll paying taxes now. This brings in over six million, six hundred thousand dollars worth of taxes. We've got four hundred million dollars on the exempt rolls right now. I agree with that. They are going to come on the tax rolls in a few years at twenty-five percent of the contract value; they are going to be paying taxes. All of this is going to come on the tax rolls within the next ten years. We are going to reap a windfall from these assessments in the way of taxes that's going to support our schools and other services of our parish. But where would we be if we didn't have all this industry? I just don't understand people. We've gone out; we've begged industry to come in here by all manner of means; the governor and everybody else has gone out begging them to come in here. Now that we've got them in here, we want to bite the hand that feeds so many of us. It's not a question of where we stand so much today as it's the question of going back on our word. We're saying, in effect, now: well, we've got you; we don't need you any more; we've got the money. Well, what do you think's going to happen if some of these industries pick up and leave? Don't think that they're not going to pick up and leave, because when it becomes uneconomical for these plants to operate, they are going to shut it down. Then you watch people cry, because I've seen it happen in other places where a plant has shut down. The people sit there wringing their hands and crying.

I urge you to reject this amendment.

Further Discussion

Mr. Lennox Mr. Chairman and fellow delegates, I'm going to make an honest attempt not to be repetitious of those who have preceded me here at the microphone. But I would like to respond in some measure to Mr. Avant's comments in support of Mr. Landry's amendment.

While this horrendous industrial development has been taking place in St. Charles Parish--I agree it's there--and all of the things that Mr. Avant said might be true, but he overlooked the fact that it brought hundreds, if not thousands, of new jobs to St. Charles Parish. It brought millions of dollars in new payrolls to St. Charles

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Parish which turn over three, four, five, six times a month to all the local merchants, vendors, and what have you. It also brought hundreds, if not thousands, of new union members to St. Charles Parish. Now let's give some consideration: what happens to the state's most industrialized parish, St. Charles Parish, when these exemptions go off? They are going off every month, every year, to the point where St. Charles Parish is going to be the richest parish in the state in less than six years. Now St. Charles Parish is not so bad off. Don't you believe it.

Now let me, if I may, for just a moment, I think that Mr. Landry's intentions about the education of our children are certainly something that we all have to support. Surely we want to do a better job of educating our youngsters in this state than we have been doing in the past. But, I submit to you that we want to have good jobs for them when they complete the educational process. Now, I'm at a loss to understand what is the exact definition in Mr. Landry's amendment of "any manufacturing establishment." I really do not know what that means. I think to some extent that this thing is faultily drafted.

Now let me make two other points. If there are any questions, I will try to work with them. What happens when you increase the tax burden on industry? Industry certainly uses the increase in tax burden as a deduction from taxes paid to federal and state income, on federal and state income taxes. But, at the same time, these taxes are a cost of producing products or services that are ultimately passed on to the consumer. The person least able to assume these costs is the fellow who finally ends up paying them.

Now, one further point: when the tax burden on Louisiana industry is increased, we become non-competitive with industry marketing the same products and services from adjoining states. Now give some consideration to this. When this comes to pass, the full brunt of this proposal could be felt. You would be faced with the decision of relocating your family where jobs are available and watching your children leave Louisiana to seek gainful employment in the industrial centers of the South: Houston, Dallas, Birmingham and Atlanta. Now, let's don't kill the goose that lays the golden egg.

I urge you to defeat this amendment.

Questions

Mr. Anzalone Can you tell me how many of these grand industries of St. Charles Parish are not river-oriented?

Mr. Lennox Joe, I have no firsthand knowledge of the exact nature of the industrial revolution in St. Charles Parish. I don't know how many of them are labor-oriented as opposed to what might be otherwise. But, I submit to you that they are all going to be placed on the tax rolls at fifteen percent of their fair market value if this constitution survives a vote of the people. All of these exemptions can last a maximum of ten years at which time St. Charles Parish, labor-oriented or not, is going to have a tremendous tax base.

Mr. Anzalone Mr. Ed, are you aware that in Tangipahoa Parish we don't have a river, but we do have one little industry up in Roseland that was put on the tax rolls about thirty years ago under this ten year exemption? Do you know, for some peculiar reason, we are still yet to collect the first dollar's worth of tax from them?

Mr. Lennox Well, I'm unfamiliar with that situation. I would say that was a regrettable situation. Now, as speaking for industry--and I don't believe anyone of you here can deny it--that industry as a group certainly wants to see this state be the most healthy environment for its employees because that's the only way to survive here. We want our children to be adequately educated. We want good police protection. We want good sanitation, and

we're willing to pay our fair share. Now let's get that in the saying here....

Mr. Anzalone When? When?

Mr. Lennox Now.

Mr. Anzalone That's what we're trying to do: get it done now.

Mr. Lennox We're getting it on the tax rolls a little bit more everyday. These exemptions that went to St. Charles Parish are now expiring and those properties will go on the tax rolls at fifteen percent of their fair market value.

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, I rise in opposition to the amendment. Again I'd just like to say, as I did yesterday, that I think this is of a magnitude that we should have hearings on it if we are going to really attempt to make all future industrial developments or expansions here in the state that these expansions would have to pay school taxes--you are talking about half of the exemptions that the industrial people are now enjoying. I think to stay competitive with some of the other states, it's very possible that we should continue our inducement program. I don't believe that until we hear from both sides that we can make a good rational judgment.

I'd like to just show you something that appeared in the paper today, and I'm not going to bore you with all of it. But in the Morning Advocate today, Exxon head says, "Cheap, plentiful energy may be lost permanently." All right. They also talk about the possibility of eight refineries in this Baton Rouge to New Orleans area in the near future. They talk of a deep-water port. All of these things are something that's necessary, that will have to come about to alleviate this energy crisis that we have. Now, further, we would in this amendment allow these parishes along the river to, if it is successfully passed, to put all the school taxes on these industries along this Mississippi River. These parishes along the river could have just untold amount of money to build schools where those just on the outlying areas that may well be the bedrooms or the housing parishes for the people working in these plants, and would also need some facilities, would not have this advantage. The taxes for those people would have to go to the people living in these parishes. I say to you that we ought to take this ten-year exemption out of the constitution, give it back to the legislators so that they could look at this overall tax exemption program. If they do have to make them, in fact, assume more taxes, then let it be something that we can divide it out on a statewide basis so that everybody can get some advantage of it. I think if the riches all go to one particular area, it's not necessary that it should all stay there in taxes. I think that taxes should be distributed proportionately to the responsibility that we have to the people as a whole.

I urge the defeat of this amendment.

Questions

Mr. Newton "Peg," isn't the reason for this exemption to try to attract industry to the state?

Mr. Mire The industrial addition of the program is certainly to try...is to try to attract industry in this state.

Mr. Newton Don't you think that there ought to be some flexibility in the program so that as economic conditions change, the policy could be changed?

Mr. Mire Yes, sir. I think that would be very good to have some flexibility in it.

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Mr. Stovall You have an article here from the morning paper that you are quoting to us about Exxon being in difficulty?

Mr. Mire No, sir. I did not say that. Now, you're saying something that I didn't say. I didn't say Exxon was in difficulty. I said the country was in trouble with an energy crisis. Can you deny that?

Mr. Stovall This is a...did you see the front page of the paper?

Mr. Mire I understand your article; I don't think it due a man's time....

Mr. Stovall Mr. Mire, did you notice that Exxon has an eighty percent gain in profits this year to six hundred and thirty-eight million?

Mr. Mire Yes, sir, Reverend, I also noticed in this article that I have--and I'll read just a little bit of it if you'll let me, and this is from the president of Exxon--"in his talk on the energy crisis, Garvon emphasized some steps that Louisiana could take to maintain its important role as an industrial and energy supplier to the rest of the nation. The step included establishing a good business climate which includes a stable and constructive relationship between labor and management and...."

Further Discussion

Mr. Chehardy Mr. Chairman, fellow delegates, now this is what on many occasions I've referred to. When we were talking on the homestead, the very same people who have come up here and have cried, in the main--not all of them--but in the main are crying that we might do some harm to industry if we help the schools of the state by letting them pay their fair share, at least of that burden, are the same ones who would readily take away the homestead in toto. Now let's examine the facts.

At the present time in Louisiana, industry enjoys seven billion dollars of exemptions--not million--seven billion. The total possible wealth that can be assessed in this state is about fourteen billion. All this amendment provides is that in the future it does not impair the abrogation of contract; it does not go into the contract already executed with industry that, in the future, if they should get an industrial exemption--whether it be in the constitution, or whether all this matter later becomes statutorily--it will be given to them, but they will not get the exemption so far as the school taxes of the state are concerned, the school taxes of the parish wherein they are located. This is not favoritism to any one parish, or any group of parishes. It applies uniformly to all areas of the state. Person..delegate after delegate has got up here and bemoaned the fact that they couldn't go over a three thousand homestead because of the school situation. Now we've given seven billion to industry. It is not too much, I don't believe, to ask them to help to support the schools on future exemptions they receive. The very first people to complain are the newcomers that come into a parish where new industry locates. If you really believe that that is going to keep industry from locating on your river, and where your oil fields are, then you really are not facing the truth.

Industry comes here because of our natural resources. They not only milk your resources; they're polluting our river every day to where those of us in lower Louisiana, on the lower part of the river, are probably drinking stagnated water because of bountiful industry all of the time. I listened to one of the men, the delegates from north Louisiana, sit up here and say unless we give them free schools, they may not come here and we'll have no jobs for our children--The very same man who didn't want to give a three thousand dollar homestead. I'll tell you this; in my opinion, we are voting against the children of this state and tell-

ing the Eastern stockholders--that's come on; make more profits off of our backs. I believe that every delegate in here would do well to read a strange book, and that is the son of the Sterns that formerly owned WDSU, which is called The Rape of the Taxpayer, and watch how some of these oil companies have made as much as billions of dollars and pay less than two percent in taxes--in income taxes. Property-tax wise, they pay less than the smallest taxpaying homeowner in this state. They have every advantage over us. You don't see a homeowner out there...out here fighting for his rights because he has to depend on us. But you do see the representatives of industry up there calling their stooges out here to run back there so they can give them orders.

Chairman Henry in the Chair

Further Discussion

Mr. Burson Mr. Chairman, fellow delegates, Mr. Chehardy is a tough act to follow. This is one time that he and I are on the same side. Now, unlike some of the people that he took to task, I am being consistent because I opposed this thirty thousand dollar homestead exemption. I don't believe in free lunch and nickel beer. I think somebody's got to pay the tab, and I think that industry ought to pay their part of the tab. I challenge, completely, the accuracy of some of the arguments that have been made from this podium in support of this page and a half monstrosity of an exemption. Now, let's look at the argument that if we do away with this exemption, we'll be non-competitive. I heard Mr. Ed Steimel, from this podium the other day, prove conclusively, with statistics, that we're noncompetitive now. So what do we have to lose? This exemption apparently hasn't brought in any great deal of industry. He showed us, conclusively, we're noncompetitive as far as industry inducement now. Now, how about the argument that we're bringing in millions of new jobs with these industrial inducements? I submit to you that it's a fact that many of these expansions and additions take away jobs, in automation, rather than add jobs. Now, you stop and think about that a little bit. The trend in industry is to more and more automation, and many times we're giving twenty-million dollar exemptions for additions to these plants that wind up taking away jobs rather than adding jobs. Now, if that makes any sense, then I'd like to know what does make any sense about this proposition. We're talking about the fact that industry needs this exemption to come into Louisiana. Let me tell you about a situation that I'm familiar with. A situation that's not in my parish but affects the Calcasieu River that I played in as a boy, and is one of the clearest, most beautiful streams in this state. Well, until the federal government got involved in it, the paper mills upriver had the thing so polluted, the water was black. Now, you're telling me that those paper mills are going to locate somewhere else if we don't give them this exemption? Well, you know what I think? I think we might not be too bad off if they did locate somewhere else; but you know what I further think? I think they're going to locate in Louisiana because that's where the trees are; it's real simple. Also, that's where the timberland has the benefit of this exemption that we've given heretofore, where it can continue to be taxed at seven or eight dollars an acre while a homeowned, small businessman in Louisiana and the small farmer will continue to pay all the property tax because we've got the homestead exemption jacked up so high--we've taken ninety percent of the homes off the rolls in parishes like mine. Well, if the small homeowned business can pay his fair share of the tax, and more, and if the small farmer is going to pay all the tax in the rural parishes, I'd like to have industry join them, and then maybe they can use some of these lobbyists they've sent over here to help straighten the whole mess out, once they realize what it's like to pay a little bit of tax.

I submit to you that we should not continue to foster a situation where we are giving people tax exemptions to take away jobs, because that's exactly what we've been doing. If we had a tax exemption in this constitution that was pegged to the number of jobs that an industry was going to provide, then I would consider it and then I might support it. But, that's not what this does. You won't find the word "jobs" in that page and a half.

Questions

Mr. Roemer Jack, you know I agree with your statement completely, and did you also know that industry uses the technique, sometime, of depreciating that plant that they put in oftentimes within that ten year period, and starting all over again with another ten year exemption right behind that for new equipment, and you know, it goes on ad infinitum, it seems. Did you know that happens?

Mr. Burson I have heard of that technique being employed.

Mr. Graham Mr. Burson, are you suggesting that most of these industries would locate in our state, and in the particular area in which they locate, even without this exemption?

Mr. Burson Yes, sir, Mr. Graham, I think that a paper mill is going to locate where the pulpwood is available, and I'm not being demagogic in this. I stood up here and suggested that everybody ought to pay some tax to support their local institutions.

Mr. Henry Gentlemen, I suggest that you all discuss industry and not particularly paper mills.

Mr. Graham Then, Mr. Burson, would you say that according to the provisions of Section 3, Paragraph (F), that the local governing authority could refuse to grant the exemption entirely, and thereby collect all of the tax rather than just the school tax?

Mr. Burson That is possible under the committee proposal. Yes, sir.

Mr. Conroy Mr. Burson, didn't Eunice, in very recent years through tax incentives, attract two major industries into that area, Jantzen and AirKing?

Mr. Burson We have two industries that we're very proud of. This---was done by an industrial inducement bond issue where the city has paid for the property and is paying for the entire installation, and I think that ought to be incentive enough.

Mr. Conroy But that was a particular tax. I mean, you all picked one particular tax incentive, but it was a tax incentive that was an important thing to inducing those industries in.

[Motion For the Previous Question on the amendment rejected: 41-55.]

Further Discussion

Mr. Chatelain Mr. Chairman, and fellow delegates, "four score and seven years ago, our forefathers brought forth, on this continent, a new nation conceived in liberty, and dedicated to the proposition that all men are created equal." I can't sing, fellow delegates, as Mr. Landry sang before you. I can't quote Shakespeare, but I can tell you one thing: this is a gut issue. You may as well sit at your seats and act accordingly. This is a gut issue! I stand in support of Mr. Landry's amendment, and I tell you, I should not because it's not strong enough. I think the day when ten year exemptions are given to industry as we do now, are as archaic as the three dollar license plates

upon our automobiles in this state. I think we should eliminate it entirely. Who is exempted from these so-called exemptions for ten years? The principal benefactors of these exemptions are the petro-chemical industries. They will build a one hundred million dollar plant in this state, and use our great Mississippi River and our ports and harbors, and pollute our air and streams, and they will hire thirty people. I agree that some incentive ought to be given as they have done in BAWI--Balance Agriculture With Industry--and other incentives that have been brought up in this great country of ours. We need industry, but let's look at the thing realistically. Let's talk about pollution. You can't cross the old Mississippi River Bridge here, by Kaiser Aluminum, without being almost suffocated. Think for awhile, the pollution in the air and in the streams in this state. Think about it! I want you to just let it be embedded in your mind. Let's talk about gas shortages. I had an employee, last week, that could not be attached to the gas system of Carencro, Louisiana for the simple reason of the gas shortage. This man has to go to the last resort to try to get heat in his home this winter. There will be many people in this state suffering from gas shortage this year. What brings about the greatest gas shortage in this state? Some of these same exempted industries that we're now talking about. Let's think and act as people did a hundred years or so ago and see what the problems are in our state. Let's equate this with the teachers, and let's equate it with the children. Let's act fairly; let's act with justice. I say to you, this is a good amendment, and it takes guts to vote for it. I am going to vote for it, and I urge you to do the same thing.

Further Discussion

Mr. Kean Mr. Chairman, fellow delegates, I rise in opposition to this amendment, and if I am one of the stooges to which Mr. Chehardy referred, I gladly accept the accolade. I believe that if Louisiana is to progress, we need to have industry. I believe that if Louisiana is to progress, we need to have what Mr. Garvin referred to last night, president of Exxon Corporation, a business climate. I must say that after hearing some of the discussion that has taken place from the podium of this convention that if I were a manufacturing establishment or a business concern thinking about where I might go to locate another plant, I would be inclined to say that the State of Louisiana would be the last place I would want to come. Not because Louisiana doesn't have some natural attributes which would attract industry to this state, but from what I've heard from this podium, I am concerned that we have an antibusiness, antiindustry attitude that is not good for industrial development. Anyone who listens to the debate and reads the newspapers concerning it would almost have to come to that conclusion. Now, I say to you first of all, in answer to Mr. Chatelain's impassioned plea about the gas shortage, that anyone who knows anything about the natural gas situation in this state knows full well that the local use of gas for industry purposes is not the source of the gas shortage. The reason for the gas shortage is the transmission of our natural gas to the eastern seaboard for sale in interstate commerce. One of the things that the governor of this state is attempting to do at the present time is to make certain that the natural gas of this state will remain in this state where it can be used for industrial and business expansion. So it's fallacious to get up here and say that this poor little fellow is not going to have heat in his house this winter because industry in Louisiana is using natural gas. That's not the case at all, and I think we must recognize it. In addition, the fact that we do not have an abundant supply of natural gas for the development and expansion of industry in this state is one of the very reasons why we need to continue some type of industrial inducement plan to bring industry into this state, and to

encourage industry to carry out additions to the plants which are here. They talk about the Mississippi River; one of the reasons why the Mississippi River was an attraction at one time, was not because you can bring a boat up the river, but because it made an easy means of disposal of products. That is no longer possible. They have projects going on right now at Exxon and Georgia Pacific, in this parish, where they actually have to take Mississippi River water and clean it, and then turn around and put it back into the Mississippi River cleaner than it was when they got it out of it, so it's no attraction to be on the river anymore. You've got to have added cost in connection with the use of the water if you're here. So, where are these natural advantages that we have that's going to attract industry? Where are they? At the time this inducement first became a part of the constitution, perhaps, at that time we had those natural advantages. Today we do not. I say to you that without some type of inducement plan such as this envisions, we simply don't have the attraction for industry that we used to have, and certainly in light of the climate that this convention at least, or some of us, at least, have projected, we don't have any real reason for industry to come here at all. Now, let's talk about taxes. I don't know how it is in anybody else's parish, but in East Baton Rouge Parish--the parish I represent--business and industry assessments account for almost sixty percent of the total ad valorem tax base. Now, I ask you, if we didn't have that industry in this parish, where would we be? Who would pay that additional sixty percent to carry out the educational system of this parish. In addition...For these reasons, I ask you, respectfully, to vote against the amendment.

Further Discussion

Mr. Hernandez Mr. Chairman, ladies and gentlemen of the convention, I reluctantly rise to oppose this amendment. I realize Mr. Chehardy's enthusiasm for this amendment, but he represents an entirely different section of the state. I think that all of you will have to realize that the Mississippi River from Baton Rouge to New Orleans is the Ruhr valley of the United States. They have a lot of industry, but the big portion of this state--the big majority of the area of Louisiana--does not have this facility. They don't have the advantages that the Mississippi River offers, and we, too, need industry to support our economy in these areas. The argument seems to be in the face of this amendment, that we need a sound tax base. I contend, ladies and gentlemen, that to create a sound tax base, we must have jobs for our people in the area where it's not a farming area, where they are dependent on jobs; they must have jobs. I can cite you, and I was there and I know how it was, when these large sawmills began to cut out up in our area, the mills closed down, people were without jobs and they left there just like rats leaving a sinking ship. The result was that--and Mr. Chehardy, I hope you will listen to this--the result was that Ward 5 of Vernon Parish had the highest rate of taxation of any political subdivision in the entire United States. Ward 3 was second, and ladies and gentlemen, there was a deplorable condition. It took an unusual act passed by the state legislature to gradually get this property back on the tax rolls. I asked research here to look this old law up one time. It was a very unusual...and I'll be glad to discuss that with any of you. Now, in the last few years the area of which I speak has experienced quite a development. We think it was because of the effort that we have made, and we did have the ten year tax exemption, which was good. However, I want to call Mr. Burson's attention to the fact that these mills do not always locate where the timber is, as he pointed out so clearly. In the case that I want to cite as an example: Owen--Illinois, built a big mill with the idea of using the timber out of the western part of Louisiana, chiefly, Vernon

Parish. They located this mill on the west side of Sabine River in Texas. We are furnishing a lot of the pulpwood for this mill, but we lost the profit from the processing of this pulpwood into pulp and paper. We will never get that mill there; we will never get the taxes and the income from the people that we should, because they are located over in Texas. We lost that, and as far as we have been able to determine, we lost that mill because our tax structure was not favorable to that of Texas, so we lost it. Now, another good clear example: The Kirby Lumber Company has a number of industries, including pulpmills, located on the Texas side of the river. Now, they come over to Louisiana--and it's been said up there many times, and I think this is not exaggerated--their log trucks and their pulpwood trucks fill up with gas before they leave Texas; the people come over there, they bring their lunch, they harvest this timber out of Vernon Parish, haul it back to Texas, and Texas is realizing the benefit of the processing of this wood. We would like, very much, to see that corrected, and if this ten year tax exemption is nibbled at and nibbled at, it also creates the impression in industry that we are not politically mature. I have heard that expression many times. If you will remember, it was only a few years ago that a part of the refund on gas used for industry was repealed. That did not leave a good taste with industry at all, and if we keep just nibbling at this thing, there is no way to prevent industry from thinking we're not sincere. Now, we do have the largest single....

Mr. Henry You've exceeded your time, Mr. Hernandez. I'm sorry.

Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I'll be very brief. First of all, I'd like to point out to you that this week, and maybe it's ironical that we're discussing this issue at this present time in history, but this week is American Education Week. Across the State of Louisiana there are various meetings talking about the problems facing education within our state. I suggest to you that presently, every time--and I've said this constantly when I came to this mike and talked about exemptions--that presently, every time we've raised exemptions, broadened exemptions, we, in effect, say to small business, to the homeowner, to the renters, that you're going to have to assume a greater increase in the burden of financing governmental services in our school system. I recognize you have a problem where, on one hand, we need jobs, and on the other hand, we need an educational system. I suggest to you that the amendment, as proposed by Mr. Landry, begins to address ourselves to providing another level of funding, or a higher standard of funding, of our educational system.

I don't want to be repetitious and talk about automation. I don't want to talk about the tremendous amount of exemptions that do not exist on the present tax rolls, but I do want to point out a fact that, because we have so worded our tax proposal, that means that somebody's got to do it. I strongly suggest that those who are in the best position to provide our educational system with some stability of financing--particularly, since that we have limited the state to five and three-quarter mills, and we're not guaranteed that they're going to impose that--that we must look to those industries within the state. I suggest to you that one of the things you've got to consider that no industry will locate anywhere if you have a subpar educational system. Most industries tend to bring their expertise from outside of the state. One of the things that I don't believe that was mentioned is that, granted, industry does provide jobs for residents of the state. But, at the same time, they tend to bring in the skilled workers from other parts of the country. Now, it seems to me that one of the considerations that industry is going to have to take under considera-

tion is the fact of whether those schools, in those existing parishes where they want to locate, have an educational system by which their employees would not reluctantly send their youngsters to school. I suggest to you that this amendment does attempt to provide this state, and provide industry--I'm not necessarily antiindustry--but to recognize what we've done in our tax proposal, and to say to industry that, granted, we have allowed, and we will continue to allow some exemptions. But, when it comes to the education of our youngsters, everybody in the State of Louisiana has to pay their fair share.

So, I encourage you, particularly in the fact that this is American Education Week, and particularly, that there are meetings going around the state, and some of the topics that I've heard and some of the communications that I've received have indicated that the key problem facing our educational system is the stability of funding. If we continue those exemptions that we have done to the degree in the past, that that's going to ultimately mean that that's going to decrease the effectiveness and the financial stability of our education system. So, I think you have to weigh that kind of consideration, so I ask for favorable adoption of the Landry amendment.

Further Discussion

Mr. Fontenot Mr. Chairman, fellow delegates, I'd like you to look at Paragraph (F) of the committee proposal, and on line 29--these ten year contracts in the past have been between the State Board of Commerce and Industry with the approval of the governor--if you look at line 29, you'll see that we added in, in our committee, the approval of the local governing authority. Now, if you want to get rid of the tax inducement, I would suggest you vote along with Paragraph (F) in your parish. If you don't like to give an industrial tax exemption in your parish, I don't think you ought to penalize the rest of the parishes who do. In our parish--Evangeline Parish--we were very fortunate in the last couple of years. We got one new corporation to move down to Evangeline Parish, and in the past two or three months, we were fortunate in passing a couple of bond issues; one creating an industrial park, and one proposing that we construct a building for Grant Industries--the mobile home dealers--who decided that they would move down to Evangeline Parish if we had an industrial park. Now, the people in my area have a very low per capita income, and most of the area is based on a farming community but more and more people are moving away from the farms to the big cities. We have a...this proposition was voted, overwhelmingly, in my parish, to create the industrial park and to build the first building for the first industry. The reason it was, because the people just can't find jobs anymore. They have to go to New Orleans and Baton Rouge to get jobs. Why are you forcing my people to move out of the area to go to some place else to get jobs? Now, if you don't want industry to have an industrial tax exemption in your parish, don't penalize my parish. We don't have the Mississippi River to attract industry. We don't have the natural gas deal that some of these other parts of the state have to attract industry. We don't have the skilled labor that other parishes have to attract industry. One of the things we do have is one of the highest rates of unemployment in the nation. Why don't you stick with Paragraph (F) and if you don't want industrial tax exemptions in your area, let the local governing authority veto the Board of Commerce and Industry contract with these certain industries? I urge your rejection of the amendment.

[Previous question ordered.]

Closing

Mr. E.J. Landry Mr. Chairman, men and women, ladies and gentlemen, friends of this convention, if ever there was a time in history of this state,

this is it. I want to express a special appreciation to those who oppose me, because only by opposition do you have the theory of intelligent disagreement in operation. That I have enjoyed throughout this convention. It has caused me to learn. For those of you who had kind words of praise, thank you. But, this is the question, ladies and gentlemen. You have one opportunity in a lifetime to do something that you may not be fully aware of. Think of me as a free soul speaking out on an issue that I've been concerned with a long time--not only locally--I come here representing every child in this state. I come here to give you an opportunity to share the wealth. Heretofore, the laws have been written to give to the individual parishes a tremendous amount of money when these industries come off the rolls. Now, if you think clearly, I said at the beginning of my talk that all of us know more than any one of us. I spoke to a delegate a moment ago, and made my point clear, and I thought this would come out, and it has come out. A delegate asked me a question a moment ago about my position. My position is for you, somehow, someday, to figure out a way of making it uniform for every parish, somehow, someday, through your delegate, to share in the benefit of this industry. Now, I've profited a great deal from my friend, Mr. Steimel. He has taught me over the years that education in Louisiana is last, and I've been concerned about it, and I realize that what he says is right. Now, why is it that I haven't answered many questions? Because you have the literature before you. Your best teacher has been Mr. Ed Steimel. He's made the people of the nation aware of the fact that we are last. Now, there are many reasons for that. We have in my parish, for example there was a time when the poor black children had to walk to school --that's 1924 when I first went to St. Charles--three months of education, that's all...castoff books, no transportation. There's a tremendous lag between the blacks and the whites in the State of Louisiana. They need a special kind of education. You've given a lot of thought to penal institutions. I listened for six months to the people who had problems with jails and penal institutions. That's not where the money ought to go. The money ought to go into a special kind of education that will take care of our negligence. We neglected something in the past, and in order to correct it, we need more money. Industry needs us. Of all the people who need the education, industry is the one. Question from Mr. Blair.

Question

Mr. Blair Mr. Landry, as your amendment is written at the present time, you would have just a few parishes really benefiting from this money--additional money. If it passes, would you be willing to put it in a statewide school equalization fund--all of this money?

Mr. E.J. Landry Mr. Blair, and members of this convention, if there's one thing I'd like to do--that is to have you do it, because of the fact that I made this presentation--is to take care of this problem by amendment and to share. There will be many parishes in this state that will have more money than they know what to do with; mine will be one of them.

[Record vote ordered. Amendment rejected: 57-58. Motion to table reconsideration adopted: 71-43.]

Personal Privilege

Mr. Mire Thank you, Mr. Chairman. Fellow delegates, I hesitate to rise and say something about someone that I know has had some adverse conditions at home, and certainly some...a situation that has been hard on him, personally. But, I am forced to rise to set the record straight on the attack that was made on this convention yesterday--on the officials or the delegates of this convention

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yesterday--stating that we were unrealistic, that we were irresponsible, and that we had voted in a section on property taxes that would bankrupt his parish or bankrupt his district. I'd like, particularly, for the newspaper to pay close attention to this, and I would like for them to set the record straight, as it is in this particular parish. This is Webster Parish, and I speak of what Mr. Drew said yesterday. He said in his parish that this would bankrupt it--this three thousand dollar exemption would do violence to his parish. Ladies and gentlemen, I went to the Louisiana Tax Commission this morning. I checked on the assessments in this parish. His agriculture land--Class A land, this is the best land in Webster Parish--is assessed at sixteen dollars an acre. That's the average assessment. There's Class B; this is his second best land--forty-six thousand acres of it, cultivated land--at eleven dollars an acre. Agriculture land C--this is still land that's being cultivated--eight dollars and fifty cents an acre. Pasture land--this is land that you raise your cattle on--fifty-three thousand acres like that at six dollars and fifty cents an acre. I submit to you, if Webster Parish is reassessed at ten percent of fair market value today, this assessment will triple, maybe quadruple. Look at what an assessment at ten percent would reflect to a fair market value today on his very best land of a hundred and sixty dollars--very best land, pasture land--it would reflect a fair market value of today, sixty-five dollars an acre. I think the people should know these facts, and I think that the unrealistic and the out-of-a-hat talk was actually given to us by Mr. Drew, yesterday. I don't think that he looked at the records in his parish, and I didn't look at the assessments in this parish. I think that this is the kind of things that will defeat this constitution if we allow it to be put in the newspapers and allow the people to believe such statements as this. I, again, say that I hate to have to have...hate to have to have done this, but I felt that I had to set the record straight.

Yes, sir, I'll answer a question.

Mr. Henry Normally you don't ask questions on personal privilege, but Mr. Fontenot has a question.

Question

Mr. Fontenot Mr. Chairman...Mr. Mire, I'd like to ask you a question. Some of those figures you brought out did...you didn't...you failed to bring out the amount of homes that are on the tax roll and that will be exempt from now on; did you not, Mr. Mire? You can do anything with figures, you know. If you give me enough figures I can tell you all kind of stories, but you failed to...

Mr. Mire These are actual figures that you can...

Mr. Henry Wait just a minute. Turn the mike off.

Now, if you gentlemen want to get over in the corner and argue...The gentleman is up here on personal privilege, and we're not going to start this property tax debate all over again.

Personal Privilege

Mr. Drew Mr. Chairman, ladies and gentlemen, I'll take just a minute. I hope that my remarks were not interpreted by everyone as they were by Mr. Mire. My idea of getting up here yesterday was to ask you to back off because when you are sitting in this convention, you have a different perspective from what you have when you are sitting back at a distance and seeing what's going on here. The figures which Mr. Mire gave you are correct. I had that knowledge when I got up here and spoke. The figures that Mr. Mire did not give you is that industrial inventory and equipment is presently assessed at thirty and thirty-five percent, which

will be reduced by more than fifty percent. So, you can pick out those things favorable to your argument, ignore the things that are unfavorable, and make a wonderful talk up here. Gentlemen, when you start cutting part of it back--over fifty percent under this constitutional provision that has been adopted--you have hurt my parish. If you will look at the valuations that Mr. Mire read out, I think they are pretty well much in line with the valuations in the majority of the parishes in this state. Our farmland is not like the land that you raise sugarcane on, down here, that sells for a thousand dollars an acre. Our land is not like so much of the riverbottom land, even in Bossier Parish, that sells for five hundred to a thousand dollars an acre. The average farmland in Webster Parish sells from a hundred to two hundred dollars an acre. That's the difference on the thing. We will have an increase. The agricultural interest will undoubtedly be paying additional taxes, and industry will be paying less under this provision that you have adopted. My remarks about the homestead--and I stand by them and I will continue to stand by them--that I think it is totally unreal to grant a homestead exemption for thirty thousand dollar homes. The people of this state, as I said yesterday, have never complained about paying their fair share of taxes, and I have not had the first complaint. I have had, and I have talked to doctors; I have talked to nurses, I have talked to janitors; I have talked to maids; and I found no one that thought thirty thousand dollar homestead exemption was a realistic figure for the State of Louisiana or any other state. I did not intend to mislead you. I had the figures that Mr. Mire gave you, but you have to look at the entire parish tax structure before you make the proper conclusion and reach a conclusion that is valid. I think that I will have to go with what I said yesterday. I did not mean to criticize this convention except to the fact that I can see more readily at this state why we have been subjected to some criticism. As I have said in the past, I have been the most severe critic of the critics because I think that this is a dedicated group of people doing their best. But, I am convinced that we can do a lot better than what we've done in the past, and particularly with this proposal. Thank you, Mr. Chairman.

Question

Mr. Stinson Mr. Drew, isn't it a fact that in the northern part of your parish at Springhill that you have the multimillion dollar International Paper Company? If that is reduced---the figures you say--it will really be chaotic to the people up in those school districts and such as that in that area, won't it?

Mr. Drew I wish I had the percentage of the taxes in the parish of Webster that are paid by International Paper Company, Mr. Stinson. It would be astounding.

[Motion to take up other orders adopted without objection.]

Amendment

Mr. Poynter The next amendment is sent up by Delegate Perez going back to Paragraph (A).

Amendment No. 1. On page 2, in Floor Amendment No. 1 offered by Delegate Mire and adopted by the Convention on October 24, on line 4 of the text of the amendment after the words "following property" and before the words "shall be" insert the following words "and no other".

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I can assure you this is not a repetition of anything else that's been before this convention. It would squarely lay before this convention whether or not we want to have the

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possibility of the tax base of local government and of school districts continually eroded away over a period of years by additional exemptions being granted by the legislature. I might call to your attention that in the present constitution, and in the proposal by this committee, you have over five and a half pages of exemptions to the collection of property taxes as we now have it. I have been told, for instance, that thirty-eight percent of the property of the city of New Orleans is exempt at this time; that over two hundred and fifty million dollars in the parish of Rapides is exempt, which comprises about twenty-five percent of their total tax base. I think that if all of you would sit down and reflect for just a little while as to what has happened here at this convention, and think about all of the various delegates here who would like to see this exempt and that exempt and something else exempt, that you will see what will happen to the tax base for local government in time to come. We talk about the fact that continually local government and schools are called upon to provide more and more services. We continually need more schools, more sewerage, more water, more libraries, more publicly owned hospitals, fire protection, ambulances, on and on, and on and on—all of these many services which have to be provided on a local basis. Now, you know when a bill is introduced in the legislature and when it has not...when the state is essentially out of the property tax business, it's awfully easy for a legislator to vote to provide an exemption for a particular industry or a group of industries, or for a particular class or group or classes of properties, when they would not have the responsibility of raising the funds to operate those local governments. The state is essentially out of the property tax business, and the State Legislature, therefore, should not be in a position to continually enlarge and enlarge upon the tax base... or enlarge and enlarge upon the exemptions and therefore, continually erode away the tax base for local government. Therefore, I suggest to you that we should include in this provision the same provision which is contained in the present constitution, and that is: that "the following exemptions and no other shall be the following, and no other shall be exempt from taxation."

I'll yield to any questions.

Questions

Mr. Conroy Mr. Perez, the copy of your amendment that I have does not purport to deal with Paragraph (H) of this section. Did you intend, also, to delete Paragraph (H) which allows the legislature to...

Mr. Perez I have another amendment which would delete Paragraph (H), which would take away the authority of the legislature by two-thirds vote to increase the exemption. But, before you can do that, you must have a provision which says that these exemptions are exclusive because if you don't, and you do away with Paragraph (H), then the legislature, by a strict majority, could then grant additional exemptions.

Mr. Conroy That's a separate amendment you're handling?

Mr. Perez It's a separate amendment.

Mr. Rayburn Mr. Perez, if this amendment is adopted then, and your following amendment is adopted, would that mean that the only way, in the future, you could ever have an exemption...how could you have one?

Mr. Perez The only way you could...the only way you...

Mr. Rayburn You could never have one, or could you submit to the people and they could...

Mr. Perez The only way you could, Senator, is

by constitutional amendment, and I suggest to you that that is proper and correct because over the period of years we have developed exemption, after exemption, after exemption. Again, I say, that if we leave it up to the legislature, local government, eventually, is going to end up with no tax base at all.

Mr. Rayburn Well, Mr. Perez, if we had a proposition where some industry that was going to afford a lot of jobs wanted to locate in this state and they submitted, maybe, to the legislature and they approved it, if your amendment is successful, then we would have to submit it to the people and have to wait until they voted on it before the industry would ever know, or not, whether they was going to get the exemption.

Mr. Perez No, sir; that's not correct because one of the...No, sir; it's not correct because one of the exemptions proposed in this particular article is the industrial inducement program. So, therefore, you would not have to go to the legislature for that.

Mr. Rayburn Well, then how would you go about getting it?

Mr. Perez You'd go about getting it by following...by following the provisions contained in this particular proposal because you do have a provision for tax exemption for industry in your proposal.

Mr. Lanier Mr. Perez, is it not correct that your amendment keeps the law as it is today?

Mr. Perez That's all we're trying to do is to keep the law as it is today, and that is to say the exemptions that we decide here at this convention that will be given will be given, but none others, so that we can protect the tax base of school districts and of local government.

Mr. Lanier Would you agree with the statement made by Senator Blair, yesterday, that we've already loaded the wagon enough?

Mr. Perez This wagon has been so loaded, and I might call the attention to the fact that it could be so much more loaded by what the remarks that were made on yesterday about how some of this legislation is passed from time to time when people are tired and when they're not quite watching what's going on. The first thing you know one exemption slips through and another one slips through, and the first thing you know, we have no more tax base on a local basis.

Mr. Casey Mr. Perez, do you know that I agree with the concept of what you're setting forth, that maybe we should maintain the status quo, but do you know that what worries me is that, first of all, the exact terminology in the exemptions is not used as it's used in the constitution? We have had amendments adopted such as Mr. Pugh's which gives me great concern, which affects many things in the State of Louisiana and in our area. The way that I personally resolved the problem was that in the future the legislature, by a two-thirds vote, can resolve these problems. So, I don't disagree with your concept, but we have to have an escape valve where we can cure some of the language in here in the future, if we have to. Do you know that?

Mr. Perez Mr. Casey, I would think that we should be responsible people as delegates, and if we have problems, that we should clean them up here in this convention and not leave the door open to destroying the tax base for local government or throughout the state. If we've got problems, let's straighten them out here. Let's don't...let's don't leave the door open to destroy the tax base all over the state or for our local government.

Mr. Womack Mr. Perez, I have two questions. The

first one is that nobody can look far enough into the future to tell what the impact of something like a Superport might be, and no one knows how far-reaching it could be. If a situation would come up to where even Plaquemines Parish was very, very much affected as a result of that, we still couldn't take action without submitting it to the people. Is that right?

Mr. Perez Well, we would still...we'd be in the same position as we have been in since 1921. I don't think anybody has ever been hurt under it. You still have your industrial exemptions so that it can be adequately taken care of. In addition to that, I can see no other possibility with as long as we have had a property tax problem, as many things as we've exempted, already exempted, that I can't see any real problem with regard to having in there just what we have now.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I rise in opposition to this amendment. I think that Senator Rayburn kind of pointed up what we are involved...what's involved in this particular amendment. Mr. Perez made the statement that we should try to straighten out our tax problems here. There's one big difficulty about attempting to straighten them out here than attempting to straighten them out in the legislature. If we make an error in this constitution, we cannot straighten it out next year; we are struck with it. The only way you can straighten it out is by a constitutional amendment. This constitution proposal had a provision in Paragraph (H) to allow the legislature to make changes in exemptions by two-thirds. If Mr. Perez's amendment is passed, it will have the effect of deleting that provision in the constitution. I think the legislature could handle this situation just as well, if not a whole lot better, because we have a chance to come back and correct the errors that we make from year to year, which the constitution does not have that ability. I ask you in all good conscience, let's oppose and vote down this amendment and give some flexibility. If you do not trust the legislature to make these corrections, you are not trusting this convention to make them because the legislature is composed of the same type of people. The only difference is that those people in the legislature are looking to their constituents to elect them from year to year, and the delegates to this convention doesn't have that obligation. So, let's put the responsibility where it ought to be--in the legislature to contend with. I ask you to vote against this amendment. I think it's bad from your standpoint, from the standpoint of the taxpayers, from the standpoint of the people we represent.

Further Discussion

Mr. Womack Mr. Chairman, fellow delegates, I notice in amendments, that are being placed on the desk, that we're going back to relick a calf that's been licked so much until they've worn the hair off of him. You kill an amendment; you kill it again; you kill it again; and you kill it again, and the next day it crops up again by individuals who constantly criticize the dragging out of what we're doing here. It just depends on which side you're on. I want to submit to you that there is an amendment now that's being offered that is going to go back and cancel out the agricultural exemptions, and a number of the others, and turn them over to the legislature to where they can change by a two-thirds majority. Now, assuming that that might be adopted, then the next thing is that if they are canceled out by the legislature for a short period of time during economic depression or recession or whatever it might be, then there is no way to put it back on. The legislature has the right to cancel you, but they don't have the right to grant it back when conditions change. I think we had better take a second look at it. Now,

let's look at the advancement and the growth. You all can remember when maybe one particular national corporation was in nothing but the milk business. The next year they're in the baby bottle business, the next year the chemical business, then the next year in the ammunition business. Industry, just like I in my business or everything else, has got to gear themselves to making adjustments to best the changing times. I think we had better leave us enough leeway to make these adjustments and to meet the changing times in government in order to conform to the changing times that industry has got to meet in order to keep progress going. So, in view of this, I would urge that you defeat this amendment, and let's go ahead with the business.

[Previous Question ordered.]

Closing

Mr. Perez Mr. Chairman and ladies and gentlemen of this convention, I would have thought that Representative Womack would probably have been the last man to get up to oppose this particular amendment because when I heard him come up here on yesterday and talk about how during the deliberations of the legislature that many, many, many times when people are tired, you get near the end of the session, and the first thing you know you pass a bill, you pass an act, and you really didn't realize what you were doing. Of course, if that were to happen and additional exemptions were to be granted, then it would take two-thirds of the legislature in a battle to repeal those bad laws. Now, let's be realistic about this whole situation. Let's think a little bit about what could happen. Let's take a particular segment of our population or an industry where their ten year tax exemption might be about to expire. They may be ready to come on the tax rolls and pay their fair share of taxes to local government. But, realizing that they may have to get on the rolls for tremendous sums of money, they may come before the legislature and sell them a bill of goods that maybe, maybe, maybe we might have to cut out some jobs--which is one of the favorite tricks that are used--or maybe we may have to close down if we don't get an extension of our tax exemption. The legislature is not imposing that tax. The legislature doesn't have the problem of finding the dollars on a local basis to operate government. It makes it awfully easy for the legislature to come in and vote to extend exemptions; it makes it awfully easy for the legislature to exempt areas where they don't have the responsibility of putting the tax on the remaining small percentage of the people who may be left on which to impose ad valorem taxes. I say to you, ladies and gentlemen, this is a serious, serious matter, and it is one that if we do not adopt at this time, I predict in years to come that will rue the day. I submit to you that if exemptions can be extended by the legislature and thereby erode the local...the base for local taxation, we're in real trouble in this state. I, therefore, strongly, strongly urge you to vote for this amendment. Let's keep things like they presently are. Whatever exemptions we want to grant, let's grant them now in this document, and let's say that there should be no other. I therefore ask a favorable vote on the amendment.

[Amendment reread. Record vote ordered. Amendment rejected: 53-57. Motion to reconsider tabled. Motion for the Previous Question on the Section rejected: 44-64.]

Amendment

Mr. Conino [Amendment by Mr. Conino and Mr. Willis.] Mr. Chairman, fellow delegates, it will take about two minutes to go through this particular amendment. What it does is distills and consolidates...

[Reading of the amendment waived.]

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Explanation

Mr. Conino It ends in "income taxation." It will take about two minutes. What we've done in this particular amendment is we've distilled and consolidated. This is in the nature of a compromise. It includes the amendments which we have up to now. It includes the Flory amendment, the Lennox amendment; it takes care of the committee proposal--and the committee proposal that universities, colleges, schools--and in the committee proposal it appeared that even the profit corporations and schools and universities would be tax exempt. I know we didn't want that, so I put that in the paragraph which states--Paragraph (6) if you refer to that--universities, schools, and colleges are now with the hospitals. All of these institutions, now, must meet two criteria. The criteria of being organized or operating as a nonprofit corporation under the laws of the State of Louisiana. They must also be exempt from federal and state income taxation laws and must be licensed by the State of Louisiana. If you refer to Paragraph (6), you'll see all of these organizations are placed in there. The double qualifications must be met by each of these individual institutions. The last paragraph qualifies all of the property above in the first paragraph. "The exemptions shall extend only to property, and grounds hereunto appurtenant, used for the above mentioned purposes and not leased or operated." So, the Shannon amendment is included in the last sentence, "or otherwise used." Reverend Landrum has "orders." I was asked about religious. Religious is synonymous to a monk or a priest. It means someone in the religious orders. I'll answer any questions which you might have.

Questions

Mr. Roemer Joe, could you delineate for us the changes, if we adopt your amendment, from what the committee proposal as amended now would read? Would it be this same section?

Mr. Conino It would be the same section with the exception I removed the universities and colleges which was not very explicit. In other words, the universities and colleges, as in the committee proposal, could be construed as all universities, colleges, and schools. As you know, there are dancing schools, and there's modeling schools, and radio schools which would be construed and come in there as a nonexempt status.

Mr. Roemer That's the only change?

Mr. Conino That's the only change with the exception I've included the Flory amendment, Shannon amendment, the Lennox amendment, are included in this. Basically, it's a revamp and a compromise and a distillation of all the amendments and the ideas we've had here.

Mr. Lennox Joe, I'm afraid the last several words on the last two lines really alters the meaning considerably.

Mr. Conino Yes, let me answer that, Mr. Lennox. I wish you would make a technical amendment and put a comma after "or otherwise used". I meant to clarify that in the beginning, and it would make sense if you did that.

Mr. Lennox Well, may I then move that we suspend the rules for the purpose of allowing Mr. Conino to make such an amendment because this really changes the meaning of it.

[Amendment withdrawn and resubmitted with correction.]

Mr. Conino Gentlemen, the change...ladies and gentlemen, the change will be "or otherwise used, subject to income taxation." I think that clarifies it and makes sense out of it.

Questions

Mr. Jenkins Joe, I know you are trying to improve

this situation, but I'm very concerned about something that you've done, and I don't think you intended to do it. When you took universities, schools, and colleges and put them with hospitals, nursing homes, etc., you said that each of these universities, schools, and colleges have to be organized or operated as nonprofit corporations under the Louisiana Nonprofit Corporation Law, have to be exempt from state and federal taxation, and have to be licensed and regulated by the State of Louisiana. Now, for instance, Tulane University, I don't suppose, is organized under the Louisiana Nonprofit Corporation Law. It was organized in the 1880's, and I doubt that there's been a change there.

Mr. Conino It was organized in 1825 as a university.

Mr. Jenkins Right, and it's not under that law. Also...

Mr. Conino It's an organization which is classed as nonprofit.

Mr. Jenkins Yes, but you require here, that they be organized as nonprofit corporations under the Louisiana Nonprofit Corporation...

Mr. Conino It says, "organized or operating." Now, if Tulane University isn't a nonprofit organization, I'd like to know what is.

Mr. Jenkins Under the Louisiana Nonprofit Corporation Law, you say. You also say that all of these things have to be "licensed or regulated" by the state. Now, there are a number of universities, schools or colleges which are nonprofit which are not subject to federal or state taxation, but they're not regulated or licensed.

Mr. Conino Well, our idea is that all...

Mr. Jenkins Such as academic schools.

Mr. Conino What we want to do is we want to eliminate those which are organized for profit. That's the main idea.

Mr. Jenkins Well, I think that the thing to do would be to separate universities, schools and colleges, and put them in a separate number because you have that last sentence which says that they can't be used for profit. If they are used for profit, none of these things are allowed.

Mr. Conino If they are used for profit, they are not exempt. That's exactly the reason behind it.

Mr. Jenkins But, don't you see that what you're doing, you're also eliminating a number of nonprofit schools, colleges, and universities from this tax exemption by virtue of the fact that you're requiring that they all be either licensed or regulated by the state, that they all be organized under the Nonprofit Corporation Law of the state.

Mr. Conino I don't see that point, Mr. Jenkins.

Mr. Conroy Mr. Conino, my questions are along the same lines as Mr. Jenkins' because did you know that there had been a long line of attorney general opinions that had construed the meaning of schools, and colleges, etc., to mean that it referred only to schools which carried the same sort of curriculum as the public schools? It was by this means that it applied only to those sort of schools and not to barber's schools or things of that kind that you just mentioned that you were concerned about. Did you...were you aware of those long lines of decisions defining what that phrase meant?

Mr. Conino No, but even...even if they have the same curriculum as a public school, and if they are

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operated for profit, we do not want them included in this category.

Mr. Conroy But, Mr. Conino, yours goes far further than just requiring that. They...

Mr. Dennis Mr. Conino, how does the addition of that comma in the next to the last line change the meaning, if any, from what it was before?

Mr. Conino We had...we had the Shannon amendment which stated, "or otherwise used." Then, "subject to income taxation" which was an idea that I derived from your amendment which you had coming up which would include there, and it would have to be subject to income taxation.

Mr. Dennis Are you saying that it doesn't really change the meaning to put the comma in there?

Mr. Conino Yes, it changes the meaning--it clarifies it.

Mr. Lennox Mr. Conino, did you know it is my opinion that the addition of a comma after the word "used" really doesn't accomplish anything, and it really guts everything that we've passed up till now with the words that follow the comma? I think that if you could delete "subject to income taxation" you could probably see the refinement of what we've done. But, otherwise, it is not. It complicates what we've done up till now.

Mr. Conino I don't see that, Mr. Lennox.

Further Discussion

Mr. Planchard Mr. Chairman, fellow delegates, let me point out right at this point that I'm against this amendment because of the facts just brought out by the different questions. We considered this in the committee very long and hard, and the language that we have is the best possible proposal that we could come up with. If we start taking the universities, colleges, and schools out of the separate section that we have it in, we're headed for trouble. I ask you to defeat this amendment.

[*Previous question ordered. Amendment rejected: 24-84. Motion to reconsider tabled.*]

Motion

Mr. Segura Mr. Chairman, there are many, many amendments left, and rather than call for the question on the entire section, again, I would like to propose a motion to limit debate to two speakers--two on each side--for each amendment because if we don't, we're doing an injustice to all the other proposals that have not yet hit this floor. There are still four committees that have proposals that have not hit this floor, and many of these committees have more than one proposal. You're not being fair to them.

[*Motion to suspend the rules rejected: 54-47.*]

Amendments

Mr. Poynter The next amendment is sent up by Delegate Pugh.

Amendment No. 1. On page 3, delete lines 5 through 25, both inclusive, in their entirety, including all amendments adopted thereto by the Convention and insert in lieu thereof the following:

"(C) That owned by nonprofit corporations or associations, organized and operated exclusively for religious, charitable, health, fraternal, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual and which is declared to be exempt from federal and state income tax, except

immovable property owned, operated, leased, or used for commercial purposes."

Amendment No. 2. On page 3, immediately below the language added by Amendment No. 1 above, add the following unnumbered paragraph: (You need to put an initial cap)

"Property of bona fide labor organizations representing their members or affiliates in collective bargaining efforts."

Amendment No. 3. On page 3, immediately below the language added by Amendment No. 2 above, add the following unnumbered paragraph: (That "Louisiana;" needs to come out. Put a quote and cap organization.)

"Organizations such as lodges and clubs organized for charitable and fraternal purposes and practicing the same, and properties of nonprofit corporations devoted to the promotion of trade, travel, and commerce, and trade, business, and industry, and professional societies or associations provided such property is owned by nonprofit corporations or associations organized under the laws of the State of Louisiana for such purposes."

Explanation

Mr. Pugh Mr. Chairman, fellow delegates, a friend over there said, "It don't make any difference what you say, I'm still going to vote for your amendment." Let me suggest to you this: First of all, Amendment No. 2 is Mr. Flory's amendment. Amendment No. 3 is Mr. Lennox's amendment. I didn't want to get in the middle of a shoot-out, and I was told by the staff this is the way I had to do it. I shall express my thoughts relating to Amendment No. 1. Yesterday, you elected on a Lowe amendment to change the word "or" to the word "and" when they related to federal and state income taxes. Once you have done that, as you did yesterday, then everything that's in (C) is contained in these eight lines. It's only a question of philosophy whether or not you want to try to spell these things out and risk the possibility of an error or an omission as was just indicated from the previous amendment, or do you want to put them all in there this way, and they are all, in fact, there this way: First of all, you say a "nonprofit corporation or association." That takes care of a church whether it's incorporated or not. Then you say "operated exclusively for religious, charitable, health, fraternal or educational;" you take care of everything that's in Paragraph (C). Then you say "no part of the net earnings of which inure to the benefit of any private shareholder or individual," and you exclude all of these people that may be using this as a sham for the purpose of taking any money home with them. You use the net figure so you don't keep the secretary from getting paid. Also, it follows Mr. Lowe's suggestion that the organization be exempt from federal and state income tax, and then it excepts, as the committee intended to do, all "immovable property owned, operated, leased, or used for commercial purposes." The word "used" would be an amendment as suggested yesterday. Mr. Dennis has some quarrel with the word "used" and I'll let him speak to that. This amendment, I assure you, gives you everything that you have in (C), and it doesn't leave any room for error. I'll be pleased to answer questions.

Questions

Mr. Avant Mr. Pugh, you have, in Amendment No. 1, the language that we haven't encountered before, "no part of the net earnings of which inure to the benefit of any private shareholder or individual."

Mr. Pugh Yes, sir.

Mr. Avant Now, that's good, and what I want to know is why you did not include that same language in Amendment No. 3?

Mr. Pugh I'll tell you why: because I said No. 2 was Flory and No. 3 was Lennox, and I ain't

getting in the middle of that shoot-out. That's the reason I didn't.

Incidentally, in further answer to the word "net earnings which inure to the benefit of any private shareholder or individual," I assure you that you cannot be exempt from federal taxes unless that language is in your charter. So, don't worry about that language. You can't be exempt unless that language is in your charter.

Mr. Lanier Mr. Pugh, as I understand your Amendments No. 2 and 3, they come after the language that appears in Amendment No. 1?

Mr. Pugh I asked if they could be severable. I didn't get an answer, but I asked. He may not have heard me. I am speaking about Amendment No. 1. If they may be severable, I ask that they so be.

Mr. Lanier Well, the point I'm getting to is in (C), at the end of (C), you have "except immovable property owned, operated, leased, or used for commercial purposes."

Mr. Pugh Yes.

Mr. Lanier But, I'm thinking if that language appears at the end of (C), and if 2 and 3 come after (C), would that same language be applicable to 2 and 3?

Mr. Pugh No, it won't, and I'll promise you I went to see Mr. Flory and I went to see Mr. Lennox, and I tried to work the language out where it would work. I understand what you're saying. I don't disagree that that language ought to be applicable to 2. I reiterate, I ain't getting in that shoot-out.

Point of Order

Mr. Conroy This is actually a point of order, Mr. Chairman. I'm a little bit confused because he just...he referred to this as being severable amendments.

If they are severable, aren't 2 and 3, then, out of order as being reconsiderations of prior amendments that we've adopted?

Mr. Henry Not by virtue of the nature that they are offered. No, sir, Mr. Conroy.

Mr. Conroy But, if 1 is defeated, then 2 and 3 would be out of order.

Mr. Henry If 1 is defeated...if 1 is defeated, 2 and 3 would be out of order. That's correct, sir.

Questions

Mr. Womack Mr. Pugh, I want to ask just one little simple question. Under this, would it be possible for you and I to organize an educational system that would be nonprofit as far as the net proceeds at the end of the operation is concerned, and if any profit was shown, that that profit would go directly to an organized charity? That would be possible, wouldn't it?

Mr. Pugh No. Here's what takes place under the Nonprofit Law. All of those profits, in the event you dissolve that corporation, then those profits must go to a similar type recognized, organized nonprofit corporation, not otherwise.

Mr. Womack All right. Now, if we organize such an institution to where we would be considered nonprofit, would it be possible in heading that institution, for you to be paid seventy-five thousand dollars as an individual to be superintendent, and me to be paid fifty thousand dollars as a bookkeeper for that institution and would pretty well eat up all of the profits, but the institution, at the end, would not make a profit? Is this possible?

Mr. Pugh No because you are annually audited by the Internal Revenue Service, and you'd never make it, I assure you.

Mr. Womack Well, the institution wouldn't make it. What I'm talking about is the institution would be set up on a nonprofit basis...

Mr. Pugh The institution is also examined by the Internal Revenue Service. That's what I'm saying. Yesterday, when we used the conjunction "and" instead of "or," we automatically threw this under the umbrella of the Internal Revenue Service. No question about it.

Mr. Womack The institution, I understand, would be tax free, and it would be covered and everything else. But, would you, as an employee, fall under that category? That's what I'm trying to get at.

Mr. Pugh I, as an employee, could only be paid reasonable wages commensurate with my duties, and no more. Incidentally, yesterday...and I asked the question from Mr. Lowe, and I have no quarrel with it, but there are two kinds of foundations. One is a private foundation that pays a four percent income tax on its unrelated income. The other type is one which has been determined as not being a private foundation. These determinations were made for all foundations under the terms of this and as amended by Mr. Lowe, yesterday. If you pay any income tax at all, you will not qualify for this state exemption.

Further Discussion

Mr. Comar Mr. Chairman, ladies and gentlemen of the convention, Mr. Pugh mentioned he didn't want to get into a shoot-out between Mr. Lennox and Mr. Flory, and I certainly don't want to get into a shoot-out with Mr. Pugh because he knows more about the law books than I'll ever know. But, the language of his amendment does not do justice to the efforts that we have made and the committee has made to define the exemptions that we are seeking under this section of the constitution. I do not feel that the language would cover the things that I've talked about at this microphone before. Child care institutions, homes for the aged--which may be nursing homes, but which will be needed as shelters, alone, for old people--and other things like that that we talked about before. I urge you to defeat this amendment, and to go along with the recommendations that we have had so far because those have been carefully, carefully gone over by the committee and by those of us who have worked on this thing over the period of the last five months. I urge its defeat. I'll yield to any questions.

Questions

Mr. Rayburn Mr. Comar, are the day care centers and the charitable institutions that you mentioned, are they now on the tax rolls or are they not on the tax rolls?

Mr. Comar They are beginning to be put on the tax roll, and that's what we're concerned about. For instance, hospitals and the...for instance, an apartment house in New Orleans built for the elderly is on the tax rolls now, and was not previously. The whole problem was created about two years ago when the tax commissioners and others began to go out and to tax what previously had not been taxed as nonprofit corporations.

Mr. Rayburn Are they profit or are they nonprofit, in your opinion?

Mr. Comar They are nonprofit, the ones I'm talking about.

Mr. Stovall Mr. Comar, these homes about which you have a very fine concern, and I commend you for

it, are there are any part of the earnings which inure to the benefit of any private shareholder or individual from those homes?

Mr. Comar No, but you see, the language of that amendment would not cover a residential property, alone, for the aged. It covers health care facilities, but they may not be. The difficulty has been getting a proper definition, or what we believe to be a proper definition of the word "charitable."

[*Previous Question ordered.*]

Closing

Mr. Pugh Mr. Chairman, I know you all are ready for lunch. All I can tell you that his concern about the home for the aged falls under charitable. I had some of those myself that I formed and I know. Those of you who may be concerned about whether or not this includes the residences for the clergy, let me tell you that it, in fact, does include the residences for the clergy. I tell you by my word that there's nothing in (C) that doesn't fall in this category. Nothing is in (C) that's not in this paragraph. It's a question of whether or not you want to try to spell them out by language saying what they are, and we already know after two or three days deliberations, we haven't been able to do it. This takes care of everything that's there. I ask your favorable consideration.

Question

Mr. Jack Bob, I want to just be sure, now, for instance, like Willis-Knighton Memorial Hospital, will they be taken care of under this health provision of Paragraph (C)?

Mr. Pugh Yes, they will be taken care of, and they are not a...they are not a private foundation. They hit both of the categories.

Mr. Jack All right.

[*Division of the Question ordered. Record vote ordered. Amendment No. 1 reread and adopted: 66-41. Motion to reconsider tabled. Amendment No. 2 reread. Record vote ordered. Amendment No. 2 adopted: 81-30. Motion to reconsider tabled. Amendment No. 3 reread. Record vote ordered. Amendment No. 3 adopted: 97-11. Motion to reconsider tabled.*]

Personal Privilege

Mr. Tobias Ladies and gentlemen, I know we all want to go to lunch, but I want you to realize that we've done something which I don't think we wanted to do. Amendments No. 2 and 3 which we just adopted have the effect of excluding the last paragraph in Paragraph (C), so now all property owned by labor unions, or bona fide labor organizations, and such other organizations as in Amendment No. 3 are completely exempt.

Personal Privilege

Mr. Chatelain Mr. Chairman and fellow delegates, my amendment which is on your desk now is going to be offered immediately after lunch, so I think it will take care of the problem he just mentioned.

Recess

[*Quorum Call: 97 delegates present and a quorum.*]

Amendment

Mr. Poynter The first set of amendments sent up by Delegate Shannon.

[1970]

Amendment No. 1. On page 3, line 5, in Floor Amendment No. 1 proposed by Mr. Pugh and adopted by the Convention on October 26, on line 3, immediately after the word and punctuation "charitable," and before the word "fraternal" delete the word and punctuation "health,".

Explanation

Mr. Shannon Mr. Chairman, ladies and gentlemen of this convention, I would like to have your attention for one moment, please. I will not belabor the point, and I will say from the outset what this amendment proposes to do. Without any reservations, it takes the word "health" in the third line of Mr. Pugh's amendment, out. That, in effect, deletes your hospitals from exemptions. In Caddo Parish, we have our hospitals on the assessment roll. If this passes as it is now, exempting the hospitals, it will reduce our assessments between three...somewhere between three and five million dollars. I consider this as unloading the wagon. We have loaded the wagon enough, and I think it's time to unload the wagon a little bit and maybe put a little milk back in the cow so the next calf can have a little. I do not know of any institution, whether it's nonprofit or not, in the...in the hospital field that does any charitable work. You even have to pay to park there. In times gone by, you were able to go to a hospital and park on their parking lot with no charge. Today, all of the hospitals have a charge, and it's twenty-five cents whether you're in there five seconds or five hours. I say to you that we have had private hospitals in Caddo Parish that were on the assessment rolls, and we have only recently put the others on. The only hospital in the parish that is not assessed is the Shriner's hospital which does not charge one penny for anybody that goes into it--not one penny. The rest of the hospitals charge with the exception, of course, of the charity hospital and the Pines and the V.A. hospital which is publicly owned. I feel very deeply about this matter. It's a question or not of whether you want private enterprise hospitals subsidized while private enterprise is trying to make a living. I do not believe, I do not believe that there should be any business of any type tax-exempt that is in opposition or in competition to private enterprise. I strongly believe that, and I would ask your support in this amendment.

Questions

Mr. Kelly Well, I'm not sure at this particular time, Mr. Shannon, I'm just seeking information. We have the word "religious" in the Pugh amendment, also. It is my understanding that the Schumpert Memorial Hospital...is that a religiously-owned and operated hospital there in Shreveport, Louisiana?

Mr. Shannon Yes, it is religious. But, the best that I could do with this...and if this doesn't take the Schumpert off the tax rolls, I would certainly accept an amendment to do that.

Mr. Kelly Well, let me ask you this. Is the Schumpert Hospital on the tax rolls in Shreveport at this time?

Mr. Shannon At the present time they are, but it's in litigation.

Mr. Kelly Was it on the tax rolls before?

Mr. Shannon Until recently it was not.

Mr. Kelly They have just been recently placed on the tax rolls?

Mr. Shannon Right.

Mr. Kelly ...and it's in litigation at this time?

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Mr. Shannon Right, that is correct.

Mr. Henry Shannon? Does that complete your remarks, Mr. Shannon?

Mr. Shannon Yes, sir, that completes my remarks, Mr. Chairman. I ask the delegates favorably vote on this proposal.

Further Discussion

Mr. Stagg Mr. Chairman, I would hope that the delegates would vote against the amendment offered by Mr. Shannon, not just on behalf of the Schumpert Hospital in Shreveport but the Baptist Hospital in New Orleans and all the other organizations without whose health care we would all be the worse off.

[Previous Question ordered. Record vote ordered. Amendment rejected: 15-80. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 *[by Mr. Chatelain]*. On page 3, line 5, immediately below the language added by Floor Amendment No. 1 proposed by Delegate Pugh and adopted by the convention on October 26, delete Floor Amendment No. 2 proposed by Delegate Pugh and adopted by the convention on today and insert in lieu thereof the following: "Meeting halls, offices, and equipment located therein, owned by bona fide labor organizations and used in pursuance of collective bargaining efforts for their members or affiliates."

Explanation

Mr. Chatelain Mr. Chairman and fellow delegates, this is strictly a technical amendment. We had opposition this morning in Mr. Arnette's amendment in that it only stated "meeting halls." There was a lot of question raised as what a meeting hall was. I think everyone of us in here want to go along with the unions, because they need a place to meet. They render a great service to this state. I'm not taking issue with that. But, I think we have spelled out here exactly what we mean. The AFL-CIO organization represents some one hundred and eighty thousand people in this state. In the State of Louisiana there are 3.6 million people and of those 3.6 million, there is approximately one and a half million voters. When we present this document to the people, I hope sometimes next year, there is going to be a lot of people who are not, themselves, in favor of unions as some of us are. I feel if we are going to sell this document, we don't want to leave the doors open to such things that was advanced here this morning that spoke about owning large acres of land. I know that it probably will not, and you know this. But, how about that person who's looking for some objection or some reason not to vote for this constitution. He is going to be picking at everything he can think of. All right, how about those situations like exist in Miami, Florida, and other cities and states in this union, where the unions, in fact, do own apartment houses and places such as this? We don't want to open the doors to this. I don't think the great people and union people in Louisiana are going to do this. But, there is going to be some reason to fight the constitution because of this, so, I would urge that you support this. It only corrects what was...Mr. Arnette was trying to do this morning. I urge your support of this.

Questions

Mr. Velazquez Mr. Chatelain, do you know that some unions have their members spread all over the city, or all over the parish, or all over three parishes, and it is necessary to go around to check on the membership to make sure their rights are being protected, and to do this some unions need an automobile? According to this thing the way

you have written it, they got to keep the automobile permanently in the union hall and won't be even able to use it.

Mr. Chatelain I think you have misinterpreted our intentions, Mr. Velazquez.

Mr. Velazquez Perhaps I misinterpreted your intentions. But, I didn't misinterpret what you have written down there.

Mr. Chatelain We are speaking about ad valorem tax exemptions, sir, and not other exemptions.

Mr. Roemer Mr. Chatelain, isn't what you're trying to do here is to prevent any other property not directly connected with these collective bargaining activities from being ad valorem tax-exempt? Isn't that true?

Mr. Chatelain Simply and purely, Mr. Roemer, simply and purely. This is a good amendment. I hope you will vote for it. Thank you.

Further Discussion

Mr. Flory Mr. Chairman, gentlemen of the committee, ladies, I hate to keep coming back here and it looks like if we don't quit beating this one amendment we're not going to even be able to report to the people next year. This doesn't take care of the land that the hall is on, or if there is a parking lot between the two buildings, you separate it--one is used for a training facility, the other is for a meeting hall. There are all kind of complications in this amendment. I just ask you to reject this amendment and let's go on about the work of this convention. We beat this about four or five times now.

Questions

Mr. Rayburn Mr. Flory, is it not true that most of the collective bargains is done without the union hall and mostly with the executives where they want to bargain?

Mr. Flory That's correct.

Mr. Rayburn What do you think he is really trying to do with this amendment?

Mr. Flory Well, he may as well have deleted the whole thing the way he's got it worded.

Mr. Roemer Delegate Flory, do you recognize the problem--perhaps he hasn't corrected it--but, do you perceive the same problem that he does in regard to other properties owned by a union that might be tax-exempt as a result of the language in the proposal as we have it now? I'm just asking for information. Do you see that as a problem?

Mr. Flory I see what he is driving at, Mr. Roemer. But, I don't know of any way to correct in the manner in which he has approached it, because you have not done it for the purposes of colleges, universities, who own other lands and so forth, and let's say hospitals--these sorts of organizations. But, you put it in there so long as they don't use it for commercial purposes or derive revenue or profit then, of course, I want to be subject to that some provision there is, no way, you are going to allow the Lady of the Lake Hospital out here to acquire fifty thousand acres and just hold it for an investment. The church wouldn't allow it. Our members wouldn't allow us to do that and they know that and in the first place our bylaws prohibit it. So, I don't see the problem that he presents as a fictitious one. I see it fictitious but not as a real problem.

Mr. Roemer You see a potential danger, but you don't think it's a real one?

Mr. Flory Absolutely not.

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[Previous Question ordered.]

Closing

Mr. Chatelain Mr. Chairman and fellow delegates, I would only caution you that as it stands now this is an open-ended situation. I think you have been very careful in all your debates throughout this convention to be careful and beware of open-ended situations. I say that my amendment will close some of these situations. I urge that you support it.

[Record vote ordered. Amendment rejected: 29-68. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1--this is sent up by Delegate Velazquez--Page 3, line 5, in Floor Amendment No. 1 proposed by Delegate Pugh and adopted by the convention on October 26, at the end of line 3, delete the word "or" and at the beginning of line 4, delete the words "educational purposes" and insert in lieu thereof the following: "educational purposes, or as homes for the aged,"

Explanation

Mr. Velazquez Mr. Chairman, fellow delegates, my amendment in essence only adds home for...directly adds the words "homes for the aged" to the Pugh amendment. Like Delegate Comar, I'm worried that this particular amendment does not cover homes for the aged which are basically residential homes for the aged. There is an indication of the size of this problem. Twenty years ago the average size of a nursing home in Louisiana was thirty-six beds, now it's sixty-nine. This indicates the needs of these services concomitant with nursing services or residential services. It's been estimated there are ninety thousand elderly in the city...in the New Orleans area alone who are in the need of residential services for the aged. These services provide the security and they provide the companionship necessary to our elderly citizens in their declining years. I ask you to give your favorable endorsement to this proposal. Thank you very much.

Questions

Mr. Rayburn Are these homes nonprofit organizations?

Mr. Velazquez Definitely, no other kind. I'm not interested in any other kind except nonprofit, Senator.

Mr. Rayburn Well, if they are, they are really covered in the Pugh amendment, in my opinion.

Mr. Velazquez I think...I appreciate your opinion, Senator. But, I still feel I want to get these words in there. I want to nail this dog on the head. They got people running around this state challenging all kinds of things, and they are liable to go to court and challenge homes for the aged.

Further Discussion

Mr. Comar Mr. Chairman, ladies and gentlemen of the convention, I rise to support Mr. Velazquez's amendment. I, too, spent the lunch hour today talking to various people about what was covered and not covered under the Pugh amendment. I do not think the language is sufficiently broad enough to include the types of institutions now being operated by various religious bodies and other nonprofit corporations around the state. He mentioned nursing homes, and I say that nursing homes are not always health care facilities. In many instances, they are simply homes where the elderly dwell and they receive their medical care

elsewhere. These are not covered by the Pugh amendment just as many other things are not covered by the Pugh amendment. I hope that we will have some amendments this afternoon which will correct this entire question of what is covered and not covered. Specifically, during our talks before the committee, we included things because the committee members in many instances themselves asked us to define what we were talking about. That is why the amendment is longer. We could not come up with a five-word description of what a charitable organization is, or what a nursing home is. I urge you to support Mr. Velazquez in this amendment.

Questions

Mr. Lanier Mr. Comar, these homes that you are talking about, are they owned by religious organizations?

Mr. Comar No.

Mr. Lanier Who are they owned by?

Mr. Comar Well, for instance, I mentioned yesterday in my talk as a member of the board of Christopher Homes in New Orleans which is a private...separate corporation sponsored by, but not operated by, the Archdiocese of New Orleans, and they operate homes for the elderly.

Mr. Lanier It would be a nonprofit corporation?

Mr. Comar Nonprofit corporation, operating homes for the elderly.

Mr. Lanier And you're saying that this would not be considered as a charitable or health purpose?

Mr. Comar It is not because of several attorney general rulings which have held that you are not a charitable organization if you have an income. This is an unusual ruling, in my estimation, but it is my understanding that that ruling holds in effect that if you have twenty paying patients in a home and twenty nonpaying patients in a home, that because you have an income from the twenty... from the thirty paying patients that you are no longer then a charitable organization, even though you might spend two or three times what you received in direct payments from the patient of the home.

Mr. LeBleu Mr. Comar, when you talk about thirty paying patients and twenty nonpaying patients, doesn't the Louisiana Department of Welfare pay or allow the nursing home a certain amount per month?

Mr. Comar They do in many, many instances. Yes, they do. But, in most cases there are two, Conway. The Welfare Department payment for that nursing care is not sufficient to care for the patient. Therefore, those institutions in many instances, particularly those operated by the religious bodies of this state of all denominations, add additional private money of their own to take care of people who normally would be wards of the state.

Mr. LeBleu Do you think that a tax exemption would reduce the monthly rates for these patients?

Mr. Comar Well, of course, it would. I don't think that many of these nursing homes can survive for very long if they are saddled with a major tax bill.

Further Discussion

Mr. Rayburn Mr. Chairman and fellow members, I know of no way that we can put the proper language in this proposal to satisfy everyone. If you will read the amendment--and I'm no Rhodes scholar--but it says that "owned by a nonprofit organization," nonprofit organization--may I repeat? I would be

the last person in this state would stand here and try to tell you to do something to hurt any institution that was trying to take care of the sick, the old, the aged, the blind, the lame, or otherwise. I could fully see in our committee when they kept trying to extend the benefits that we now have in our present constitution that we are going to get in trouble. There's got to be some reason behind these movements. I say to you here and now that you better be careful about each and every word that you read in these amendments because if you don't, you're going to do something that you won't realize you've done when you really find out the contents of the language that you vote upon. I think this language is clear, in my opinion--maybe I'm wrong, I could be, I've been wrong before--but, I hope we do not overload this and deprive the people of this state of some opportunities now afforded. In my opinion, this language is clear.

I want to state it again. When you say "non-profit organizations" maybe they do have some paying patients in these facilities; maybe they have some nonpaying; but when they total their books if there is nonprofit, if they've got an organization there that's going to do something for the people of this state, I don't think they should be taxed. But, if you are going to put the pay institutions of this state in the same category with the nonprofits, then I'm opposed to it. I have failed to see in my lifetime in any hospital where this room really ordinarily would be forty dollars but it's reduced to thirty-nine because we don't pay taxes. I don't believe you have seen that. A nonprofit corporation, in my opinion, is just as good as the lawyer that draws it and just as good as the people that enforce it. I know some people who have served it...who are today serving on a corporation that started out at ten dollars a day. They made a little profit; they raised the board members and the directors' pay to twenty-five; they got them up to forty. Now, they are making a hundred. It looks like they are going to make a little profit; they will hire the wife or their friend as a secretary at twelve hundred a year, a hundred and fifty a month if they have to raise them. I'm not for that, and I don't believe you're for that, and I think that these amendments are merely offered to try to bog down the proposal. I ask that you defeat them. Let's go ahead and vote on the proposal and move on, because we've spent a lot of time on this proposal. It's been well-thought out; it's been well-listened to and a lot of the things that are before you today, we got them about like you get a heavy dew early in the morning. They just fell on us. I want you to think long and loud before you put something in here that six months or three years from today you would regret doing.

[Previous Question ordered.]

Closing

Mr. Velazquez Mr. Chairman, fellow delegates, following Senator Rayburn I feel like Red Cloud who fought Kevin Fitzgerald in Dublin, Ireland, on St. Patrick's Day. I don't want to bog down this or any other amendment. I don't claim to be an expert on fiscal affairs and on nonprofit organizations. I only want this to happen; if there is an old folks' home anywhere in Louisiana and it has to go out of business, because we messed up in this convention, I don't want people to say that Tom Velazquez is the one who sat back in that seat and didn't try to help those elderly. I have an ax to grind. I think we all have an ax to grind. There is nobody in this convention who's getting any younger. I looked in the mirror the other day and my hair was turning gray. This thing of Senator Rayburn and some of these other folks is turning me into an old man. I want those old folks' homes to be there just in case I need one. Thank you.

[Amendment adopted: 53-47. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendment No. 1 [by Mr. Tobias]. On page 3, line 5, in Floor Amendment No. 1 proposed by Delegate Pugh and adopted by the convention on today, on line 7 of that amendment, line 7, immediately after the word and punctuation "tax," and before the word "except" insert the following: "property of bona fide labor organizations representing their members or affiliates in collective bargaining efforts; organizations such as lodges and clubs organized for charitable and fraternal purposes and practicing the same, and properties of nonprofit corporations devoted to the promotion of trade, travel, and commerce, and trade, business--and you can correct the spelling there--industry and professional societies or associations provided such property is owned by nonprofit corporations or associations organized under the laws of the State of Louisiana for such purposes;"

Amendment No. 2--of course, strikes Floor Amendments 2 and 3 proposed by Delegate Pugh and adopted today.

Explanation

Mr. Tobias Mr. Chairman, fellow delegates, this is in the nature of a technical amendment. I understand that both Mr. Flory and Lennox are not opposed to this which is good reason to look at it very carefully. What this amendment does is it inserts the language in Amendments 2 and 3 as adopted in the Pugh amendments immediately before the last clause which reads "except immovable property owned, operated, leased, or used for commercial purposes." As presently that amendment...the Pugh amendment stands, all property of whatever nature owned by these particular organizations as specified in Amendments 2 and 3 of the Pugh amendment, would be exempt from all taxes--ad valorem taxes. I move its adoption.

[Previous Question ordered. Record vote ordered. Amendment adopted: 100-1. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Nunez]. On page 3, line 26, immediately after the word and punctuation "deposit;" delete the remainder of the line and delete lines 27 and 28 in their entirety.

Explanation

Mr. Nunez Mr. Chairman, ladies and gentlemen of the convention, this simply takes out "stocks and bonds." Stocks and bonds are not in the constitution today, they are not exempt from ad valorem taxes, but there is nobody taxing stocks and bonds. I don't believe that anybody ever will tax stocks and bonds. Committee, after days and days and days of discussions and many, many tie votes, broken by the Chairman, I might add, and at the last minute in an attempt to get something on the floor to you for the ad valorem taxes for the property taxes inserted this provision and there are a number of other provisions in it I'm sure some people would try to get out. I don't see any reason why we should put into the constitution that stocks and bonds are forever exempt from ad valorem taxes. There were a number of moves in the legislature to tax transactions on use taxes on stocks and bonds that were never successful, and I don't believe they ever will. But, I see no reason at all why we should insert into our constitution that stocks and bonds shall be forever exempt.

Questions

Mr. Bollinger Senator, would this apply to stocks you held in a corporation assumed they were domiciled in Louisiana and paid property tax? Would

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you also have to pay property tax on the stocks you held in that corporation?

Mr. Nunez No, you wouldn't have to pay property tax unless they were taxed there, not now...they are not now taxed, Mr. Bollinger.

Mr. Bollinger I know, but if you remove the exemption then there will be...

Mr. Nunez There is no exemption in the constitution today, and they never have been taxed.

Mr. Bollinger Oh.

Mr. Nunez You understand, they are not in the constitution as exempt as stocks and bonds today. They never were, and they never were taxed.

Mr. Duval Senator, could you form a nonprofit corporation and then place all your stocks and bonds in there and then they wouldn't be taxed, would they?

Mr. Nunez I'm sure you could; you certainly could.

Mr. Roemer Sammy, I'm just going to try to get the facts out as we understand them. It was the committee proposal's recommendation to have stocks and bonds with constitutional exempt status. Is that correct?

Mr. Nunez Mr. Roemer, you mean the proposal as signed by the twelve members? I noticed you didn't sign it, so I assume....

Mr. Roemer But, I noticed you did. Right?

Mr. Nunez I did. That's correct.

Mr. Roemer O.K. Didn't that proposal that you signed have stocks and bonds in?

Mr. Nunez Yes, sir, it did.

Mr. Roemer Thank you.

Mr. Nunez After voting at least four or five times and after break...the Chairman breaking tie votes, and after, in a desperate attempt, gentlemen and ladies of the convention, to get something before you and that's probably why we are having so much trouble with Section (C), most of that was adopted in a last minute attempt to get something before you. We just decided to put it out. I think I voted against it in the last analysis. But, I did vote to put something before this convention where eleven or twelve members voted not to or didn't see fit to sign. I think that's what you are trying to get at.

Mr. Roemer Right. I understand. I just wanted it to be brought out. I understand your position. There is nothing wrong with your position.

Mr. Nunez You asked me a question and my position....

Mr. Winchester If stocks and bonds were taken out of the exemption and later, could not the legislature set up guide rules by which these stocks and bonds could be assessed and would answer some of the questions that have been asked of you?

Mr. Nunez Mr. Winchester, it is my appreciation if you take them out of the constitution, then they are not exempt---they are not exempt---which they are today. They are not in the constitution today. If you recall, the various arguments for putting them in were given, and time and time again they voted it and we finally put them in to get it before this convention. What I'm simply doing is just removing them from the exemption column, and I think if we take into consideration what we had before us today, it's an exemption list of things

we want to forever exempt from ad valorem taxation. Stocks and bonds have never been in the constitution; stocks and bonds have never been taxed before. What I'm simply doing is leaving them out of the constitution. Very simple.

Mr. Winchester Mr. Nunez, I am on your side. But what I'm saying is that could not, if they ever wanted to be taxed later, could not the legislature set up guide rules?

Mr. Nunez Mr. Winchester, if they aren't exempt in the constitution, I'm sure the legislature can set up guidelines to tax them. I don't think that will happen, though. That's what I'm trying to get across to you.

Mr. Winchester Thank you.

Mr. Chehardy Mr. Nunez, isn't it a fact on the day that the committee voted on these particular stocks and bonds you were ill? It was actually eleven to one vote. Do you recall that? I was... I was...that was the day...let me refresh your memory this way. Was that not the day that I was caught in there with all the industrially minded and antihomestead people and they forced it through?

Mr. Nunez Mr. Chehardy, I don't recall whether I was there on the day it finally passed or not. I do know that I voted against it at least three or four times. The vote was tie, tie, every time with the Chairman voting against it to break the tie. Then one particular day, and it was very easy to miss one of those meetings because they were held so frequently, trying to get the ad valorem taxation property to this committee....

Further Discussion

Mr. Lennox Mr. Chairman, fellow delegates, let me, if I can in just as brief a time as possible cover perhaps a half a dozen reasons why this particular exemption should be in the constitution. Mr. Nunez is correct. There has never been any exemption for corporate securities, corporate stocks or bonds in our constitution. But on the other hand, they have never been taxed. They have never been assessed for ad valorem taxation. But we have a problem in that they have never been assessed or taxed in that it acts as a deterrent to the industrial growth of our community...or of our state at least. I happen to be one who believes that the Shell Oil Company did not move its head office from Manhattan Island to Orleans Parish, but moved it to Houston, Texas, for reason that this threat, and for perhaps other reasons, existed. Now let me explain to you for a moment the holding company's concept of business. A holding company owns all of the stock in its various subsidiaries. So all of that stock, if that holding company were domiciled in Louisiana, would be subject to ad valorem taxation at the whim of a local assessor, as is the case right now. Now, I think that you would take this deterrent to growth away from us, and give us an opportunity to move corporate headquarters, particularly where it involves holding corporations, or holding companies, into our state. One example: my own company could not move to New Orleans, or to Louisiana, although substantially all of our physical assets are in the State of Louisiana, for the simple reason that we operate on the holding company concept. Now, the assets of four separate corporations in Louisiana, or the stock of those four corporations, are owned by Southern Industries Corporation. Now we pay taxes on all of the various properties of these four subsidiaries. When you consider the fact that a stock certificate is nothing more than a certificate of ownership in those properties, if you impose ad valorem taxation on corporate securities, it's double taxation. The corporation pays on its physical properties, on its machinery, plant, equipment and land, and it also pays on the stock which is nothing more than a certificate of ownership of that particular asset.

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Now one final point, if I may. There would be no revenue loss to this state if you include these few words in this particular section of the constitution, inasmuch as these properties have not been assessed for taxation in the state in my memory. Now, if you applied the average millage of each taxing district in the state to the current market value of corporate securities, the resulting tax would far exceed the total dividends paid on any of those stocks in a given year. Most corporate stocks are now paying from five to seven and half percent per annum return on investment. Now if you, again, if you applied the average millage rate on the current market value of corporate securities, that millage rate would produce a tax of six percent of the total income, or in some cases, more than the income from the securities themselves. Now exemption on stocks would bring no decrease in the tax base by...and it would remove the threat of ad valorem taxes on corporate securities. I submit to you, would open the door to industrial expansion of our state without creating any loss in revenue to the state.

Question

Mr. Burns Mr. Lennox, if the legislature should take a notion to put a tax on bonds, would that not have an adverse effect on the sale of municipal or parish bonds throughout the state?

Mr. Lennox I believe it would, Mr. Burns. It could--the tax alone could exceed the amount of the income, although the income from municipal bonds is exempt from federal income tax, but not exempt from state income tax. So you brought a valid point that perhaps I wish I'd have thought of. It could wipe out all of the municipal tax-free bonds that exist in the state today.

Further Discussion

Mr. Planchar Mr. Chairman, fellow delegates, I want to point out to you that this matter was taken up by the committee, pros and cons. At first I was against exempting stocks and bonds, but after hearing all of the discussion and knowing the possibility of increasing industrial development in this state, I had to change my mind and vote for inclusion. However, I think you've heard all the arguments, pros and cons, and I'll let you make up your own mind about it.

Further Discussion

Mr. Tobias I will move the question after I am finished.

I think this particular amendment is going to fail. But let me suggest to you this. In the event it passes, I should like to tell you how you can avoid the paying of state ad valorem taxes--they say most attorneys have criminal minds. I guess I qualify. What I would advise is that we...that you report your income on your federal and state income tax returns as "other income", and then when your federal attorneys, when the internal revenue service or the state taxing authority comes in to try to find out what this other income is, rely on your Fifth Amendment in the United States Constitution privilege against self-incrimination. It's--this particular amendment would be totally unworkable and I urge its defeat.

Questions

Mr. Avant Mr. Tobias, does not the law now require you to file a rendition every year? Does not the law now...the ad valorem property tax law that's on the statutes, Title 47, require you to file a rendition of all your taxable property to your assessor every year? Did you know that?

Mr. Tobias I've never done it.

Mr. Avant Well, I don't think anybody else has done it. The assessors don't even have the forms.

But if that law was enforced and had teeth put in it like the income tax law is, you file your rendition, you list your stocks and bonds, they catch you lying, they put you in the penitentiary, just like everything else. Wouldn't that make it enforceable and workable?

Mr. Tobias It would, possibly.

Mr. Chatelain Mr. Tobias, let me ask you a question; assuming that this would, the legislature would, in fact, decide they'd tax bonds--I have a brother who lives in Natchez, Mississippi; could I not buy my bonds in his name?

Mr. Tobias You could put it in his name--you could put it all in his name. You could make a donation.

Further Discussion

Mr. Conroy I rise in opposition to the amendment, and very briefly would like to outline the reasons. This matter was considered at length by the committee. Ultimately the stocks and bonds were included as exempt as the result of a letter from the Louisiana Tax Commission asking its advice and recommendation in this regard. The letter from C. Gordon Johnson of September 25, 1973, attached to it a long memorandum and other material which is too lengthy for me to reproduce for everybody here. But you are welcome to see it, which concluded with the statement that "at the present time stocks and bonds are not being assessed even though they are not specifically exempt in the constitution. They are not being assessed for the reason stated above. It is almost impossible to obtain a listing of all stocks and bonds owned by individuals as of January 1 of each year." He attached a memorandum which went into the law, and the reasons why this had happened which concluded with this statement:

"The taxation of intangible personal property is clearly a regressive tax of doubtful legal status. There can be no doubt, however, that it is uneconomical and self-defeating and would have the effect of driving business out of our state into our neighboring states, one of which, Arkansas, has already attempted to tax intangibles, but which later abandoned the plan as unworkable. We ask our lawmakers to be informed and aware, and to steer our city and our state away from such a dubious tax, which if it worked, would be harmful to the people of this state."

I remind you that there are, in addition to the other entities that have been mentioned here, there are extensive retirement trusts in this state which have extensive portfolios, investment portfolios, in trust in various banks in this state. If you adopt this amendment, and it ever attempted to enforce this proposal, immediately--you could not have a retirement trust that would work with a bank here. It would immediately go to some other bank. I'm sure that there are other similar situations where you would actively drive investment business out of this state.

I urge the defeat of this amendment.

Questions

Mr. Champagne I think you brought out, but I just want to be sure, that the Louisiana Tax Commission was unequivocally--stated in their report--that this was not enforceable as a taxable item, that it is not taxed now, and that it probably would cost more to enforce it than the tax would bring. Is that right?

Mr. Conroy I'm not sure about the last thing, but the rest is certainly definite statements that they made.

Mr. Burson Mr. Conroy, you touched upon the retirement trusts. Isn't it true that some of the largest stock and bond holdings in this state are in trusts set up for retirement and disability

retirement of industrial employees? That when these men die, that oftentimes the only property they have to leave their widows or whatever stocks and bonds are in those trusts?

Mr. Conroy Yes, and it's difficult enough to get businesses here to keep their retirement trusts here in this state and not put them in New York or Texas, as it is. If we could just be sure that this property was exempt, I think we'd have a little better success in that.

Mr. Avant Mr. Conroy, isn't it true that the federal government has no trouble in ascertaining your income dividend from stocks and bonds for income tax purposes, if you don't report it?

Mr. Conroy I wouldn't say they don't have any trouble. They do have a very elaborate mechanism by which by which they ascertain...regarding the income from these things. That's correct.

Mr. Avant They have some very effective inducements for having you report it accurately, too, don't they?

Mr. Conroy They do, but that's on a national basis and a lot easier on a national basis than a state by state basis. You'd have to interrelate into that, a state, interstate cooperative effort to be sure that you had nailed it down.

Mr. Avant Now, the next question.

About this poor widow and the stocks and bonds that the husband might leave her. A man who is out here farming and sweating and working his land and making money from it, and that's all he's got to leave his poor widow, you tax that, don't you?

Mr. Conroy Well, I think we have a homestead exemption, and we have the agricultural exemption
....

[Previous Question ordered.]

Closing

Mr. Nunez Mr. Chairman and ladies and gentlemen of the convention, you see who was up there trying to get stocks and bonds exempted, don't you? You see who wants to exempt stocks and bonds and wants to tax everything else in this state. Well, let me tell you...someone said yesterday about the milk running dry, or the cow running dry. I imagine when the Congress of the United States, or the first convention, sat down like this and started drafting up our income tax laws, and who's going to pay the tax load in this country, the first thing they did, if they were aware, and I'm assuming that they were, they said, "Let's take care to put some loopholes in for the wealthy," which they did. They all ran for office, and then they said let's take, and let's take care of the poor folks, which they did and which we are trying to do here. They said after it was all over, "Now who are we going to tax? Who we going to tax?" You know who's paying the tax load in this country today--middleman. Who are we going to tax on the ad valorem situation--the service station, the gas station, the little grocery, that's who we are going to tax. Why put stocks and bonds as an exemption in the constitution when it hasn't been there for the past fifty years--when we haven't taxed it? And don't listen to the scare tactics that you're going to run industry out of the state...isn't it amazing every time you go to do something, that you're going to run industry out of the state, that you're going to keep industry out of the state, that nobody's going to locate here."

Mr. Landry just explained to you that he's got a billion dollars worth of exemption in one little parish. Why are they coming? Why are they coming? They're coming for a reason. They're coming for a reason--they want stocks and bonds out of here,

and they want everything that they can get in here that they can ever...you can ever tax. Well, I believe we are going to face somewhere down the road that we've made some tragic mistakes in this constitution. I don't want to be part of it. I don't want to be part of putting stocks and bonds, and telling the little people of this state--how many people own stocks and bonds? Who owns stocks and bonds of this...? The big stocks--I'm not talking about the small investor. They're not bothered about that. You're not going to tax that to any appreciable amount. I'm talking about the big companies, the big corporations; that's where your stocks and bonds are. That's why they want to keep them out of this constitution because someday, somewhere along the line, maybe you might need to put a tax on them--maybe you might have to raise additional revenues for this state--maybe local government might need more money, and maybe you're not going to have a place to do it. So let's exempt them. That's what they say. You're going to bring...I heard that Shell Oil didn't move here because you've got...there's a possibility that you might tax stocks and bonds. That's a big scare tactic. I've been hearing that for years. I've been hearing that for years about a lot of things...why people won't come here. They're coming, they're coming and they're going to keep coming as long as you've got the natural resources that we have here.

I just cannot see why we have to start placing these type things in the constitution that are not there now. I haven't heard the hew and cry that's been given to you here today, that people are not coming because they are afraid of you taxing these stocks and bonds; they're afraid you're going to put them out of business; they are afraid that if you...don't put it in the constitution...

I just cannot conceive. We refuse to put widows on homestead exemption to the tune that we did veterans and old folks. But we want to put stocks and bonds; let's exempt stocks and bonds. They've never been exempted before. The scare tactics that the people use on us, I think, will one day come back to haunt us--will one day come back to say maybe we should have left that out of the constitution. I'm not taxing stocks and bonds. I'm just taking them out of the exemption list. This is an exemption list you are adopting here, taking them off the exemption list. That's all we're doing.

[Record vote ordered. Amendment rejected: 29-79. Motion to reconsider tabled.]

Motion

Mr. Segura Mr. Chairman, I rise for a motion. I'd like to make a motion to suspend the rules in order to make a resolution to limit debate on the balance of this section to two speakers on each side.

It's per amendment, yes, sir.

Point of Information

Mr. Fontenot How many amendments are left up there that we are still considering?

Mr. Henry About fifteen or sixteen amendments, sir.

Point of Information

Mr. Stagg Does it require sixty-seven votes for passage?

Mr. Henry Or two...it requires sixty-seven, or two-thirds of those present and voting, whichever is lesser.

Why do you rise, Mr. Jenkins?

Point of Information

Mr. Jenkins How would it be decided under this motion who would speak for and against a given

proposition?

Mr. Henry I think we'll...we'll just have to see how it works out, Mr. Jenkins. If the motion carries, we'll try to do it as equitably as possible. That's all I can tell you.

The gentleman has moved for the suspension of the rules for the purpose of limiting debate to two each for the proponents and the opponents of the amendments remaining in this section.

Why do you rise, Mr. Anzalone?

Point of Information

Mr. Anzalone Mr. Chairman, will we have to pick the two proponents and the two opponents by the same vote?

Mr. Henry Mr. Anzalone, I don't know what the mechanics will be. We'll just have to see. It would depend...

Mr. Anzalone Well, wouldn't it be logical to know what this is going to be before we voted on something like this?

Mr. Henry Well, Mr. Anzalone, I think you, of all people, should know we don't always proceed with logic in this convention.

[Motion to suspend the rules to allow only two speakers for each side per amendment adopted: 74-35.]

Amendment

Mr. Poynter Next amendment sent up by Delegates Munson, Womack, Hardee, Mire, Elkins, and others, including Thompson and Lowe which were added on.

Amendment No. 1. On page 4, line 7, after the word "producer" and before the word...before the comma, insert the following:

"and the unrefined products of the first processings of agricultural products while owned by the producer or processor."

Explanation

Mr. Munson Mr. Chairman and delegates, if you will look on page 6, line 6, Subsection (G), you will see the reason for this amendment. It's a very short section. It will read "All raw materials, goods, commodities, and articles imported into this state from outside of the continental United States." These are exempt.

What this amendment does is to treat our own people here in Louisiana, our own farmers and processors, in the same manner in which we are treating imported products. Now we are talking about all agricultural products, whether it's sugar, rice, soy beans, sweet potatoes, whatnot. I would like to use, for an example, raw sugar, but I want to emphasize again we are talking about all agricultural products. I am primarily, myself, a sugarcane farmer. I ship my sugar, to Meeker Sugar Refinery, which is about three or four miles from my house. It produces raw sugar, brown sugar, not refined; we're not talking about refined products at all. We are talking about the first processing of a product. I ship my sugarcane to Meeker Sugar Refinery, and they make--that's the first processing, which is raw sugar. Now, my mill, like all other mills--I say my mill, this is a co-op mill owned by the farmers--like all other mills, sugar mills in the state, have a marketing quota that's given to them by the federal government. They can't sell all of this raw sugar at one time. It's against the law. In addition to that, in order to provide for orderly marketing of this product throughout the year, rather than dumping it on the market all at one time, they do store it...they do store it and sell it all during the twelve months of the year. Now, in order to be absolutely sure that I wasn't upsetting the applecart in any way, last Tuesday, I believe it was of last week, I went over to the Capitol Annex

and I met with Mr. Jouandot, who is Executive Secretary for the Louisiana Tax Commission, and Gordon Johnson who used to be, and is now a member of the Tax Commission, I gave them this amendment and asked them to please study it and let me know if they had any objection to it and what the effects of it would be.

Mr. Jouandot came back over to this convention hall a few days ago and called me back here and said that I could quote the Tax Commission as saying they have no objection to this amendment whatsoever, for the simple reason that even though these products that I'm referring to that are produced by Louisiana farmers, and processed by Louisiana processors in the first stage, even though we are not exempt under the 1921 Constitution, the tax has never been imposed. The tax assessors have never imposed this tax. What I'm doing here is simply to spell out in the constitution that we have the same privileges as imported raw agricultural products--simply to spell it out. That's all. I don't know of any other comment that I could add to that. I have talked to several delegates of this convention, certainly not all of you, but several of you I've explained it to personally, that see no objection to it. Certainly Mr. Mire, as an assessor, wouldn't have put his name on it if, as an assessor, he had had some objection to it.

I'm willing to answer, or try to answer, any questions that anyone might have.

Questions

Mr. McDaniel Mr. Munson, don't we agree that this is almost in the category of a technical amendment just to clear up that the agricultural products held by producers is now in there?

Mr. Munson Mr. McDaniel, it is a new exemption in our present constitution. But technically, you are right. I mean realistically you are right. Technically, it is a new exemption, but realistically, even though it's in the 1921 Constitution, the tax has never been imposed, so we're not talking about any loss of revenue.

Mr. McDaniel While you use the example of sugar, in my case I grow cotton. Along with some other producers, we own a gin where we take this cotton and we just separate the seeds from the lint; we own the gin, we've just got a bale on one hand, and the seed on another. Don't you think this same thing just clears up that situation? It's just divided, two products. It's not a finished product at all.

Mr. Munson That is the first processing, and that would be covered under this amendment.

I might also add, I also raise soy beans, Mr. McDaniel, and I have already rented a bin. Right now, as you know, for the last week or ten days, the price of soy beans has been depressed; it's gone down, so I intend to hold on to my soy beans. The only way I can get a better price for them is to store them.

Mr. McDaniel Thank you.

Mr. Abraham I think you and Mr. McDaniel answered my question.

These things are not being taxed now. You gave the example of cotton and soy beans. I'm sure this...none of this is being taxed along with other agricultural products now, are they?

Mr. Munson This is what I was told by the Louisiana Tax Commission, Mr. Abraham, and some of the assessors who are present at this--in this body.

Mr. Perez Mr. Munson, do you consider fish to be an agricultural product?

Mr. Munson Sir?

Mr. Perez Do you consider fish to be an agricul-

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tural product?

Mr. Munson I couldn't answer that...I didn't ask that question of the Tax Commission. I, personally, would not. They assured me that in this amendment, in fact the only one that I asked about, I asked about timber, and they said timber was not. It's in a different category altogether.

Mr. Perez The reason I asked that question is because we in South Louisiana have substantial industries with first processing of fish. I'm wondering, we've done an awful lot to help our agricultural friends out. I do know that our people in South Louisiana pay an inventory tax on the first processing, for instance, of menhaden meal. I'm wondering why it is we have helped our good friends with agriculture many, many times, why is it now we are going to take care of this just with regards to agriculture, but with regard to the first processing of products upon which we live in South Louisiana, there is no similar exemption?

Mr. Munson Mr. Perez, as you know...I don't know if this applies to South Louisiana, but up in my area we do have fish farms. Under this definition that may apply. I don't know if it would apply in your case or not, but what I'm...

Mr. Perez My question is, "These are fish caught out of the water?"

Mr. Munson But what I'm trying to do here is take care of the first processing of agricultural products.

Mr. Perez Well, my question is, "Would you be agreeable then, if we're going to do this, let's take care of first processing of all products?"

Mr. Munson I would have no objection. I'm taking care of the agricultural products.

Mrs. Warren The producer here you're speaking of is the farmer that grows the crop.

Mr. Munson That's right. That's correct.

Mrs. Warren This morning Mr. Pearce was on television and he said that the producers were the ones that were losing because they sold their crops--and he mentioned cotton--and they lost on it; and they sold it, I guess, to the processor. They were the ones that made the money, and he felt that something should be done. Now...

Mr. Munson I didn't see the program, but I would gather from what you are saying that Mr. Pearce was talking about those cotton farmers who had contracted their products at a low price several months ago in the early part of this year. I didn't see the program.

Mrs. Warren Well, maybe it was, but he didn't say it, and that's the reason I was concerned.

Mr. Munson Well, quite a number of farmers did sell their cotton...booked it ahead of time for thirty and forty cents a pound, and it's now worth seventy or eighty. I would imagine that that's what he was talking about.

Mrs. Warren Would it be better then to delete the processor and just give the exemption to the farmer?

Mr. Henry The gentleman has exceeded his time.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, you heard Senator Rayburn speak a few days ago about loading the wagon, this is an amendment that really loads the wagon. Just listen to me a moment, take your amendment and look at it. The

essential words in that is a first processing and a processor. That means after the farmer has sold his produce, if it's milk, he sells it to a milk processor that milk processor is exempt. If he sells it to a sugar mill that sugar mill is exempt as a first processor. If he sells it to a canning factory, if it's beans or peas or whatever, that canning factory is exempt as a first processor. If he sells it to a cotton gin--and many cotton gins that I know of they take a portion of the seeds for payment of the ginning of the cotton--that seed would be exempt. Slaughter houses, you sell your cattle to the slaughter house they're exempt on that slaughter after they have slaughtered that cattle as a first processor. That is what you're doing here you're not protecting that poor farmer who's trying to make a living. You're protecting one of those middlemen, the ones who had helped to inflate the prices that we have right now. That's the one that this amendment protects. Now, it's up to you whether or not you want to protect the poor farmer or you want to protect the person who's got the products after he has labored and sold it. I tell you this is a bad amendment and I ask you to defeat that amendment.

Questions

Mr. Chehardy Senator De Blieux, isn't it true that this amendment doesn't ask for any more than we give to imports under Section G which you voted for and which permits imports to come into this country--and as long as it's held in the same condition and the same container it receives no tax. All you're doing here is permitting your farmer to compete in effect with the foreign imports.

Mr. De Blieux Mr. Chehardy, this doesn't protect the farmer, it protects the person who gets the product after the farmer has gotten rid of it.

Mr. Lanier Senator De Blieux, did you know that in my area some of the sugarhouses refine Honduras sugar and that unless this is passed, we could be in a very untenable position in the sugar industry where our local people could be taxed and on the foreign sugar it couldn't be taxed?

Mr. De Blieux Well, let's take care of that when we get to it, Mr. Lanier, but let's don't give this boondoggle away.

Further Discussion

Mr. Thompson Mr. Chairman, fellow delegates, I rise in support of this amendment. We're actually going to give our Louisiana people--farmers and processors the same protection that we're giving outsiders that don't have to pay any taxes in the State of Louisiana. I can't understand Senator De Blieux's opposition to this thing. It's amazing to me that he could vote like he did yesterday and come back up here and oppose this amendment today against the people that are paying the taxes in the State of Louisiana. It's incredible how one day he can be one way, and the next day another way. I'll tell you, this will help our farmers and our processors, he wants to get it on down to the milk and everywhere, but he's trying to carry it too far. I rise in support of this and ask each and everyone of you to vote for it. Thank you.

Questions

Mr. Bergeron Mr. Thompson, did I understand Mr. Munson to say that this was a new exemption in the constitution?

Mr. Thompson It's...he said it was a new exemption, but we have not been taxing it in the past. In other words, it's just guaranteeing us to do what we have in the past. In other words, no money is going to be lost by the state as he explained to you that the Revenue Department does not object to it.

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Mr. Bergeron But, in the past it didn't have have constitutional status, am I correct?

Mr. Thompson Well, it hasn't been spelled out if that's what you're asking, yes.

Mr. Bergeron Thank you.

Mr. Fontenot Mr. Thompson, isn't it true that if they would tax...if the assessors would put this on the tax rolls, this processor or first processing unit, wouldn't he shift this increase in cost onto the consumer increasing the price of these raw products, isn't that correct?

Mr. Thompson Yes, sir. Very correct you are.

Mrs. Warren Mr. Thompson, do you think that these processors are going to move out of the state like we've been saying these industries are going to move out? You think they are going to move out because they have to pay a little tax?

Mr. Thompson No, they're going to pass it on to the consumer the people that are using the product.

Mrs. Warren I wonder. You see the farmers are the one that's getting the brunt.

Mr. Thompson Right.

[Amendment adopted: 206-6. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Reeves]. On page 4, line 11, immediately after the word and punctuation "cultural," and before the words "or civic" delete the words "mardi-gras carnival".

Explanation

Mr. Reeves Mr. Chairman, fellow delegates, this is not a controversial amendment. It seems to have generally the consensus of opinion from the...even the people of Orleans Parish and the mardi-gras people throughout the State of Louisiana, and the five cities that have mardi-gras in the State of Louisiana. Basically, we are not attempting to cut out the practice of mardi-gras, nor the tax exemption on the floats of mardi-gras because the mardi-gras carnival would be covered. There are cultural, civic, fraternal and nonprofit. We've already covered it. Really, there's no sense in debating this particular amendment that much. I'm not tremendously strong except for the sense that I feel that we'd need to cut out the words "mardi-gras carnival": it would eliminate the three words out of the constitution; it does jumble it up. We've already covered it anyway, and it shouldn't be controversial at any respect.

Questions

Mr. Anzalone Mr. Reeves, we have included in this constitution two sections just previously, that of stocks and bonds which have never been taxed, and now, sugarcane which has never been taxed. Don't you think that the elimination of these three words is just a little bit useless at this time, that we ought to include everybody?

Mr. Reeves Well, I don't. I wasn't for putting all of this stuff back in like...I really...I think you and I were on the same sides...

Mr. Anzalone Under your classification, would mardi-gras be cultural or civic?

Mr. Reeves Well, it is cultural, civic. It is also run by nonprofit corporations or organizations and it's also fraternal. So, you cover it anyway you look at it--under four different categories.

Mr. Casey Mr. Reeves, maybe you had already said this. Is that wording that you're deleting at this time, in today's constitution? Or do you know?

Mr. Reeves To the best of my knowledge...I'm not certain, but at the best of my knowledge it is. Not carnival, carnival is not in there to the best of my knowledge, is it? Mardi-gras is.

Mr. Casey The words mardi-gras are now included in the constitution. But, it's still your opinion that under the wording of "cultural and civic organizations" that it would be covered by that. Is it your opinion that it would also be covered by lodges and clubs organized for fraternal purposes?

Mr. Reeves Right. In other words, we've covered it in four categories, you have fraternal lodges. We've covered it also in the nonprofit organizations. We've covered it with the civic and cultural, it's really...it's not that controversial, Tom.

Mr. Casey So, there's no doubt in your mind that if this is adopted, those organizations would be tax-exempt?

Mr. Reeves Absolutely not. I've talked to some of the assessors and they agree with me.

Mr. Chatelain Mr. Reeves, that's about the question I had to ask, also. I come from Lafayette which has the second largest mardi-gras carnival, but your amendment does not preclude us from having that exemption?

Mr. Reeves Absolutely not.

Mr. Chatelain Thank you, sir.

Mr. Duval Terry, I agree with you that mardi-gras carnivals are covered. But, I notice in the rest of the proposal that only boats using gasoline are exempt, and sailboats aren't exempt. So, if I go for you on this, you think we can include sailboats in here just to make sure?

Mr. Reeves I refuse to answer on that one.

Further Discussion

Mr. Schmitt I think that this amendment points to the utter absurdity that everything that we've seen go on in here in the last few days. These different types of exemptions other than the home-stead exemption should not be in a constitution. There are too many questions that still are not answered--would it if full implications of all these different specific exemptions. Is mardi-gras carnival the same thing as a fraternal type organization? Or boats as we brought out by Mr. Duval--sailboats included in here or other types of tangible property included in the exempt category? Should we be required to list in this constitution every different conceivable type of property which is to be exempted from ad valorem property taxes in the State of Louisiana, I think not. I believe that what we should do, is perhaps, to put a listing inside of the constitution if that is what your desire is, but at the same time allow the possibility of flexibility. We have terrific problems in here, in that there are so many different categories in our particular committee, did not have the opportunity to individually analyze every single category which is present inside of here. In case you haven't read this particular section, you'll see one section which states boats using gasoline as motor fuel. What about boats using diesel fuel as motor fuel? What about sailboats? What about other different types of property? I think when you get down to categorizing things of such small and intricate matters that you're leading just to more and more problems, because any time any other type of specific category

must be excluded in the future, will require a constitutional amendment. I therefore, feel that we should look to the possibility of having some type of easy method of change rather than the constitutional amendment.

Further Discussion

Mr. Conroy The reason this language is in here is because it's in the present constitution. There is an exemption for carnival organizations now, and there was serious concern despite what Mr. Reeves said. There was serious concern on the part of some of the carnival organizations that the deletion from the present constitution into this constitution would cause some legal problems to be raised as to whether the property of these organizations used for their parades would become subject to tax. That's the reason why the language is ultimately in there. I urge that you reject this amendment so that there will not be any confusion caused by what we've done.

[Previous Question ordered. Amendment rejected: 51-54. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Perez]. On page 4, line line 7, in Floor Amendment No. 1 proposed by Delegate Munson, et al and adopted by the convention on today, on line 2, of the amendment after the word "of" and before the word "products" delete the word "agricultural" and insert in lieu thereof the word "all".

Explanation

Mr. Perez I'll begin by saying, that a moment ago when the Munson amendment was adopted, it was restricted to agricultural products while owned by the producer or processor. I called to the attention to Mr. Munson the fact that we have in south Louisiana a large number of fish processing plants, and those people are presently paying an inventory tax...ad valorem tax. However, I do believe, that this convention would want to treat all of our people alike, and therefore, instead of limiting this strictly to agricultural products, I deleted the word "agricultural" and inserted in lieu thereof the word "all" so that with regard to "all" first processing it would be exempt from taxation.

Questions

Mr. Winchester What would this do to a quick-freeze plant that receives shrimp?

Mr. Perez They would be exempt.

Mr. Winchester The product....

Mr. Perez Their inventory would be exempt, yes. Just as would a cotton gin or all these other areas with regard to agricultural products.

Mr. Arnette Mr. Perez, what about the situation of a say manufacturing company and they have the first process on some product. Would they also be exempt?

Mr. Perez As long as it's still owned by the producer or processor, yes, they'd be exempt.

Mr. Arnette So, in other words, this would exempt all industry in the state that has some process--the first process on a product?

Mr. Perez Well, all I was trying to call the attention is the fact that it seems to me that we ought to treat everyone alike, and that we do have thousands and thousands of people engaged in the fishing industry for instance, in south Louisiana. I believe that those people are entitled to the exemption just as much as our good friends in the

agricultural business are entitled to it because you take for instance, with regard to the fishing business and the Menhaden Industry generally speaking, they take menhaden meal, and they add grains to it and end up making chicken feed. Yet, one would be exempt; one element of chicken feed is not exempt, and one is exempt. I just want to see to it we treat everybody alike.

Mr. Arnette Would this cover also oil refineries that are in the first process of a product?

Mr. Perez I would imagine it would. As far as the inventory tax is concerned.

Mrs. Warren Mr. Perez, since we've been getting all these raises in the cost of living, it has been said that it's been the cost to sustain the prices of these...the cost of growing this stuff. Now, if this passes and everybody gets all exemptions then our products are going to come to the consumer much cheaper?

Mr. Perez Well, yes, you'd have a lower tax on it so I assume that the products would come to the people at a lower price.

Mrs. Warren I hope we'll enforce it because it looks like the farmer ain't getting nothing, but we're sure going up.

Mr. Munson Mr. Perez, a moment ago when I was speaking I mentioned that I was trying to take care of the agricultural products and you asked me about the fishermen, which was the only thing you mentioned. I said, I would personally have no objection to that, but now when you say "all" that throws a different picture on it completely, does it not? In answer to that question....

Mr. Perez No. I don't understand, the difference between for instance, oil produced in south Louisiana and its first processing, or fish produced in south Louisiana and its first processing, and agricultural products produced in another area in the state and its first processing. I just don't understand the difference between the two.

Mr. Munson There's quite a difference, Mr. Perez. Are these people that you're referring to such as oil refineries, are they presently paying them tax...ad valorem tax?

Mr. Perez Well, the law applies the same with respect to them. Now, whether the assessment practices have been different that's something else as I pointed out...let me finish answering the question, please...as I pointed out to you with respect to the fishing industry in our parish the people do pay an inventory tax. Apparently, up your way the assessor up there has not been assessing it. All I'm saying is that I think we ought to treat everyone alike.

Mr. Munson No. But, the difference is that it was my amendment as it was originally since these first processing of agricultural products were not being taxed would not cost the state anything and this would, is that not correct?

Mr. Perez Ah, but Mr. Munson, first it's not costing the state anything at all; it's costing local government. We've got to remember that we're talking about a local government tax. But, with respect to the fact that if in one parish an assessor was, or was not, following the law that does not make it right that there should be an exemption for one and not for another.

Mr. Munson But the fact still remains there is a difference. Would you have any idea whatsoever how much your amendment would cost the state?

Mr. Perez Not...again I'd call your attention to the fact that this is not a state problem this is a local ad valorem tax problem. But, I can tell

you, I do know...

Further Discussion

Mr. Winchester Fellow delegates, I'm opposed to this amendment. I'm concerned as to what it would do to Pelican Mine Corporation in St. Mary Parish which handles raw shells and processes them into lime. What did we do to their inventory? St. Mary is the carbon capital of the world. I'm concerned about what the processing of the oil and gas would do to the inven...under this amendment would do to the inventories of these plants in St. Mary Parish which amount to quite a figure. I therefore, urge that this amendment be defeated for these reasons.

Questions

Mr. Anzalone Mr. Winchester, you know, just recently we had the old property tax relief fund that was declared unconstitutional by the courts of this state because it did not grant equal protection of the law to all of the citizens. Do you feel that there may be somewhat of a problem in the exclusion of a first processor of sugarcane, but there would not be a problem...there would be no problem in the exclusion of a man who processes fish? You don't think that they should all be treated equally?

Mr. Winchester Well, I'm not a lawyer and I don't know what the implications would be. But, I do know what it would do to St. Mary Parish and I do not think that it is the intent or was the intent when we started on this for agricultural products. We've always favored the farmer and have tried to favor the farmer. The Lime Corporation I'm talking about has a ten year exemption. The carbon black plants that I'm talking about have ten year exemptions; not one, but two, but three, but four, but five and but six. I do not think to exempt their inventory which sometimes the assessments go up in a million or so dollars would be the thing. As to the legality that is up to you lawyers.

Mr. Anzalone Yes, sir, I know and that's what the assessors of this state found out in the property tax relief fund, wouldn't you agree?

Mr. Winchester We haven't...that hasn't been all settled yet, sir.

Mr. Mire Dan, isn't it your opinion that this would also exempt such inventories as meat processing plant inventories that are presently being assessed?

Mr. Winchester Yes.

Mr. Lanier Mr. Winchester, isn't it true that fishermen and oystermen can be members of the farm bureau?

Mr. Winchester Yes, sir.

Mr. Lanier Why in the world should we treat our fishermen and oystermen differently than the farmers?

Mr. Winchester I'm not talking about fishermen and oystermen, I'm talking about industry.

Mr. Munson Mr. Winchester, in regards to Joe Anzalone's question just a moment ago about the constitutionality, isn't it a fact that under the present 1921 Constitution that I read a moment ago, all raw materials imported into this state and stored are exempt. Now, my question is, that hasn't raised a constitutional question has it?

Mr. Winchester Yes, sir.

Mr. Munson You say it has...no, it has not.

Mr. Winchester No. It has not, I'm sorry. Thank you.

[Previous Question ordered.]

Closing

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I'll make this short and sweet. I have worked with and voted for the agricultural interests of this state on every vote that they've had to come up. Now, all I'm saying to you is that if we're going to put agricultural products in a different class of any other products, while owned by the producer and processor, well, I just think we're creating an unfair situation. I believe that we should treat everybody in the state alike. I ask your favorable support of the amendment.

[Record vote ordered. Amendment rejected: 53-56. Motion to reconsider tabled: 55-54.]

Amendment

Mr. Poynter Amendment sent up by Delegate Bollinger as follows:

Amendment No. 1. On page 4, line 17, after the word and punctuation "granted;" delete the remainder of the line and at the beginning of line 18, delete the word and punctuation "fuel;".

Explanation

Mr. Bollinger Mr. Chairman and fellow delegates. I imagine if most of the delegates know where I live--and the people that's around and live in my district--they might think it ridiculous that I offer this amendment because I imagine ninety percent of the people in my district own a boat of some sort or other. But, my purpose for offering this amendment is to show how ridiculous the verbiage is. This was put in the 1921 Constitution when they didn't have diesel boats so they exempted all motor boats. But, you're going to say well, sailboats aren't exempt because sailboats aren't spelled out, and diesel boats aren't exempt because diesel boats aren't spelled out. Now, let's look at it. Diesel boats are assessed now. They're on the assessment rolls. But, what is more inequitable than the assessment of a diesel boat which uses no benefits that are gained by property taxes. They use no sewerage; they use no electricity; they use no roads; they use no lighting; they use no highways. They use no drainage; they use none of the benefits...none that are derived from property taxes. Yet, we're going to exempt gasoline boats which use gasoline as motor fuel. We're going to exempt boats...diesel boats and gasoline boats which gather seafood, I think this is good. But, we're not going to exempt vessels which move the seafood, which is just as vital. Now, I think we have to look at what we're doing, are we legislating or are we just taking half of the segment of the population or a small portion and exempting these people? What is equitable? My friend, Mr. Anzalone, asked...or stated that the Supreme Court had ruled...or a court of Louisiana had ruled that the...where we...our present property taxes...practices were unconstitutional. Yet, we're going further and further in extending these inequities in our constitution. What is more ridiculous? Mr. Chairman, I move the adoption of the amendment. I'll yield to any questions.

Questions

Mr. Lanier Mr. Bollinger, you indicated that you thought it was very inequitable that gasoline boats were treated differently than sailboats and diesel boats. Don't you think it's just as inequitable that the shrimpers and fishermen are not treated the same as the farmers on this processing --first processing?

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Mr. Bollinger Most definitely, Mr. Lanier.

Mr. Womack Mr. Bollinger, on line 18, right after your amendment, where it says "commercial vessels used for gathering seafood for human consumption," wouldn't that include your diesel boats?

Mr. Bollinger It would just include the fishing diesel boats. It would not include any other diesel boats. Whereas, the word "gasoline"... "boats using gasoline as a motor fuel" would include any type of vessel which would use gasoline. Mr. Womack, just to expand on that, just to show you how inequitable it is, you can take the identical boat and change the engine from diesel to gasoline and have it exempt, but if you have the diesel engine in it, it's not exempt. What is more ridiculous?

Mr. De Blieux Mr. Bollinger, you notice that some of these outboard motorboats, they can get pretty expensive and valuable sometimes, can't they?

Mr. Bollinger They sure can, Senator.

Mr. De Blieux Now, those are the kinds of boats that they use to drag behind the cars on the highway to go on the little pleasure trips; isn't that right?

Mr. Bollinger Yes, sir.

Mr. De Blieux Yet, those are exempt because they use gasoline; is that right?

Mr. Bollinger According to this, yes, sir.

Mr. Schmitt Since we've been so kind to the agricultural section of our society and allowed use value, let's allow ten percent use value for these tugboats and pushboats, and let's see what happens then and see how much these people end up paying.

Mr. Henry Mr. Schmitt, if you want to speak on it, we'll recognize you, but...

Mr. Planchard Under your amendment would it not be true that we'd be exempting pleasure yachts that have diesel motors?

Mr. Bollinger Mr. Planchard, I could have a 95 foot yacht worth possibly a quarter of a million dollars, and by putting gasoline engines in it, it would be exempt. Whereas, you could have a forty thousand dollar yacht with diesel engines and have to pay taxes on it.

Mr. Planchard I ask you the question, again: if they had a pleasure boat with diesel engines, which most of the big yachts have, would they be exempt?

Mr. Bollinger No, they would not, not with diesel engines.

Further Discussion

Mr. Tapper Mr. Chairman, fellow delegates, I rise in support of this amendment. We've been plagued with this problem for many, many years, and it's gotten to the point now here today where I think we all realize the ridiculousness of putting all of the legislation that we have in this constitution. Maybe we would have done the right thing by voting for the Newton amendment. We certainly don't want to hurt anybody and take anything away from anyone in the state that they now have. However, we're writing a constitution. Mr. Bollinger is exactly correct when he says that you can change the engine in a boat from diesel to gasoline, and it's exempt. This to me, and I know to you, is ridiculous. It may also be ridiculous to put it in this constitution, but if we're going to put all of these other things in this constitution, all of these other exemptions that don't belong here, then let's also give the fisherman a little relief

from that ad valorem tax, when his boat has nothing at all to do on the road. All he does is go up and down that bayou, out in the lake, out in offshore, and he works as hard--maybe harder--than a lot of the farmers do. We're giving them an exemption; I voted for it. I also voted for the Perez amendment, although I think that we should not have any of them in this constitution. Please, let us, if we're going to help all these other people, let's help the fishermen.

Thank you.

Further Discussion

Mr. Avant Ladies and gentlemen of the convention, I'll be very brief. I rise in opposition to this amendment for the simple reason that if you pass this amendment, then every fellow that's got a little old fourteen foot bateau and a ten horsepower motor--that he uses to go fishing or go duck hunting--is going to have to have his boat assessed, and he's going to have to pay taxes on it. I don't think that the hunters and fishermen and the people in this state who are interested in those things will go along with that. I just don't believe that they're going to be able to accept this constitution with a very good taste in their mouth if you tell a fellow that his little fishing boat or his little duck hunting boat that happens to have an outboard motor on it that burns gasoline is going to be assessed, and he's going to have to pay an ad valorem property tax on it. But, that's exactly what you'll do if you adopt this amendment. So, I ask you to vote this amendment down.

Questions

Mr. Weiss We've been talking about... Delegate Avant, we've been talking about somebody paying taxes. Now, we've allowed... people have a thirty or fifty thousand dollar home tax free. What's wrong with... taxing people that have motorboats that got out for pleasure? We tax automobiles; we tax other valued property. What's wrong with taxing boats?

Mr. Avant We don't have an ad valorem property tax on automobiles. I think if you'll look, you'll see that that's something that's specifically excluded in this proposal, except for municipalities that may levy one. But, you've got to remember that the people who burn gasoline in those little outboard motors are paying I don't know how much gasoline tax, which is supposed to be a road tax, and they don't run that boat on the road.

Mr. Weiss They run enough boats up and down our river that we could get rid of some of them, I think. If they can't pay tax on it, they shouldn't have it, I think. Don't you?

Mr. Avant Well, I'll tell you. I know a lot of people who are relatively poor, who live down on the bayou, who have little aluminum bateaux with a motor that the whole thing may be worth--I don't know--a hundred and twenty-five dollars, and I just don't think, if you tell those people that they've got to pay ad valorem property tax on that kind of a boat, they they're going to go for it. Now, if you want to get with this thing and draw some kind of proposal where you're going to tax the fellow that's got a three or four hundred horsepower cabin cruiser that burns gasoline, that's one thing. But, when you start talking about taxing every little old boat in the State of Louisiana that happens to have a kicker on the back of it, because it burns gasoline, I just don't think that's a very wise thing to do.

Mr. Kelly Jack, don't you feel that this just is going a little too far, and basically unfair? We've let the big guy go with his stocks and bonds, and now we're going to come in here and tax some guy that's got a small fishing boat?

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Mr. Avant Well, I tell you, if you tell some of these fishermen that operate in the Atchafalaya Basin and up on the Red River, that operate with outboard motors, that they got to pay a tax on that boat and motor, but that the fellow that's got a hundred and fifty or two hundred thousand dollars in American Telephone and Telegraph Company stock don't pay no tax on that stock, I just don't think that fellow is ever going to be able to understand that, Mr. Kelly.

[Previous Question ordered. Record vote ordered. Amendment rejected: 25-82. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Womack]. On page 4, line 7, delete the last line of Floor Amendment No. 1, proposed by Messrs. Munson et al and adopted by the convention today, and insert in lieu thereof the following: "or first processor, provided that such processor does not prepare the product for final sale to the consumer".

Now, that will make that Munson amendment read as follows: "and the unrefined products of the first processings of agricultural products while owned by the producer or first processor, provided that such processor does not prepare the product for final sale to the consumer".

Explanation

Mr. Womack Mr. Chairman and members of the convention, we had a number of delegates after the Munson et al amendment was adopted...it was concerned about such things as Celotex which comes from cane bagasse, slaughterhouses, potatoes, or vegetable canning plants, dairy products, etc. We got together to try to determine how to outline this to protect the raw product and not give any leeway to the inventories on the final stage. This was the one thing that we came up with, and that is "provided that such processor does not prepare the product for final sale to the consumer." That would leave these such inventories ready to go on the tax rolls, which I think was...I know it was the intent of those of us that sponsored the Munson amendment. I think it is the feeling of most of those that objected to it. So, I urge the adoption of this amendment.

Questions

Mr. Perez Would I understand the first processor, for instance, of soybeans or being those grain elevators? Is that...be the processor?

Mr. Womack The soybean, primarily, is not a processing deal at the elevator, Mr. Perez. The only thing they do is receive, store, they clean, which is not a processing procedure. They do remove foreign matter. The processing goes to the oil mill where the crushing and the separation of the oil, I think, would be your big item there.

Mr. Perez If I tell you that they not only do what you've said, but that they dry the grain, they mix the grain, and they are considered actually to be manufacturers in a certain sense; you still say that's not processing?

Mr. Womack I don't know what the legal term would be, Mr. Perez.

Mr. Perez My question is why do you want to exempt these multi-million dollar grain elevators from paying an inventory tax?

Mr. Womack That I don't know. I do think this covers what we had had raised to us as the objection, which is: in the case of beef or pork, it would be the slaughterhouses, the chickens for the slaughterhouses; in the case of cane bagasse it would be the final product, which is Celotex, as

one of the by-products; in the case of your canning facilities--and that would include your fish and the process of your meal and those kind of things that would come from it. It would put our category in the same category that you indicated to me a few minutes ago that you all had and which you favored, insofar as your menhaden product is concerned.

Mr. Rayburn Mr. Womack, I'm a little confused as to what the first processor might be in this amendment. You state here "provided such processor does not prepare the product for final sale to the consumer." Am I correct in thinking that if you run a slaughterhouse or a chickenhouse that if you kill the animal and get it prepared for the market, if you don't wrap it, it's not a final product?

Mr. Womack I would say that if he slaughters the animal, which a number of them do, and moves it right on out, and it is not cut up--not prepared or anything else--then he would not be the final processor.

Mr. Rayburn What about a person who out in the rural section runs a little processing plant? He custom kills; he kills your animal, and he wraps it for you, and then you come pick it up and take it and put it in your deep-freeze. What category would that place him in, Mr. Womack?

Mr. Womack Where he does custom work, Senator, he's doing that on a commission basis, and he doesn't own the product.

Mr. Rayburn I'm talking about where I carry a calf to be slaughtered...

Mr. Womack It's your calf. I mean it doesn't belong to him at all. He's doing a custom service, just like a man mechanic on your car.

Mr. Rayburn How would you enforce that, Mr. Womack, as to whether I owned the calf or he owned it?

Mr. Womack Well, Senator, I guess if you run far enough, you can find a bug in anything. But, then you own the calf, and he is not processing it as a product of his own. He doesn't have records to show that he has bought it. He does have records to show that he processed it, and he does have records to show that he processed it for five cents a pound and has billed you, and you have paid him five cents a pound for the processing of the product, and that you own the product. I think that would be sufficient record. I do believe, Mr. Chairman and members of this convention, that this does eliminate the objections. Even though the Munson amendment was adopted, we felt that there were some objections that were very valid, and that was in the case of Celotex and in the case of the large slaughterhouses where they go ahead and put the final touch on it and prepare it to go out. So, I urge the adoption.

Mr. Winchester Mr. Womack, what would this do to a lime corporation that processed raw shells that they take out of the gulf waters? Then, they make lime that sometimes is sold direct to the farmer and sometimes sold for retail. How would that affect that inventory?

Mr. Womack If this processing is the final processing that prepares it for sale to the consumer, then he would be taxed. He would be subject to tax.

Further Discussion

Mr. Mire Mr. Chairman and fellow delegates, I'm probably responsible for this Womack amendment to a point. We were trying to clarify slaughterhouses and sawmills and these sorts of businesses which do, in fact, prepare from a raw product a saleable

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product and is, in fact, assessed today. We were trying not to lose it. This is the reason that we had, in fact, asked for this clarification. Thinking that it does, I'm supporting the amendment on that basis, and would appreciate that you would. If we can't clarify it any other way, or any better way, well, I suggest that somebody come up with an amendment on it.

[Previous Question ordered. Amendment adopted; 83-24. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Nunez]. On page 4, line 7, in Floor Amendment No. 1, proposed by Delegate Munson and adopted by the convention on today, on line 2 of the text after the word "products" and before the word "while" insert the words "and seafood".

Motion

Mr. Smith I think this matter is getting to a point of ridiculousness, and I'd like to move the previous question on the entire subject matter--at least try it again and see if it will pass, for the entire section.

Point of Information

Mr. Lanier Mr. Chairman, if we adopt that motion right now, that means we can't get in this stuff about my seafood people. Is that correct?

Mr. Henry Mr. Lanier, now, we're not going to debate the motion.

Now, here's what this means. Mr. Nunez's amendment has been offered, and the vote can occur on it. He can speak on it. Then, we'll dispose of that amendment, but the other amendments that are up here will not be considered. Then we would vote on the adoption, or not, of the section.

Point of Information

Mr. Kelly If the previous question is moved on the entire section, will we be allowed to speak on the section?

Mr. Henry No, sir.

The gentleman has moved the previous question on the entire subject matter. There are amendments pending.

[Motion for the Previous Question on the entire subject matter rejected: 28-77.]

Explanation

Mr. Nunez Mr. Chairman and ladies and gentlemen of the convention, this places the seafood products in the same...or seafood in the same category as you just did with agriculture. There are many instances where seafood brought into the first processor is canned, etc., and still owned or still in the hands of the producer, or the catcher, whatever you want to call it. I think it would be only fair, if you were to treat agriculture products that way, that we treat seafood products that way. The seafood industry in the southern... the coastal area of this state is a great industry. It's a thirty to forty million dollar industry for shrimp and oysters alone. That's beside the other elements which would be crab, oysters, menhaden, whatever you want to call it. It's a good industry for that area, and we certainly should do something to help out those people, if we're going to help out the agriculture interests.

Questions

Mr. Munson Senator, did you know that I'm going to vote for your amendment? I have no objection to it.

Mr. Nunez Thank you.

Mr. Chairman, if there's no question, I move final passage.

Mr. Champagne This is a friendly one, Mr. Nunez. The only thing I was wondering: are any of these things taxed now? Do you know?

Mr. Nunez Well, certainly they are.

Mr. Champagne They are taxed now?

Mr. Nunez Certainly.

Mr. Segura It's a friendly question. I'm curious. Is menhaden a seafood?

Mr. Nunez Well, we've talked about what seafood is--anything that comes out of the sea and they make a meal out of it. Some people eat it; animals eat it; and they make protein out of it; and they make et cetera out of it. I guess you can call it that, if you want to.

Mr. Segura Well, it makes a difference if it falls under this or not. That's why I wanted to know.

Mr. Perez Mr. Nunez, I'm a little bit concerned also about the word "seafood," and I was wondering whether you would be agreeable to withdraw your amendment and add the words "and fish products," as well as seafood?

Mr. Nunez Mr. Chairman, if Mr. Perez has the menhaden industry under there...seafood and...if we can add fish products to it, I certainly would agree to withdraw the amendment and add fish products to it.

[Motion to withdraw the amendment adopted: 84-3. Amendment withdrawn and resubmitted with correction.]

Mr. Poynter The amendment stays the same. The language will become "and seafood and fish products or by-products".

Explanation

Mr. Nunez Mr. Chairman and ladies and gentlemen of the convention, this certainly would extend it to by-products of fish, which would take in the large menhaden industry that we have, which is justifiable also because it deals with the fisheries industries.

Questions

Mr. Munson Sammy, I have to look at all three amendments. You're now saying "and seafood or fish products." Is that right?

Mr. Nunez "Seafood or fish products or by-products."

Mr. Munson But, are you taking into consideration Mr. Womack's...it would still say "provided that such processor does not prepare the product for final sale to the consumer." Isn't that correct?

Mr. Nunez I hadn't changed any of the Womack amendment or your amendment, except to make an addition to it.

Mr. Munson Yes, sir.

Mr. Nunez Besides agricultural products.

Mr. Segura Yes, sir.

Sammy, I hate to slow this thing down again, but did you know by the way you worded it, you might have included shells, which is a by-product. You know a lot of people are in the shell business, and that means that all the shells on their yard can't be assessed. I'm for your amendment.

Mr. Nunez Well, Mr. Segura, if it does include shells, why should they not be included, if we're

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going to include agriculture, seafood, fisheries, by-products and products. They're the same type of business.

Mr. Segura Well, I was just thinking they might go directly from the water to the man who is selling directly to the retail, and you would want to assess that.

Mr. Avant Mr. Nunez, I'm not unmindful of the speaker's remarks that he just made when I ask this question; but do you realize while you're taking care of the menhaden industry, you are also making it mandatory for the assessor to go out and assess catfish in a man's catfish pond, when he raises them? But, he happens to sell a few of them at his farm to the consumer who comes there and buys a few catfish, and they've never been assessed or taxed before. Do you realize that's what you're doing?

Mr. Nunez No, I don't.

Mr. Avant Well, I can tell you that's what your amendment would do. A little catfish farmer, who's got a little market and sells a few catfish to people that come there and buy them, under your amendment now they've got to go out and assess all the catfish in his pond, and his crawfish, if he's raising crawfish.

Mr. Chatelain Mr. Nunez, what about crawfish? Would this be considered part of this...would it be your intention, then, to exempt crawfish and the products of crawfish? There's a big crawfish ...

Mr. Nunez I don't know whether seafood would cover crawfish, Mr. Chatelain. I don't think it would. I don't think the word "seafood" would go as far as to extend to a freshwater crawfish. That would be my interpretation of it.

Mr. Chatelain Well, I got a problem with that.

Mr. A. Landry Mr. Nunez, under the sections that we've already adopted, didn't we adopt a method of use value for land? Therefore, if you have, say, a farm, you raise sugarcane, you value it at that price. If you have...if you're raising crawfish in a swamp that's only worth five dollars an acre, but if you use it for a profitable business, therefore, you would have the use value for crawfish. Wouldn't the same thing apply to the catfish farm?

Mr. Nunez Yes, I would say you're right, Mr. Landry.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I don't know how many listen to me, but I'd just like to make this one caution remark. I made it about the previous Munson amendment; I'm making it about this one. I hope that all of you who voted for that Munson amendment will just be thankful that there was no record vote on it because I think someday it is going to come back to haunt you. We have exempted milk processors; we have exempted sugar mills; we have exempted canning factories, cotton gins, slaughterhouses, and I don't know what all, and now we're going to exempt the fish processors and the by-products from fish. I'm just going to tell you right now that we're just loading it up. This is special interest legislation, and that's the only threat that I hear about this is the people who say, "Don't put all the special interest legislation in the constitution." That's what we seem to be putting in here today. Now, we're never going to get through with this article, or this section, as long as we want to load it up that way. I just call it to your attention and ask you to, please, let's think about what we are doing and vote down some of this special interest legislation. Otherwise, we might run into difficulty with the people whenever we go back home and try to pass it.

I don't want to answer any questions.

Further Discussion

Mr. Womack Mr. Chairman, fellow delegates in general and our distinguished senator in particular --Senator, you came up and refused to answer a question which I think would have clarified this, but in the amendment that was adopted a few minutes ago, it says "provided that such processor does not prepare the product for the final sale to the consumer." So, your statement that you have eliminated milk processors is false. The one previous to that that you mentioned, don't you remember, was false because it's a preparation for final sale to the consumer, so that statement was false. When you don't answer questions these kind of statements tend to leave something that is misleading. So, this amendment here that says "provided", and I think it's a good amendment, "that the final processor does not prepare it"...that he's the one that prepares it for the sale to the consumer...he is not exempt and that product that he has is not exempt. I just wanted to clarify that.

[Previous question ordered. Record vote ordered. Amendment adopted: 74-28. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mrs. Warren], on page 4, line 7, after the word "produce" and before the comma, delete the floor amendment proposed by Mr. Munson and others and adopted by the convention on today including all amendments to said floor amendment which would now include both the Womack amendment and the Nunez amendment, and insert in lieu thereof the following: "and the unrefined products of the first processings of agricultural products and edible seafood while owned by the producer or first producer, provided that such producer does not prepare the product for final sale to the consumer."

Explanation

Mrs. Warren Mr. Chairman and delegates, this is the first time I have been before you since we have been discussing revenue, finance and taxation. There have been a lot of things that I have not been happy about. There are a lot of things that I don't understand, but I'll tell you one thing I do understand, I do understand a sense of fair play. I noticed when Mr. Munson was up and discussing his amendment that I came to the mike and I mentioned to him the conditions that the farmers were in, and I wanted him to delete the processor. This was not done and the amendment was passed. Now, Mr. Perez came along with an amendment that wanted to give the seafood people the same privilege. I agreed with him with the exception that he put "all" in there. In my amendment, it would seem to delete the big business...the big millionaires that people have been talking about...these people who are able to afford taxes. They would still be able to pay taxes and the little farmer would get off. It seems that the trend of our convention right now is "I don't need it, but if somebody else gets it, I want it." That might be the very reason that our welfare rolls are overstacked and they are talking about taking some of the people off that don't need to be on there. There are some people that feel that if there's money to be gotten, whether I've got it or not, I want some of it. Senator Rayburn mentioned the fact that the cows that we milk for taxes in our state were going dry. Some of them who have been in the legislature and know all about these things are helping to milk this cow. I'm going to ask you to vote and give the little farmers a break and let these millionaires that can afford to pay it, let them pay it. One thing was said that if we don't exempt the big industries they won't come here, but if we don't now, they want to be treated the same even though they are going to stay here.

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It's always a way to get around what we know we ought to do, so let's vote in favor of the little man, and let's let these big folks pay their taxes. I am very disturbed at what is going to happen to our state and especially to the city of New Orleans and other cities just like it. Thank you.

Questions

Mr. Womack Do you realize that you have put a professional, educational, school-teacher's approach to what we poor farmers, uneducated, have been trying to get out all the time, and I'm for what you've got.

Mrs. Warren Thank you very much; are there any other questions?

Mr. Lennox Mrs. Warren, this is a friendly question. Do you know that there are many areas of our state where small sugarcane farmers get together and pool their resources to produce raw sugar from their cane because no facilities are available for that processing in that immediate area, and without it they would have to market that cane maybe 50, 60, or 100 miles from where it is grown?

Mrs. Warren I didn't know that. It's a lot that I don't know, but I do know what I'd like to get across to you and I hope that I have.

Mr. Perez Mrs. Warren, do you know that I regret to have to ask you this question, but unfortunately if this amendment is adopted do you realize that we would undo what we have already done, because of the fact that you limit this to edible seafood and one of the problems that we have is the fact that we have a menhaden industry which employs hundred of people, and that is not an edible seafood, yet that same material is mixed with corn which is an agricultural product, to produce chicken feed so that what we'd be doing here is saying an agricultural product which goes into chicken feed is exempt but menhaden is not exempt because it is not an edible seafood?

Mrs. Warren Yes, Mr. Perez, but I know what I'm trying to get around to. I'm trying to get around to saving the little people and letting menhaden pay its fair share.

Mr. Chatelain Mrs. Warren, do you know that I'm 100% for your amendment? I think it's well done and I think that if you will agree with me that in the amendment we just passed when we said that the by-products of this great seafood industry was also exempted, do you know that that would also include shell that we put on our highways and our roads in this state. On a recent visit to New Orleans I saw many stacks larger than this building, stacked and stored there that would be exempted if you wouldn't put your amendment in.

Mrs. Warren Yes, sir, I see that all the time, because I live there.

I ask your favorable vote for the poor people of this state.

Mr. Champagne Mrs. Warren, I also want to come up and ask you, do you realize that this would not deprive the state of any real income and it takes care of this situation very well and I want to compliment you on a good amendment?

Mrs. Warren I ask all of you to vote for us please. Thank you.

Mr. Velazquez Mrs. Warren, did you realize that this is the finest amendment of its type that has been brought up today?

Mrs. Warren I didn't know it, but I sure hope that it will pass.

Mr. Lanier Mrs. Warren, would I be correct in

saying that when you use the term "edible seafood" you don't intend to limit this just to things that come from the sea, but it would, in fact, include fish and crayfish and things like that that are in fresh water?

Mrs. Warren That's right. That's right.

I ask your favorable vote and I'm going to ask you for a record vote.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I regret that I must rise in opposition to this amendment, because what it would do would be to completely undo that which we have already done. When I asked the first question with respect to the amendment which was adopted with regard to agricultural products, I asked the question with regard to seafood. Now, let me explain to you the fact that we have menhaden industries all along the coastal area of Louisiana, including our parish. Let me further explain to you that these people have been subjected to two of the worst storms in the history of this country...Hurricanes Betsy and Camille in my particular area...that they are fighting to survive...that they are in a position where if this amendment is adopted they would have to pay on their inventories but at the same time the multimillion dollar grain elevators which we also have in our parish would be exempt and I just can't understand the reasoning of this and so therefore I ask you...let's stay with what we have done. If we adopt this amendment what it would do is to undo that which we were trying to do before and that is to protect all the people in the seafood industry, including those seafoods which are not edible.

Question

Mr. Newton Chalin, did you know that one of the largest employers in my parish is a chicken processing plant and they use a lot of this menhaden meal? If this doesn't pass wouldn't it increase the cost of the feed for these chickens in my parish?

Mr. Perez Well, there's no question about that because the two products that go...primarily, that go into making chicken feed is the menhaden meal and corn or other agricultural products, and the only reason that people get chicken as cheaply as they get it today is because of the fact that the animal protein produced out of menhaden meal has been produced in order to be able to produce the feed to make the chickens grow faster and to lay more eggs.

[Previous Question ordered. Record vote ordered. Amendment adopted: 74-25. Motion to reconsider tabled.]

Amendment

Mr. Poynter Next amendments sent up by Delegates Bollinger and Tapper.

Amendment No. 1, on page 4, line 17, immediately after the word "gasoline" and before the word "as" insert the words "or diesel fuel."

Explanation

Mr. Bollinger Mr. Chairman and fellow delegates, I think the convention has spoken. We discussed in the last amendment I offered the exemption of vessels using gasoline as a motor fuel, but we decided we were going to keep the exemption. All I ask now is not to discriminate. Let's be equal. Let's exempt diesel as well as gasoline, since when the 1921 Constitution exempted gasoline there was no such thing as diesel. I move the adoption.

Further Discussion

Mr. Schmitt The main reason that our committee

left this particular section in was for the purpose of having ad valorem taxed paid by tugboats and certain other types of vessels, and if Mr. Bollinger would prefer that they go on a use basis, I'm sure that the parishes would get 50 times as much money if you make it on 10% of use value rather than on an ad valorem tax type situation, and I feel that this is a fair type of a tax in that there are certain types of services which are provided to these people and I would request that you defeat this amendment.

Questions

Mr. Newton Earl, don't you think it's really discriminatory to tax gasoline...to not tax boats fueled by gasoline and to tax boats that run on diesel fuel.

Mr. Schmitt The reason that it was done was so that the person who has the family boat would not have to pay, just like the homestead exemption, and that the person who has the income producing type property would have to pay. That was the whole idea in leaving this in the constitution.

Mr. Toca Mr. Schmitt, would you agree with me, after we give the state of Louisiana away, we're going to have to figure a way to get it back?

Mr. Schmitt Yes, sir.

Further Discussion

Mr. Winchester Mr. Chairman and fellow delegates, I am opposed to this amendment. In St. Mary Parish we have millions and millions of dollars of diesel tugs on the tax roll. When gasoline boats were first exempt it was on account of the tax that the gasoline was paying that the boats consumed. Right now, there's not but a handful of boats that use gasoline. Oil companies won't hire a tug or a passenger boat that uses gasoline. Other companies won't hire boats that use gasoline as a fuel. They're afraid on account of the fire. So, to exempt diesel fuel watercraft would certainly wreck the economy of St. Mary Parish. Mr. Mire, could I see that book, please?

Questions

Mr. Lennox Mr. Winchester, what you're proposing, that if my towboats are diesel powered that I should be taxed and if I can convert them to gasoline power they would be removed from the rolls; is that not correct?

Mr. Winchester That is the status right now, yes sir. But you wouldn't dare do it; diesel is more economical. It is better, and you wouldn't dare do it, Mr. Lennox.

Mr. Lennox I beg to differ with you. It's no longer more economical because the price of the two is almost identical.

Mr. Winchester Wait a minute...right now in the state there's 41 million dollars of watercraft on the tax rolls; Plaquemines Parish has 12 million dollars of watercraft on the tax roll; St. Mary Parish has 11 million dollars of watercraft on the tax roll. All of this isn't diesel fuel tugs, but a big part of it is. I certainly urge the defeat of this amendment.

Mr. Lanier Mr. Winchester, would you confirm for Mr. Bollinger's edification that this would knock \$1,700,000 off the tax rolls in Lafourche Parish?

Mr. Winchester Lafourche Parish has an assessment of \$1,705,230.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Anzalone], page 4, line 20, immediately after the word "highways" change the period to a semicolon and add the following: "all books, papers, office equipment, and supplies of law offices."

Explanation

Mr. Anzalone Ladies and gentlemen of the convention, we have been blessed today with Mr. Nunez and his fish and fish products, and Mr. Flory and his labor, Mr. Lennox and his industry, Mr. Bollinger and his boats, Mr. Winchester and his lime people, Mr. Munson and his sugarcane, I understand that Mr. Newton is coming with some chickens or something or the other, I don't know what it is. But there hasn't been anyone yet to represent the good, honest people of this state...the lawyers. Of course, we've only got one small problem and I guess that's why I'm really here. If we've got all these exemptions somebody is going to have to be left in this state to pay the ad valorem taxes. We people who are quite interested in agriculture fought for a use value around here about two or three days ago. It looks like they, the small corner grocerymen, few people in this state that are lucky enough to have a house over \$30,000 and some lawyers who don't have any political connections with the assessors, as I'm sure after this week I won't, will be paying all the taxes. Well, the only thing of it is, I believe I'd like to get out of this thing. Last year I paid on about 20 or 30 mills, but it looks like next year when they get this roll up or whatever they're talking about I'm going to be paying on about 800. There's not going to be anybody left to pay any. What you're not seeming to realize is that every time you put in some damn, fool exemption in here you're not giving anybody anything. You're not giving them anything at all. You're simply moving it somewhere else. Where are you moving it to? If we had a 100% exemption on homesteads in this state then you could conceivably say we are always going to protect the homeowner; but we don't have one. We got one up to \$30,000. I built a house ten years ago that cost me \$14,996 and today it's worth \$29,000. What about the guy that build a \$25,000 house five years ago and he's got one today worth \$40,000? What's going to happen to that other \$10,000? I can tell you. You're going to tax the living hell out of him; that's what's going to happen, and you're saying in the name of homestead exemptions that we have given you an extra \$1,000. Oh, praise the Lord! You haven't done a thing. Every time you take a nickel off of this roll under the provisions of this tax provision, you're putting it somewhere else, and where are you putting it? On the homeowner. Don't talk to me about homestead exemptions; that's the most fallacious thing I've ever heard in my life, and with that I urge the damn rejection of this amendment.

Motion

Mr. Lowe Mr. Chairman, I just thought with what we have going on at the present time, that we've really deliberated this section sincerely and honestly, and I believe that we wouldn't cut off anyone. So, therefore I move the previous question on the entire subject matter.

Mr. Henry Mr. Lowe has moved the previous question on the entire subject matter. This would give Mr. Anzalone the right to close on his amendment and there are several sets of amendment pending. Now, what this means is if the motion is adopted, that Mr. Anzalone could close on his amendment. We'd take a vote on his amendment. Then, whoever...I'd assume Mr. Planchard or somebody from Revenue and Taxation would close for the committee on Section 1...Section 3, and then we'd vote on that, so that's the net effect of it.

Why do you rise, Mr. Perez?

[Previous Question ordered. Record vote ordered. Amendment rejected: 17-85. Motion to reconsider tabled.]

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Point of Information

Mr. Perez This is a point of information and parliamentary procedure. I know that there are a lot of us after we get through with all of these exemptions might want to have something to say about the whole section. I just want to be sure that we have the opportunity to do it and as I understand it if this motion is adopted it would cut off all discussion on the entire section.

Mr. Henry It would shutoff debate, that's correct.

Point of Information

Mr. Rayburn Mr. Chairman, if this motion prevails, does that mean that we can't undo some of the things that we've done?

Mr. Henry You're absolutely correct.

Mr. Rayburn Well, I'm going to attempt to undo some of them if I...

Mr. Henry Well, Senator, please don't debate it now.

I think we all understand what we're voting on here.

Point of Information

Mr. Tapper For information; would a motion to table the entire subject matter...a substitute motion, be in order?

Mr. Henry No, it would not be in order at this time, sir.

Mr. Tapper That would solve our problem, sir.

Point of Information

Ms. Zervigon Mr. Chairman, point of information; have we been taking these amendment paragraph by paragraph?

Mr. Henry Yes, ma'am, we have.

Ms. Zervigon Are there amendments pending to later paragraphs that we would not now be able to consider?

Mr. Henry Oh, yes, ma'am. There are several.

Ms. Zervigon Thank you.

[Motion for the Previous Question on the entire subject matter rejected: 22-77. Previous question ordered on the amendment.]

Closing

Mr. Anzalone Ladies and gentlemen, I hate to be demonstrative to the extent that I was a few minutes ago, but I do want to get a point across to you. The point is simply this: you cannot run government without money. By some stretch of the imagination you are not going to sit here, amendment after amendment after amendment, and take somebody off the tax rolls without somebody else having to assume the liability of payment. Oh, I agree; it's good. It's very, very good that I don't have to pay any taxes, and it's very, very good for me to say that I want to pay my fair share, but if he's going to get out of it altogether, so do I. That may be right, but I don't think so. The point is very simply this: when you deal in taxes, you're dealing in dollars; and when you're dealing in dollars, you're dealing in numbers. Nobody here today can tell me what effect what we have done is going to have on the monetary intake of this state or any of its political subdivisions. This I can promise you, though, that whatever is left is going to be left

to the people who don't have these great exemptions that we are including in here now, and who are they? We have completely forgotten the grocery store. We have completely forgotten the homeowner who owns in excess of a \$30,000 house; and to the many people in here who are interested in agriculture, I wish to remind you that your 160 acres and your house are all that is exempt. The remainder of it is not exempt. This is where this millage rollup is going to catch. It's going to bite, and it's going to bite hard. Certainly, there are areas where you should have exemptions. There's no question about that, and nobody argues with that; but when you sit down and you go to your accountant's office on April 14, about midnight, to try to figure out your taxes and you say, "How bad was it," and he says, "Oh, it's not too bad." "Well, how much do I owe?" "Well, not too much." You don't want to know that kind of information; you want to know numbers. We have yet to deal with numbers today. We don't have any idea in the world what we are doing. When you wake up tomorrow morning, and your local government official says, "I don't have enough money." "Why sure you do." "Well, why?" "Well, because we were told that you did." "Yeah, but I don't." Well, what happens? The same old thing, over and over and over again. The school board doesn't have enough money. "Oh, don't worry about it; we'll go to Baton Rouge and get it." Ladies and gentlemen, when we get to taxes and stuff like this; when I walk into my assessor's office and argue about my assessment--which I have done--I don't want to know if he's going to tax me too much, a little bit; I want to know numbers. I want him to tell me: if you assess me so much, how much am I going to have to pay? We have no idea what we are doing here--Absolutely none--but whatever it is, I hope that it's good.

[Amendment rejected: 1-99. Motion to reconsider tabled.]

Point of Information

Mr. Dennyery Are there any amendments to Subsection (E), Mr. Chairman?

Mr. Henry No, sir. We're on Subsection (F), for all practical purposes.

Mr. Dennyery Thank you, sir.

Mr. Henry You're quite welcome, sir.

Amendments

Mr. Poynter Amendment No. 1 *[by Mr. Drew]*. On page 4, line 29, after the word "governor" delete the comma "," and delete the remainder of the line and at the beginning of line 30, delete the partial word "ity".

Amendment No. 2. On page 5, line 2, after the word "governor" delete the comma "," and delete the remainder of the line and at the beginning of line 3, delete the word and punctuation "ity,"

Amendment No. 3. On page 5, at the end of line 10, delete the words "No ex-" and delete lines 11 through 16, both inclusive, in their entirety and at the beginning of line 17, delete the words and punctuation "of exemption."

Explanation

Mr. Orew Mr. Chairman, ladies and gentlemen of the convention, as I appreciate it, these Amendments 1 and 2 refer to the authority of the local governing authority to approve or disapprove of an industrial exemption, which would also include an exemption for any addition that may be added in the future. I understand that this is something new that is not in the present law, and while I'm not vigorously opposed to it, I do not think that it belongs in the constitution. On Amendment 3, I am very much concerned--although I understand this is in the present law--for this reason: this

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Amendment 3, referring to the "exemptions shall not be contracted for in any locality where there is a manufacturing establishment engaged in a similar business without their consent." What we are doing here, we are not merely granting an exemption; we are granting a franchise, ladies and gentlemen, a franchise to where the first business there, by their refusal, could prohibit that parish from having any similar industry in the parish, and I don't think that that is good law or good constitutional law to grant a franchise to a private business, to prohibit any similar business coming into your parish. Like I said, I frankly have some questions in my mind which led me to write the amendments about the local governing authority. I think it could open the door to a lot of questions, particularly if an industry was permitted to come in under an exemption and then later needed to make additions, enlarge their operation, and local governing authorities refused to approve it. I am particularly, though, interested in Amendment No. 3, as I believe it is finally written, because I don't think that we intended to grant franchises to businesses. I'll yield, Mr.

Questions

Mr. Arnette Mr. Drew, do you realize at present the property tax is a local tax?

Mr. Drew Do I realize what, Mr. Arnette?

Mr. Arnette That it's a local tax funding local government?

Mr. Drew Yes, sir.

Mr. Arnette Don't you think the local government ought to have something to say about any exemptions from that tax?

Mr. Drew Mr. Arnette,...

Mr. Arnette Because that's who it's going to bankrupt.

Mr. Drew Well, let me answer your question in this way: we have not given local authority any option as to the numerous, numerous exemptions that we've already put in the constitution. I don't see the distinction.

Mr. Perez Mr. Drew, your answer is what bothers me so very, very much. What we have done here is to continually narrow, narrow, narrow, and greater narrow our tax base for the ability to raise taxes. Then, you have the possibility of--without any local say-so whatsoever--of an industry, hiring hundreds and hundreds of people, being put into a community which may not need that particular industry because they may have rather full employment. But yet, those remaining people who are in that community already are going to have to share the burden of the new industry which would come in, because as a new industry comes in, you have the necessity for raising taxes for schools, for police protection, and for garbage, and for sewerage, and so forth and so on. My question to you is: under what conditions should we have a situation where the local government would have absolutely no say-so, but could be totally bankrupt by a large industry moving into an area.

Mr. Drew Mr. Perez, I can't disagree too strongly with your argument; and as I said, I do not feel too strong about it. It is my opinion that it should be deleted. The amendment that I am particularly interested in is the granting of a franchise to a private industry.

Mr. Chairman, when the time comes for a vote, I'd like to ask for a division of the question.

Point of Order

Mr. O'Neill Mr. Chairman, I believe these amend-

ments are going to take quite a bit of discussion. I now move to suspend the rules so...in order that as many people who want to speak on either side of this amendment can be heard. Is it a proper motion to suspend the rules, since they're already suspended?

Mr. Henry Your motion would have to be, I believe, to reconsider the vote by which the rules were suspended earlier today. We don't have a rule right now.

Motion

Mr. O'Neill Well, Mr. Chairman, I would simply try to move then that we go back under the rules.

Mr. Henry You want it just for this limited purpose?

Mr. O'Neill For this set of amendments.
For this Drew amendment.

[Motion to suspend the temporary rules providing that no more than two speakers speak for each side rejected: 49-31.]

Further Discussion

Mr. Gravel Mr. Chairman and ladies and gentlemen of the convention, I speak in support of the Drew amendment. As a matter of fact, I had prepared a...in part, a similar amendment which would have deleted the words "and the local governing authority" from lines 29 and 3D on page 4, and lines 2 and 3 on page 5. I don't know how many of you are aware of the existing law, but Section (F), beginning at page 4, is a rewrite, as I understand it, of the existing law with the exception of the language sought to be deleted by the Drew amendment, and Amendments No. 1 and No. 2 and No. 3. Ladies and gentlemen, it's entirely unworkable and impractical to permit this language in any plan, any inducement program such as that refined and defined in our present constitution. In the very first place, in most instances, in most instances, when it's necessary to make an agreement in order to induce industry to come from the East or the North or the West to come into the South, particularly into Louisiana, there is no final or definite determination made as to where that industry is going to specifically locate. The practice and procedure has been, at the highest state level for the governor and the Board of Commerce and Industry and other state officials to induce industry to come into this area and to enter into specific agreements with industry, subject to the laws of this state. If we don't delete this language by the time the governing authority in many areas have been...or rather by the time the location of the plant has been decided upon, by the time the governing authorities have decided whether or not they want the plant in the area, by the time the decision has been made as to whether or not any exemption is going to be granted, that industry's going to have signed a contract with Texas, Mississippi, or Georgia. I submit to you that there is absolutely no reason for us to single out potential industry as a target for punitive action by this convention. I think it is punitive if we're going to say in advance to an industry that we want to try to bring into this state, we're going to treat you differently than you're going to be treated in most of the other southern states that are bidding for you to come into their state. I submit to you that this would really destroy in large part a very fine program that has been developed over the years and has worked satisfactorily under the existing provisions of our constitution. I urge that you support the Drew amendment and that we continue to exert every effort that we possibly can exert in order to induce industry to come into this state. Unless this amendment is adopted, unless this proposal is adopted, we will be taking a step backward as far as I can tell. I'll yield to any questions if I have the time.

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Questions

Mr. Anzalone Mr. Gravel, who is going to pay for the fire protection of this industry that Baton Rouge is so greatly going to bestow upon us?

Mr. Gravel Whatever the cost of local government is, it's going to be borne.

Mr. Anzalone Yes, sir. Now, who's going to pay for the schools that this big industry is going to bring into our little area?

Mr. Gravel Local government is going to pay for it.

Mr. Anzalone Who's going to pave the streets in and around this big plant?

Mr. Gravel Local government...

Mr. Anzalone Local government; but we're not going to have any say-so whatsoever, are we?

Mr. Gravel Mr. Anzalone,...

Mr. Anzalone Mr. Gravel, I asked you a question. Do we have a say-so?

Mr. Henry All right. Now, let's proceed orderly, gentlemen.

Mr. Gravel What I'm saying is that it doesn't make a whole lot of sense to try to induce an industry to come in and locate in a state or in a given area and say, "Come in and spend forty million dollars so that we can tax you," when our neighboring states, our competitive states, are giving them the benefit of tax exemption.

Further Discussion

Mr. Schmitt This is a bad amendment. The testimony before our committee indicated that many times in the past the Commerce and Industry Board and the governor have approved contracts with out-of-state industries without ever consulting the police juries or the assessors. The first thing that they know about it is that they are seeking approval to begin construction on different types of industries. I believe that we have seen, in the facts presented before our committee, that a great amount of money has to be spent in services for these different types of industries--as an example, which was brought out before: for fire protection, streets, sewerage, schools, police protection, and so forth. I don't think it's fair to allow an industry to bargain simply with the governor and with this board, which is appointed by the governor, and then to command that this industry would be located in any particular parish in the state. There are very few parishes in our State of Louisiana which are capable of dealing on a strong negotiating position with these out-of-town industries. One which is capable of it, because it has a strong leader, is Plaquemines Parish, and it has shown in the past that it can successfully deal with these people by setting up--rather than a complete exemption--a partial type exemption, and by sitting down and analyzing the problems, and explaining to them the monetary needs of the different parishes involved and what amount of money is necessary to support these services. These industries have sat down, and they have, granted, sat down at the negotiating table with Mr. Perez and worked out reasonable terms for all parties concerned. But, unless we have something specific inside of either the constitution or the super statute, which would require them to go to the local governing authorities, we're never going to have this bargaining power in other parishes which do not have as strong a leader as they do have in that one particular parish. I feel that we must defeat this amendment. This destroys the negotiating ability of the local governing authorities and does not allow those who utilize the services to

pay even part of it. I therefore request that you defeat this amendment.

Questions

Mr. Bergeron Earl, I'm in agreement with you on this amendment. This is the situation I'm looking at. Say the Board of Commerce and the governor decide to bring a new industry in the parish. Now, not looking at the situation that they may have to add new streets and sewerage, and so forth, to accommodate this plant, say they bring in a thousand workers, or whatever the number may be. Don't you think the local governing authority ought to have say-so as to whether they can grant an exemption because of the services that it may have to provide for this industry and for the workers that it brings in.

Mr. Schmitt Yes, I do.

Mr. Burson Mr. Schmitt, I'm also definitely in agreement with your position. Do you find, as I do, something drastically incongruous in the fact that by adopting this thirty thousand dollar home-stead exemption, you have, in areas such as the one I live in, thrown the weigh of property taxation entirely on locally owned small businesses and industries; and yet, we're going to bend over backwards to exempt completely from property taxation people coming in from the outside? Do you find something a little bit incongruous in that?

Mr. Schmitt It's not only incongruous; it's unfair. In other states they're attempting to keep new industry out, and here we are still attempting to get these polluting industries in the state. I think that we should get something for our...if we're going to accept them in, we should be able to charge them for the services which they receive.

Mr. Abraham Mr. Schmitt, do you know the mechanics that an industry has to go through and the money that they spend before they ever...in making feasibility studies and economic surveys before they ever come into a particular area?

Mr. Schmitt I have a general idea from...

Mr. Abraham Do you know they check out all these things like Mr. Bergeron has asked about to see whether or not...

Mr. Schmitt They check out not just one area; they check out areas all over the United States and compare them, and if it's not suitable in that particular district, they're not going to go in.

Mr. Abraham All right, one other question: do you know or realize what would happen if the governor and the chairman of the Board of Commerce and Industry, on these industry-hunting trips, went out and made a commitment to try to get an industry in here, and they spent this money, and then when they got ready to come in, the police jury said no. Wouldn't we be the laughing stock of the nation?

Mr. Schmitt I don't think so. I think that they'd at least know that you're a little bit more fiscally responsible than just to go and give your state away to these foreign corporations.

Mr. Abraham Do you think that the police jury presidents go out to induce industry, or is it the governor who always has to go out and try to get them in here?

Mr. Schmitt I don't care whether it's the governor that goes out and attempts to induce industry, but I think that these people who enjoy the services should be able to pay part of the cost. We have one of the lowest property taxes paid in the United States, in the State of Louisiana. I don't feel that they shouldn't pay their fair share of these taxes, and I'm against these amendments.

Further Discussion

Mr. Arnette This amendment by Mr. Drew--I realize he wants to return it to the present law, and I realize that's what he's trying to do, and I realize he said he didn't feel strongly about it, but I feel strongly about it the other way. I feel very strongly we need the local government D.K. in here. It's very simple and very logical to me. It's a local tax; it's collected locally; it goes for local services. But yet, we're having the governor in Baton Rouge say what property is exempt from that? I don't understand it. I think the person who it's going to bankrupt ought to have something to say about it. If it's going to bankrupt a parish, let's let them say, "We want to be bankrupt," but don't force it down their throat. Don't let the governor decide this. That's where the problem is. We need this local government O.K. I'm only speaking on the first two amendments by Mr. Drew; the third one, I don't care much about. But, the first two are definitely, definitely, bad. These...the present law was adopted when we did have a statewide ad valorem taxation. We no longer have a statewide ad valorem taxation. The governor's not giving away anybody's money but somebody else's. He's not giving away his money; he's not giving away the state's money; he's giving away local government's money. I can give away a lot of money if it's not mine; no problem to do it that way. That's what we have here. That's why we must defeat these two amendments by Mr. Drew. If anybody has any questions, I'll yield.

Questions

Mr. Burns Mr. Arnette, this morning when we were debating the E.J. Landry amendment, those that were opposed to it, wasn't it the basis of their argument that this local governing body was the bulwark that they could always protect themselves, and now some of them are taking the opposite viewpoint in this particular amendment?

Mr. Arnette I would imagine you're right, Mr. Burns. I really didn't realize it. I don't know.

Mr. Willis Mr. Arnette, don't you think that if we were to give the governor the exclusive mandate with whatever department they mention, that he should be conversant with, cognizant of, and respectful of local government who would have to furnish the schools, the fire protection, the sewerage disposal, the garbage disposal, and the like?

Mr. Arnette I think he could be well aware of what these local parishes want, and I think the local authority ought to have to D.K. it, also.

Mr. Willis Before he seeks to magnetize industry to Louisiana, he should make certain what places are available before he seeks that magnetism.

Mr. Arnette That's exactly right. He can very easily do this. He can get an O.K. from the parish before he even goes to talk to an industry. If they want to...if a parish wants a...say, some kind of industry, or oil refinery in their parish, all they've got to do is go out and say, "Well, look, we want one; we'll exempt them." But, I think he ought to do this before he goes out, and it would be very easy to do.

Mr. Newton Greg, do you really think that if an industry went to...do you really think that if an industry went to the police jury and said, "Look, we'd like to locate our plant here," and the police jury said, "We don't want you," do you think they'd go into that parish?

Mr. Arnette I doubt it very seriously.

Mr. Nunez Mr. Arnette, it's been said a lot. It's almost...the speakers up there have almost

making us...made us believe that the governor or the Board of Commerce and Industry goes and grabs somebody by the hand and brings them down here and says, "This is where you are going to locate." Isn't it true that those people are already...they've got site selection teams, and they've got all kind of computerized data as to where and why they want to locate, and they know how to negotiate on their own. Maybe--I don't know if anybody here's ever been on an industrial inducement trip, but you don't induce too much industry by just coming out and saying you're looking for industry. Isn't that true?

Mr. Arnette I think that any industry has looked at us very, very closely before they even talk to the governor or anybody else in this state.

Mr. Nunez If they do come down here, I think that they should--if they're going to pay the taxes, especially locally--somebody there should have some say-so about what, where, when, and how. Don't you think that's right?

Mr. Arnette I think you're exactly right because, like I said a while ago, if I'm giving away somebody else's money, I don't mind giving it away. If I'm giving away mine, I might mind it a little bit.

Point of Order

Mr. Avant I want to ask if this amendment is divided, because it has certain completely unrelated aspects. Would you be able to debate the separate amendments contained within this one amendment?

Mr. Henry Mr. Avant, in the interest of being fair, I think to implement the intent of Mr. Segura's rule--I don't think he's trying to shut anybody off; he's trying to shut them up, quite frankly. I think because of the nature of the importance of this and because the amendment is divisible--and I don't think that the amendment has been fully discussed insofar as, perhaps, the second and third parts of it--I think it would be fair to rule that we can allow speakers as to Amendments 1 and 2 together, which I think they've already spoken on, and then 3, sir.

Mr. Avant I would like to be recognized, then, on 3.

Further Discussion

Mr. Perez I don't intend to take advantage of this convention. I wanted to speak against 1 and 2, and I'm not going to use the excuse of speaking on 3 to talk about 1 and 2.

Mr. Henry Fair enough.

Further Discussion

Mr. Avant Mr. Chairman and fellow delegates, as I appreciate Amendment No. 3 on this particular amendment, it would delete from the committee proposal this language, which I'm going to read to you, which is contained in the present constitution: "No exemption shall be contracted for any new manufacturing establishment in any locality where there is a manufacturing establishment actually engaged in the manufacture of the same or closely competitive articles without the written consent of the owner of such existing manufacturing establishment to be attached to and identified with the contract of exemption." Now, I don't think that that is--in view of the number of tax-exempt industries that we have on the rolls--I don't think that has been any particular obstacle to getting industry here and granting them tax exemptions. But, I just ask you again to please consider what we've been doing. We've...you know I made a talk on this once before, but property that has been expropriated can be used to build some sort of a plant, and it can be sold, and they can get this kind of a tax exemption. Now, are you going to allow the situation to be where you can then put that plant in

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direct competition with a plant that is already there, in existence, operating and paying taxes. If that's what you want, fine; vote for it. I mean...I can't argue with anybody's logic who would be for that sort of thing. But, I just see absolutely no need for deleting that language from this proposal.

Questions

Mr. A. Landry Jack, you didn't mean to say that the competition would be for a manufacturing plant that was paying taxes, if that manufacturing plant's already under exemption; do you mean that?

Mr. Avant Well, if you delete this language, Mr. Landry, this says that no exemption will be contracted for any new manufacturing establishment where you've already got one engaged in the same or closely competitive article without the consent of that plant. Now, it could be, conceivably, that that would be a tax-exempt plant. But, it might not be a tax-exempt plant; it might be a plant that they are paying taxes and owned by Louisiana citizens. To me, the very idea that you're going to take property by expropriation--which is conceivable, under what we've done so far, build some sort of a plant on it--which we've said you can do, float bonds which the public is going to guarantee--which we propose that you can do, turn around and sell it to a private enterprise--which we've already said you can do, and then grant that outfit a tax exemption where it will be in direct competition with an existing industry that's already there and operating and paying taxes. To me, that's the most farfetched thing I've ever heard of. If anybody can vote for that, I say I just can't argue with 'em.

Mr. A. Landry But, Jack, it doesn't mean that the plant that's existing there at that time is paying any taxes at all, does it?

Mr. Avant It doesn't necessarily have to be paying taxes, but it may be paying taxes, Mr. Landry, and it...I mean I don't know whether it's going to be paying taxes or not going to be paying taxes. But, it's going to be a going concern.

Mr. A. Landry That existing plant...

Mr. Avant May enjoy an exemption.

Mr. A. Landry May enjoin the other one from coming in, but local government cannot do that.

Mr. Avant I'm not talking about the local government thing; I'm talking about this thing.

Mr. O'Neill Mr. Avant, am I to take it, then, that you are for the first and second section of this amendment and then against the third?

Mr. Avant You shouldn't take any such thing. I haven't expressed any opinion. I have expressed an opinion on Amendment No. 3.

Further Discussion

Mr. Jenkins Mr. Chairman, Mr. Avant has raised a question of expropriated property being used on these industrial plants. You may remember I was with him on that point at the time. But, I think his point is not well taken because it could well be the first plant that was built on expropriated property keeping out another one that's there coming...that's on land that hasn't been expropriated. That's just not a valid argument here and not pertinent to this section we are considering. This amendment would delete this sentence on page 5. There is no reason to have this provision in here. It says that "one industry already located in one area of our state can keep out similar industries." Does that mean that Standard Oil can keep out any other oil refineries from coming into the city of Baton Rouge or the Baton Rouge area?

Does it mean Shell can keep out other oil refineries from being in Norco? Listen, we have industries of a similar nature all up and down this Mississippi River. We can't allow the public policy of this state to be dictated by who happens to have a plant somewhere along there. Now, I don't think that this provision has caused too many problems in the past, because I don't think that the industries have exercised the prerogative that they have here. I don't think that they have been denying permission to build similar plants. But, it might well be that some industry would; they might have one of their competitors coming along. If we are going to have an industrial exemption program, and I certainly think that this ten-year exemption is one of the few things besides our natural resources that we have to induce industry to come and locate here. We should certainly allow our state government to do it through the Board of Commerce and Industry and not give a veto power to local areas...local governing authorities when more than one parish might be affected, or to any one plant or group of plants that happen to be located in that area. Public policy should not be dictated in that method. So, I urge you to adopt this amendment.

Questions

Mrs. Warren Mr. Jenkins, you kind of hit on the thing that I was thinking about. This would give one business already established the chance to let another one come in under one name, and yet still they could be the same and then they would be tax-exempt.

Mr. Jenkins What this sentence would do--and if we keep it in here--is it would allow one manufacturing industry, which is located here and it may be under a tax exemption--to deny the right of another similar industry to come in in the same general area and get a similar exemption. So, it gives one industry a veto power over the industrial exemption program.

Mrs. Warren I also understand that, and it could also let an industry continue under another name by consenting for somebody else to carry on its business.

Mr. Jenkins I'm not sure I really understand your question, Mrs. Warren.

Mrs. Warren I'm asking you if one business is in and it's going to lose its exemptions within a given time, in order to keep that exemption couldn't they let another exemption...another firm come in under an assumed name and get the exemption, and then they move on out and still they will be in business--that's what I'm saying.

Mr. Jenkins No, Ma'am. I don't think that that would be pertinent. I don't think that that's the problem addressed by this amendment in this sentence in the section.

Mr. Derbes Mr. Jenkins, isn't the language in the committee proposal as it is presently worded...isn't the theory or philosophy of that language that the competitive facility is a better judge of when an industrial exemption should be granted than is local government, the governor, and the Board of Commerce and Industry?

Mr. Jenkins Yes, Mr. Derbes, I think that is. I think it's very poor policy. So, I urge the adoption of this amendment.

Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise in opposition to Amendment No. 3. Let me give to you just briefly, as I appreciate the history of this language in the present constitution. At the time this was enacted, you had existing plants paying their fair share of taxes. Now, remember that.

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Then for any new industry that was going to manufacture an identical item in the same area and sell to the same market would be then...have a tax advantage over its competitor who had been a faithful taxpayer of this state for many years. Now, what's my interest in it? Let me tell you this. If I would represent the existing plant and employees, then the plant...that the new plant that came in would have the advantage. The plant and the employees who had been paying taxes for years would lose jobs because they were at a tax disadvantage. The new industry would have the advantage in the same area and in the same market. It's been my appreciation over the years in working with commerce and industry, this has been a provision of the constitution that has worked extremely well. I know of no problems it's created with...or either bringing new industry into the state, or being as a detriment to existing industry who's paid the taxes in this state. I have been told through the years that this was the safeguard that the existing industry wanted at the time that this approach was taken in the development of new industry. I would ask that you reject it on that basis.

Questions

Mr. Arnette In other words, you don't subscribe to the theory that the more industry you have the more jobs you have?

Mr. Flory Well, Mr. Arnette, answer that yourself. You know that...

Mr. Arnette Well, no. But, you just said that if it's...another industry comes in, then you are going to have less jobs because those people are going to lose their jobs.

Mr. Flory I said if the people who were existing in the state paying taxes at the time would lose jobs who had been paying the taxes all of the year. Quite conceivably, the employees could have been brought in from out of state for the new plant, Mr. Arnette.

Mr. Conroy Mr. Flory, in addition to protecting existing industry against unfair competition by bringing in a new industry. Doesn't this sentence --that's in there right now that you are urging should be kept--isn't it a fact that the State Board of Commerce and Industry interprets this not to apply to an existing industry that has an exemption? Don't they say that they don't have to get the permission of one that has an exemption?

Mr. Flory That's my understanding, Mr. Conroy. But, I could not vouch for it.

Mr. Willis Mr. Flory, I focus upon the word "locality" in this sentence sought to be struck in the third amendment. How would you define "locality" assuming another industry wants to come in, and there is a lawsuit? How would you define the periphery of a locality?

Mr. Flory I believe the interpretation in the past has been parish boundaries, insofar as similar plants were concerned. I'm not sure of that either, Mr. Willis, and I admit that, because I'm not sure as to what the market area would be for the product being manufactured. So, I really can't honestly give you a direct answer; I'm sorry.

Mr. Willis It would not be a certain frontage on the Mississippi River, would it--a locality?

Mr. Flory I do not believe, no, sir.

Mr. Willis So, there is no gauge. So, then we are in limbo with that word; aren't we?

Mr. Flory Quite possibly, yes, sir.

Mr. Rachal Yes, Mr. Conroy's question touched

some on what I wanted to ask. I can see the need...I could see the need having been needed at the time that this was first instituted--this tax exemption--that is to permit those industries which had been paying taxes to permit others to come in. Now, that we have had that experience, it seems to me the language in the committee's proposal does not allow for what you say is now the practice. That is: that those who have had exemptions do not now give permission--you know--for new industry to come in. How could we protect against that?

Mr. Flory Well, there are still many plants in this area--in remote areas of our state--that are paying taxes that may have been granted a partial exemption on some new equipment or addition to the plant and maybe have expired. But, to say to now, to come in and let them build a new plant across the street--in my judgment--would still be unfair if it produced the same product for the same market.

Further Discussion

Mr. Derbes Ladies and gentlemen, I rise in support of Amendment No. 3. To me it makes good sense from the standpoint of who is the best judge of what is good for any existing community. There is ample discretion built into the original committee proposal. The discretion emanates from the Board of Commerce and Industry, the governor, and the governing authority of local government. It would seem to me that if all these people, if all these political entities are in agreement as to what is good for an area, that should be all that is necessary in order to grant such an exemption. To superimpose on this ample discretion the further consent of a competitor seems to me to be against the very nature of American life: namely, to encourage competition which thereby promotes a better product, which thereby provides additional jobs, which thereby improves the community. In other words, I think that the committee proposal is basically anticompetitive, presents what I regard as an unnecessary and perhaps even an unlawful restraint of trade. To require some one individual's permission for government to exercise its lawful functions seem to me to be unprecedented in our American way of life. So, I urge you to support and to vote favorably upon Amendment No. 3.

Questions

Mr. Schmitt In other words, are you saying that these objections, which were raised prior to this time, that the local governing authority does not...should not have this ability to object? That in this particular situation that someone other than the local governing authority--in other words --the corporation could object and keep a new industry out of a parish or a locality?

Mr. Derbes I'm not sure I understand your question. I will rephrase my position. My position, Mr. Schmitt, is that the discretion built into the committee proposal as it relates to the governor, the Board of Commerce and Industry, and the local governmental subdivision is ample, and to further require the consent of the competitor, seems to me, to be grossly unnecessary.

Mr. Schmitt ...and could you define what "in any locality" means? Does that mean in the parish...in several parishes? The Commerce and Industry Board in their testimony before us really couldn't tell us what it means, but they kind of used their own discretion.

Mr. Derbes No, I can't define it. I suggest to you that that is further justification for deleting it from the committee proposal.

Mr. Lennox Mr. Derbes, in your opinion, is it possible that the proposal, sought to be amended, could be violative of the antitrust statutes of

the United States and thereby in restraint of trade?

Mr. Derbes If you are talking about Amendment No. 3, I tell you that it is my gut reaction, Mr. Lennox, that it is an unlawful restraint of trade. Now, whether or not it qualifies under the Sherman Act or the Clayton Act, I frankly don't know.

Mr. Willis Mr. Derbes, another passage--by the way, I agree with you in everything you say--in the passage in the sentence sought to be struck, how can a court, if there is a court battle, interpret same or closely competitive articles? One manufacturing concern could be manufacturing gasoline and the other vasoline from petroleum products--from petroleum that comes out of the ground. Don't you see the court battle there?

Mr. Derbes It presents a multitude of problems Mr. Willis. I don't think it belongs in the constitution. The antitrust course that I have taken have enlightened me on what the problems with market share, and nature of competition, and horizontal and vertical integration in markets are concerned. I think that the proposal is unworkable as relates to Amendment No. 3. I think it's grossly unfair.

Mr. Willis Would you say in the same tone, project that further, that it is destructive? The sentence itself is destructive of free enterprise, which is what American [America] stands on?

Mr. Derbes That's the point of view that I'm trying to convey. I move the question, Mr. Chairman.

[Previous Question ordered.]

Closing

Mr. Drew Mr. Chairman, ladies and gentlemen of the convention, I want to make one statement with reference to Amendment 1 and 2, and while I realize this does not carry the full burden that may be imposed upon a parish, I don't think it is quite fair, and maybe I was not quite as knowledgeable as I should have been to say that that industry rides completely tax free when they are granted an industrial exemption in this state. They do pay the ad valorem tax on the land. They pay the tax on the inventory. They do pay sales tax. I realize that that probably will not furnish enough to take care of the improvements that may be required. As I said in opening, I thought that Amendments 1 and 2 were something that should be considered by this convention, and that's the reason I offered them. I personally thought it should be deleted. I think it should be considered by the convention. But, I do not have any strong convictions one way or the other. But, when you get down to Amendment No. 3, I have very strong convictions on Amendment 3 because, as I said before, you are not granting just an exemption; you are granting a franchise. As Mr. Willis so well brought out in his question there, "What is locality?" I would assume it would have to be interpreted as meaning a parish. So, therefore, if I had a Coca-Cola plant in Webster Parish and Pepsi-Cola wanted to come in, Coca-Cola could keep them out. What they would do: they would move down twenty-five or thirty miles over to Arcadia in Bienville Parish, and they would be glad to have them over there. We have International Paper Company in Webster Parish in the north end. If another paper company wanted to come in, as hard as we are fighting to get every type of industry we can get in Webster Parish, it would be up to, not the governor, not the Board of Commerce and Industry, not the local government, but it would be up to International Paper Company as to whether we could have a paper mill besides International Paper Company. Ladies and gentlemen, I think that Amendment No. 3 is worthy of your consideration; it is worthy of your vote. Mr. Avant was asked

the question about whether the existing industry may also be enjoying the industrial exemption. I can assure you there are many enjoying that exemption at this time, and to permit those under this provision of the committee to prohibit any competition is not the American way of running government and of creating industry and creating jobs for our people. When you say the sales area: what is the sales area of a major industry like International Paper? It's the entire south; that's what the sales area is, and you couldn't say that locality is sales area. I feel with everything that I have that this is a provision that should be deleted from the constitution. Let's go back and let those parishes that want additional industry have additional industry, and by deleting and adopting Amendment No. 3, you will not let one industry prohibit another industry to come into the area. As I said, I think, as I had asked the Chair, I think, the division should be Amendments 1 and 2 should be voted on together, as they pertain to the same subject matter; amendment No. 3 should be voted on separately. With those remarks, I urge the adoption of the amendments.

Questions

Mr. Jenkins Mr. Drew, with regard to Amendments No. 1 and 2, many industrial spokesmen have told me that they have no fear about the governing authority having veto power over a new plant being constructed with this tax exemption. But, they so much fear the fact that these governing authorities of the parish or city would also have a veto power over whether or not industrial expansions and improvements could take place, because they fear the police jury, or whoever it may be, is going to be requiring that they grant jobs and so forth in order to get this industrial exemption--I mean jobs that are handpicked. Do you feel like this would be a real danger unless we adopt Amendment No. 1 and 2?

Mr. Drew Mr. Jenkins, as I said in my opening remarks, the expansions are my major concern, not so much the initial exemption but the expansion.

Mr. Jenkins One other question I had--one good example would be Iberville Parish. Iberville is on both sides of the Mississippi River, and there is a small sparsely populated area which is right adjoining East Baton Rouge on the east side of the river. People who work at a plant in that area would...as likely as not, live in East Baton Rouge Parish, or Ascension, or Livingston. Yet, isn't it true, that unless we adopt this amendment, the police jury of Iberville Parish, which provides few of the services perhaps for the people there, would have the veto power; East Baton Rouge, Ascension, and Livingston would have no authority whatsoever to determine whether or not the tax exemption would be granted; is that true?

Mr. Drew That is true, Mr. Jenkins. In my area when an industry comes in, it draws labor from approximately four to six parishes surrounding it.

Mr. Abraham Mr. Drew, did you know that in Calcasieu Parish that industry pays over 6.6 million dollars a year in taxes, which is more than half of the taxes collected in our parish, and that this amount will double within the next ten years, and we are glad to have them?

Mr. Drew I urge the adoption.

Mr. Nunez Mr. Drew, it's been said up there, and I don't know whether you said it...or it was in a form of a question, but I'm asking you the question. But, it's been said at one of these microphones...indicating or leading the convention to believe that local government would have a veto power over that industry coming into the parish. Now, that's not quite true, is it? All they would say was whether that exemption would be granted or

not. Isn't that true?

Mr. Drew That is correct, Senator Nunez. But, of course, that is veto power.

Mr. Nunez Well, would you say it's veto power, suppose they could sit down like some parishes now do and negotiate the fact that you come in here, you are bringing five hundred new residents, or five hundred families. Now, we would like you to come on the rolls at ten percent of what you would initially come on in the next ten years. Don't you think it's a power that they should have to negotiate rather than say "and veto the industry"? They might tell them they won't give them the exemption; don't you agree? But, they still might want to come there anyway.

Mr. Drew That is a possibility, yes.

[Record vote ordered. Division of the Question ordered. Amendments No. 1 and 2 reread and rejected: 38-61. Motion to reconsider tabled. Amendment No. 3 reread and adopted: 79-21. Motion to reconsider tabled.]

Vice Chairman Casey in the Chair

Amendment

Mr. Poynter Mr. D'Gerolamo's amendment.

Amendment No. 1. On page 4, delete lines 28 through 32, both inclusive in their entirety and delete page 5 in its entirety and on page 6, delete lines 1 through 5, both inclusive in their entirety --and we need to add now, Mr. D'Gerolamo--including all amendments thereto, and insert in lieu thereof the following:

"(F) Any new manufacturing establishment or an addition or additions to any manufacturing establishment already existing in the state may be exempted from ad valorem taxation for a period not to exceed ten years. Such exemption shall only be granted as provided by law and by approval of the local governing authority in which the manufacturing establishment is or will be located."

Explanation

Mr. D'Gerolamo Mr. Vice-Chairman, fellow delegates, this amendment does exactly, partially, what Mr. Drew's amendment did. It also deleted the section that you just approved. It also allows that any new manufacturing establishment or any additional additions to present manufacturing establishments in a locality, in order to receive the industrial exemption, must first be granted by law and also with the approval of the local governing authority in which the manufacturing establishment is located or will be located. The purpose of this, ladies and gentlemen, is I believe --and I do have some experience with industry coming into a city. As a mayor of a city for eight years, it is most necessary that we do have some local governing authority. During this entire convention, we were talking about the local governing authorities to have some local option. We have had men come up here with the state saying that the government, the federal government, is coming in and taking over our states and telling our states what to do. Here, they are telling us, the local governments, let the state tell you what to do. But, I can assure you of this, that no one knows best in a locality whether they want an industry or whether they can afford an industry in their locality--no one knows best than the governing officials of that locality. Many of the localities in this state, many of the parishes and cities of this state, have had zoning land use made of the entire area. They want to know what kind of industry the State Board of Commerce and Industry is going to bring to their city. They want to know if it fits in with the land use plan. They want to know if it fits in with their zoning plan. They want to know

if the sewerage plants that they have will take care of the waste matter of these industrial plants. They want to know whether the roads are capable of taking care of egress and ingress of material to these plants. They want to know this, and they should have a right to vote "yes, we want this plant here, and we will give them industrial exemption. Or, no, we do not want this plant in our area." I don't want to be a mayor of a city, or force my mayor and council or the police jury, to force a plant on them that they do not want. I don't believe industry wants it either. I also believe that there should be the industrial exemption if the municipality or the parish governing authority feels that they can stand it. I can tell you of one instance when I was mayor of the city of Kenner, they wanted a fertilizer plant to come in there. I was going to hire three hundred people. It was beautiful for the city of Kenner, but, it would have wrecked our entire community. We did not want it. We would not zone the property for industrial because of that. Now, if you take this away from local governing authority, you are taking the police powers of local governing authority away from them. I agree with Mr. Drew's statement that there should not be a request by an industry that's there already, to say whether they want competition in or not. Be sure that we do not delete the local option for local governing officials. I beg of you, ladies and gentlemen, this is very, very important to the many, many municipalities in the parishes in our state that they have some say-so as to who comes in and who does not come in. They should have some say-so as to whether they have the manpower to man such an industry or maybe, as I said before, they do not want the industry there. They want to know this: if the industry is coming there, do they have the schools properly to take care of these children? Do they have the playgrounds for these children? Do they have all the facilities necessary to support this plant? Surely, you would bring a plant to a small city or a small parish, and what does it do sometimes? Because of automation it certainly does not bring in near the amount of employees that you would like for it to bring in. But, bear in mind, your municipality, your parish governing authority has to supply all of the services. I beg of you to think this thoroughly, and vote for this amendment, because I believe that this should not be in the constitution. Times change. This should be by law, and certainly the governor, the State Board of Commerce and Industry go out and get some industry, but certainly they should go to the authorities of where they intend to locate this industry, and find out whether they want it or not. I ask you to consider the local governing authorities when you vote, and vote favorably for this. I'll answer any question, Mr. Chairman.

Questions

Mr. Roemer Eddie, could you explain to me what, in effect, your amendment does to the commerce and industry board? It seems to me from my impression from reading it, that you have eliminated it in the decision making process of industry inducement and industry settlement into my state; am I wrong in my impression?

Mr. D'Gerolamo It has eliminated the State Board of Commerce and Industry and the governor as far as not going out and locating industry, but saying we have an industry, and this is where it's going to go.

Mr. Roemer I see. The whole decision then will be left up to the local governing authorities. Is that right?

Mr. D'Gerolamo ...and by law.

Mr. Arnette I noticed, Eddie, you didn't say anything about the increase in the exemption from five to ten years. This is the thing that I was really interested in. I don't know how I'm going

to vote right now, to tell you the truth, and I wish you would tell us a little bit about why you changed it from five to ten.

Mr. D'Gerolamo I believe, in the inducement that they have been having to bring industry, it is very much possible that the ten-year exemption is necessary. I, also, believe that when they bring them in, the local governing authorities sit down and meet with industry and discuss their problems, and sometimes local governing authorities, as Senator Nunez said, make some special arrangements if they really want this plant in there. They do make it.

Mr. Dennery Mr. D'Gerolamo, you mentioned that when you were mayor of Kenner, there was a problem in connection with the fertilizer plant.

Mr. D'Gerolamo That's right.

Mr. Dennery Now, the way I read this, it says "approval of the local governing authority." Would that have been the city of Kenner alone? Or would it have been both the city of Kenner and the parish of Jefferson?

Mr. D'Gerolamo The local governing authority of the municipality is the city of Kenner. The local governing authority of the unincorporate area is the parish council of the parish of Jefferson.

Mr. Dennery So, therefore, if a business wanted to locate within a municipality, it would only require the municipality to give approval?

Mr. D'Gerolamo Yes, sir.

Mr. Dennery Now suppose that the plant was located partially within the municipality and partially within the unincorporated area, or partially in two parishes. What would happen then?

Mr. D'Gerolamo I would venture to say the two governing authorities would get together and work out some compromise if they want it there. We--Mr. Dennery, if I was in the position of objecting to something like this, and representing industry, I would also bring up many hypothetical questions. But I doubt that this ever happens because of the complicated tax structure where the municipalities, unlike New Orleans--many of the municipalities--all of the municipalities pay a tax that is not home-stead exemption, as you know.

Mr. Dennery Well, Eddie, I was really raising the question because I think this has happened. I think the Kaiser Plant is in two different parishes up the river. I was just trying to find out, for my own information, what you meant by this. As a matter of fact, I didn't have a chance to ask it of the committee. But the same question would arise the way it's written in the committee report.

Mr. D'Gerolamo Mr. Dennery, I am sure that it would have to be the two governing authorities.

[Previous Question ordered. Record vote ordered. Amendment rejected: 41-50. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment proposed by Delegate Chehardy, Schmitt, D'Gerolamo, and Ioca.

Amendment No. 1. On page 6, between lines 5 and 6, add the following:

"Any exemption granted under authority of this paragraph shall be granted only in accordance with a formula which will grant one percent of the total exemption to be granted for every ten new permanent jobs created, up to an exemption of one hundred percent for a manufacturing establishment which provides one thousand or more new permanent jobs."

Explanation

Mr. Chehardy Mr. Vice-Chairman and fellow delegates, the main concept of the industrial exemption and the main argument for it is the, apparently, the number of jobs that is created by new industry. Along with that thinking and along with the thinking of a lot of people who have spoken to me on the subject, who I feel are very knowledgeable in their understanding of the problem, what we propose here is that in the future, if you grant an exemption, it will be related to the number of jobs. In other words, for every ten new permanent jobs created, you get up, and you get one percent of a hundred percent exemption. If you have...and up to a thousand jobs, at which point you get a hundred percent total exemption. If you get five hundred jobs, you get fifty percent exemption. If you give a hundred jobs, you get ten percent of the total exemption. I don't think there's any fairer way to do it than the figure of cold percentage--so many jobs created, so much of the total exemption given to you. I certainly hope that you all will consider this and go along with the concept.

Further Discussion

Mr. Jenkins Mr. Chairman, delegates, the most obvious problem with this amendment is the fact that it simply doesn't take account of the economics of what we're talking about. Suppose we're talking about a plant addition. It's a plant addition of twenty thousand dollars that would normally be subject to this industrial exemption. As I read this, if it didn't create a thousand new jobs, it wouldn't be exempt. If it created two new jobs, as might be reasonable or logical, or three or four new jobs, not even one percent of it would be exempt. If you had a new business--a new, small manufacturing plant built in a small town in your area--and it had, say, an investment of a hundred thousand dollars, and it created maybe ten new jobs, which would be pretty reasonable, it would only get a one percent exemption. I mean this just isn't realistic. I don't think it takes accounts of the economics of the situation. It's based on fallacious economic reasoning, and I urge its rejection.

Questions

Mr. Nunez Mr. Jenkins, if you would consider, on the other hand, I had recently a refinery, and there's a lot of modernization going on in these oil refineries; they are automating these plants. The refinery doubled the capacity of the plant--the production of refined fuels--doubled the capacity. In doing so, it cost them about, I think it was about fifty million dollars. The question is--and they also sliced the employment by three-fourths, seventy-five percent--do you think that those people should get an industrial exemption?

Mr. Jenkins Let me answer you this way, Sammy, and I'm not...you know, the delegates to this convention are too bright to be taught a course in economics. But you know, you might recall when President Nixon went to China the pictures in the early morning of the Chinese people out in the middle of the big square in Peking raking up snow. They were shoveling the snow away. They were literally thousands of them. I suppose there were ten thousand people out there. Now someone might argue that it's bad for someone to create a street sweeper because it's going to put people out of work. Or, for that matter, I suppose it's wrong to invent a broom because people won't have to go around picking up dirt bit by bit. The machine, capital investment, is the key to economic progress because it allows specialization of human effort. Where we have displacements in one area of the economy because of investment, it shows up somewhere else in the economy because people have more money to spend, and more jobs are created elsewhere. That is the key to the progress of this state. If

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you looked at this state fifty years ago, if we hadn't had the industrial investment that we've had here, we wouldn't have anything like the progress we've had. That industrial investment has not put people out of work. On the contrary, it's made us one of the most prosperous states in this part of the country as a result of it.

You know I disagree. I think that the more investment we have, the more productivity we have, the more jobs we are going to have, and the better those jobs are going to be. So I urge the rejection of this amendment.

Mr. Nunez You didn't answer my question, but just as a point of further questioning, the same plant...do you think we should give incentive to plants in this state to do that, to double their capacity, spend forty and fifty million dollars, and then lay off half their people? That's what we're doing.

Mr. Jenkins We've got to take what we consider the good with the bad. Plants aren't going to come to this state if they don't, if they think that our tax laws are unpredictable--if it's going to be based on political whim. They are only going to come here if they know they have a sound, solid investment that they can depend on. That's one of the things that has hampered this state so much in the past, the demagoguery--the fact that we had a politically unstable situation. Just think what this state could be if we'd had a politically stable situation over the past fifty years. We might be the garden spot of the country.

Further Discussion

Mr. Burson Mr. Chairman, fellow delegates, I rise in favor of this amendment because as far as I'm concerned, industry that does not bring new jobs in does not deserve an exemption. Homeowned, small business and industry does not get any exemption from their taxes when they expand their operation. Why in the world should we give somebody an additional exemption? What rationale can anyone offer for exempting someone from taxes that everybody else has to pay unless they bring some benefit to the state in the form of new jobs.

Mr. Jenkins finds our problems in this state in terms of demagoguery. Well, I have to say I've heard more demagoguery on this tax issue than I hope I hear again in the rest of my life. But I think the problem in this state is the kind of industry that we've had come in here and take advantage of this tax exemption has been the petrochemical industry which uses up our exhaustible natural resources--which once these natural resources are gone, we'll be in the same shape West Virginia is in when the coal was gone--when what we need is small industry that employs a lot of people, because that's what brings the benefit to our state.

I ask you now--think about the question that Senator Nunez asked--What good did it do the people in the area of that particular plant to have their payroll slashed? Can anyone tell me what the justification of an exemption for that particular increase would be? I'd be very interested to hear. I'm not saying that the ratio set up in this particular amendment is necessarily the correct one. But, what I am saying is that I'm for the concept. I'd like to see the concept adopted. Then we can play with the numbers any way we want to. But I'm for the concept, and I'm afraid that if I don't speak for it here, that I won't get the chance to speak for it otherwise.

Questions

Mr. O'Neill Jack, you say to show you some tangible evidence. Is simply the fact that they spent fifty million dollars any tangible evidence in your mind? The fact that all the construction that went on was probably done by local labor?

Would you consider that any kind of tangible evidence?

Mr. Burson The construction would be of some benefit. I recognize that. But once the construction is finished, you then have twenty years of smog and water pollution that you've got to deal with. I think we ought to have more to show for it than that.

Mr. Roemer Jack, I don't know whether you know it or not, but I agree with you that the concept is one that I hope we all stand for: that is, to tie the exemptions to job producing industries. However, don't you think that it's a little foolish on our part to tie a specific ratio into this constitution when localities differ in their need for industry, and what might be very good for one locality in terms of a small industry, might not be worth the trouble in another locality? Don't you think--and my point is, my question is--don't you think it makes more sense to hold the committee proposal on local option and let the local governing bodies determine whether that interest deserves a tax credit or not?

Mr. Burson Buddy, your argument has some merit to it. But I would still rather see somewhere in here it stated that the exemption has to be granted only if new jobs are provided, because otherwise, I don't think, frankly, there's any justification for granting an exemption.

Mr. Lennox Mr. Burson, two quick questions: Do you know why the Board of Commerce and Industry, after holding public hearings on this particular concept, rejected the idea?

Mr. Burson No, sir. I have no idea.

Mr. Lennox Question No. 2. Do not...do you agree that this would be detrimental to the development of smaller industry as opposed to larger industry in the state?

Mr. Burson No. I don't follow that at all. The smaller industries are usually the ones that employ more employees--the handiwork, piecework type industry.

Mr. Drew Judge, up in my area, we are sort of grubbing. We're tickled to death to get an industry that maximum employment would be seventy-five people or two hundred people. Now, aren't you handicapping us with looking for the smaller industry when you take a ratio of one percent per hundred employees, when maximum operation would only require a hundred at the most?

Mr. Burson Mr. Drew, I said that the numbers may very well need to be altered. But I'm speaking for the concept. Then, if we wanted to alter the numbers after that, it would be alright. I'm speaking for the concept of time, the exemption, and some fashion to the number of jobs that are provided. That statement alone would be enough to satisfy me. But I feel that if we miss a chance to adopt this amendment, nobody else is going to offer it in any other form. I'm not married to the numbers....

Mr. Drew But, if we adopt the amendment, we are then married to the numbers; are we not, Judge?

Mr. Burson Well, I think it would be a very simple matter, as far as I'm concerned, to amend them.

[Previous Question ordered. Record vote ordered. Amendment rejected: 28-62. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Gravel]. On page 4, delete lines 8 through 32, both inclusive,

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in their entirety and delete page 5 in its entirety and on page 6, delete lines 1 through 5, both inclusive in their entirety, in order to include all Floor Amendments, thereto, Mr. Gravel, and insert in lieu thereof the following:

"(F) The industrial exemption from state and local property taxes provided for in Paragraph 10, Section 4, Article X of the 1921 Constitution is retained and shall remain in full force and effect. The legislature, by favorable vote of two-thirds of the elected members of each house, may amend or repeal any provision therein."

Explanation

Mr. Gravel Mr. Chairman, Mr. Acting Chairman, ladies and gentlemen of the convention, this amendment would provide that the present provisions of the constitution that relate to industrial exemption would be maintained subject to a vote in any effort to change such provision by a two-thirds--by two-thirds of the elected members of the legislature. Now very clearly and very precisely what we are doing here is to try to maintain the present law. The people who are connected with industry, the people who deal the most with the inducement of new industry into this state, are very much concerned about the possibility that contract negotiations, preliminary determinations, original inducements are going to be subject to the politics of local government. I suggest to you that if you just read very carefully the language of the first five lines on page 4 of Section (F), and the first three lines of that same section on page 5, you must, of necessity, come to the conclusion that a very unworkable provision is being recommended by this convention. Can you imagine the difficulties that can be encountered if the State Board of Commerce and Industry and the governor must, in advance of knowing where a new industry is going to be located or even if there is some general knowledge as to where it might be located, must deal with local governing authorities in order to determine the terms and conditions that are going to have to be considered and agree upon by industry.

How difficult is it going to be for us to compete with other southern states in the quest for new industry? For jobs? For payrolls that are going to mean so much to the economy of our area? Just stop and think about it. In most every instance when an effort is made at the highest levels of state government to induce more industry to come into this state, the determinations that local government is primarily, are primarily concerned with are not yet involved in the picture. It's simply going to mean that we are going to have to try to involve outsiders who are interested in coming to our state into the lowest level of political activity before we can be assured of their interest to come here. I don't think I can make any argument more effective than the provisions themselves, which obviously make it impossible to successfully compete with the other states in the South for new industry.

I submit to you that it's better to leave this uncharted field, as far as Louisiana is concerned, to the discretion of the legislature. If the legislature, by a two-thirds vote, feels that some change must be made in the law that has worked so well, then let that be done there after adequate considerations can be given. I suggest to you, ladies and gentlemen, that we should not pass this provision the way it presently exists. I urge, therefore, that you support this amendment, and relegate the industry and different programs of the State of Louisiana to at least a superstatute category and basis.

Questions

Mr. Stinson Mr. Gravel, we are trying to simplify the new constitution. In this amendment we referred to the old one that's going to be voted out when we adopt the new one. We also authorized the legislature, by a two-thirds vote, which the

people will not vote on, to repeal it. It's going to be in the new constitution from now on. As you read the constitution, you've got to check back through the statutes to see if it's been repealed. Why...don't you think it'd be best to set down in here what the present constitution says?

Mr. Gravel Now, Mr. Stinson, it's my understanding that the...procedure that's going to be followed--and I hope it is followed--is that we're going to give consideration at the proper time to deleting, of course, any material that should not be considered that's in the present constitution, that some of the provisions that are in the present constitution are going to be relegated to an ordinary statute status, and that other provisions are going to be relegated to a superstatus..superstatute status that would require change, or would permit change by a two-thirds vote of the legislature. I think we are going to have to do that in the schedule and by way of transition. This proposal that I have would fit into that concept, which is the concept that has been recommended by a committee that Judge Tate, I think, headed, that has been, that has come up with some guidelines and recommendations in that regard.

Mr. Stinson You mean we're going to get through writing this constitution in time by January, and then we're going to go all the way back over it and take it out and put it in the statutes where we may want to?

Mr. Gravel That's not what I said. If that's your understanding of it, I haven't made it clear.

Mr. Stinson Well, what is that? You mean this body is going to do that or who?

Mr. Gravel If I understand, we are going to have to have a...this body will do that by the schedule provisions in order to provide for the transition from the old constitution to the new. I thought it was rather clear that that was going to have to be done. That's what this provision would be. It would be a schedule provision.

Mr. Lanier Mr. Gravel, this says that these provisions of the present constitution are retained and shall remain in full force and effect. Is that not true that that is an incorporation by reference rather than a transitional provision?

Mr. Gravel We have that in several instances. But, in my opinion, that is properly schedule material, and this is the proper way to handle it. This is the way I think it would have to be handled if we are going to follow the recommendations of the tape--I don't know whether it was a committee or a subcommittee--but this is the recommendation that they made as to the way this could be handled.

Mr. Lanier I disagree. Do you know that I disagree with you with that statement?...

Mr. Gravel Well, that's rather unusual, Mr. Lanier.

Mr. Lanier ...Isn't it?

Secondly, if it was your intent that this would be transposed into a two-thirds category, would you merely just ratify it rather than say specifically that it is retained and shall remain in full force and effect?

Mr. Gravel No, sir. I think this is the way it ought to be done, sir.

Mr. Lanier Now, secondly, are you familiar with the fact that we have a great many pipelines that cross our state?

Mr. Gravel Yes, I think I'm familiar with that.

Mr. Lanier Every time those pipelines go across a parish, don't they have to get permission from

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the parish governing authority to cross parish right-of-ways and parish property?

Mr. Gravel I think that's probably correct in some instances. I don't know that it's true in every instance. But I know that that is the practice in some places.

Mr. Lanier Is it not true that this requirement has certainly not impeded the construction of pipelines across our state, has it?

Mr. Gravel I think it's impeded it sometimes, yes, sir, but not necessarily prevented it.

Mr. Burson Mr. Gravel, would you explain to me why it's necessary in order for us to maintain industrial competition with the rest of the South, I think, to use your phrase--or phrases similar that other speakers have used--to retain the provisions of the present constitution, when Mr. Steimel went into great lengths the other day to tell us how far we've fallen behind in competition with the rest of the South under these very same provisions.

Mr. Gravel I don't know what was behind Mr. Steimel's statements. I just don't believe. I believe I can explain it to you, at least as it appears to me, that you cannot negotiate for the terms and conditions that will really induce new industry to come into a state with local government, because their problems just don't relate, I don't think, to the original negotiations and inducements that the industries are primarily interested in. In most instances--in most instances--when the agreement is reached for new industry to come into a state, the precise location of the industry hasn't even yet been determined.

Mr. Burson Isn't it true that most of the new industry that's brought in is brought in as a result of local teams going out and seeking that industry in cooperation with the Board of Commerce and Industry?

Mr. Gravel No, sir, that is absolutely not true.

Point of Order

Mr. BurnsActing Chairman, we now have two amendments on our desks. If either one of them are adopted, it's going to do away with the whole present section. So, it looks like to me that we are just spinning our wheels and wasting our time debating all these individual amendments, because both of them provide that all of the amendments to the original committee proposal would be done away with.

Mr. Casey Mr. Burns, we will come back to those amendments. I'm just following the order that has already been established. I see your point. However, we have already started on this amendment. We only have one more speaker. It may be well to dispose of this.

Thank you, Mr. Burns.

Further Discussion

Mr. Mire Thank you, Mr. Vice Chairman. Fellow delegates, I rise in support of this amendment. I think possibly we have finally come up with something that maybe is pliable and flexible enough for industry to live with it, and also to serve local government if local government has a particular problem. Let me say that since the ten-year exemption program has been in operation, the one thing that I've heard all along is that I can't go anywhere to where I can be heard properly. I say to you now that in the legislature you will be able to be heard. If a local government has an industry coming into a parish, and that they are having difficulties, if it goes like it has always gone in the legislature, if they can...if that... those representatives representing that area can

show the rest of the legislators that they are having a problem, you can rest assured they are not going to have any trouble getting a two-thirds vote. I have never seen the legislature turn down something that's purely of a local nature, and that the local representatives of that area is in full accord. When they are, they'll allow it. I think this will allow you to do this. I think this is the one big step in favor of letting local government have a say-so in something without having a specific veto power.

I'd like to further say that time changes; needs change. What may have been good five years ago, maybe five years from now won't be any good. If these problems are brought to the legislature, you will be able to change it. As it is in the... bringing it to the people, the people get confused, and there have been many, many good amendments voted down. I think the legislature will take care of those problems.

Questions

Mr. O'Neill Mr. Mire, a delegate in his questioning alluded to the point of incorporating by reference, material from the old constitution. Yet that delegate voted for the amendment yesterday which would have done the same thing. Don't you think that's a little inconsistent?

Mr. Mire If you say he voted yesterday for it, I'm sure that then his reasoning today would be just for other reasons than the way he feels.

Mr. Chehardy Mr. Mire, you refer to local government. But just so that the delegates here...add something. Doesn't this particular amendment, in effect, doesn't it do away with what the committee had added? The provision that after Commerce and Industry and the governor and all select--you know, agree with an industry to locate--local government has the right to say yes or no; we can afford to accept you--you know as a new industry, tax-exempt. Doesn't this remove that provision?

Mr. Mire You are absolutely true. It removes it, but I think that local government can be heard through its legislators.

Mr. Chehardy Well, we know that. But this does remove the provision.
One more question.

Mr. Mire Yes, I answered that.

Mr. Chehardy Isn't this the same provision that Mr. Drew's first two amendments would have knocked out that everyone so overwhelmingly rejected?

Mr. Mire No, this is an entirely different amendment from Mr. Drew's....completely and totally different.

Mr. Chehardy No, sir...but didn't Mr. Drew's amendment remove the authority of local government to approve exemptions in the future?

Mr. Mire I'm sure every delegate here knows that, Mr. Chehardy.

Mr. Chehardy Well, I just want to make certain we make it clear.

Mr. Riecke If this amendment passes, isn't there any...can't the Committee on Style and Drafting incorporate the provisions of the 1921 Constitution into this thing rather than just by reference?

Mr. Mire Well, the legal thing...

Mr. Riecke I don't see any reason why they can't do that.

Mr. Mire The legal aspect of it, I think, should be left to these people. But I don't think that's a great problem. The concept here is taking the

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industrial exemption out of the constitution, putting it in the hands of the legislators, which, I think, is where it belongs. I think that the two-thirds vote is not a great problem. If there's something dramatically wrong with it, I think we'll be able to get the two-thirds vote, and we'll be able to make any adjustment....

Mr. Riecke No, that was not my question.

Mr. Mire Well, I know it's not your question. But I told you that the legal end of it as to how you are going to accomplish this; I don't think it is as important as the concept. I think that Style and Drafting can in fact make it legal, even though, maybe, this document wouldn't be exactly legal.

Mr. Lanier Mr. Mire, would you agree that if this amendment incorporates this provision by reference, which, in my opinion it does because of the language used, that Style and Drafting cannot change that which is incorporated into the new constitution by reference?

Mr. Mire Well, then, are you telling me that this is just not a legal amendment or something, or that it doesn't, in effect, do what the intention of it is, Mr. Lanier?

Mr. Lanier No, what I'm telling you, did you know that what I am telling you is that when you say it is retained and shall remain in full force and effect, that this is different language than saying it is ratified or it shall remain in effect?

Mr. Mire Mr. Lanier, you're speaking technically, and this is what I tried to avoid with Mr. Riecke. I'm telling you that the concept of going to the legislature with this...haunt...with this ten year exemption, in my estimation, is very good. I would appreciate a favorable vote on this amendment.

Further Discussion

Mr. Perez Mr. Chairman, ladies and gentlemen of the convention, as you know today, I have offered certain amendments and I got beat. When I got beat, I sat down in my chair, and it was all over as far as I was concerned. I believe that we are never going to finish the work of this convention if we have an issue squarely before us which everyone understands, and the issue is decided. Then we turn around and continually, through the back door, try to change the decision that was made by this convention. Now when Mr. Drew offered his amendments earlier today, the main questions on Amendments 1 and 2 was whether or not the local governing authority was going to have any say-so with respect to an exemption granted to an industry. The arguments were made at that time that the local governments have the problem with respect to the financing of all of the various services which would be required to service that industry and possibly any new residences that might come about. This delegation decided local governing authority should have something to say-so about it.

Now when this amendment was offered, it is...it was admitted by the author, and the main proponent, that this is nothing more, and nothing less, than a rehash and another attempt to try to overthrow that which this committee--rather this convention--has already decided upon.

Therefore, I urge you to reject the amendment so that we can proceed, and, hopefully, get finished with our work before the end of this year.

Questions

Mr. Jenkins Mr. Perez, of course, you know there was very little debate and discussion on that question of removing governing authorities from the

provisions of this section because of our limited debate. But I want to ask you a question about...

Mr. Perez First of all, sir, you made a statement which I assume is in the form of a question. I say to you that within the limits of the authorized debate; that is, there were two speakers who spoke against the Drew...the first two Drew amendments, and they discussed the fact that it was necessary for local government to have to provide the services necessary for any new industry that came in. As far as I was concerned, the matter was as thoroughly discussed as our rules permit.

Mr. Jenkins Could I ask you this question? Do you think that there is a real danger in this event occurring? A plant goes into an area, invests twenty million dollars, then it has an expansion program that it wants to include of, say, ten million dollars. Do you think that you create a political situation whereby the police jury with sole, absolute authority to grant or not to grant these tax exemptions, or at least to deny them, would hold that over that plant's head and demand jobs for the nephew of the police juror member, and for the uncle, and for the sister, etc., and all sorts of personal, special favors before this tax exemption would be granted by the local governing authority?

Mr. Perez To agree with what you've said would be for me to presume that local elected officials are not doing their job. I would say to you that there would just as much chance of the governor, or the Board of Commerce and Industry, or anyone else who might have that decision of being able to beat them over the head just as you might suggest local government would. I say to you, sir, generally speaking, I think local government does a pretty good job.

Mr. Willis Mr. Perez, you and I are on Style and Drafting and so is Messieurs Camille...Messieurs Gravel and Kean. Now you know that this is all substantive and there's nothing that we can style in this. Isn't that correct?

Mr. Perez There's nothing...

Mr. Willis There's nothing that we can...there's not a word we can change here without affecting the substance, so we can't style it.

Mr. Perez No, sir, all we could do would be to put a comma, or a period, as suggested...if Style and Drafting required it. But we can't change any substance of it, or do as was suggested--take what was in the '21 Constitution and put it in this new document. Of course, that cannot be done.

Mr. Willis No, but what I'm saying is that we cannot, and under Style and Drafting Rules, there is no place for a comma, and we cannot change a single word without changing the substance.

Mr. Perez That's correct.

Mr. Willis It has to stay as is in the constitution.

Now, my further question is--assuming that to be true, and I don't think it's a vicious assumption--I refer you to the last word in that amendment, "therein." The first sentence, which says...which provides...which says that a paragraph of the previous constitution is retained, but it ends with the word "1921 Constitution." Now when it says "the legislature can by a favorable vote amend or repeal any provision therein," what does "therein" refer to? The constitution or the paragraph?

Mr. Perez I think you'd better answer that for me. I'm not sure. It seems to me...

Mr. Willis Well, it could be both, couldn't it?

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Mr. Perez That's correct, that's why....

Mr. Willis So the legislature could by two-thirds amend and repeal the entire 1921 Constitution.

Mr. Perez That's....it's very difficult to interpret.

Further Discussion

Mr. Planchar Mr. Chairman, I cannot be considered one of those in opposition of the...of the amendment itself, but I do want to point out in all fairness that the report of the committee is directly opposed, or in opposition, to this particular amendment in that the provision of the committee--and it seemed to be the majority vote at the time that the local governing authority would have some say-so over it. I do want to point it out to the delegates for that purpose only.

Questions

Mr. Rayburn Mr. Planchar, is it not true that the reason the committee placed the provision of local government in our proposal is the fact that the state is not in the ad valorem tax at this time?

Mr. Planchar That's correct.

Mr. Rayburn Any exemption they give would have no bearing on the state revenue whatsoever, but it would have it on the local revenue. Is that not true? Is that not the reason for that being placed in there?

Mr. Planchar I agree.

[Previous Question ordered.]

Closing

Mr. Gravel Mr. Chairman, ladies and gentlemen of the convention, the proposal made here is not the identical proposal that has already been acted upon. It's a proposal to check to the legislature by a two-thirds vote whether it wants to make a substantial change in the procedure that has been followed in this state under the industry inducement program. It's entirely different; although there is no question in my mind but that the primary consideration that the legislature should direct itself to, as we have here, is to whether or not you are going to permit the local governing authority to hamper the efforts of the state officials who are seeking to induce industry to come into this state.

Now let me tell you this proposal here--I don't care how hard the committee worked on it--is just wrong and bad. First of all, it says...it refers to the local governing authority and doesn't even say what local governing authority is involved, or where it might be located. It doesn't even say the local governing authority where the plant may be located. Not only that, it says that the local governing authority has to make its determination with respect to the multiple proliferating provisions of the contract as that local governing authority may deem in the best interest of the state. I'm saying to you, and I say it without any fear of successful contradiction, that this provision doesn't fit the program that has been designed to help this state and that has helped the State of Louisiana. All that this proposed amendment will do is to relegate the existing law to the superstatute status and, if necessary, permit amendment by a substantial majority--two-thirds vote of each house of the legislature.

Let me tell you what's going to happen if you don't do it, and this constitution is adopted. I want to say it clearly; I want to say it without reservation, and I want to say it without qualification. You are going to submit potential industry that wants to come to Louisiana to the lowest form of petty partisan politics. We're just not

going to get off the ground. That's what I'm saying. If you do not...if you do not...look to the best interest of the state by permitting the Board of Commerce and Industry, created for this purpose as a state agency, and the governor to enter into negotiations and to close negotiations inducing industry to come here, we are going to have a darned hard time getting industry to come to Louisiana.

I urge that you support this amendment.

Questions

Mr. Lanier Mr. Gravel, when you say that to allow local government to have some authority in this area would be to subjugate industry to the lowest form of petty politics, are you speaking in your capacity as an individual delegate, or in your capacity as the representative of the governor?

Mr. Gravel I'm speaking in my capacity on this as an individual delegate. I strongly feel that you cannot have an industry inducement program that's predicated on the proposition that the local government has got to make the determinations with respect to contracts, when we don't even know what the plan and what the program is going to be, or the location of the industry.

Mr. Anzalone Mr. Gravel, would you think that this would be an appropriate time for you to retract a few of the statements that you made a few minutes ago concerning the lowest form of petty politics, and especially in view of the fact that this state has recently undergone the indictment of the director of the Board of Commerce and Industry?

Mr. Gravel I didn't know that had been done? I don't believe that has been done, Mr. Anzalone. Well, I don't think that there has been any such indictment. My point is this: that there is no way, and I want to say it again, there is no way to permit the lowest political structure of this state to make the determination that has to be made to induce industry to come to this state. I'll stand on that statement...

[Amendment rejected: 40-50. Motion to reconsider tabled. Motion to revert to other orders adopted: 50-36.]

Personal Privilege

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, as the chairman on Local and Parochial Government, I don't believe that I could have passed up the opportunity to appear before you on personal privilege. This is the first time that I have done so during this convention in spite of the fact that there have been certain personal aspersions cast upon me by the same speaker on previous occasions.

I say to you that I am proud...I am proud of the dedicated people who work in local government. I say to you that they have good judgment and good sense and contribute greatly to the welfare of this state. Any such aspersions that were made by the last speaker on behalf of the people of local government, I resent, and I apologize to the people of this state, hopefully on behalf of the convention for the remarks that he made.

Personal Privilege

Mr. Gravel Mr. Chairman and ladies and gentlemen of the convention, certainly my remarks can very well have been considered to be intemperate by Mr. Perez and some of the rest of you. To the extent that they did so appear, I wish to apologize. But I want to say this just as calmly as I can--and by way of justification for the remarks that I made, without attributing any wrongdoing to any individual--that I happen to know a little bit about what I'm talking about because I was the general counsel for the committee, Labor Managements Committee,

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where we saw problems arise, not just with people that were in local government, but other people that were involved in the whole industrial complex. . . complexity of the industrial problems that we have. I think, frankly, I . . . the statement that I made properly can be considered to have been intemperate and made improperly. I feel very strongly about this issue. I feel very strongly about our inducement program. I want to repeat to the extent that I may have offended anybody especially, or generally, that I apologize. I certainly have a great deal of regard for the people in politics at all level who do their job and do it right.

Thank you very much.

*[Adjournment to 9:00 o'clock a.m.,
Saturday, October 27, 1973.]*

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ROLL CALL

[97 delegates present and a quorum.]

PRAYER

Mr. Schmitt O Heavenly Father, protect us in all of our endeavors which we perform in this day in this convention. Help this convention to create a constitution which is fair and just for all the people of the State of Louisiana, and which will promote progress in the State of Louisiana in Thy words. Dear Lord, help there to be justice and fairness in the world, and peace in this world. Thank You, Lord. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation, other delegates, members of that committee:

A proposal making provisions for property taxation.

Of course, the status of the proposal is that the convention has adopted as amended the first two sections of the proposal. It still has under its consideration proposed Section 3 which, as amended, deals with other property exemptions.

Personal Privilege

Mr. Asseff Mr. Chairman, delegates, some have used personal privilege to pray or to grieve; others, to commend or to eulogize; and few, to play. I am using it for many purposes, but principally in the hope that I may say something that will save the proposed constitution from certain rejection by the voters. I never have asked you to listen before, but I urge you to listen now, even if you ignore everything that I say. I do not know how much longer I shall be able to remain in this convention --though I hope to the end--but it is out of my hands. I have debated whether to say nothing or to speak, and I have decided that I must speak, as it is my duty. I may pay a heavy price for staying here, and I do not mean money, which is immaterial. Believe me, I have considered resignation, but I remain because it is my duty. So, if I sit and say little, please understand that I have no alternative as to what I do, if I wish to remain. I am willing to pay every price that I may have to pay--and without complaint--in order to draft a new constitution that the people will approve. But, I am not sure that with the penalty facing me that I can take the added price of a rejected constitution. For me, it is the last chance--it will not pass my way again. We can sell the constitution, not by pretty words, but by what we include or leave out in our image, and that is a decision that only this convention can make. To do this, we must be realistic and face facts and must keep in constant touch with the people. We must learn what may defeat the constitution, and why the people oppose and take steps to correct the situation. If we accept facts, we will recognize that the proposed constitution is in grave danger and, if submitted today, would face certain rejection. What I think is immaterial, I always have accepted the facts of life and the politics. Only by doing this have I been able to take the necessary steps to correct the situation. This convention is badly divided, whereas only a united convention can sell this proposal. I shall make every effort to be constructive in my recommendations. Believe me, I know I am outspoken, but I would not intentionally offend you. However, to

help, I must be honest, and also, that is the way I am anyway. I'm not a good liar or evader of the issues, and being honest, I am trying to save the constitution. I have been pressured in my district to oppose the constitution openly, now, and it would make me the hero of my district. But, I have refused to do it. I have not and will not close the door and sincerely hope that I shall be able to support the final document. That is why I am urging certain things which I hope that you will listen to. We must bring each delegate into what we are doing, sufficiently to make each a part of our work. Many feel left out. A working delegate who feels he is part of the document is more apt to fight for the proposed constitution than one left out or ignored. I urge the chairman of each committee, the Chairman of this convention, and the Executive Committee to help accomplish this. As I have said, only a united convention can sell this document. Let us support the Chairman and cooperate with him. He is suggesting what is best for us, and a new constitution. Let us leave out personalities, for you can reconcile issues, but it is almost impossible to reconcile a delegate when his pride is wounded. I urge you not to refer to a delegate by name--just disagree and give your reasons, and do not attribute motives. You really never know why a person does as he does. When you ask a question, ask one. Do not browbeat the speaker, or make a speech, or attempt to lead the speaker. If you want to speak, then ask for the floor. When you lose going through the front door, do not try to go through the back door or the side doors, as is done every day [everyday]. Accept the decision of the convention, and let us not rehash the same thing by minor changes to make it appear different. It is either this, or the Chair will have to rule it out of order or refer it to the convention for decision. If not, we never will finish. We must meet the deadline. Otherwise, many will think we are delaying to make money--which is not true. Failure to meet the deadline will mean there is no hope of voter approval. I am concerned about the proposal before us. I fear that we may be headed for financial chaos and confusion and it all will be frozen in the constitution. Do we really know where we are headed and the possible consequences? If you do, you are better than I am. Though our intentions are the best, will that help us if we commit financial suicide? It is true that everything may end up being rosy and out of this world, but isn't it also true that we are adopting an untried plan with unpredictable percentages and exclusions that may result in paradise for some, and suicide for others. Add to this the many exemptions, many of which are not well defined and the effects of which are unknown, and there is no doubt we are in a guessing game. Also, I am worried about how the proposal is drafted. I'm not always sure that I understand what is meant. Please do not say "Leave it to Style and Drafting." I am on Style and Drafting, and the matters are substantive, and the substantive committee in this convention will have to decide. Our success of failure may well hinge on what we do with this proposal. It is too important to pass in its present form. For that reason, I urge the convention not to give final approval until the committee has had an opportunity to review what we have done, and the financial implications and legal problems that may arise. To do otherwise is courting disaster. Though the proposal, for the most part, matters little to my district --I am unaffacted--I must think of what is best for Louisiana. At the present time, I cannot explain the consequences of the proposal, and I would make no attempt to do so. We have the rare opportunity of writing the basic law of the state, and thus perform a great service to posterity and leave our imprint on the history and government of Louisiana. It may bring fame or infamy, depending on what we produce. You have the ability, the sincerity, and the desire to do what is best for Louisiana, and I know that you will meet the challenge and will produce a document acceptable to the people. Thank you, Mr. Chairman and delegates.

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Motion

Mr. De Blieux Mr. Chairman, I believe that we could save a lot of time and possibly dispose of a lot of these issues all at one time if we could take the Segura amendment at this particular time. That's the one with all of the names on it. I move that we take that one out of the order of amendments and go with that one at this particular time.

[Motion adopted without objection.]

Mr. Abraham Are we still operating under the two-speaker rule, where there's two speakers pro and con, or what? Where do we stand?

Mr. Henry Yes, sir, we're still operating under that.

Mr. Planchard Mr. Chairman, it is my understanding that we're still working under a rule from yesterday. We suspended the rule yesterday, but under our rules, can we also...we'd have to also suspend them for today, shouldn't we?

Mr. Henry No, sir. No, sir, the motion was to suspend it...to suspend the rules till we got through with that section, Mr. Planchard.

Motion

Mr. Planchard Well, I'd like to make the motion at this time, if I can be recognized, to return to the regular rules of the convention.

[Motion to suspend the temporary rule to limit debate to two speakers for each side rejected: 45-42.]

Mr. Chatelain Mr. Chairman, have you made a decision as...are we going to run with the Newton amendment or the...or have you made a definite decision? I was thinking if we could have a little five or ten minute huddle--you have the Rayburn amendment and some others here--maybe we could save even more time.

Mr. Henry Well, Mr. De Blieux moved to take this Newton concept out of its regular order. We have two or three amendments to that effect, and we're trying to figure out, really, what's going to... Let's stand at ease for about a minute, and let's see how many amendments we have on this thing.

Mr. Chatelain Thank you, sir.

Recess

[Quorum Call: 87 delegates present and a quorum.]

Mr. Chatelain Mr. Chairman, I don't know how to tell you this, but I have a feeling that a miracle is about to happen. I believe, honestly, if you would give us another ten minutes, you could get some minds together, here, that would save us a lot of time because it's...I have a feeling that they're about to get together on...on combining some of these amendments, sir.

Mr. Henry Well, Senator De Blieux wanted to go ahead, and moved, and we did adopt. We took about a ten-minute recess, Mr. Chatelain, to go ahead and take up this Reeves, Gauthier, etc., amendment. So, let's go ahead, and maybe in ten minutes we can have disposed of it. So, we won't be...

Mr. Chatelain Well, I was praying for time because I've never seen a feeling as I see now, sir.

[Motion to recess 10 minutes adopted: 64-13.]

Recess

[Quorum Call: 85 delegates present and a quorum.]

Motion

Mr. Mire Mr. Chairman, if a motion is in order, I would like to make a motion--due to the confusion and everything--that we pass over 3 today and go to number...Section 4.

[Motion adopted: 64-27.]

Reading of the Section

Mr. Poynter "Section 4. No Impairment of Existing Taxes or Obligations

Section 4. The provisions of Article XI, Section 2, in no way shall be construed or applied in such a manner as to: (a) invalidate taxes authorized and imposed prior to the adoption of this constitution; or (b) impair the obligations validity, or security of any bonds or other debt obligations authorized prior to the adoption of this constitution."

Explanation

Mr. Slay Mr. Chairman, fellow delegates, this is a--I guess you would call it--a technical section that the bonding attorneys and people who buy our bonds here in the state think that we need. Now, let me try to explain this section as I see it. Suppose the state does go back into the five and three-quarter mill tax, and there's just a small part of that that would go for bonds. Then, at a later date, something might happen that our economy would drop. Then, we would say that we are not tied to the five and three-quarter mills or that part of it that go to retire our bonds or any debt that the state has imposed. That's just a protection, as I read this section, that the bonding attorneys and people in this...that work in this section would want us to have in the constitution. I will try to answer any questions, but other than that, I don't believe that there's much explanation that needs to be made. This is in our 1921 Constitution, and if there's no questions, Mr. Chairman, I would move for the adoption of this section.

Questions

Mr. Dennerly Mr. Slay, did I understand you to say that this is to provide that if any taxes are imposed in the future, that a subsequent reduction back to...would...a subsequent reduction of those taxes would not impair the obligation of any bonds?

Mr. Slay If I get your...if I get your question right, under the five and three-quarter mill tax, a part of that went to the Confederate Veterans Tax and...

Mr. Dennerly You're talking now, then, about taxes which have previously been...

Mr. Slay Previously been...previously adopted in this constitution.

Mr. Dennerly Thank you. I misunderstood what you said. I misunderstood you.

Mr. Champagne Mr. Slay, this particular section--in committee there was very little, if any, opposition to it. Is that right?

Mr. Slay That's right, Mr. Champagne.

Mr. Rayburn Mr. Slay, I have some language that the bond attorneys had suggested, and we did place it--I believe Mr. Perez put that same language in his proposal--and I believe this would be the proper place to put it. I'm having an amendment prepared. Could you give me just one minute until they can get the amendment?

You have some other amendments? Well, good. I

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thank you.

Mr. Dennis Mr. Slay, I notice the...in the last line it says that the "provisions of Article XI, Section 2, in no way shall be construed or applied in such manner as to impair the obligations or bonds authorized prior to the adoption of this constitution." Shouldn't that be "authorized and issued"? Are you attempting in this to secure bonds that have been authorized, but have not been issued yet?

Mr. Slay Judge, I know of no such bonds that have been authorized and haven't been issued, but if you feel that that should be in there, an amendment would take care of that.

Mr. Dennis Well, I'm not at all certain. I'm... I'm not... This just creates... I know that many bonds have been authorized that have not been issued yet, and I just wonder if it was really the committee's intention to secure the obligations that had not yet been incurred, but which had been authorized.

Mr. Slay That question was not raised in our committee discussions.

Mr. Jenkins I'm not quite sure, Mr. Slay, when we talked about Section 2 not invalidating taxes authorized and imposed prior to this constitution. What taxes might those be that would be authorized and imposed that Section 2 might conflict with?

Mr. Slay Let me give you an example of a tax that I can think of that has been paid off. We have in here a part of the five and three-quarter mills which went to the Confederate Veterans Tax. Of course, all the confederate veterans are dead, but that money, then was dedicated to paying bonds for Toledo Bend. Now, Toledo Bend has been paid off. That's an example of what could be discussed under this. Now, like I say, Toledo Bend is already out of the picture, but...but you're speaking of... when the five and three-quarter mills was done away with, the state then went into an additional severance tax which made up more money than the five and three-quarters did. Now, the monies out of there are being used at present, as I understand it, to pay any bonded indebtedness or taxes that the state might have.

Mr. Jenkins Well, as I understand it, right now the state has the authority, the legislature has the authority to levy ad valorem property taxes without limitation. Is that correct?

Mr. Slay Under our constitution, it has the authority to levy taxes up to...if we adopt this, up to five and three-quarter mills. However, if for some reason...

Mr. Jenkins No, I'm talking about now, now under the 1921 Constitution.

Mr. Slay Five and three-quarter mills is what the legislature has the authority to place on you now. However, if the five and three-quarter mills does not meet the obligations of the state, then, as I understand it, they could levy an additional tax to meet our obligations. But, you cannot levy more than five and three-quarters as long as we're meeting our obligations, is my understanding.

Mr. Jenkins Well, Mr. Slay, you mean I am incorrect in saying that the constitutional amendment passed last year took off the five and three-quarter mills tax and also took off the five and three-quarter mill limitation on state property taxes? We...in other words, I am incorrect that the legislature can levy taxes without limit.

Mr. Slay I'm not saying it's incorrect because I don't know. I don't know the answer to that. Probably, you're in a better position to answer that than I am. But, my understanding was that the...that we took off the five and three-quarter mill

tax, but it...that the state, the legislature can go back and put it back on if they want to.

Mr. Jenkins Well, if in fact there is no limitation on the power of the legislature to levy property taxes under the 1921 Constitution, and prior to the adoption of this new constitution, the legislature did increase property taxes--for instance, suppose the vote on this didn't come until sometime late next year, and next year's legislature increased property taxes--wouldn't we be validating those taxes and continuing them, in effect, under this Section 4?

Mr. Slay I don't know that I follow your question completely. But, you're saying if we had some taxes that are due and bonds that are due right now...

Mr. Jenkins No, sir. What I'm saying is if in the May session of the legislature this constitution were still pending, and the legislature then imposed a tax of, say ten mills on all property in the state, wouldn't this Section 4 validate that tax under the new constitution if it were subsequently adopted?

Mr. Slay I am not sure that the legislature can come and put ten mills on at the next session because my understanding was that we got...the state got out of the five and three-quarter mill tax, but if they go back into it, that five and three-quarters is as much as they can go.

Mr. Tobias Mr. Slay, I'm reading the line 15. It says, "the provisions of Article XI, Section 2." As the committee drafted it, is the phrase, "Section 2," not a technical error? In other words, isn't it a technical error because in your original Proposal No. 26, before this came back from committee--the original proposal, the first one reported out by the Judiciary Committee--there were only approximately four sections, and that this referred to the correct section? But, since this has been amended, the staff did not correct this typographical error? Shouldn't this be...should this either read "the provisions of Article XI, Sections 1 and 3," or "provisions of this article"?

Mr. Slay You're saying that we changed Section 2 and made it...

Mr. Tobias Right, you made it Section 3 in this proposal.

Mr. Slay That's right.

Mr. Tobias So, in other words, you would have no objection to saying that "the provisions of this article in no way shall be construed" and continue with that language?

Mr. Slay None whatsoever.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Tobias]. On page 7, line 15, after the word "of" delete the remainder of the line and insert in lieu thereof the following:

"this Article in no".

Explanation

Mr. Tobias Mr. Chairman, fellow delegates, this amendment is in the nature of a technical amendment for the simple reason that as I was asking a question of Mr. Slay, this...the committee, in redrafting and reporting to the floor their original Proposal No. 26, should have changed this to read: Section 3. As this committee, in effect, merged Sections 1 and 3 into one section--or had, at least, 3(A)--into Section 1, it became necessary to say either Section 1 or 3. Well, in the event that there are other provisions, which I do not see any, but just in the event some court may

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eventually interpret something in Sections 2, 5, 6, 7, B--any one of those sections--to affect the bonding capacity of this state, we should guarantee that bonds presently in effect would continue to be effective and would not be invalidated. Of course, under the provisions of Act II of 1972, we cannot impair the obligations of bonds of this state, or of any political subdivision.

I yield to any questions.

Questions

Mr. Lanier Mr. Tobias, isn't it true that we have other property taxes in this state beside ad valorem taxes, such as acreage taxes, and contributions for the benefit of levees, etc.?

Mr. Tobias True.

Mr. Lanier ...that we have to consider here?

Mr. Tobias True.

Mr. Lanier Isn't this necessary, this provision, isn't it necessary to make sure that no vested right will be divested in violation of the United States Constitution?

Mr. Tobias That is my understanding of it.

Mr. Jenkins Max, I'm wondering again about that Section 2 because, of course, this will still apply to Section 2.

Would this language here validate any increase in the state property tax, which might be levied by the legislature this coming May, which would be in excess of five and three-quarter mills?

Mr. Tobias It's my appreciation of the subject, which I admit is very limited, no. The reason it would not is because, I think that this particular provision would apply to dedicated millages to various types of bonds. I don't think the legislature has that power when you have a specific exemption. They couldn't do it anyway, under the five and three-quarter percentage. They'd have to find other sources. I mean they have that limitation now.

Mr. Jenkins In other words, it's your opinion that in the 1921 Constitution there is now a five and three-quarter mill limitation on state property taxes?

Mr. Tobias As my appreciation of the matter, the five and three-quarter mill property tax, the mandatory imposition of that was repealed by the constitutional amendment.

Mr. Jenkins It's not your opinion that there is no limitation on state property taxes under the 1921 Constitution at present?

Mr. Tobias Yes, there is--five and three-quarter mills. But there was...you see...what they took out in the, as I appreciate it, and I may be wrong--in the 1973 or '72 amendment they took out the mandatory imposition of that as required by the constitution. They did not remove the limitation of five and three-quarter mills.

[Amendment reread. Amendment adopted without objection.]

Amendment

Mr. Poynter Senator Rayburn, did you want to just leave the provisions...change your amendment so that you would leave the effect of the Tobias amendment?

Amendment No. 1. On page 7, delete lines 14 and 15 in their entirety, and insert in lieu thereof the following:

"Section 4. Limitation on Bonded Debt; Impairment of Existing Taxes and Obligations Prohibited

Section 4. (A) General obligation bonds may be issued by any political subdivision for any single purpose which, including the bonds of such political

subdivision incurred for the same purpose and payable solely from ad valorem taxes levied without limitation as to rate or amount, shall not exceed in the aggregate ten percent of the total value of all property within such subdivision valued for assessment purposes, including property exempt as homesteads, to be ascertained by the last such valuation for political subdivision purposes previous to incurring such indebtedness except that as to both parishwide school districts and other school districts, the limitation shall be twenty-five percent of the total value of all property within such district valued for assessment purposes, including property exempt as homesteads to be ascertained by the last such valuation for assessment purposes previous to incurring such indebtedness.

(B) The provisions of--and now Senator Rayburn indicates he'd like this changed to conform to the Tobias amendment--the provisions of this Article in no"

Change that Article XI, Section 3, to simply read "this Article."

Point of Information

Mr. Conroy Mr. Chairman, I really haven't had an opportunity to study this amendment to know what its content is. But it seems to me it's out of order as an amendment to this section.

Motion

Mr. Rayburn Mr. Chairman, could we stand at ease for about two minutes?...I personally didn't see any need of this, but the bond people ask...it's in local government, and I thought that took care of it. They suggested we put the same language here. I don't...I really don't see the need of it. Could we stand at ease about two minutes?

Recess

[Amendment withdrawn. Previous Question ordered on the Section. Section passed: 97-7. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter "Section 5. Adjustment of Ad Valorem Tax Millages

Section 5. The amount of taxes collected by any taxing authority in the state shall not be increased or decreased because of the method of assessing property at a uniform ratio of assessment to value as provided in Article XI, Section 1, and it shall be the mandatory duty of all taxing authorities to adjust millages proportionate to adjustments in assessment values so as to produce the same total dollar amount of revenue. Such millage adjustments shall be made without regard to limitations contained elsewhere in this constitution...

[Motion to waive reading of the Section adopted without objection.]

Explanation

Mr. Conroy The purpose of this section is to insure that the changes which are in assessment practices and procedures which are provided in Section 1 of this Article, will not increase or reduce the amount of taxes collected by local governing authorities. In the course of Section 1, as you know, we've made certain changes, and certain things have become a little clearer. As a result of that, we had--we have an amendment to Section 5, to the first part of it, which should be distributed very shortly. It has been discussed with Mr. Mire, who is one of the coauthors, and Mr. Casey and Mr. Gravel are other coauthors. It's designed to make clear that the millage adjustment provisions apply to all of the adjustments that are required as a result of Section 1, and not just the question of the assessment ratios --that is the homestead exemption increase also

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has to be compensated for by a millage adjustment and shift so that the total amount of taxes will remain the same, and that no governing authority will lose any money as a result of the provisions of Section 1. It is a very technical section, but I think an extremely important section. With the amendment as proposed, I hope that the section would be adopted so that nobody will suffer and nobody gain any unexpected advantage out of the change in taxing procedures which this convention has adopted.

I yield to any questions on it.

Vice Chairman Casey in the Chair

Questions

Mrs. Zervigon David, did you clarify whether this was to apply only to the changes in assessment ratio, or to apply, also, we could roll up our millage to cover the new value of the homestead exemption?

Mr. Conroy Yes, that's the purpose of the amendment--includes specifically, reference to the homestead--increased homestead exemption.

Mrs. Zervigon Thank you.

Mr. Abraham To begin with, David, in the last sentence is the word "theretofore" correct? Or should it be "heretofore"?

Mr. Conroy In the amendment it's "theretofore" because, if you recall, Section 1 provides that the changes there will not become effective for three years.

Mr. Abraham All right. Now, the thing that disturbs me, I realize that we are providing for this initial adjustment. I think what you are trying to say on the next page about being able to levy additional taxes...you sure there is no conflict there to where someone cannot come back ten years from now and say, "Well you can't collect any more taxes"? This disturbs me. I'm not quite clear on that point.

Mr. Conroy All I can say, Mr. Abraham, is that we have...many people have reviewed this as carefully as we can. We have hoped that we have solved those problems. I understand your question and your concern, but I really think that we have done it so that we have limited the problem to the millage rollback affecting only the changes that are made in Section 1, and still giving taxing jurisdictions the right to impose additional taxes in the ways that are permitted by law, and also to gain the usual benefits of additional property going on the roll and property going up in value. I think that this is the proper way to set it all out. We've studied other states that have had similar problems. I think we've walked the right line. But it is a difficult one and a complex one. But I think it handles it.

Mr. Hayes Mr. Conroy, I can appreciate what you're trying to do. This would give us exactly what we have now. Is that correct?

Mr. Conroy That's the...that's the attempt.

Mr. Hayes But then, how can you...how can you satisfy what you're trying to do by doing it exactly like it's done now? You're going to...I would appreciate the fact that my tax would remain the same. This wouldn't bother me at all. But then, how would the appraisers go about appraising property so it's going to come out exactly the same on a hundred percent assessment?

Mr. Conroy Well, let me make that clear. This amendment does not say that the individual property owner's taxes will be the same. That is not the effect of this. The individual property owner's taxes may vary quite a bit. What this says

is that the overall taxes collected by the taxing authority will not change. But we recognize that Section 1 will shift, among individual taxpayers, the tax burden.

Mr. Avant Mr. Conroy, I just want to be sure--I think it does--but I just want to be sure that your amendment deletes the sentence which reads, "such millage adjustment shall be made without regard to limitations contained elsewhere in this constitution." Your amendment...

Mr. Conroy No...

Mr. Avant ...it leaves that in there?

Mr. Conroy Yes.

Mr. Avant O.K.

Mr. Conroy Now the reason that that's left in is because we weren't certain how the Local and Parochial Government Provision was going to read at the time this was drafted. As it still stands in limbo before this convention, the Local and Parochial Government Provision had certain limitations on millages, and this was designed to say that, in making this adjustment, we recognized that we cannot penalize a local governing authority by virtue of those millage limitations that appear elsewhere. They've got to still be able to collect the same total number of dollars.

Mr. Avant Well, Mr. Conroy, that seems to me to be awful broad language without regard to limitations contained elsewhere in this constitution. That means anywhere in this constitution--including the article on the Bill of Rights--does it not? Isn't that language overly broad? I don't object if you have some other...

Mr. Conroy The intent of this language was solely to tie in with the Local and Parochial Government proposal. I feel certain there'd be no...objection to an amendment which would so specify. That's certainly the intent.

Mr. Avant Well, you do see, then, and agree that this is, maybe, overly broad language and may present some problems that you really don't want to present. It's not in complete keeping with what you...

Mr. Conroy No, I don't think so, because I think, insofar as the Bill of Rights provisions go, we would still have the federal Bill of Rights, if you need it, to protect yourself on those sort of things. But I don't think it would have that problem.

Mr. Jenkins Mr. Conroy, with regard to that sentence, "such millage adjustment shall be made without regard to limitations contained elsewhere in this constitution," what, if any, provisions have you made in this proposal to take account of unjust situations that might arise. For example: Suppose we're talking about a small, mostly rural parish. It has one industry there. Because of the provisions of this article increasing homestead exemptions, almost all of the tax load falls now on that one industry so that millage rates could be increased to five hundred mills, a thousand mills, or some ridiculous, exorbitant figure. Do you have some provision to take account of that so that, in effect, a particular entity would not be taxed out of existence, also, so that a particular parish would not be placed in an uncompetitive situation with regard to adjoining parishes, in regards to industrial inducement, and so forth?

Mr. Conroy No, Mr. Jenkins, we do not. I'd say that the only way in which that can realistically be handled is, hopefully, in that three year delay period we've got in the implementation of Section 1, that if any of these problems do exist, we can somehow find a solution for them before that

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becomes effective. But no, we did not attempt to try to spell out how that would work in this particular section.

Mr. Slay Mr. Conroy, I want to put this in the form of a question, but it's also a statement, so I'm going to say: did you know that when we get into the rollback of millages, we are not speaking about the rollback on a lot of millages that should really concern us, because most of the local taxes are for bond issues and capital outlay purposes which are automatically rolled back regardless of what this constitution does. So, now the only taxes we are thinking about, that we are telling the school board and the police jury to roll back, is going to be what we call general alimony and your maintenance taxes and money that goes into the general fund. So, my question is this: this is not something that we should be overly alarmed about?

Mr. Conroy Mr. Slay, that's certainly my impression. It's of limited application; I would hope.

Mr. Slay Well, my...then the next thing: did you know that in looking at Rapides Parish out of an average millage of some eighty-five mills, which is rather high, that there's only ten or fifteen mills that would not automatically be rolled back whether we had this provision or not?

Mr. Conroy I wasn't aware of that. But I'm not surprised.

Mr. Tobias The last sentence in this...section. Is it necessary anymore after the adoption of Section 4 as amended?

Mr. Conroy Mr. Tobias, I'm not able to answer that question. I think that the last sentence is necessary and desirable. It seems to me to be somewhat a duplication of Section 4.

Mr. Riecke Mr. Conroy, under this amendment, suppose you have property worth a hundred thousand dollars, and they put a highway through it. Now, as a result of that, it's two hundred thousand. Could the assessor raise your tax on that basis?

Mr. Conroy He...under the proposal in Section 1 he can and should.

Mr. Riecke Well, I just wanted to clarify that in my mind.

Mr. Conroy Yes. No, the individual property owner, as I said, this does not protect the individual property owner or relate to him. It relates to the overall situation and adjustment of millages.

Mr. Singletary Mr. Conroy, this adjustment in millage is something that's going to happen one time? Is that correct?

Mr. Conroy Yes.

Mr. Singletary That will be a permanent change?

Mr. Conroy Not necessarily. It may or may not, depending on the nature of the taxes being levied. Some of them, as Mr. Slay just pointed out, are automatically adjusted anyway.

Mr. Singletary All right. Would you explain what you mean by taxing authorities? Does that refer to assessors?

Mr. Conroy No. No, the taxing authority is the agency collection the tax.

Mr. Slay Like the municipality...

Mr. Conroy ...municipality, parish, levy district, school district, whatever it is.

Mr. Singletary How are they going to make that

change? By passing an ordinance or a law?

Mr. Conroy Yes, as they do now...they adjust a lot of millages normally, routinely. This would have to be adjusted along with those that are now annually adjusted.

Mr. Singletary Would this require any vote by the people? Or is this...

Mr. Conroy No, no.

Mr. O'Neill David, I like basically what this section does. But I wonder how much flexibility the local governing authority is going to have to work--to work in, and that...I am a little bit concerned that there seems to be no upper ceiling on any of these millages. Could you address yourself to that?

Mr. Conroy ...I'm not sure I understood your question. Or was there two questions, Mr. O'Neill...would you say it again? I'm not sure I followed what your question was. You said, "Was there any flexibility in this?"

Mr. O'Neill Right, for instance...

Mr. Conroy No, as far as the basic concept, it is not a flexible concept insofar as the millage adjustment is designed not to create any additional revenues for the parish or to deprive it of any revenues. In that respect, the concept is not a flexible concept. It's a rather strict concept. Now your other question was what?

Mr. O'Neill ...I've forgotten it myself.

Mr. Conroy O.K.

Mr. Champagne The provision on which the question was asked about "not subject to" on this. Actually, the point is saying that the ad valorem millage is subject to the provisions of this section. Is that right? In other words...in other words if we say a seven mill ad valorem--I mean, you know--this is subject, roll back and forward. In other words, that clearly stated in that paragraph that it is subject to it.

Mr. Conroy That's right. That's why the word "limitations" was used here rather than "provisions of the constitution". It referred to the limitations on millages that may be elsewhere in the constitution.

Mr. Derbes David, how is this provision enforced?

Mr. Conroy I don't know. It'll be fun to watch.

Mr. Derbes Because otherwise, I mean it...the phrase "mandatory duty", does that mean that a mandamus law is against this?

Mr. Conroy I would think so if there were any attempt on the part of a governing authority as a result of the changes in procedures here to collect more taxes, that the intent here would be to give the taxpayer a right to complain about an increase in his millages that produced a greater amount of revenue. So I...that's...not facetiously...that is the answer to your question is it's intended to give the taxpayer a remedy in the event his millages are improperly increased.

Mr. Derbes Who would assert...?

Mr. Conroy The taxing authority will assert the millages and the millage adjustments...I mean in answer to the puzzlement on you face, I can only say that it's a good thing we have three years to try to figure this out.

Mr. Flory Mr. Conroy, you've got a layman really shook up here as to interpretation on what you mean by inverse proportion. As I appreciate it,

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in the terminology as we use it, it means downward only.

Mr. Conroy No, inverse proportion means as one goes up, the other goes down; or as one goes down, the other goes up. In other words, if the total assessed values go down, the the millage--millages have to go up. If they go up, the millages have to go down. That's what inverse proportion means.

Mr. Roemer Mr. Conroy, you made the point early, and I'd like you to make it again. Isn't it true that this provision will not guarantee or insure that the individual taxpayer's bill will remain the same? It's the collective bill of the taxing district will remain the same.

Mr. Conroy That's absolutely correct. This article is directed only at the overall situation within a taxing district. There may be, and probably will be shifts of taxes within...as to individual taxpayers.

Mr. Roemer Right. The reason why we couldn't do it on the individual basis. Could you explain that?

Mr. Conroy Well, the...entire purpose of Section 1 was to create a uniform basis of assessing taxes. It was recognized that it was not presently uniform, and there may be some unfairness and inequities. This is designed to permit the straightening out of the inequities so that they would not be inequities, but a redistribution on a fair basis is the concept.

Mr. Dennery Mr. Conroy, suppose a home rule charter now in effect requires a vote of the people in order to increase millage. I understood you to say that it...in answer to a question of Mr. Singletary, that no such public vote would be required. As I read this article, it says "notwithstanding any provisions of the constitution."

Suppose a home rule charter makes such a requirement, what would your answer be?

Mr. Conroy Mr. Dennery, some of the intention here was to cover home rule charters as well.

Mr. Dennery In other words, you say that the language here will overcome any provisions in a home rule charter to the contrary?

Mr. Conroy That's certainly the intention, yes.

Mr. Dennery Do you agree that it does not necessarily say that?

Mr. Conroy It would require an interpretation of what "contained elsewhere in this constitution" may mean. But, yes, it may require some clarification.

Mr. Dennery Thank you.

Mr. Winchester Mr. Conroy, would this provision allow a fixed millage such as five mill school tax or four mill parish tax to be increased or decreased?

Mr. Conroy Yes.

Mr. Winchester Any tax that was voted as a fixed amount--I'm not talking about a bond tax--but would allow that to be increased or decreased without any further provisions?

Mr. Conroy It could, Mr. Winchester.

Mr. Winchester Yes, sir. Thank you.

Amendment

Mr. Poynter The first amendment is sent up by Delegate Conroy--the amendment that he's mentioned several times. Delegates Conroy, Mire, Casey and

Gravel.

Amendment No. 1. On page 7, line 22, after "Section 5." delete the remainder of the line and delete lines 23 through 28, both inclusive, in their entirety, and at the beginning of line 29, delete the words and punctuation "amount of revenue." and insert in lieu thereof the following:
"The total amount of taxes collected by any taxing authority shall not be increased or decreased because of implementation of the provisions of Section 1 of this Article relating to change in the method of assessing property and increased homestead exemption. Upon implementation of such provisions, it shall be the mandatory duty of taxing authorities to adjust each millage in inverse proportion to the change in total taxable assessments so as to produce the same total dollar amount of revenue as would have been produced by the methods of assessing property and homestead exemptions theretofore in effect."

Explanation

Mr. Conroy In the course of explaining the section, I explained this amendment already. But if there are further questions, I'd be happy to do so. As I said, the amendment was principally directed to make it absolutely clear that it applied to the homestead exemption changes as well as the method of assessing.

Questions

Mr. Mire Mr. Conroy, the one question that is not completely clear in my mind: how about the growth factor for that particular year?

Mr. Conroy That would be treated by a combination of two things. One, that was the reason why the additional language was added at the end of the amendment which does not appear in the original language which says "the same total dollar amount of revenue as would have been produced by the methods of assessing property in homestead exemptions theretofore in effect." So this previously just stopped the same total dollar amount of revenue. This was to indicate that it wasn't to be the same thing as the prior year, but the same thing as would have been produced in that year. When you read that with the...phrase (C) on the next page, which says "it will not preclude a taxing authority from collecting a larger dollar amount of ad valorem taxes by reason of increased property values due to economic conditions, I think reading those two provisions together protects the local authority to allow them increased revenues due to economic growth.

Mr. Singletary Mr. Conroy, would you explain the meaning of taxable assessments?

Mr. Conroy Taxable assessments means--the reason the word "taxable" is particularly used there is to refer to that part of a home which is assessed over and above the homestead exemption. In other words, it's the taxable assessments. Some property may appear on the assessment rolls but then be exempt. This is to be clear that we are only talking about the taxable assessments.

Mr. Jenkins Mr. Conroy, I just want to clarify again to be sure I understand that under both the original section, and the section with this amendment, there is no limitation whatsoever on millages which could be levied so that in certain places and isolated circumstances millages could go as high as a hundred, two hundred, five hundred, a thousand mills. Is that true?

Mr. Conroy There is no limitation in this on the millages on an individual taxpayer.

Further Discussion

Mr. Chehardy Mr. Chairman, fellow delegates. We spent a tremendous amount of time trying to determine

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how to protect the taxpayer from any inordinate increase in taxes as a result of reassessment as brought about when the new constitution takes effect. Now, right...this language now thrust upon us which I'm seeing for the first time, to me, might possibly do violence to what we have accomplished, and what I want is to have some time for us to study this and make sure that we are not doing violence to the homestead, that we are not removing, in effect, protection to the taxpayers of this state--whether it be commercial taxpayers, whether it be homeowners, or whether it be industry. What we have to make certain is that whatever we put in here means only one thing. That the amount of taxes collected in the first year after the year in which the...the first year of effect of this constitution is no more than the total amount collected in the immediately preceding year and is no less, with the understanding that normal growth pattern is not included. I believe that we are going too hasty if we accept this amendment before a study is given. I'm reworking an amendment which I think will clarify the whole thing. At this time I'd like to ask either that we withdraw the amendment so we can discuss it, or else, I'd ask that you defeat it until such time as we come up with something that we all understand. I, for one, do not understand what this does. It possibly does violence to everything we've done to protect the taxpayer, so I certainly could not vote for it in good conscience.

Questions

Mr. Velazquez Mr. Chehardy, this term "taxable assessment," isn't that a completely new term?

Mr. Chehardy Yes, it is.

Mr. Velazquez And nobody really knows what it means? Legally speaking, I mean, at this time as we stand here.

Mr. Chehardy I'm going to be honest with you. When you get bond attorneys and they start drafting matters, and they're thinking strictly of their future involvement with bond issues, etc., I get very concerned until I see plain simple language. We just don't want someone...the taxes in a district or the taxpaying public to have extra high taxes to pay because of reassessment, and by the same token, we don't want the area to suffer. So in either case there'd be a millage adjustment to bring you back to status quo, and I think we could come up with some simple language without going into a lot of technical language. I don't believe...which I don't believe one of ten of us understand.

Mr. Velazquez Thank you, Mr. Chehardy.

Mr. Willis Mr. Chehardy, Mr. Velazquez preempted one of my questions, but he did not preempt the other. The other is that in the proposal, which has been discussed for some nine months. The word "homestead exemptions" does not appear, nor does the word...the phrase that Mr. Velazquez says, "total taxable assessments." Now, don't you think that it is worthy to embrace something which has been studied nine months than something which has been studied nine minutes?

Mr. Chehardy ...Absolutely, and I hate to say this but I have to--and what I'm saying does not apply to me or Casey or Gravel--but as far as Mr. Conroy is concerned, he has led the fight to do away with the homestead, so I have to say this: anything he proposes is suspect in my eyes. There may be technical language in here which is destroying the homestead exemption.

Mr. De Blieux Mr. Chehardy, at the present time, I believe you've stated the fact that you are assessing property in Jefferson Parish--isn't it at six percent?

Mr. Chehardy Of a hundred percent, that's right. At a hundred and thirty dollars a thousand.

Mr. De Blieux Now, if the provisions of Section 1 go into effect, that property which you are presently assessing at six percent, wouldn't it have to be increased to ten percent?

Mr. Chehardy That's correct. Right.

Mr. De Blieux Now, if we did not have this particular provision in the constitution, wouldn't you force the raising of all of those people's taxes by at least forty percent?

Mr. Chehardy Absolutely.

Mr. De Blieux Now, therefore, isn't it to your advantage to adopt this amendment?

Mr. Chehardy Not particularly. It could be to our disadvantage or to our advantage, but I'm just not sure what it does, Senator. I believe it does violence to nine months of work, and all I want to do is see status quo maintained that we can adjust millages, so that if there is an inordinate rise or an inordinate drop, we come back to status quo by adjusting millage. This does not say that. This goes into a talk about the homestead exemption, all of which we studiously avoided during the proceedings.

Mr. De Blieux Well, isn't the whole purpose of this amendment to assure that after you equalize those taxes and bring them up to the ten percent, that the taxing body would not collect more money than they otherwise would collect under the old procedure?

Mr. Chehardy Well, but I don't know what base they're going to use. The way he has it worded, he's talking about taxable income. We want to go back now and see, when he starts taking the homestead exemptions out, just what does that mean, and we need time to study it. So, at least give us a few minutes to look into it and see if we can't word something which will fit what you're saying and do it accurately; that's all.

[Rules Suspended to allow additional time.]

Mr. Roemer Lawrence, I'm trying to understand, as best I can, what your objections are, now, to this particular amendment. It seems to do what we did in committee. You, perhaps, disagree with that, and I'd like you to lay out for me and anybody else who is confused what your specific objections are to this amendment?

Mr. Chehardy Well, that's exactly what I'm trying to work up now. The language is different. It's technical legal language, and I know if I, as a lawyer and someone who has fooled with the property tax problem for nine years, see something here to raise questions, I want a few minutes to try to see what's wrong with it. There's something wrong with it. I'm trying to put my fingers on it. If it comes up and it's alright, I'm going to say so, but at the moment, I just don't feel that I could sincerely say yes to this, and we may be doing violence to all of our work.

Mr. Roemer Well, could you focus our confusion on the one or two points that confuse you?

Mr. Chehardy Well, sure. One of the prime things is: we make reference to increased homestead exemptions as part of the base we have to be concerned with. Also, we come back to the last sentence which is something new, "would have been produced by the methods of assessing property and homestead exemptions heretofore in effect." I believe there is another point to be clarified. When do you stop this adjustment one way of the other? I believe that even in the committee report

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we have to clarify that. For example, I'm thinking along the lines of language which would say something to the effect that the amount of taxes collected by any taxing authority in the state shall not be increased or decreased above or below the taxes collected for the year immediately preceding the year in which the provisions of this constitution pertaining to property taxes, reassessment, are implemented--something like that, pure and simple--and then we know where we are going. But, when they start talking with a lot of legal mumbo-jumbo, I want to read it, because you could turn a twenty year law suit on two words, and you know it as well as I do.

Ms. Zervigon Mr. Chehardy, I've gotten different sorts of answers from the committee members on this question. I'd like to know what your opinion of the committee's work is with regard to the roll-up and rollback? Did you intend for it to cover any losses or gains because of the different homestead exemption?

Mr. Chehardy All we intended was this: that the total tax dollar collected by any governing...any subdivision of the state...any taxing authority--say, it would be a million dollars--if it went up to a million, five hundred thousand, without taking into consideration new assessments--you know, the expected growth--then, of course, it would be brought back to one million dollars by readjustment of the millage; that simple.

Ms. Zervigon Including the new effect of the homestead exemption?

Mr. Chehardy What is that?

Ms. Zervigon Including any new effect by the changed homestead exemption?

Mr. Chehardy Well, Mary, I can't answer you clear in this. If a taxing district received one million dollars in 1974, say, and then in 1975, for the first time, taxes are collected as a result of these provisions, and the amount is a million, five hundred thousand, that's five hundred thousand more than the year previous. If that five hundred thousand is not attributable to new assessments on the rolls, then that five hundred thousand will not be charged to the taxpayers of that district. If the millage was ten mills, for example, it would be reduced to produce one million dollars for that year.

Ms. Zervigon Well, Mr. Conroy, in his amendment, refers to producing the same total dollar amount of revenue.

Mr. Chehardy But, I...Mary, all of this is fine...

Ms. Zervigon Is that confusing--the same total dollar amount?

Mr. Chehardy Yes, I don't know why you could object to clear language. Of course, and I could understand your position...

Ms. Zervigon Mr. Chehardy, my question is what is unclear about this, aside from the fact...

Mr. Chehardy I think it's totally unfair, Mary. I don't know how else to say it to you. I'm telling you, emphatically, if I would be like you representing the city of New Orleans, I would want this in the hope that I would ultimately destroy the effects of the homestead exemption.

Ms. Zervigon Mr. Chehardy, are you indulging in personalities?

Mr. Chehardy No, ma'am. But, I'm merely trying to understand why you persist in asking the same question when I'm telling you repeatedly, this is confusing.

Ms. Zervigon You said something about a rollback because of reappraisal. Do you believe in a rollback?

Mr. Chehardy Dh, yes. I want a rollback.

Ms. Zervigon Because of reappraisal, not new percentages.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, I'm surprised that Mr. Chehardy would oppose this amendment because actually, his parish is going to be the parish that's going to benefit out of this more than any other parish that I know of. By Mr. Chehardy's own admission, he admits that he is assessing property at six percent of actual or fair market value. That means if he has to assess the property under Section 1, as we have already adopted, that assessment is going to automatically go up to ten percent. Now, unless you can roll back those millages, then you're going to have to automatically increase everybody's assessment, who is assessed for six percent or below, up to that sum of ten percent, or in this case, if it's an average of six percent--forty percent increase in taxes. That would give the governing authority forty percent more money than they are presently collecting. The whole purpose of this amendment is to assure that if you have a readjustment in your tax structure, that you're not going to collect more money than you would collect otherwise without that adjustment--making allowances, of course, for the additions to the assessment rolls and increase in values of property, etc., that you ordinarily would have without the readjustment. If you have read the PAR publication that was put out, they had a reevaluation of fifteen of the sixty-four parishes, in which that there's four parishes that presently, in the 1970 rolls, were assessing property at less than ten percent. One of those parishes was Jefferson Parish; the others: Lafayette, Red River, Tangipahoa, Allen Parish. There's five parishes there altogether. Now, before I came to the mike, I attempted to find my schedule for 1958 because I don't think it has changed much, but there are a lot of other parishes who are assessing property, you might say, almost equally as low. Those are the lowest ones, and this is to protect those parishes and those taxpayers to keep from increasing the taxes over and above what they otherwise would pay as a whole. This is a good amendment, and it's the only way that we can make the percentages, adopted in Section 1, workable. Now, if you don't adopt this, then you're going to have to make some adjustment in Section 1. I just tell you that because, otherwise, it will not work.

Questions

Mr. O'Neill Senator De Blieux, one of the main changes in this amendment and the committee proposal is that this one...doesn't it mention homestead exemption and takes it into account?

Mr. De Blieux This takes into account all of the taxes that are levied, Mr. O'Neill. It doesn't make any difference whether it's homestead exempted property, commercial property, or otherwise. It pertains to all property covered within the taxing district.

Mr. O'Neill O.K. My question was informational because I just wanted to be sure. Another question: I'm a little bit concerned what's going to take place in this three year lag, whether assessments and evaluation is going to soar, and millages are going to have to be put terribly low. What protection is there in the committee proposal or in the amendment to protect what's going to occur in this three year lag?

Mr. De Blieux Well, I can't tell you about that,

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Mr. O'Neill, except that this whole provision is to keep the taxes...the total amount of taxes from soaring as a result of the reassessment. It's really a protection to the taxpayer.

Mr. Willis Senator, would you...am I to understand that the amendment, you would profess, does the same thing as the section--that they are in balance?

Mr. De Blieux What do you mean, Section 5?

Mr. Willis Yes.

Mr. De Blieux Well, this particular amendment is just to clear up a case of what was intended by Section 5. That's all this amendment does is to clarify it and be sure that it works.

Mr. Willis Well, Senator, I have no aversion to your opinion and I respect it. However, could we not give more respect to the committee, which composes of many more than the authors of this amendment, for their work of nine months than we can to four people for their work of just a few moments?

Mr. De Blieux Well, Mr. Willis, the only thing I can say is that this convention has seen fit, in many instances, to change the work of what committees have done. We have done that by adoption of amendments after amendments, and I feel quite certain that many times the members of the committee have recognized that what was suggested to them from the convention floor itself was better than what the committee had proposed, and I am of the opinion that the majority of our committee would agree upon this particular instance.

Mr. Willis One final question. I asked you the first question to make you say that this was better styling than Section 5. Now, if it comes to styling, we have a committee which is known as Style and Drafting, don't you think that it can be done there if there is no substantive change here to this Section 5?

Mr. De Blieux It's possible on that, Mr. Willis. I don't know, but I'm just...sometimes I wonder what the Style and Drafting would consider style and drafting as compared to substantive. If they have something that they feel like is correct already adopted, then there is no need to change it.

[Rules Suspended to allow additional time.]

Mr. Burson Senator, you have discussed, and Mr. Chehardy has one aspect of the problem: that is, the rollback. But, isn't it true that this section is very critical for parishes which have been assessing at a higher ratio than we set out in Section 1--such as St. Landry, Caddo, Orleans, and the others in that group--that if they can't roll up the millage on the property that's left, there's no way in the world that they could come out of this thing with anywhere near the income that they had before, since you're cutting the ratio they were assessing in, in half?

Mr. De Blieux That's exactly correct, Mr. Burson. Without this particular amendment, the percentages, as I say, that were stated in Section 1 will not work, and we just as well not try to pass this constitution. There's no possible way we can make it work without this provision for adjusting the millage.

Mr. Roemer Senator, could we begin anew and ask what seems to be a basic question? The premise of this amendment is that something is wrong with the committee proposal. Could you tell us what is wrong with the committee proposal?

Mr. De Blieux Well, the suggestion that we had

in the committee proposal is to accomplish just what we have here. This amendment just makes better wording out of that amendment, in my opinion. There is also the one little thing, too. In the committee proposal, we did not state that the tax revenues should be taken into consideration based on the previous year--that is, previous assessment rather--not year, but previous assessment. That is what we're trying to do by this particular amendment to be sure that the dollar value the total dollar value of taxes collected, would be the same as they would have been if the adjustment had not been made. Now, the committee proposal did not make that clear. This amendment does make that clear.

Mr. Roemer Perhaps it does; perhaps it does not. I don't think it's clear in other people's mind. Now, I have three brief questions here. What about the change in rates? Does this take care of that?

Mr. De Blieux That's what this amendment is supposed to do insofar as the millage is concerned, not the rates. The rates would be set in Section 1.

Mr. Roemer But the rates change taxable assets, do they not?

Mr. De Blieux They tax assessed valuations of percentages.

Mr. Roemer Well, this amendment says taxable assets, Senator. Isn't that a function of the rate which you multiply times fair market value?

Mr. De Blieux Well, Mr. Roemer, there's three steps that we have...I don't believe I get your question, because first you take the actual value of the property; you take the percentages prescribed in Section 1, apply that to the actual value; you get...

Mr. Roemer I understand that; Senator, you know that. You've got four problems here, Senator. You've got a change in rates; you've got a reappraisal; you've got a growth factor, and you've got new millages. They're all going to be mixed in different localities, and different parts and parcels, as a result of what we have to do here. Now, I want to know do you believe that this amendment takes care of all four of those things?

Mr. De Blieux Yes, I do.

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, I'd just like to clear up a few points on this. This is not something that's just been thought of just the last few minutes. Actually, Mr. Conroy had been working on this for sometimes to try to clarify it to make sure that we got just as many dollars this year on the same value as we had last year. Last Friday he came up with what he thought was the amendment that would do it. He gave it to me, asked if I would look at it. I gave it to Mr. Gravel who offered the first, not amendment, but proposal as we have it in our proposal...as we have this particular section in our proposal. Mr. Gravel finds nothing wrong with it. He thinks it does, in fact, specifically say that this is on the value for which taxes are collected locally. This is what I'm going by. I've gotta go by somebody who knows something about constitutional law and that believes this does what we intended to do, which is not to collect any more dollars from the existing properties by either an increase or a decrease in assessment. The millage will adjust up or down and we'll collect the same amount of dollars, and that's taxes collectable--taxes collectable. I'll try to answer any questions as long as they're not legal questions.

Questions

Mr. Roemer Peg, let me try with you. I'd like

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to know what is wrong with the committee's proposal as written.

Mr. Mire The committee's proposal spoke of taxes totally, and not specifically those that are collectable and those that are not. That's my understanding of it. For instance, I have here my grand recap of this year's tax law. I have the total amount of taxes collected in my parish are two million six hundred thousand dollars. Of that, I collect from the taxpayers, two million, two hundred thousand. Homestead exemption covers four hundred, thirty-four thousand. The first year I implement this homestead exemption, I assume, will be extended just as it is, we won't collect that amount from the taxes. Whatever I extend on that portion that is collectable from the taxpayer will be adjusted not to exceed what I collected the year before. On my tax roll, if that's what it does--and this is what I've been told that it does from lawyers--this is what we want it to do.

Mr. Roemer Alright. Let me see if I...is this correct then? Could you answer this question? If what this amendment attempts to do is to insure that the local taxing authority, the recipients of that tax, do not receive less as a result of the individuals homestead exemption that we've increased in this constitution, is that correct?

Mr. Mire That's absolutely right.

Mr. Roemer Now, do you think, Peg, that we need this amendment, given the fact that we have taken the homestead exemption from Section 3 in our proposal and put it in Section 1? If you refer to our committee proposal on page 7, lines 25 and 26, we talk about as provided in Article XI, Section 1, and I agree with you. Prior to the movement of the homestead exemption from 3 to 1, then we needed to make a change here on page 7; but now that we've made that movement, I think the authors here might have negated that fact. We have the homestead exemption with the rates now all in Section 1, so I don't think we need to change it to do what you're trying to do.

Mr. Mire Well, you might be right. I mean, you can explore that with Mr. Conroy and Mr. Gravel, and if that's so, I'd have no objections to withdrawing the amendment.

Mr. Rayburn Mr. Mire, I've been trying to really find out the need for this amendment, and I'm a little confused and probably going to remain that way. I think I understand what is meant when it says "the total amount of taxes collected by the taxing authority shall not be increased or decreased as provided in Section 1," which means that the percentage we have already adopted, and you cannot increase your overall amount of tax dollars by using those percentages. Do you follow me?

Mr. Mire That's right. No, you can't.

Mr. Rayburn Now, but now here's what worries me a little. You go on down and say that "article relating to change in the method of assessing property and increase homestead exemptions." Now, are you going to...here's what I'm a little confused on; maybe you can straighten me out. If I have a home now that's assessed for three thousand dollars, I'm paying taxes on a thousand dollars. Am I correct?

Mr. Mire That's correct.

Mr. Rayburn If my home goes to three thousand dollars, are you going to be able to make that thousand dollars up on some other millage, or what's the purpose of increased homestead exemptions? Does that mean that that amount can't be used in bringing your overall dollars that you've been collecting?

Mr. Mire If that thousand dollars of value crosses over from the collectable assessed valuation to the homestead exemption valuation, you're right in saying that the other properties are going to have to adjust out, up or down, whatever it does to it.

Mr. Rayburn Well, I mean though, I'm a little concerned about the way they have increased homestead exemptions. It says the percentage factor can't let you bring in more dollars or neither can this homestead exemption let you bring in more dollars. Now, are you going to be allowed to make up that thousand dollars that I'm going to benefit from in the event this is adopted?

Mr. Mire I don't think, Senator, that it can affect the homestead exemption portion because that...presently, is not being reimbursed...

Mr. Rayburn I'm talking about though, Mr. Mire, when I do...when I don't have to pay on that thousand dollars any more, are you going to be able to make that up somewhere else, or are you going to have to decrease your amount and not count that thousand that's now covered that I've been paying on?

Mr. Mire It's going to be made up somewhere else, and you bring up a point there.

[Rules suspended to allow additional time.]

Mr. Anzalone Mr. Peg, I'm reading from your proposal, not out of context, but taking some very pertinent parts, and I want to read them to you and then ask you a question. "The total amount of taxes collected shall not be increased or decreased because of implementation of the increased homestead exemption." Would you agree that there is a possible interpretation of those words to say that because you have increased a homestead exemption you are, possibly---I don't say that you are--but you are possibly preventing a millage rollup in other areas that would have to assume the payment of these taxes, and you would be increasingly dependent upon the state through its revenue sharing fund to make up the difference?

Mr. Mire I really don't follow you.

Mr. Anzalone Let me read it again to you. "The total amount of taxes collected shall not be increased or decreased because of implementation of the increased homestead exemption." Mr. Mire, I submit to you that that is in direct contravention of your proposal to say that you can roll up the millages on the remaining taxpaying citizens.

Mr. Mire I'd like to look at an example...the only way that I could probably realize what it does.

Mr. A. Landry Mr. Mire, being a layman, I thought I understood the committee's proposal pretty well, and I'm not too sure I understand this new proposal. Would you...let me cite you an example and would you tell me that under the committee proposal, if my understanding is correct, that if we had a ten billion dollar assessment at the present time in one parish, and I had a home in that parish that was assessed for two thousand dollars, I would be under homestead exemption? Supposedly, on reevaluation of that same parish that the assessed valuation would go up to twenty million dollars, and that my home would go up to four thousand dollars. That means that under the proposal, I believe, that the committee has would be that you would roll back the millages one half or fifty percent; and, therefore, the millage would be reduced, say, from sixty to thirty, but because of the increase of assessments, that I would be exempted three thousand, but I would pay my taxes on one thousand dollars at a reduced, of course, of half of the millage which would be thirty dollars. Is that correct? That was the idea of the committee's report.

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Mr. Mire That's correct.

Mr. A. Landry Now, what does this new proposal do? Would it do the same thing under the same condition?

Mr. Mire In my estimation, it would absolutely do the same thing, because we could not collect any more dollars than we collected the year prior on the same properties. Therefore, we would have to adjust the millages proportionately to collect the same amount of dollars.

Motion

Mr. Riecke I've listened to two assessors saying they didn't understand how this thing works, and it's so important to the people of this state it seems to me that we ought to give them a little additional time to see if they can get together, so that we who are not assessors and don't understand this thing too well would get an opportunity, maybe, to vote on something which they all understand. So I would like to move that we either defer action on this or recess for fifteen minutes to give them a chance to come up with some agreement.

Mr. Casey Mr. Riecke, the proposers of the amendment certainly have the right to withdraw the amendment. I can't really accept alternative motions from you at this time. If you're moving to recess, we can recognize your motion to give a few minutes to try to work out the problems, but it's up to the convention, whatever they want to do. All I'm here to do is to recognize people who wish to speak, ask questions, make motions, and keep order; that's all, Mr. Riecke.

Mr. Riecke Well, I move that we recess for ten minutes.

Mr. Burns Is Mr. Riecke's motion debatable?

Mr. Casey No, Mr. Burns, it's not debatable. I'm sorry, sir.

Substitute Motion

Mr. Shannon I move that we adjourn for lunch, and let them work this out during lunch. We adjourn until--it's a quarter of twelve now--until one o'clock.

Point of Information

Mr. Lowe On Saturdays it's been our routine to work through lunch, and it would be helpful to us to know the intention of the Chairman before we vote on something like this. It seems to me that we're changing our whole routine.

Mr. Casey I think, Mr. Lowe, the Chairman expressed his feeling yesterday that the convention ought to put in a pretty hard working day today, and probably work until about two o'clock.

We'll give everybody a chance to say something; don't worry.

Mr. Toca The understanding was at two o'clock, if we recess now for an hour, we might as well recess for the rest of the day.

[Substitute Motion withdrawn. Motion to recess adopted without objection.]

Recess

Chairman Henry in the Chair

[Quorum Call: 82 delegates present and a quorum.]

Mr. Landrum Mr. Chairman, fellow delegates, I just want to wish Mr. Johnny Jackson...congratulate him today, his wife gave him a seven pound six ounce little girl. I just want to tell him to keep

up the good work.

Amendment

Mr. Poynter Amendment 1 [by Mr. Chehardy and Mr. Conroy]. On page 7, line 22, after the words and punctuation "Section 5." delete the remainder of the line and delete lines 23 through 30, both inclusive, in their entirety and at the beginning of line 31, delete the word and punctuation "constitution." and insert in lieu thereof the following: "The total amount of ad valorem tax revenues actually collected by any taxing authority in the state shall not be increased or decreased because of the provisions of this Article above or below ad valorem tax revenues actually collected by such taxing authority in the year immediately preceding the year in which the provisions of this constitution relating to ad valorem taxes are implemented. To accomplish this result, it shall be the mandatory duty of each affected taxing authority to adjust millages upwards or downwards, without regard to millage limitations contained in Article VI of this constitution."

Explanation

Mr. Conroy Mr. Chehardy has revised the prior amendment. I have worked with him on it. I think that it now should meet some of the objections that were raised--I hope all of the objections. Mr. Chehardy is here to answer any questions. Anyone has...

Questions

Mr. Perez One of the things that's always bothered me so much about this provision is the question of what do we do about the authorized millages that local governments have. For instance suppose we have a millage...say an authorized millage of ten mills, and as a result of this readjustment, it is necessary to cut the millage back, say, to five mills. Does that mean that that local taxing authority the next year could come back without vote of the people and increase to ten mills? Or, let me give you the other situation, where you have an authorized millage but are not imposing it, and as a result of the readjustment, then you are in a position where you use up your authorized millage and would have to go to the people to get additional authority for the additional millage which you had the right to impose otherwise?

Mr. Conroy Mr. Perez, I think we are going to bounce this one right back to your committee. That is a problem that is not answered by this amendment to the extent there are millage restrictions in your article. Then, there will probably have to be some provision that will explain how that is to be adjusted with regard to the operation of this section.

Mr. Perez Well, the big problem that I have is not with regard to future millages. I'm very much concerned about the millages which are presently being imposed.

Mr. Conroy Well, I understand that. But, you could only be concerned in the context you mentioned with regard to limitation of authority on a municipality, or a parish, or something like that. The affect of this on that authorization; that's the real problem in the question that you asked, which I think has to be dealt with in the area that deals with the imposition of the limitation on the authority.

Mrs. Zervigon David, I believe we have to deal with the section now in its totality, because it tells you what you do to adjust millages and then how you may raise millages in the future. Isn't that correct?

Mr. Conroy I'm sorry. I really didn't hear your question.

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Mrs. Zervigon I haven't finished asking it yet, that was the preamble; just say yes.

Mr. Conroy All right.

Mrs. Zervigon I'm referring to the part of the section that you have left standing--the part that you have not deleted or changed. I want some clarification on that, because it relates to the first part, of course, it's one section. You may increase ad valorem taxes by the following means: "levying additional millages provided by law; placing additional property on the rolls; and by reason of increased property values due to economic conditions." Economic conditions that you refer to may be long-term growth. Isn't that correct?

Mr. Conroy It could be, yes.

Mrs. Zervigon So, this means that in the reappraisal process, in which the assessors now find themselves because of the court suit, the economic conditions increasing property values between 1930 and the present would give us additional money on some pieces of property. We would not have to roll back millages because of that. Isn't that correct?

Mr. Conroy No, I don't think so. It would say that in the future after the first adjustment of millages, it would not preclude the collection of additional taxes in the future as a result of economic growth.

Mrs. Zervigon Well, the assessors have said to us, that are worried about this proposal, "Don't worry about it, you are going to be awash in money because of reappraisal that is now going on." I'm not talking about reassessment at the ten percent. I'm talking about reappraisal. Do you say that the millage rollback mitigates any benefits that we might be getting by reappraising property which has not been looked at for years, and years, and years? We will be stuck with the same absolute dollar amount even though...

Mr. Conroy For that year, and then for future growth you would get additional revenues. It would not preclude the taxing authority from obtaining greater revenues in the future. But, in that first adjustment I don't...it seems to me that if would be contrary to the intent of this provision for you to be able to get increased taxes. I think that's my understanding of the operation...

Mrs. Zervigon You're only trying to correct the dislocation caused by the ten percent and the three thousand dollars?

Mr. Conroy By the first adjustment, that's right, by the...

Mrs. Zervigon But, to the ten percent? So, you're not...

Mr. Conroy No, not just the ten percent, the whole works.

Mrs. Zervigon Ten, ten, and fifteen?

Mr. Conroy Well, there's the whole adjustment and valuation procedure that's going to occur; that's my understanding.

Mrs. Zervigon But, not because of the reappraisal mandated by the court suit?

Mr. Conroy No. I may just be missing some of your intent. But, the intent here is not to produce a great deal of additional revenue for a tax authority when it's implemented.

Mrs. Zervigon I understand that. I understand that. But, one of the side-effects of the reappraisal as ordered by the court suit is supposed to be that if I bought my house forty years ago and am therefore assessed at the values of forty years

ago and have never been reappraised, or if I have been a friend of the assessor, or he thought I was in trouble last year, and, therefore, I have a low appraisal not because of ratio collection in the parish, but I am out of step with the rest of the parish--then I will be raised and that will theoretically bring in additional revenues. You are now telling me that there are a lot of people in that boat. You must roll back your revenues and this does not apply--the millage roll-back--does not apply only to the homestead exemption and only to the ten percent, but also applies to the reappraisal as ordered in the court suit.

Mr. Conroy That's my understanding.

Mrs. Zervigon Thank you.

Mr. Hernandez Mr. Conroy, this may be a simple, silly question. But, I looked forward to being asked this question Tuesday night, so that's the reason I want an official decision on this. There are certain millages that are voted. For instance, a parishwide road maintenance fund--they have seven mills--a courthouse maintenance fund of five mills, parish library tax voted for a certain time for three mills, and those like that. Now, what provision is there to take care of those where there is a definite millage voted by the people for a certain number of years? How will that be taken care of?

Mr. Conroy Well, it would be subject to this adjustment. Each millage would be subject to adjustment according...under this to produce the same total amount of dollars to the taxing authority.

Mr. Hernandez All right. The fact that we voted a certain number of mills for a certain number of years would not prevent that being done?

Mr. Conroy My understanding of this provision is to produce exactly the opposite result.

Mr. Hernandez That's what I read here, but then I can't see if we vote that particular millage to that. I just want the official answer because I know somebody is going to ask that Tuesday night.

Mr. Conroy It's my understanding that some of these...there may be other people on the committee that would have different viewpoints; that's my understanding of it.

Mr. Hernandez It is your answer then that the millage shall be adjusted to fit the occasion?

Mr. Conroy Yes.

Mr. Hernandez Thank you, sir.

Mr. Abraham David, when we talk about the total amount of tax revenues actually collected--the word "actually collected" now is going to automatically take into account the change in the homestead exemption, is that correct?

Mr. Conroy Yes, that's my impression...this was Mr. Chehardy's change in language, but I think that it still produces the same result.

Mr. Jenkins Mr. Conroy, following up on Mr. Hernandez's question, the way this reads it says "The total amount of ad valorem tax revenues collected by any taxing authority shall be the same." Now, it doesn't say for instance that the total amount collected for library purposes by a seven mill tax will remain the same; it doesn't say that another tax...for another purpose will remain the same; it only says that the total overall collected by the taxing authority will remain the same; doesn't it?

Mr. Conroy It says that. But, I think it would have to apply to each one. I don't know how you could juggle them separately. But, it would apply

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to each millage.

Mr. Jenkins Shouldn't we really say that then, if that's the intent, because you can see that within a certain...

Mr. Conroy The prior amendment had said "each millage," this one doesn't. I don't think there was any intent to change the meaning of it.

Mr. Slay Mr. Conroy, in answer to Mr. Hernandez's question, what we are saying that is if a district was assessed at a million dollars and had voted a five mill maintenance tax against the million dollars, then that assessment went to two million, are you just going to cut it back to two and a half mills in order to get the same amount of money?

Mr. Conroy That's correct.

Mr. Slay If the people want to come back and hold an election and raise it back to five, that's their...that's up to them.

Mr. Conroy That's correct.

Mr. Goldman Mr. Conroy, on the question that Woody asked you--I'm asking you the question: would the change of the words "by any" to "by each taxing authority," would that answer his question?

Mr. Conroy I think in these cases it does intend to refer to each and every case when it refers to taxing authority and to millages. I think it intends to refer to each and every case.

Further Discussion

Mr. Perez Mr. Chairman, ladies and gentlemen of the convention, I regret having to get up to talk on this matter because it was one which I hoped we could get by with this agreement. I think we are all basically in accord with the purpose of the provision. What I do want to call to your attention now, so that either it can be corrected now or possibly later, is the fact that under appropriate laws there are authorized millages up to certain limitations. Let's take, for example, a situation where there is a ten mill authorization for a particular purpose. As a result of revaluing property and an increase in assessed values, it would then be necessary to decrease the tax, say, from ten mills to six mills. Now, when that is done, that then leaves a four mill authorization for the imposition of taxes without a vote of the people. When, then on the next year, as I would read this, under the provisions of this proposed amendment and of the committee provision, where there is the authorization for the increase of revenues by levying additional millages as provided by law, it would be possible the next year when you do not revalue to use the authorized millages and increase taxes by virtue of the fact that you have reduced the millage rates in previous years because of the revaluing. But, you still have then that authorization then, say, to levy at an additional four mills. Conversely, in the event that you were to decrease your assessments there are some taxing districts which are not now utilizing the full amount of their authorized millages. But, when you reduce assessments, they would then have to increase their millages and utilize or use up those millages, which the voters have already authorized them to utilize...or rather to impose--but which were not then being imposed--so that that would mean that you would end up using up your authorized millages so that when you wanted to go and impose additional taxes, you would have to go back to a vote of the people, even though at the present time they would not have had to go back to a vote of the people. I'm trying to bring this subject matter before the floor of the convention, now, because it does give me some concern. I want you to be familiar with this particular problem because it does need to be straightened out.

Frankly, I don't, as of now, have the answers to how to straighten it out.

Questions

Mr. Lanier Mr. Perez, would it not be an additional problem where you have a unit that is authorized a millage--who is not utilizing all of the millage, but who would be in the latter situation that you describe, where this millage would be eaten up by the rollup--wouldn't it be advantageous to that unit to increase that millage in the year preceding the year in which the rollup will take effect, so that when the rollup--rollback actually goes into effect, they would be having a rollback rather than a rollup?

Mr. Perez I can see what you mean. In other words, we have a three-year period to revalue, and when you revalue at the end of that three-year period, it would be up to that taxing authority to be sure their taxes...they utilize all of their available tax revenues and maybe impose more than they really need to impose in order to be able to retain the authority for the imposition of the taxes; it really gets complicated.

Mr. Mire Mr. Perez, you brought up a very good point, and it's certainly something we are going to have to consider. But, in your particular proposal it's still open. Am I correct to say that we could consider maybe allowing a gradual increase in millage, if the local governing authorities see fit to, to come back up to their limitations over a period of years, or something like this, you see? But, you have a very good point, and it's something we're going to have to contend with.

Mr. Perez The Local Government Article only deals with future taxes and not existing taxes. The problem that we are dealing with now is existing taxes and not future taxes: that is, presently authorized taxes. I really believe that we should settle this problem with this particular provision because it is not something which we attempt to settle in our Local Government Article, because we're talking about future taxes--except the alimony taxes which are established in the document itself. I really believe that we should try to settle this whole problem at one time.

[Previous Question ordered. Record vote ordered. Amendment adopted: 80-9. Motion to reconsider tabled.]

Further Discussion

Mrs. Zervigon Mr. Chairman, I hate to be constantly the fly in the ointment and I know we have been passing over things all day. But, Mr. Conroy at the microphone indicated to me for the very first time that it was not the intention of the committee report as drafted to allow increase value because of reappraisal to add to the revenues of a parish. I would like to try and draft an amendment to take care of it.

Mr. Henry Do you have...

Mrs. Zervigon I'm working on it right now, Mr. Chairman. I'm not the world's finest draft person; I must say.

Mr. Henry Well...why do you rise, Senator De Blieux?

Mr. De Blieux Mr. Chairman, I just wanted to call Mrs. Zervigon's attention to the fact that that's in this proposal. The amendment as previously passed did not change that whatsoever.

Mrs. Zervigon It says that we may take advantage of increased economic conditions or something like that. But, Senator De Blieux, Mr. Conroy made it very clear for the record--and all of this stuff is being transcribed--that that had only to do

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with future economic growth, didn't have to do with the reappraisal that the assessors are now...

Mr. Henry How long will it take you to draft your amendment, Mrs. Zervigon? Are you going to get the staff to help you, or are you going...

Mrs. Zervigon Mr. Denney is helping me right now.

Recess

[*Quorum Call: 79 delegates present and a quorum.*]

Point of Information

Mrs. Zervigon Mr. Chairman, I'm having a little bit of trouble drawing my amendment. I would appreciate if you go and continue with the progress on this section and then agree not to lay it on the table, so that I may come with an amendment on Wednesday.

Mr. Henry I don't think that's an unreasonable request at all if we...in other words, if we vote to adopt it, just don't move to reconsider right then and not table the motion to reconsider; is that what you're talking about?

Mrs. Zervigon Or, either that or not adopt it, because I would like to come with a further amendment in the end.

Mr. Henry All right.

Mrs. Zervigon I would like to allow the folks to dispose of amendments that are here. My problem is separate and really not related.

Mr. Henry There are none pending to that section.

Motion

Mrs. Zervigon Well, then let's...Mr. Chairman, may we pass on to the next section in that case?

[*Motion to pass over Section 5 adopted: 49-30.*]

Motion

Mr. Newton Mr. Chairman, I move that we pass over the sections dealing with revenue sharing and move to the section dealing with the assessors.

Point of Information

Mr. Nunez Mr. Chairman, my question is where are we going if we pass over? Are we going to 8, or 9, or we going back to something else?

Mr. Henry We are going to go to 8. We are just going to continue to go forward. We are not going to go back, not to...

Mr. Nunez Why does he want to pass over revenue sharing? I thought it was a relatively simple section. We can probably can pass it.

Mr. Henry The gentlemen didn't say.

Further Discussion

Mr. Lanier Mr. Chairman, fellow delegates, I support Mr. Newton's motion. I urge you to do the same very strongly. In a discussion earlier this morning with Delegate Pegram Mire, he gave me a copy of an amendment that's going to be proposed to Section 6, which goes into detail on how this revenue sharing fund will be set-up rather than leaving just the general provisions as are presently contained in the committee proposal. I do not believe that I can intelligently act upon this amendment until I have had an opportunity to go to my police jury, and my school board, and the various other agencies in my parish to see what

affect this proposal will have. I don't think that any of you would want to act in the dark on this basis either. So, I would suggest what we do is support Mr. Newton's motion; pass out copies of the various amendments, and take it up with the public agencies in our parish between now and the time that we come back so that when we do come back, when we cast our vote, we will know what effect we are having on our parishes. I will be happy to yield to any questions, Mr. Chairman.

Questions

Mr. Burns Mr. Lanier, do you know I have the same concern as you do. I asked Mr. Mire, and he in all good faith stated to me that he thought this would not come up until at least next Wednesday, which would have given me time over the weekend or Monday or Tuesday to do the same thing you want to do, and I think everybody else here should too.

Mr. Nunez Chairman and Mr. Lanier, my purpose in wanting to go ahead with it...I read the amendment, and I don't like it. I know what it does. I just wanted to kill it. I don't know where we are going from here; eight is the last section. I imagine we will go back. I have no objections to passing over. But, suppose other amendments come in by someone else? This thing has been in committees since January. Nobody ever mentioned to the committee or to anyone else the amendment that Mr. Gravel supposedly has talked with everybody about, until yesterday or two days ago I heard about it. Now, if we are going to pass over it, it's alright with me. But, what I'm saying is that there will be other people trying to amend it. What he wants to do is put into the formula--into the constitution--a complicated formula that the legislature has fought with for two years now. I'm personally against his amendment as it stands now. I just thought we can get rid of the amendment and vote on revenue sharing generally like we have it in the proposal. But, if you all want to pass it over and go home and talk about it, it's certainly all right with me. I just object...

Mr. Lanier In response to your question, Senator Nunez. I'm not in a position to be either for or against the amendment, because I don't have enough knowledge accumulated right now or information accumulated to make a rational, intelligent decision. I'm not going to prejudge it without at least having an opportunity, which I request to have, to take this up with my people back home.

Mr. Nunez Another question. You wouldn't care to have the benefit of the debate of both sides, then you can go home probably with a more enlightened viewpoint than just reading his amendment?

Mr. Lanier I would have no objection to anybody giving me any information whatsoever at this time. But, I do have objection to taking...getting in a position where we would take some finite action that might be detrimental to our localities. I don't think any person in this room wants to do that.

Mr. Hernandez Mr. Lanier, will we have a copy of this proposed amendment before we leave here today? I'm like you; I know nothing about it.

Mr. Lanier Well, I would ask that copies of all amendments to these sections be passed out before we leave.

Mr. Hernandez Well, are we going to get the one that you refer to?

Mr. Lanier I'm sure we will. I don't believe it's any secret. Mr. Mire didn't hold it out to me as being a secret.

Mr. Hernandez Thank you, sir. I've just never seen one of them.

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Mr. Nunez Well, Mr. Chairman, if it's the wish of the...I have no objections. The only thing was what I stated to Mr. Lanier: that I thought that each amendment that comes up that if someone says "Let's pass over this section and go home until we've talked to our local people about it," I just don't believe we are going to finish. I just thought the debate would stimulate enough thinking on the thing, that you might have a little bit more information to bring back to your police jurors, or your local governing authorities, or whoever you want to talk to--your school board. I don't like the amendment as it's drafted.

Mr. Henry Senator, I recognized you for a question, please, sir.

Mr. Nunez Isn't that right?

Mr. Henry I'll answer you no.

Mr. Perez Mr. Lanier, I'm hoping to find a solution to where we can do something worthwhile today and still not have to vote on the subject matter today. Don't you think it would be better if we would resolve ourselves into the Committee of the Whole, so that nothing would be voted upon, but that we could have some discussion on the subject matter, then, to take home with us, so we will be better enlightened when we come back next week? And my suggestion...

Mr. Lanier Mr. Perez, as I read this proposal it's talking about a ninety million dollar fund. I'm sure that that's something that every governmental agency in this state is concerned with. As far as I'm concerned, any procedural device that would give us additional information from any source is welcomed by myself.

Mr. Perez Well, did you know that if I get the opportunity I will move to resolve ourselves into the Committee of the Whole, so that we may be further enlightened on the subject matter today but not be forced into a vote on it today?

Mr. Lanier I'm assuming that you are now telling me that that is what you will do. So, I guess I do now know it. Thank you, Mr. Chairman.

Substitute Motion

Mr. Perez Is a motion to resolve in the Committee of the Whole, as a substitute for the motion now on the floor, in order?

Mr. Henry Yes, sir, it would be appropriate.

Mr. Perez Then, I so move for a period of one hour...as long...I would like to find out from the Chair how long you would like to go today.

Mr. Henry Until around two, sir.

Mr. Perez For a period of one hour, in order to discuss the Sections 6 and 7.

Explanation

Mr. Perez I'm going to be very brief. All I again want to suggest to you is if we have the opportunity to hear the discussion and the explanation of this section for about an hour today, I think we will be able to go home, discuss it with our folks back home, think about it a little bit and be in a better condition to come back here next week to vote on it. I also think it would be highly inappropriate to vote on anything of this magnitude on such short notice. Therefore, I made that...Therefore, I offered the motion to resolve into the Committee of the Whole. Hopefully, so the proponents can explain to us what all of this means.

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, this amendment has been in circulation now for about a week. I rise in opposition to the motion to go in as a Committee of the Whole because there are still some answers that need to be gotten. I think, this amendment has been handed over to the Louisiana School Boards Association, to the Police Jury Association, to the LMA, to the New Orleans people, to...certainly I'll make enough copies so every delegate can have it, and I think by Wednesday we may have some...enough information on it that then we could maybe resolve it--either a hearing on the floor or as a committee...the convention being as a Committee of the Whole. But, that today, we don't have enough delegates that's been involved, really, to be able to give us any answers, and they might go off in a tangent that would...was going to do us much damage in this particular area. I'd like to urge that you defeat the motion. I won't answer any questions.

Further Discussion

Ms. Zervigon Mr. Chairman and delegates, I rise to speak in support of the motion. While I know it would be helpful to us all to have positions from the School Board Association, from that great city of New Orleans, from the Police Jury Association, and all that sort of thing, I also think that it will help us to have information on the subject from our local governing authorities. I believe, in order to get that in its most useful form over the weekend, what we need to do is hear from the proponents, from the people who drew the amendment, exactly what their intentions were--whether it maintains the present law or changes the present law and that sort of thing. So, I rise in support of the motion for the Committee of the Whole.

Questions

Mr. Bergeron Mary, do you know, I'm not opposed to breaking into a Committee of the Whole, but don't you think that we have other material which we could move onto, being we spent so much time the last two days and didn't really accomplish a great deal? Don't you think if we took the amendment home, we could have ample time over the weekend to answer our questions and then debate this matter when we reconvene Wednesday?

Ms. Zervigon Mr. Bergeron, I don't know of any subject matter more important or more explosive than taxation. So, I believe that we have the feeling we're floundering a little. I think it's rather a productive floundering really, because we must set policy and philosophy here and decide what we want to do with this taxation article. I don't know where I would get a copy of the present law. That is why I would like to hear the proponents of this amendment explain the similarity and differences between their amendment and the present law, just passed by the legislature this year, in addition to the reason for proposing this very lengthy thing, instead of the very brief thing that's in the committee proposal.

Mrs. Warren Ms. Zervigon, did you know that I'm a delegate from the city of New Orleans, and I haven't seen the proposal?

Ms. Zervigon No. I didn't know that, but I know that there are not very many copies of it around. That may be because it's still in the thinking stage. But, even if that's so, I think it would be productive for us all to think together, rather than to try and think in smaller groups hoping we can reach consensus in the end. Up to now, that hasn't worked very well.

Mrs. Warren One more question: Don't you think the delegates should have access to the proposals even before the school board or whoever else that doesn't have to vote on it?

Ms. Zervigon I didn't understand your question.

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Mrs. Warren Don't you think we, as delegates, should see it even before the other people have to see it, since we are the delegates?

Ms. Zervigon Well, I'm not sure I agree with you on that, Mrs. Warren, because I do not believe that these people have useful information to give the proponents on what the effect of a proposal like that would be. In the past, I have sent some of my amendments to people that I knew could comment on them, could give information to me on them, so I don't come to the floor with them and embarrass myself.

Mrs. Corne Mary, do you know that I have not seen a copy of the amendment either, and that it would be a source of great embarrassment to me if I had returned to Lafayette this weekend and my school board and my police jury had questioned me about the amendment or spoken to me about it, and I would have had to say "well, I know nothing about it; I have not read it."

Ms. Zervigon No, I didn't know that. I didn't realize that so many people had not seen it, but I think in addition to that a little bit of explanation would be useful to us all.

Mrs. Corne I didn't even know that there was such an amendment being passed around.

Ms. Zervigon No, I didn't know that.

Mr. Abraham I just wanted to ask the Chair: how long have we had this committee proposal before us?

Mr. Henry Seems like years right at the moment.

Mr. Schmitt Haven't we used up our two proponents and two opponents already?

Mr. Henry Mr. Schmitt, that was to one section yesterday afternoon, and it'll be in effect when we go back to it, but it's not in effect now.

Point of Order

Mr. Stinson There's been a lot of discussion about this amendment that's been circulated someplace. I would like to know, first, if it has been printed by our official printers, the people who prepare them. If so, by what authority is any amendment distributed to people, nondelegates, when they're not given to delegates?

Mr. Henry Well, in the first place I asked Mr. Poynter the same thing about the amendment. It is my understanding that there was some thought being given to the concept of revenue sharing. We don't have an amendment up here. I'm not familiar with any amendment that's been drawn insofar as we're concerned at all, Mr. Stinson. We don't have one up here.

Mr. Stinson Can anyone go and have as many run off as they want to, and not have them distributed, and just do whatever they want to with them?

Mr. Henry With the way we've been running the convention, we've had folks xeroxing stuff that you wouldn't even believe and circulating around the convention, yes, sir.

Mr. Stinson Yes, sir, I sure have seen them. That's what keeps the wastebaskets filled.

Mr. Henry That's absolutely right, Mr. Stinson: you're very astute.

Substitute Motion

Mr. Rayburn I move that we revert to a regular order of business and immediately thereafter go home.

Point of Information

Mr. Nunez Let me see if I can get the sequence of events that has transpired here. We were ready to move on revenue sharing, and then someone moved to pass over it. It seems like the reason for passing over it was so the delegates could get more information over the weekend. Then, someone said that everybody's working on it: the school board and the police jury, all those people who don't vote here. If we leave here without any information on what that amendment does, we're going to come back Monday, Tuesday, or Wednesday and be in the same position without being able to talk to anybody, discuss it, to see what it does for our local governing taxing units. That's my point.

Mr. Henry We're going to vote on this thing and get this business over with.

[Substitute Motion to revert to other orders adopted: 57-30.]

Personal Privilege

Mr. Heine Mr. Chairman and fellow delegates, could I have your attention for just a minute, please? We want to remind each of you of the regional meetings that are going to be held Tuesday night. I'd like to encourage all of the chairmen of the various regional committees to be sure and get in touch with the people that are supposed to serve with you and meet in your region. You know we had these meetings several months ago. Although there were not great numbers of people attending, I think we got a lot of mileage out of the meetings because of the way the news media picked them up. This will give the...it will keep the opposition, when we do complete this document, from being able to say that we had not given the people an opportunity to know what's in the proposed constitution. So, let's take advantage of this, and be sure and attend your meeting.

Questions

Mr. Lanier Mayor Heine...Would you think that it might be a good idea that if we can get copies of this amendment passed out to everybody that when they go home this weekend, they'll invite their police jurors and school board members to come to the meeting and furnish them with copies of this and get their views?

Mr. Heine George, I think that would be an excellent idea to take everything we've got. We need to take the committee proposal and any other proposed amendments that we might have at our fingertips, and discuss it with these people that do have an interest.

Mr. Burns Mr. Heine, has there been any publicity issued in any of these regions where these meetings are to be held?

Mr. Heine Mr. Burns, I understand that it has. I know that it has in my area. We're relying on our staff members from the public information office to have gotten this to the various local newspapers. I do know, that it's been on the radio, and I think there's been good publicity on it.

INTRODUCTION OF RESOLUTIONS

[I Journal 095]

[Adjournment to 1:00 o'clock p.m., Wednesday, October 31, 1973.]

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Wednesday, October 31, 1973

ROLL CALL

[96 delegates present and a quorum.]

PRAYER

Mr. Abraham Our Father, we thank Thee for this wonderful day. We ask that You watch over us in our deliberations today. We ask that You give us the wisdom to be able to solve the problems that we have before us. Give us the courage, also, to put these thoughts through, to put them together for the betterment of the people of the State of Louisiana. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

RESOLUTIONS ON SECOND READING AND REFERRAL

[I Journal 699]

Mr. Poynter Committee Resolution No. 12, introduced by Delegate Zervigon, Chairperson of the Committee on Legislative Liaison and Transitional Measures, and other delegates, members of that committee:

A resolution to extend the date by which certain reports shall be transmitted to the Committee on Legislative Liaison and Transitional Measures.

[Rules Suspended to consider Committee Resolution No. 12.]

Explanation

Mrs. Zervigon Mr. Chairman and delegates, if you recall early one Saturday morning, you voted on a resolution from the Committee on Transitional Measures that each of the substantive committees would prepare their transitional materials in a certain way--specifying whether it was obsolete, whether it was statutory, whether it should go into any two-thirds category that they might care to set up--and present it to the convention by the second of November.

While the committees which have already had their proposals passed on the floor are almost ready to present their materials, the other committees, of course, cannot be ready for the second of November. So with this in mind, the committee met last Friday and submits the following resolution for your consideration:

That each substantive committee be required to submit the material as described in the previous resolution to the convention within ten days after the first enrollment or about November 15, whichever is the later date. I urge your adoption of this new resolution in order to suspend this deadline for the substantive committees.

[Previous question ordered. Resolution adopted: 86-1. Motion to reconsider tabled.]

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation, and other members of that committee:

A provision making provisions for state property taxation.

The status of the proposal is the convention has adopted, with respect to the proposal on property taxation, Sections 1, 2, and 4; has voted to pass over Sections 3 and 5; and presently, Mr. Chairman, would have--unless the convention disposes to do otherwise--Section 6, Revenue Sharing Fund before it. There was a motion to defer action on Sections 6 and 7 which, however, was preempted by the adoption of a substitute motion on Saturday last.

[Motion to consider Section 3 previously passed over adopted without objection.]

Mr. Henry Now gentlemen, ladies, give us your attention just a minute.

Since we are back on Section 3, we will be operating under the suspension of the rules from the other day allowing only two speakers for the proponents and two for the opponents. So I'll advise you of that. Unless something is done, that's the way that we'll have to operate. All right.

Motion

Mr. Comar Since this amendment deals with an entirely new and hopefully, a compromise situation, I would move that we suspend the rules to get back into the regular order under which we have been operating.

[Motion to suspend temporary rule limiting number of speakers adopted: 64-25.]

Amendment

Mr. Poynter The amendments are being passed out at this time. The amendment's sent up by Delegates Rayburn, Comar, Planchard, McDaniel.

Amending the reprinted as engrossed bill as follows:

Amendment No. 1. On page 3, delete lines 5 through 32, both inclusive in their entirety. On page 4 delete lines 1 through 20, both inclusive in their entirety, and all floor amendments adopted thereto. Insert in lieu thereof the following:

(C) That owned by nonprofit corporations or associations organized and operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or member thereof, and which is declared to be exempt from federal and state income tax; property of bona fide labor organizations representing their members or affiliates in collective bargaining efforts; organizations such as lodges and clubs organized for charitable and fraternal purposes and practicing the same, and properties of nonprofit corporations devoted to the promotion of trade, travel, and commerce, and trade business, industry, and professional societies, or associations, provided such property is owned by nonprofit corporations or associations organized under the laws of the State of Louisiana for such purposes; except a movable property owned, operated, leased or used, for commercial purposes unrelated to the exempt purposes of said corporation or association.

(D) Cash on hand or deposits, stocks and bonds, except bank stocks, the tax on which shall be paid by the banking institution; obligations secured by mortgage on property located in Louisiana and the notes or other evidence thereof; loans by life insurance companies to policyholders, if secured solely by their policies; the legal reserve of domestic life insurance companies; loans by homestead or building and loan associations to their members, if secured solely by stock of said associations, debts due for merchandise or other articles of commerce or for services rendered; obligations of the state or its political subdivisions; all personal property used in the home or on loan in a public place; agricultural products while owned by the producer, agricultural machinery and other implements used exclusively for agricultural purposes and all animals on the farm, and property belonging to agricultural fair associations; all property used for cultural, Mardi Gras carnival, or civic activities and not operated for profit to the owners; all snips and oceangoing tugs, towboats, and barges engaged in international trade and domiciled in Louisiana ports, but this exemption shall not apply to harbor, wharf, shed, and other port dues, and no vessel operated in the coastal trade of the continental United States shall be

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within the exemption herein granted; boats using gasoline as motor fuel; commercial vessels used for gathering seafood for human consumption; and rights-of-way granted to the State Department of Highways."

Explanation

Mr. Rayburn Mr. Chairman and fellow delegates, these amendments contain the Pugh amendment with, also, the floor amendment and the Lennox amendment that was adopted the other day. It deletes all other amendments. There has been one other change that was made in the original proposal under Section (D). The committee had removed the words "barges and towboats" and just added "all sea-going vessels." There were some people who were concerned over the language of just "sea-going vessels" and want to place back "barges, towboats and tugs", which this amendment does. It makes one more change. It deletes on line 27 of Section (D) of the original proposal where it has to do with "cash on hand or deposits, stocks or bonds, except bank stocks;" we had "which shall be assessed and taxed solely as provided by law." That was deleted by an amendment, I believe, offered by Mr. Champagne earlier. The word...the language now reads, "shall be taxed and the tax paid by the banking institutions." That's the only changes.

Morally...reason for trying to get together some amendments was to remove a tremendous amount of amendments that were adopted the other day and get back to something that I thought we could all understand and move the convention along. I, therefore, move the adoption of the amendments.

Questions

Mr. Newton Senator, on the bank stock exemption, doesn't this amount to a change from what the present law is with respect to taxing bank stocks?

Mr. Rayburn Not to my knowledge, Mr. Newton. I am now told that the banks pay it today. I believe that's what Mr. Champagne told us that the stock...the taxes are being paid today by the banks.

Mr. Newton As I appreciate it, the tax that the bank pays on their stocks is an "in lieu tax"--in lieu of ad valorem taxes on their building and equipment. Under this proposal, this would amount to a tax on the building and equipment, and then a turnaround and a tax on the stock itself which, to me, I think is double taxation. Don't you agree?

Mr. Rayburn Well, if it does that, it would be double taxation. Yes, sir.

Mr. Lowe Senator, this is just a follow-up on the question of Mr. Newton, and this does change the concept of taxes on banks. But, it's the way that we...do you realize...and do the delegates realize, you think, that it's the way that we talked about it the other day--that it puts the banks in the highest bracket that they could possibly be in at fifteen percent. It also taxes them not at book value of the stock but at the fair market value, and more often than not, bank stocks sell for almost twice book value or at least one and a half times book value. This is an amendment that's necessary to get the banks on the same basis as all of the other businesses in the State of Louisiana. Don't you believe that's the equitable thing to do?

Mr. Rayburn That's true, Mr. Lowe. This amendment was adopted, I believe, unanimous by the convention last week. I don't believe there was a dissenting vote against that amendment.

Mr. Sutherland Senator, in the last part of the... the last part of the sentence in Section (C) it says "unrelated to the exempt purposes of said corporation or association." Is that not new language?

Mr. Rayburn Where are you reading? I can't hear you, Mr. Sutherland.

Mr. Sutherland The last sentence in line (C) says "or used for commercial purposes unrelated to the exempt purposes of said corporation or association." Is that not new language from what we adopted last week?

Mr. Rayburn No, sir. I think that language, I believe, it was in the Pugh amendment.

Mr. Sutherland I thought it was the "operated, leased or used for commercial purposes" and the last part was...is something new. Is it not?

Mr. Rayburn Let me check, just a moment.
No, sir, it was in the Pugh amendment. I didn't think we'd put in it...we'd changed it all, and I wasn't sure. I wanted to check. It is in the Pugh amendment.

Mr. Nunez Senator, on line...well there's no line here...on line 3 of Section...Paragraph (C). When you say "health and welfare" and then you go on to say "earnings which inure to the benefit of any private shareholder." Now what are we...are we going a little far with this when we say health and welfare? Because many of our hospitals--let's take, for instance, nursing homes again--that are.. that do have welfare payments in the form of subsidies from the state, are we including them in this proposal? Are we including privately owned hospitals and nursing homes that do make a profit that might not inure to the shareholder?

Mr. Rayburn Senator Nunez, I'm informed that we are not.

Mr. Nunez Well, Senator, I...I've been told the same thing. But it just keeps reading that we might be just going a little further than we'd like to go and include people that we don't want to include. That's what concerns me.

Mr. Rayburn There was quite a bit of discussion on this particular language. We had several attorneys to look at it. They were all in agreement that as long as it was a nonprofit organization.

Mr. Nunez Well, as long as those attorneys wasn't looking at it from the standpoint of who they are representing, we are in good shape. I just don't know myself. I'm asking; I'm trying to find out like you are.

Mr. Rayburn I've been trying for a week, and I mean I've got mixed answers. I really can't tell you exactly, but I can tell you what the attorneys that we discussed it with did tell us.

Mr. Lanier Senator, in Paragraph (D) it refers to "agricultural products while owned by the producer." Now, would this mean that if I were a lumber mill and I turned a tree into lumber, that as long as I kept that lumber at my mill, that that lumber would not be subject to this tax?

Mr. Rayburn I don't believe lumber is an agricultural product, Mr. Lanier.

Mr. Lanier In other words, this is...the timber would be the agricultural product but not the lumber.

Mr. Rayburn Not the lumber. The timber would be, but it went through one process to make lumber out of it; it would no longer be an agricultural product.

Mr. Lanier If it would say we were dealing with milk, the milk would be the product and not the butter, if you made butter out of it.

Mr. Rayburn That would be my interpretation, yes, sir.

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Mr. Lanier O.K.

Now, the second thing is, are you intending to use this agricultural products in its broadest sense so that it would include the products that are harvested by our shrimpers and oystermen and crabmen?

Mr. Rayburn I don't really know how far that would go. I really don't.

Mr. Lanier Well, what is your intention, Senator? Is it your intention to include those folks, or to exclude those folks?

Mr. Rayburn Well, we included the vessel that was used in that in the committee. Then, Mr. Munson had an amendment that had to do with agricultural purposes. I don't really know the full intention of that.

Mr. Duval Senator, so I can understand precisely what you've done here, as I understand it, you've got every exemption in the Committee Proposal with the exception in the original Committee Proposal. Is that right?

Mr. Rayburn No, sir. I don't believe we have them all in the exact language. We've got practically all of them. There was some question to... as to defining hospitals and one other two things that we did change, Mr. Duval.

Mr. Duval Now, Senator, which one...which...do you recall which amendments have been deleted other than the--I know the Flory and the Lennox and a few amendments are retained--but, which amendments were adopted and have now been deleted in this...in this one?

Mr. Rayburn In Section (C) you're talking of only?

Mr. Duval Yes, sir.

Mr. Rayburn I think all of them except the Pugh...the Pugh which was the original amendment, the Flory amendment has been retained, and the Lennox amendment has been retained in (C).

Mr. Duval Do you recall which amendments have been deleted from Section (C)?

Mr. Rayburn No, sir. We had so many I don't really know, Mr. Duval. As you know, we've adopted them there left and right. We just went back to the original ones and did put in the Flory amendment and the Lennox amendment.

Mr. Duval Senator Rayburn, just one other question, just mainly a technical question. The way this reads in the first part of (C), "that owned by nonprofit corporations or associations organized and operated exclusively for religious, dedicated places of burial."

Now the way it reads it says, "operated exclusively for dedicated places of burial." Could you explain to me what that means?

Mr. Rayburn Yes, sir. Mr. Comar insisted that we use the word "dedicated" to be sure that we did not cover some places for burial that were now not really used for places of burial. If you'd notice in the committee's recommendation, we elaborated on that and said "crypt", and so forth, but property adjacent to that could not be exempt.

Mr. Duval Yes, sir.

Mr. Rayburn So, what Mr. Comar wanted to do was really define where a place had been dedicated for burial only and could not be resold, and it would be exempt. That was the purpose of it.

Mr. Duval Thank you.

Mr. Perez Senator, wouldn't you agree that anyone

can form a nonprofit corporation if there are no requirements other than the...to draw up articles of incorporation for a nonprofit corporation?

Mr. Rayburn Yes, sir.

Mr. Perez Now, let me ask you at the end of the first paragraph in (C) when you provide that you will not have an exemption for those--"for property owned, operated or leased, or used for commercial purposes, unrelated to the exempt purposes of such nonprofit corporation"--that means, then, that they can make all the profit they want for a related business. That is, if they are operating a hospital, they can make all the profit they want but still not have to pay any taxes. Is that correct?

Mr. Rayburn If they use such profit, Mr. Perez, to revert back into the hospital.

Mr. Perez Where does that say that in this amendment, Senator?

Mr. Rayburn Well it says, "and used in related...that's supposed to be clear, Mr. Perez, as long as they put that money back into the particular hospital as a nonprofit organization, then it will not be taxable.

Mr. Perez Well, Senator, you know I don't read it that way. I read it as just that the property is used, not the profits, but the property is used for those purposes. In other words, as long as they can make all the money they want--as I read this--as long as the profit is used for a related purpose: that is, if they are running a hospital, they use it for running a hospital. They can make all the money they want, but still they would not have any ad valorem taxes to pay.

Mr. Rayburn You mean if they went beyond the hospital, if they wanted to put an extra wing on the hospital or something like that, Mr. Perez?

Mr. Perez No, sir, what I mean is that in the operation of a day-care center, of an old folks' home, or no matter what it is, as I read it, they can still make--as long as they form a nonprofit corporation--they can make all the money they want. The officers can charge all the salaries they want. But as long...they can still make all the money they want to make but still...be exempt from ad valorem taxation. Is that correct?

Mr. Rayburn That's not the intent of it, Mr. Perez, by no means.

Mr. Perez Let me ask you again with respect to both the business organizations and the labor organizations. As I read it again, as long as they have a nonprofit corporation, they can earn all the money they want and still not have to pay ad valorem taxes.

Mr. Rayburn Mr. Perez, both of those amendments were argued by this convention and adopted by a majority vote of the convention. That's why I left them in there.

Mr. Perez Well, of course again, Senator, we still have not passed this section. As long as you are offering another amendment, I wanted to ask these questions to be sure that this convention wants to increase, and increase, and increase exemptions to the point where we won't have any property tax base. Maybe we ought to just prohibit the imposition of a property tax before it's over with; don't you think?

Mr. Rayburn Well, I hope you understand these were not my amendments, but they were amendments that have been adopted by this body. I felt like the body had spoken on the matter, and that's why I included them.

Mr. Slay Senator, I ask this question to clear

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up a point Mr. Newton raised, so I'll ask you, did you know that under (D), where we say "cash on hands, or deposits, stocks and bonds, except bank stocks, the tax which shall be paid by the banking institution," that merely puts the banks paying taxes like everybody else? They will still pay on their capital surplus and undivided profits. They'll also pay on their buildings just like you would if you had a place of business. So I put it in the form of "did you know" in order to clear that up.

Mr. Rayburn That's my understanding, Mr. Slay. It will be worked in that manner.

Mr. Jenkins Senator Rayburn, with regard to the...the last phrase of Paragraph (C) where you say that you "except immovable property" which is "used for commercial purposes unrelated to the exempt purposes of said corporation or association." Now, does that mean that some commercial purposes would be sanctioned by this? Some commercials would be exempt from taxation, or some property used for commercial purposes. Wouldn't the better thing just be to put a period after "commercial purposes" and leave off that "unrelated?"

Mr. Rayburn Mr. Jenkins, you could be right. This is still the Pugh language in here, isn't it? There has been a slight change here. Now, we were just trying to satisfy everyone that came up, and there has been a slight change. But, you could be right there.

Mr. Abraham Dealing with the same phrase that Mr. Jenkins has, is it the intent of this last phrase to mean that any organization which might have a piece of property it might be leasing out for commercial purposes would not be exempt? Is that correct?

Mr. Rayburn That was not the intent of it, Mr. Abraham.

Mr. Abraham Well, maybe I phrased my question wrong. Is the intent....I thought maybe that the intent of this was to prevent, say, any trade organization or labor union or religious organization --whatever it means--maybe, from going out and getting a piece of commercial property and leasing it out or something like that. Is it the intent to prevent this type of thing?

Mr. Rayburn It was put in there for that, yes, sir.

Mr. Abraham One other question, then. When we talk about nonprofit corporations, and we speak of organized for trade or whatever it may be, is this going to exempt such things as co-op rice dryers, or co-op grocery warehouses, and this type of thing who are organized in nonprofit corporations?

Mr. Rayburn It, in my opinion, it would not unless they come under the--in the beginning up here--for charitable, health, welfare, fraternal, education, etc. It spells out the ones that will be exempt.

Mr. Abraham Well, when you drop further down, doesn't it say "for those nonprofit corporations devoted to trade, travel and commerce?"

Mr. Rayburn That's right, if they're nonprofit. Yes, sir.

Mr. Abraham Well, aren't these co-op rice dryers somewhat organized as nonprofit corporations?

Mr. Rayburn They could be. But in my opinion, they are not nonprofit--a lot of them are not--I don't think this in no way will cover them.

Mr. Chatelain Senator, I would like to ask a question, sir, as to property of bona fide labor organizations representing their members or affil-

iates in collective bargaining efforts. Do you mean, sir...does your language intend to mean that this includes only meeting buildings, furniture and equipment, parking lots, training equipment, and tools used for the purpose of collective bargaining efforts only? Is that what you mean, sir?

Mr. Rayburn Mr. Chatelain, first let me set you straight--this is not my language. This language was not offered by me; it was offered by Mr. Flory and the convention adopted it. I merely carried it over into this amendment. I don't know whether you voted for it or whether you voted against it, but it did carry by a pretty large majority vote in this convention.

Mr. Chatelain For your information, I voted for it. But, all I want to know is if I'm voting again for the same thing, Senator; that's all I want to know.

Mr. Rayburn Well, it's the same language...yes, sir.

Mr. Chatelain O.k., sir.

Mr. Velazquez Senator Rayburn, this statement that "no part of the net earnings of which inure to the benefit of any private shareholder or member thereof, and which is declared to be exempt from federal and state income taxes." Doesn't this prevent any fly-by-night organization from claiming to be a nonprofit corporation and claiming to serve people when actually it doesn't?

Mr. Rayburn Yes, sir, that's the intent of it. You were there with us when we were trying to get the correct language and that's the reason we came up with this particular language. We had the attorneys and everybody agreed that that would prevent that from happening.

Mr. Velazquez Then, in essence, this will allow those organizations which are really serving people to continue to function and will prevent organizations which are trying to steal from coming into existence under this?

Mr. Rayburn That's exactly right.

Mr. Velazquez Thank you very much, Senator.

Mr. Dennis Senator, first of all, I want to commend you and your coauthors for attempting to put together an amendment which I think fairly sets forth the exemptions that the convention has already agreed upon and retains the essence of them. With regard to the last line of Paragraph (C), which talks about the...which reads "unrelated to the exempt purposes of said corporation or association." Are you...you've had a couple of questions on that and I...it's my appreciation of that; that that does not say anyone can make a profit; that simply says that a hospital--for example--if it operates a cigar stand, or lets someone...lets a pharmacist operate a pharmacy, or lets a doctor operate a pathology or an X-ray lab inside the hospital, if somebody comes along and says those are commercial purposes, then we aren't going to throw the whole hospital on the tax rolls because those are related purposes. I'm glad you put that in there, because I have a hospital in my area operated by an order of Catholic nuns that does a great service; it doesn't make a profit. They do have these things operating in the hospital, as all hospitals do. I think that it's well that you have something like this to allow something that can be operated that might be called a commercial purpose, but, yet, if it's related to the purpose of the hospital it will not prevent the hospital from getting an exemption.

Mr. Rayburn Judge, I think that was the reason that this language was placed there, yourself and many others brought out the fact that a hospital--a nonprofit hospital--might lease a portion of that

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building to a blind person to run a concession stand. By doing so, certainly they didn't want the entire hospital to be placed on the assessment rolls and that was the reason for this language.

Mr. Dennis Thank you, sir.

Further Discussion

Mr. Comar Mr. Chairman, ladies and gentlemen of the convention, I rise to support this amendment which I've coauthored with Senator Rayburn. My reasons for doing so are this: As you recall a number of days ago when we began talking about Section (C), I was at this microphone asking you to include in the tax exemptions section very specific language with regard to nursing homes, hospitals, etc. and the convention objected to this on the grounds that this lengthened the proposal and those did not properly belong in the constitution. Mr. Pugh subsequently offered an amendment to condense that language. I objected to that condensation for only a couple of purposes: (1) I did not think that it included language broad enough to cover things like childcare centers and burial plots which are dedicated for burial purposes. The convention adopted the Pugh amendment by more than eighty votes, however. Since that time Senator Rayburn, and I, and others have talked about it and have retained the Pugh amendment with very minor changes. One of those would include the word "welfare" among the exempt programs, which he thinks would cover the nonprofit childcare institutions, etc. and does specifically include dedicated places of burial. That's my primary reason for supporting this compromise, which I think may get us off dead center on this whole question of exemptions. Now, a number of questions have been asked of Senator Rayburn while he was at the microphone with regard to the last phrase which says "unrelated to the exempt purposes of said corporations or associations." It is my appreciation as a nonattorney, is my appreciation of that language, after talking to a number of lawyers who worked with us on this and have also talked to...since the time we agreed on this language last Saturday, that that means simply this: if a hospital operating as a nonprofit corporation, operates a parking lot open to the general public from which it makes a profit, then that is an unrelated income which would not be exempt. I thought that's what the constitutional convention wanted. Also, if WWL in New Orleans operates Channel 4 in New Orleans, that is an unrelated income and their property, therefore, would not be exempt. Tulane University has interest downtown in New Orleans—that is unrelated income which would not be property tax exempt. However, I am no attorney, and I would prefer if maybe someone more acquainted with the tax laws would explain why that specific language was included in this amendment. It has very specific meaning, as I understand it, under the federal and state income tax laws. I urge you to adopt this amendment which, I think, will include all of the amendments that have been discussed by the Committee on Revenue and Taxation over the last few months, and I think will take care of all the specific exemptions which we have presented to this convention. Thank you. I'll answer any questions.

Questions

Mr. Jenkins Mr. Comar, the last phrase in Sub-section (C) talks about "exempt purposes of said corporation or association." Now, throughout this section, don't we talk about exempt property.... property which is exempt from taxation? But, we don't talk anywhere really about "exempt purposes", do we?

Mr. Comar Well, I explained it as best I could as a nonattorney and since you have been through L.S.U. Law School, I'm sure that you're more acquainted with the language than I. I said that this language does have specific meaning within the

income tax code. My understanding of it is this: if a hospital operates, for instance, a food service center for the convenience of its patients, that would be a related purpose to a nonprofit institution. If it operates, however, a general cafeteria open to members of the public, then it would not be exempt and that is the reason for this clause as I understand it. I would prefer if you wish that you ask that of someone more knowledgeable of income tax laws than I am.

Mr. Jenkins Let me ask you, in addition, suppose a church is organized; it would probably be organized for religious purposes and certainly for charitable purposes but the only way a church could exercise those charitable activities and religious activities is to raise money. Don't you think a court might well rationalize exempting certain property from taxation on the grounds that it is used to raise money for charitable or for religious purposes, and thus, even commercial property could be exempt if it's used to supply funds for a church?

Mr. Comar As I said to you, I would prefer that those questions be answered by somebody more familiar with the income tax laws. But, I would think that if a volunteer organization had a fair on the church ground for the purposes of supporting that church's activities or school activities, that that would not then make the grounds upon which that fair is conducted subject to property tax exemption.

Mrs. Warren Mr. Comar, I agree with the amendment. But, Judge Dennis made one remark to Mr. Rayburn, and he mentioned that cigar or cigarette stands was a related service. I don't believe that should be considered a related service as far as the hospital is concerned. I think that's commercial business. I don't think it should be exempt. I think that should be cleared up.

Mr. Comar I think that Dr. Ochsner would agree with you to keep the cigarettes and cigars off.

Mrs. Warren I don't know whether he will, but I know that's not related to health because even though it's a habit I have, it is not what we call related to health. We have smoking and health in P.T.A., and we fight it even though I do it.

Mr. Comar As I said, I think that the....

Mrs. Warren I think this should be cleared up. I don't think anybody selling the cigarettes or anything ought to be exempt from taxes, because we pay our fair share on it.

Further Discussion

Mr. Sutherland Mr. Chairman, fellow delegates, I am concerned about the language that was added into the last sentence of Section (C). Now, you've heard several people speaking on it and they think it means this, and they think it means that. I asked the question if this was not new language and was told, "No, it was part of the Pugh amendment." I've checked the Pugh amendment and it's not in there. Somebody added this language in here between the time we voted on the Pugh amendment and this amendment coming out now. I'm concerned as to what it means. I'm not sure what it means and unless that is removed, I would have to vote against this amendment, because I think we may be leaving something open here that we don't intend to do. I'll yield to any questions.

Questions

Mr. LeBleu Mr. Sutherland, would you be kind enough to give an example of your concern? What exactly is it that you're opposed to?

Mr. Sutherland I could envision this, that a private university--for instance--could have com-

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mercial property downtown, rent it out, receive the rent and use that proceeds for the purposes for which the institution was organized, and that would be using for commercial purposes unrelated to the exempt purpose of the corporation. It would not be unrelated to the exempt purpose of the corporation. So that, it's possible then for this organization to run a commercial establishment in competition with other commercial establishments and use the profits they made toward their own organizational purposes, and this bothers me.

Mr. LeBleu If that were the case, then they would not be exempt on this property--that's the way I read it.

Mr. Sutherland Well, that's the way you read it. But, I don't necessarily read it that way. I would like somebody to be able to read it and explain it to me, because I have three or four different answers. I think whoever put it in there ought to be able to explain it or it ought to come out, one of the two.

Mr. Dennis Matt, I don't see how you can put that interpretation on this. Clearly, Tulane is not going to be entitled to an exemption unless they come in one of these broad categories up at the top--educational is where they would fall.

Mr. Sutherland All right.

Mr. Dennis Now, if they take some property downtown and lease it out for a haberdashery or something, that's clearly not related to an educational purpose and it would not be exempt. Now, I appreciate your concern. This is the same concern Mr. Lennox had. But, I ask you to look what you're doing if you take this out--what you're doing to hospitals. Hospitals have to run some things that people make money out of in their hospitals, such as: X-ray labs, pathology labs, pharmacies, and I said cigar stands, but I'll amend that to say refreshment stands for Mrs. Warren's benefit. Now, somebody could come along and say these are commercial purposes. I don't think you ought to say that, but somebody might. If one of these purposes were to be classified as commercial, it would make the whole hospital be subject to taxes even though it is related to the operation of a hospital. So, that's the reason for that last line in there. As long as the hospital is doing something that is related to running a hospital, I don't think that it should lose its exemption even if somebody could classify it as commercial. I don't think that that endangers what you're trying to guard against and, that is, Tulane renting out a store downtown, because that is clearly unrelated to the purpose of Tulane, which is educational.

Mr. Sutherland But, I think that if you cut it off at the end of "commercial purposes," you would have the answer that you're saying. I don't think that the operating of a drug store inside the hospital is going to take away the exempt status of that hospital unless it's a profit making hospital and then it would not be exempt.

Mr. Mauberrret Mr. Sutherland, doesn't Tulane have a special exemption of five million dollars of free assessment on all commercial property other than the university?

Mr. Sutherland I'm not sure. If you say so, I would agree with you.

Further Discussion

Mr. Lowe Mr. Chairman, ladies and gentlemen of the convention, I can well understand why the matter before us at the moment is confusing. I certainly believe that the authors of this amendment have done a good job in trying to exempt those organizations that I believe this constitutional convention has attempted to exempt. Now, let me try to put it in the proper context for you, if I

can. First of all, I believe that we did want to exempt the organizations that are enumerated in the first part of this amendment. But, then we... when we finish enumerating them, we are concerned about those organizations that are not legitimate, but could go out and organize themselves under the nonexempt statutes of the State of Louisiana. Now, to cover that, you additionally have to get an income tax exemption. If you can't meet the requirements for that income tax exemption, well then you can be organized under any statute you want. This amendment still would not give you an exemption from ad valorem taxes, because you have to meet both tests; it says "and which is declared to be exempt from income taxes." Now, I believe that takes care of that particular situation. Now, the second concern was that we have tax-exempt organizations that are competing with free enterprise. In 1969 the federal government recognized this, and they took care of that particular problem by saying that any unrelated business income--a hospital is organized for the purpose of carrying on medical treatment; that's the purpose for which it was organized and it received an exempt status because none of the profit inures to the benefit of any individual connected with it. We could have another hospital that was rendering medical services but the profits inure to the benefit of the persons that organized it, and they would not be exempt because the profits don't meet the tax-exempt requirements of the regulations. Now, if that hospital that is tax-exempt has a parking lot downtown--five blocks away--then they are in an unrelated business activity. That parking lot downtown has nothing to do with the activities, the exempt purpose for which that organization was organized and received its exempt status. So then, that unrelated business income is taxable; it's also, according to this amendment, taxable for ad valorem tax purposes. So, it's absolutely necessary that we say "unrelated to the exempt purpose for which the corporation or association is organized." Now, I can frankly say to you, I see nothing wrong with this amendment; it exempts those organizations that should be exempt. Once they get exempted and decide they want to move over into some commercial area, well, then they get into an unrelated business activity. By virtue of getting involved in an unrelated business activity, the assets and equipment that are associated with that unrelated business activity is then subject to ad valorem taxes. I would say that that's good. I believe you think it's good. Now, that takes care of Section (C) as far as I'm concerned. I think it's a good section. One thing that Section (C) does, it says "federal and state income tax." I put an "or" in there at one time; some people were concerned about that "or." I understood some people would like to have it out. That's left up to this body what they would like to do. I entertain no thoughts on that because the day I told you I was putting it in, I had some mixed emotions. Now, Section (D) dealing with banks, I mentioned to you when we had this issue before us once before that the only thing that this amendment does, it takes banks and puts them in the highest tax bracket that we can tax any property at--fifteen percent. It doesn't tax it at book value; it taxes it at fair market value, the same that you're taxing all other property at. Now, I don't know how the banks can live with this, but they think they can, because I think we do have double taxation in that their land and building is also taxed by virtue of the fact that land is taxed at ten percent and buildings are taxed at fifteen. Now, we are throwing in stocks and bonds of banks that will be taxed at fifteen percent. But, the law the way it is today, it seems that banks are being discriminated against. I think they are being discriminated against here, but, at least, they feel it's putting them in a more favorable position. If they feel that way, I certainly don't feel that any of you should have an objection to taxing these people more than any other property in the State of Louisiana is being taxed. I ask you to support this amendment. I think we've covered the

ature at any time that they need, Mr. Javal thinks that's good.

Mr. Javal says, Mr. Javal— Now, the other question that I wish to ask is, I am certain the committee is intent. Now, the way this thing is written, you have your exemptions in lines 12 through 14, and then you go into the floor and the terms amendment. You don't have language like on behalf of the net earnings of which more in the benefit of any private shareholders and which is required to be exempt from federal and state income tax. Now, this is separation by subsection, and this language is— at the top. Now, what is the committee's intent that this same identical language would apply to the terms amendment and the floor amendment? That likewise, there could be no exemption for private shareholders, and they must be exempt from either federal or state income tax. Is that right?

Mr. Javal says, I can't speak for the whole committee, and I'm waiting for sixty to show this again, yes, and I show from line 12 to 14, so you can see, yes. They don't speak there, and that the intent is for that provision to apply to all of those organizations.

Mr. Javal says, if this amendment does happen to pass, certainly there are drafting— I don't really clarify the intent of this committee, but that language of the section as it applies to all the exemptions— that's that right?

Mr. Javal says, if we can discuss that, Mr. Javal says, I don't speak for the entire committee, we can say that that's true.

Mr. Javal says

Mr. Javal says, Mr. Javal, you speak about this, this federal income tax. Now, are organizations, are they not subject to federal income tax? Now, wouldn't that qualify that when you're exempt, wouldn't that give them an exemption from an valued basis if they were a charitable entity that

Mr. Javal says, if you say that with regard to that, that's correct.

Mr. Javal says, As I understand it, they are exempt from federal income tax.

Mr. Javal says, well, Senator, I would quote that your statement is correct, certainly income tax is levied on a commercial establishment that is unrelated to the business, and to the extent someone for which you'd want to be exempt, and the federal tax laws clearly tax unrelated to this income.

Mr. Javal says, well, as— as—

Mr. Javal says, I would be agree with your statement, you don't know how far—

Mr. Javal says, I haven't made a search of law, but it seems to me that I do recall something about a specific provision being inserted in the federal income tax law that benefited trusts insofar as its operation if we— I was told that I haven't checked the law, I don't know, but I was told that— Now, the question that's being asked, if we get in here for state income tax, since they would be exempt from federal income tax, would not that have the effect insofar as this particular situation is concerned?

Mr. Javal says, No, sir, I think it would make it a better amendment in line of your questioning because they would have to be exempt from federal or state income tax.

Mr. Javal says, well, that's what I'm saying. If they are exempt from federal tax, well, then whether we taxed them or not they'd still be exempt

whether or not they have the exemption.

Mr. Javal says, well, I'd have to agree with that.

Mr. Javal says, Yes, now that's something you'd have to say. Now, one other thing— You can see that's that's correct.

Mr. Javal says, I would have to agree, I would have to agree, you're right, Mr. Javal, Senator, Mr. Javal, because that of the federal government was something could be done in some way, and there may be some question as to that exemption being in the hands of government and under some other exemption system from state income tax. So, I would say that that amendment is used in that regard.

Mr. Javal says, Now, the other question, you stated something about the Legislature being able to correct this situation— I see nothing on this amendment whatsoever, as proposed, that would give the Legislature the right to change the wording of what exists or what would be passing if it correct it.

Mr. Javal says, Senator, it says that you have to be exempt from there as in state income tax, and if someone is exempt from state income tax, now, and the legislature thought that for some reason that's not applicable, well, they say at least in any tax that's not a tax— Then that would mean that organizations and they'd have to pay an additional tax.

Mr. Javal says, well, Senator, I think it would be better if the legislature had the right to change these exemptions if it saw that an error had been made.

Mr. Javal says, Mr. Javal, we've discussed this thing— This matter before for two or three days— I think we're looking to know to what everyone will agree— Now, I think what we have before us is a proposal that says that we make a charitable or non-charitable to everyone, but it's the one that's most desirable— I think we agree on it.

Mr. Javal says, Mr. Javal, if there is one, the you may have to get this whole amendment by changing, and to me— I see no way to do it— I see no way that that it would be difficult to get these exemptions, and they would not get the same vote like some of which we had when, on the 4 and that.

Mr. Javal says, I agree with you, Mr.

Mr. Javal says, well, that's—

Mr. Javal says, Well, let me finish answering your question— I just don't believe that our legislators and Mr. Javal is going to take our exemptions as far as organizations that are tax-exempt and deal with some religiously. I believe that we have some flexibility here, and the fact that they can deal with the state income tax law in connection with tax-exempt organizations definitely makes this amendment better.

Mr. Javal says, Now, that's just the trouble with people Mr. Javal, well, Mr. Javal, he's not going to be the tax-exempt for years— This thing is going to be in effect maybe fifty years or a hundred what about that?

Mr. Javal says, Mr. Javal, I find out that in state government we're getting more professional people all the time— I believe when Mr. Javal goes, we'll have people as professional as his, I'm sure they will try to upgrade the office, if possible.

Mr. Javal says, Well, now let me ask you one question. It seems to me you might have left it just like it was hard to get— if they have to be exempt from federal and state income tax law— there's so much to be done here, that if you gave an explana-

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tion, I didn't hear it, that appealed to me or anybody around me. We're all over here concerned about it.

Mr. Lowe Well, I gave...

Mr. Jack Why do you think you should change that "and" to "or" and make it better? That's what I want to know.

Mr. Lowe Well, Mr. Jack, the reason why we thought that changing it from "and" to "or" would make it better, because we're writing a constitution for the people of the State of Louisiana. By changing the "and" to "or" we give the people of the State of Louisiana more weight in determining what will and will not happen to the people of the State of Louisiana. I believe that that's where it should be, and I believe the vast majority of these delegates believe that that's where it should be.

Mr. Jack All right, just look at this thing about that "or"...

Further Discussion

Mr. Jenkins Mr. Chairman, delegates, I'm really not rising, necessarily, in opposition to the amendment, but to point out some flaws in the amendment that I think ought to be corrected because I don't think the way it's written it's possible of rational interpretation by the courts of this state. Go back to the beginning of Section 3. It says, "The following property shall be exempt from property taxation," and under (C) you say, "that owned by," and it lists certain organizations or corporations. We're talking, throughout here, about exempt property owned by certain types of entities. Those entities are organized, in some cases, for certain purposes. But, nowhere do we talk about exempt purposes. We talk about exempt property owned by certain organizations of a certain nature. Then, we get down at the bottom of (C) and we talk about "unrelated to the exempt purposes of said corporation or association." Now, that simply doesn't make any sense. There are no exempt purposes of any of these organizations. If an organization, in the first part of (C), is organized for charitable, health, welfare, fraternal, educational purposes, then all of its property, all of its property is exempt from property taxation--all of it. Now, if you talk about labor organizations, all of its property is exempt from taxation. We're talking about exempt property. Now, there's one exception to that made right at the end about "property owned and used for commercial purposes." Now, that's an exemption from the exemption. But, still it is an exemption of property from the exemption of property taxes on property. So, we don't have any exempt purposes in this whole section, which are being discussed. By writing it this way with this clause, we're making a situation that I don't think the courts are going to be rationally able to interpret. So, I think we definitely need to clean this up.

[*Previous Question ordered. Record vote ordered.*]

Point of Information

Mr. Shannon Mr. Chairman, what disposition did we make of the technical amendments that were offered?

Mr. Henry What he did is the same thing we've been doing on these things when they say they've got some changes to make, is just withdraw them, and then make the amendments and resubmit them. That's what we've done here, Mr. Shannon.

Closing

Mr. Planchard Mr. Chairman, fellow delegates, I

think we've finally come to the realization that we have to give the people something to vote for, and I think we've come to the realization that we should outline the exemptions in this constitution that we are writing. Therefore, I submit this proposal and this amendment as being the best language we can come up with at the time. Of course, I was for, originally, outlining each detail... organization that was exempt or was to be exempt under the constitution. However, you, in your wisdom, thought that an amendment was appropriate, and better language was adopted in the Pugh amendment. Now, what we have done here is we've taken the Pugh amendment, we've added items which we did not feel that were included such as the dedicated places of burial, which were not in the Pugh amendment. This, necessarily, I feel, had to be in the amendment. Now, some question has been raised as to changing the exemptions from the federal and state income tax, from the "and," making it both qualifications to "or," making it one or the other qualification. Now, the basic reasoning behind this--and I think it makes sense--is we're saying, in effect, that the legislature still has some control over the exemptions in that they must qualify first, as nonprofit corporations. The legislature has full control over what will be considered a nonprofit corporation, and what will be considered and what will not be considered. They can change that at any time, so they have some control. Now, as long as we leave an alternative exception from the federal and state income tax. We're saying, in effect, that the legislature can come in, and we're not always tied down to the federal income tax regulations. We have more control in that the legislature controls the state income tax regulations, and they can change them as they choose. Consequently, we think it is better language to use the "or" rather than the "and." We've taken out the question of the immovable property in the last portion of that section. For clarification, we're saying, in effect, all property rather than just immovable property. I think that the Style and Drafting, it is our intent, of course, to accept any properties that are leased out for profit making purposes. We certainly do not intend that to occur, and if there's a comma out of place here, I'm sure that the Style and Drafting can take care of that portion. It has been declared on this podium on several instances that that is our intent. I believe that they have the full authority to change...to make the wording and the punctuation in line with what our intent is. I think it all comes down to one concept: whether or not you feel that the exemptions belong in this constitution or whether you think they should not. I submit to you that we've got to give the people something to vote for, and this is one way to do it because they'll be able to look at the document and tell exactly what is being exempt, and what you're including as an exemption. I submit this to you and ask for your favorable vote.

Questions

Mr. Lanier Mr. Planchard, when you use the language "agricultural products while owned by the producer," is this intended to include those crops that are harvested from the sea as well as those that are harvested from the land?

Mr. Planchard Referring to agricultural products, I don't think that that is an agricultural product--things of the sea. I don't think it ever has been. This is the same language which was used in the old constitution. If it was interpreted that way, I'm not aware of it.

Mr. Lanier Okay. Would it then be your opinion that the catches of the shrimpers and oystermen and crabmen would not be covered under this exemption?

Mr. Planchard If they are not covered now, they are still not covered under this language.

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[Amendment adopted: 98-18. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendments to Paragraph (H) as followed, offered up by Delegate Dennery.

Amendment No. 1. On page 7, at the beginning of line 11, delete "(H)" and the word "Additional" and insert in lieu thereof the following:

"(H) No additional".

Amendment No. 2. On page 7, at the end of line 11, after the word "taxation" add a period "." and delete lines 12 and 13, both inclusive, in their entirety.

Explanation

Mr. Dennery The purpose of this amendment is so that all exemptions will be in the constitution, and that the legislature will not be able to add additional exemptions. As Mr. Planchard stated earlier when he was closing on the previous amendment, I think we owe a duty to the people of this state to tell them what property will be exempted from taxation. The ones we list in this constitution, and no others, should be exempted from taxation. That is the sole purpose of this amendment. It is to remove the right of the legislature to add additional exemptions from ad valorem taxation. I urge its adoption. Be pleased to answer any questions.

Questions

Mr. Jenkins Mr. Dennery, I don't understand how, if we adopt your amendment, you would be leaving the legislature the leeway that it needs to correct injustices in the future. Let me ask you one specific instance. Let's take this case of the gasoline powered vessels. Now, we've had constitutional amendments on the ballot, I think, three times to also exempt diesel powered vessels, and each time it has been defeated. Don't you think that we'll continue to have that same amendment on the ballot, virtually every time we have constitutional amendments in the future, because the legislature, because of your amendment, could not make that simple exemption by statute to bring it in line and to create equity?

Mr. Dennery That's quite possible, Mr. Jenkins. But, by the same token, it seems to me the legislature could create all sorts of exemptions such as those against which you spoke earlier. I don't think we should leave it to the legislature. If the legislature believes that we have made a mistake, they have a perfect right to present it to the people. But, it seems to me that exemptions from taxation are so important that they should be included in the constitution, and that we should not allow the whole property tax basis of this entire state and all of, particularly, the parishes and the local governments to be affected even by a two-thirds vote of the legislature.

Mr. Jenkins But, you do agree that this takes away from the legislature the leeway to cure injustices and inconsistencies which we ourselves have created in this section on exemptions?

Mr. Dennery Yes, sir, I think that's very true. But, I think that when we create those questionable things, the people are going to have to vote on them, and as you pointed out, the people have voted against that particular amendment on a number of occasions and I take it that the people are a better judge of what is just and what is unjust than either we or the legislature are.

Mr. Womack Mr. Dennery, do you foresee the possibility that ten, fifteen, or twenty years from now that it might be necessary to make some changes? What you're doing here, you're prohibiting the legislature from making any.

Mr. Dennery What I'm saying here--you're correct--I'm prohibiting the legislature alone from making those changes. I think you have to put that word in there too, because normally, I assume this constitution will provide similar language to the present one, that any constitutional amendments must first be adopted by the legislature....

Mr. Womack Let's look at the current fuel tax, road tax on fuel that an airplane is exempt from having to pay because they don't ride on the roads. That is, they don't plan it that way--once in a while they do. I don't know that that's exempt at the present time, and if you put this in there, wouldn't that prohibit the legislature from spelling it out and seeing that they were exempt from a road tax?

Mr. Dennery Yes, sir. It would prevent the legislature alone from doing it. It would require the people to agree with the legislature.

Mr. Womack It would also catch agricultural exemption on fuel. It would catch any new boats or any new type of operation in the fishing industry.

Mr. Dennery That's correct, Mr. Womack. My theory is, and my belief is that exemptions are something that the people should know about and only the people should grant.

Mr. Womack Would this deal all along with ad valorem tax exemption, or would it deal with sales tax exemption, also?

Mr. Dennery I think this language in here applies only to the property tax, would only apply to the ad valorem tax, because that tax, you see, is fixed in the constitution. Other taxes would be fixed by the legislature, and therefore the legislature ...

Mr. Womack If some twenty or thirty years from now, and I'll give you this example, we were told by an individual representing the social security administration that they expected, by the year of 2000, that the average social security payment would be approximately two thousand, five hundred dollars per month. That's what they expected inflation to do. If, when that time comes, you would have to start over in order to extend the homestead exemption to where it would cover a normal home. Wouldn't you have to do that?

Mr. Dennery If you would then I think it should be by...

Mr. Womack Then you would have to come back and ...the legislature couldn't do it?

Mr. Dennery That's correct, sir. That's the whole theory of this.

Mr. Lanier Mr. Dennery, if we were to follow Mr. Womack's argument out to its logical conclusion, would it not be more prudent to take all of these exemptions and put them in a category where they could be changed by legislative action?

Mr. Dennery I think you're correct. I think if the theory is correct, you should follow it one hundred percent.

Mr. Smith Mr. Dennery, don't you think if we leave it to the legislature to add exemptions, pretty soon we won't have anything to tax? Don't you think they'll keep adding them? I've been in the legislature, and I believe that they would keep adding exemptions, don't you think?

Mr. Dennery Mr. Smith, that's the whole purpose of my amendment.

Mr. Smith If they do need them, if some emergency arises, that they can do it by constitutional

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amendment?

Mr. Dennery That's correct, sir.

Mr. Nunez Mr. Dennery, don't you believe if we keep leaving it up to the convention that we won't have anything to tax? We've added just about everything that we can add, and if we leave it...we keep going any further, we'll put the taxing authorities out of business also in this convention, don't you believe that?

Mr. Dennery Well, I'm afraid you may be right, Senator. But, in any event, this amendment comes after we have established the exemptions.

Mr. Chehardy Mr. Dennery, are you aware how pleased I am to see a member of the board of the Picayune show such progressive thinking?

Mr. Dennery That's very kind of you, Mr. Chehardy.

Further Discussion

Mr. De Blieux Mr. Chairman, and ladies and gentlemen, I rise in opposition to this amendment. Let me point out this to you very clearly. I believe in these exemptions, we are making some errors. If we don't have the authority in the legislature to correct those errors, the only way in the world they can be corrected is by a constitutional amendment. I think that's very bad because the people have shown that they are tired of voting on constitutional amendments because many of them are legislative matters. They elect the legislature from year...every four years to take care of their business. The legislature enacts its legislation from year to year. If it makes an error, it can come back the next year and change it. This Constitutional Convention cannot do that, and I ask you to proceed very, very carefully and allow some leeway to correct the errors that may be made here. Mr. Dennery should be going in the opposite direction of letting the legislature make these corrections, rather than trying to keep the legislature from correcting any mistakes; and I just think it's a bad proposition, it's a bad amendment, and therefore, we should not try to put this into the constitution.

Questions

Mr. Anzalone Senator De Blieux, with some degree of specificity, which corrections would you make in these exemptions that we have now?

Mr. De Blieux I didn't understand your question, Mr. Anzalone.

Mr. Anzalone Would you say which corrections you think the legislature should make in this list of exemptions?

Mr. De Blieux Well, that would be by demand of the people. If they thought that there was something we had exempted that should not be exempted or if we should add some other exemptions to it, well, by demand of the people we could do that in the legislature by a two-thirds vote. So it certainly wouldn't be done by an arbitrary action of somebody. It would take a considerable vote to do it.

Mr. Anzalone Well, then what you are saying, by demand of the people they could also do it by a constitutional amendment.

Mr. De Blieux Mr. Anzalone, if you will notice the amendments, and go through...I'm sure if you notice and went over all those amendments that were proposed in the last two congressional elections, you would agree that a large number of those amendments were good amendments, but, yet the people turned them down. Now, I think the same thing could happen to us in the future, because

the people just got tired of voting on constitutional amendments which they did not understand. It's a whole lot easier for the legislature to understand these things, and make up their mind whether or not there is something that's desirable than it is for submitting it to the people when they don't have time to study it, and read it and get all the background material. Now, that's what I'm talking about. The legislature is supposed to be the direct representative of the people in making the rules and regulations under which we live from time to time. It might well be that something may be good today, but ten years from now it may not be good, and it may require a constitutional amendment to change it. I think that's the whole purpose of this Constitutional Convention, is to get away from the necessity of having to have constitutional amendments every time you want to change something.

Mr. Abraham J.D., this Paragraph (H) does not allow the legislature any flexibility to make any changes, does it? It simply allows them to create additional exemptions; it doesn't allow them to correct any errors.

Mr. De Blieux That's right. In that particular respect that's why I say the provision should be going the other direction. At least this would... they can't even add an amendment if Mr. Dennery's amendment is passed, we can't even add an exemption. Now, I certainly think the legislature ought to have the privilege of adding to and taking away exemptions.

Ms. Zervigon Senator, do you have an amendment pending that would give the legislature the right to remove some of these exemptions by a two-thirds vote?

Mr. De Blieux Yes, there was an amendment prepared the other day, that I hope that we'll bring up, that will give the legislature the right to change exemptions as we see fit.

Ms. Zervigon Would you agree to draw that amendment in such a way so that it will allow the legislature to grant or withdraw by a two-thirds vote, so that we don't find ourselves in the box of voting that the legislature may grant additional exemptions, but may, in no way withdraw additional exemptions?

Mr. De Blieux The amendment that I'm thinking of, Ms. Zervigon, would allow the legislature to grant or retract exemptions.

Ms. Zervigon So that if we want to keep ourselves safe from having a legislature who may correct inequities only by granting additional exemptions, and may not correct inequities by withdrawing any exemptions, would you agree that perhaps we ought to vote for the Dennery amendment, and then vote for your amendment after that?

Mr. De Blieux No, I can't see creating a worse situation than we already have. I think the Dennery amendment would only add to our problems.

Further Discussion

Mr. Planchard Mr. Chairman, fellow delegates, I'm not up here to say pro or con. I think you can make up your own mind. You have two concepts. The concept that was selected by the committee was to the effect that they wanted to leave to the legislature, the right, by a two-thirds vote, to increase the taxation. Of course, there was argument at the time that if we did that, that means it would be a simple matter in which to get the legislature at any time to grant new taxation, and that the legislature would be flooded with requests to add to this exemption. So, if you feel that you want to close the door, you want to limit it to the exemptions as we've stated, then, of course, you would have to vote for the amendment. But, that

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is your own thinking, and I think that your own philosophy will just have to dictate to you when you vote on this question.

[Previous Question ordered. Record vote ordered. Amendment adopted: 67-53. Motion to reconsider tabled.]

Vice Chairman Roy in the Chair

Amendment

Mr. Poynter These amendments are sent up by Delegate Derbes, Tobias, Johnny Jackson, and Ms. Maybuce...read as follows:

Amendment No. 1--that one's been passed out, but the Derbes is coming right now, Mr. Toca, in fact I see the pages with it right this second --Amendment No.1. On page 3 and 4. Amendment No. 1, proposed by Delegate Rayburn and others, and adopted by the convention on October 31, today, after the language added by the Rayburn amendment, add the following paragraph--it adds this to the Rayburn amendment--"No exemption provided in Paragraphs (C) and (D) shall extend to any property if access thereto is denied to any citizen on the basis of race."

Explanation

Mr. Derbes Ladies and gentlemen, I'd like to call your attention to this amendment and to repeat it for you in the event that you didn't hear it when it was read by the Clerk. It says very simply that no exemption provided in Paragraphs (C) and (D)--this, of course, does not relate to the homestead exemption or to the exemption of public property provided elsewhere in the section--no exemption provided in Paragraphs (C) and (D) shall extend to any property if access thereto is denied to any citizen on the basis of race. This to me is a clear statement of what should be the public policy of this state. This, in effect, puts our money where our mouth is. What I mean by that is that I don't think if...I don't think that any organization, be it a labor union, or a private school or any other nonprofit organization should be permitted to enjoy exemption from ad valorem taxation, if that organization discriminates in the use of its property on the basis of race. Seems to me to be a very simple, very elementary statement. One that could be easily enforced, one which could appear on an application for an exemption in which the individual involved merely states or merely swears by filling out the application that access is not denied to any citizen on the basis of race. This does not affect the homestead, but it does affect a good deal of property used for private purposes. It merely creates a very clear choice in some instances--a choice between tax exemption and discriminatory use. If a person wants to use his property, and in the use of his property, discriminate against any one race of people, that person should not, I submit to you, enjoy a tax exemption...an exemption from ad valorem taxation for that property. So, I'll yield to any questions. It seems to me to be elementary, straightforward, and what should be the public policy of this state.

Questions

Mr. Stinson If you want it to be all inclusive, why don't you put in sex and age?

Mr. Derbes Mr. Stinson, although I agree with you in principle, I didn't want to complicate the problem by loading down the wagon. I would support such an amendment if you wanted to advance it, but I didn't want to jeopardize the passage of this amendment by further complicating the issue. I'm not opposed to you philosophically, in any way, but, I didn't want to jeopardize the passage by any further complications.

Mr. Stinson Isn't all of this already covered in

the Bill of Rights?

Mr. Derbes I realize that there is a freedom from discrimination section in the Bill of Rights which provides for equal protection, which provides for due process, and which prohibits arbitrary, capricious, or unreasonable discrimination. But, I want to make it perfectly clear that we are not going to give anybody an exemption from ad valorem taxation if, in the use of his property, he discriminates against anybody. I'm only talking about people who are affected in Paragraphs (C) and (D), not homesteads, and no other exemptions specified elsewhere in this section, just in (C) and (D).

Mr. Stinson That would be all nonprofit, wouldn't it?

Mr. Derbes That's correct, and I submit to you that that's what it should be.

Mr. Winchester What would this do to a home used for..as a minister's home?

Mr. Derbes If he owns it, Mr. Winchester...

Mr. Winchester No, if the church owns it and it's exempt, and he lives there?

Mr. Derbes I submit to you that what should happen under those circumstances--a person can be denied access on the basis of not being a member of the church, on any reasonable basis inherent in the criminal laws of this state. If he's trespassing, he can be denied access; if he's not invited, he can be denied access; if he's not a member of the congregation, he can be denied access. But, to let a white person in and deny it to a black person; let a yellow person in, deny it to a white person--this, in my opinion should cause him to forfeit his tax-exempt status on that one particular piece of property.

Mr. Winchester Thank you. That answers the question.

Mr. D'Neill Mr. Derbes, how do you foresee this thing being enforced? Are the assessors going to go around and enforce it, or just what do you plan to do?

Mr. Derbes Well, there is an ordinary procedure for applying for exemptions, Mr. D'Neill. When one applies for exemptions, one certifies in one way or another that he is entitled to an exemption by virtue of law, filling out a form, making an application with an assessor. All he would do under these circumstances is further certify, if you--are you listening, Mr. D'Neill, by the way--all he would do is further certify that the use of this property is not discriminatory on the basis of race. A simple certification or an oath or a part of an application.

Mr. Smith Mr. Derbes, won't this amendment have the effect of putting taxes on private schools that are now run by churches and other organizations like that?

Mr. Derbes Mr. Smith, I think it's a choice that we have to make in this state. The choice is, are we going to subsidize discriminatory practices by private organizations? Now, I submit to you that that's a choice the organization should make. If the organization wants to deny access to school property on the basis of academic qualifications, on the basis of the area in which the person lives, on the basis of grade, whatever those factors are, I say to you, that's fine. But, if access is denied solely on the basis of race, I don't think that that institution should enjoy a tax-exempt status for that particular piece of property.

Mr. Smith Well, aren't you aiming this more or less at private schools?

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Mr. Derbes It's not aimed at anybody, Mr. Smith. It affects a lot of uses, but all that an organization has to do to conform to the requirements of this section is to not discriminate on the basis of race in the use of that facility.

Mr. Jenkins Mr. Derbes, there's been an exemption provided in this...in Section (C) for a fraternal organization such as Masons, or the Moose Lodge, and things like this. Does this mean that they would lose their exemption if they discriminate?

Mr. Derbes Mr. Jenkins, if they discriminate, they would lose their exemption, and I suggest to you that it's high time in this state that we stopped a tax subsidy by way of exemptions to private organizations that discriminate on the basis of race in their membership. It's an elementary choice which I don't have any difficulty in making, and I trust that you don't either.

Mr. Jenkins May I ask you a further question, Mr. Derbes? You know, I think we've written a real good constitution, and in our Bill of Rights, I think we've been fair to every one. But, don't you think that we reach a point in our views about social reform where we can, by adopting certain provisions, engender so much opposition to our work at this convention that it could really begin to jeopardize our work product?

Mr. Derbes Mr. Jenkins, you've been talking about opposition to the constitution a great deal more than I have. I don't think that this is going to endanger the constitution of this state. It merely announces in clear form that we should...that an organization which discriminates on the basis of race, that might otherwise be entitled to an exemption, should not be so entitled. It seems to me to be elementary; it seems to me to be good, good modern thinking for this point in the development of our state.

Mr. Womack Mr. Derbes, if Delegate Alphonse Jackson has a fraternal organization that he holds very dear, and I want to go to it, and he tells me that I can't go, then I have been discriminated against--maybe not because of race, but I'm going to contend it's because of race. Then, I don't have money to hire a lawyer; so the taxpayers are going to hire you to represent me. Then, how many years is this going to go in litigation with the taxpayers hiring you to represent me because I can't represent myself in courts that's already burdened to the hilt because they can't get cases, and then three, or four, or five years from then, what's it going to settle, and what's it going to satisfy?

Mr. Derbes Mr. Womack, I frankly don't know how to answer your objections in a comprehensive and terse manner because your objections are so numerous and so complicated. I'm not specifying here necessarily that everybody will be able to run into court and question somebody's tax-exempt status, but you are required to certify when you apply for any type of exemption the nature of the exemption that you're applying for and the use of your property that's attendant thereto. Now, I think you should be required to certify under the provisions of this section that if you're asking the state to subsidize your use by virtue of an exemption from ad valorem taxation, you should not discriminate against the substantial portion of this state's citizens. That, to me, seems elementary. It does not prohibit discrimination based on other grounds--only on the basis of race.

Mr. Toomy Mr. Derbes, some of the provision in Paragraph (D), as I understand it, refer to private property with the commercial vessels and the boats using gasoline motor fuel. Is there any conflict with your amendment and the right to private property?

Mr. Derbes No, I see none...all I'm saying is that

if a person is solely denied access...if a person is solely denied access on the basis of race, the person denying him the access should not be subsidized by this state by my tax money and your tax money, simply when that occurs.

Mr. Rayburn Mr. Derbes, if you have certain organizations that are now exempt, and you have certain qualifications to belong to that organization, and a person--regardless of race--cannot meet the qualifications. What would happen in that case?

Mr. Derbes Then, in that case, Senator, the organization would be allowed the exemption. All I'm saying is...I can discriminate against you because you don't live in New Orleans; you can discriminate against me because I'm not a Catholic; because I'm not a Moose; because I'm not a coon hunter--that's fine. But, if you tell me I can't join your organization because I'm a Caucasian, I don't think you ought to be tax exempt under those circumstances. That's what I'm saying.

Mr. Rayburn What about a vessel that's not tax-exempt?

Mr. Derbes I'm sorry. I didn't hear you.

Mr. Rayburn A vessel that's not tax-exempt, and supposing that someone wanted to go on that and they're really not qualified. They wouldn't lose their exemption, would they?

Mr. Derbes Absolutely not, sir. I assure you. Any friendly questions out there?

Mrs. Zervigon You have to judge that for yourself.

Mr. Derbes, let me clarify in my mind what you're trying to do. You're not saying that all of these social and pleasure clubs, and all of these ocean-going craft must let people on regardless of their race. What you're saying is if they keep people off because of their race, then they may not have the tax exemption. You're giving them a choice to make. Isn't that correct?

Mr. Derbes You've put that very well.

Mrs. Zervigon Thank you.

Mr. Slay I thought I'd understood you to say that this was covered in the Bill of Rights.

Mr. Derbes No, you didn't understand me to say that.

Mr. Slay O.K. Well, if I didn't, then you say "no exemption provided in (C) and (D) shall extend to any property, if access thereto is denied to any citizen because of race." Now, we say in here "all personal property used in the home." Now, if I don't open the doors of my house to everybody, then my property in my home...

Mr. Derbes Now, Mr. Slay, I have to respectfully say that that is not a fair interpretation of this section. It seems to me that...let me just say that all I'm telling you is that you can't...they can't say that a person cannot be a member of an organization, cannot use the property on the basis of race. Now, that doesn't mean that I have to let you in my home or have to let anybody in my home in order to enjoy a tax exemption for that kind of property. That's not what it says at all. You can still exclude people from your membership and from your premises by virtue of any existing criminal law, by virtue of any existing right of private property that we have in this state; you're free to do so on any basis. But, when you discriminate on the basis of race, then you give up your tax-exempt status--that's all.

Mr. Slay Yes, well, I'm glad to hear you say that because it said in this amendment, "no exemption"

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in (C) and (D), and (D) it lists the property in my home... "all personal property used in the home" ...so ...when I tie the two of them together, I get a different message from what you're giving.

Mr. Derbes You can still deny people access to your property in any way...

Mr. Roy You've exceeded your time, Mr. Derbes. Thank you.

You were saved by the bell on that.

Further Discussion

Mr. Jack Mr. Chairman and members, I rise in opposition to the amendment. This amendment appears to me to be a political amendment. Now, we have a good Bill of Rights, and it provides against discrimination, and I voted for the Bill of Rights amendment. I've been speaking in favor of our Bill of Rights and our Legislative proposal, our Executive and our Judicial. Now, I'm sorry to see this Derbes amendment, which looks to me political, to try to make bad feelings. If this amendment is genuine, and worrying about discrimination, which I can't see because if there's one thing that's settled by the courts, you cannot discriminate. We recognize that in the Bill of Rights. But, if Mr. Derbes is not being political, why doesn't he add to this amendment: "age and sex and creed"? Why doesn't he also apply it to homestead exemptions and all other things? The reason that I believe in this Constitutional Convention spelling out "exemptions" is so that people will know what they are. Like, if a person wants to move to Louisiana; suppose he's sixty-five or over; he's a veteran; he'll know he's got an exemption on his home of five thousand; he'll know what the other exemptions. That's why I believe in us tackling the property...the thing of exemptions rather than leaving it up to the legislature. It's not a pleasant thing. Now, all this is going to do is try to muddy the water, but if he's sincere, why doesn't he apply and amend it to put "age, sex, creed," apply it to every exemption--homestead and all of them? Mr. Derbes is a young man; I don't know what political ambitions he has. I'm sixty-five; he's sixty-six on Nov. 26. I state from my heart at this convention; no politics involved. I say this amendment is unfortunate to be here. Everybody seems to be getting along fine. This is the very type of thing that can create bad feelings. I say it's a bad amendment.

Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I'll be very brief. I'm not going to get up here, as Mr. Jack has implied, to attempt to muddy the waters. I suggest to you that Mr. Derbes' sincerity, I personally believe, is of a righteous nature. I suggest to you that he drafted up this amendment and that there are other...I believe, three other coauthors on this amendment. It has been pointed out that in the Bill of Rights that we provide protection against discrimination. If you recall, if you look at the Bill of Rights, we provided that in Section 3, where we attempt to provide that there would be no discrimination--public or private--that was taken out in Section 7. I suggest to you that if we're talking about providing some state support in terms of exemptions for organizations, whether they be fraternal; whether they be all white or all black, as such, it seems to me, that the state cannot go on record as to allow exemptions for organizations that discriminate. I think it's a very clear, simple question: whether we are going to, in this area of exemptions, we're going to provide exemptions to organization--I'm not suggesting that any of them do--but we are opening the door to say that you can get an exemption from the state, taxpayers dollars, and at the same time, you are permitted to because the Bill of Rights do not--and I'd suggest that you look at it. The Bill of Rights do not provide that they should not

be discrimination in this area. I'm suggesting to you that--I've heard some of the arguments against it--when you talk about if it's political or not, I'd suggest that I personally believe that it's not political. But, at the same time, when you have segments of the population, whether they be Cajuns, blacks, Cubans, Baptists, Protestants, Catholics, as such, that are discriminated because of whatever reasons, then, it seems to me, that that is not political; that's talking about looking out for the interests of all the people of the State of Louisiana. Let me suggest to you that discrimination is not a one-way sort of visitor. I suggest to you that within the State of Louisiana, that there are tax-exempt organizations that are enjoying this benefit from the state, and do indeed discriminate. I don't want to get up here and hassle and argue and go through another Bill of Rights. I think the amendment is very simple and very clear. It says that whenever we extend exemptions to any organization, that that organization cannot discriminate. Now, I know one argument's raised about the house; let me try to walk into somebody house and say, "You can't discriminate... because of some property in your house," and see what that person does to me. I think that most of the arguments that you've heard, that everybody knows the answer to it. It's just very clear and very easy to understand, and I suggest to you that we don't need to get into a very heated debate about it. It's just...that all we need to do is recognize that we cannot, as a state policy, give exemptions to organizations, no matter if they discriminate on race, denominations, etc. For those who are concerned--and rightfully so--about sex, and things like that, I suggest to you that I would be willing to support an amendment to provide for those other categories. I would ask your favorable adoption of the Derbes amendment.

Question

Mr. Winchester Mr. Jackson, what about a fraternal organization such as Cristoforo Colombo, which is composed of Italian people only? Would they lose their exemption under this?

Mr. J. Jackson I would not think so, Mr. Winchester. I think Mrs. Zervigon in her presentation of her question to Mr. Derbes, answered that very clear.

Mr. Winchester Thank you.

Further Discussion

Mr. DeBlieux Mr. Chairman and ladies and gentlemen of the convention, I believe my record with reference to discrimination is pretty well-known over this state. I have been fighting discrimination for years and years, long time before some of those people that are activists in it now were born. But, I do think that this amendment is to be, that's advocated to be placed in the wrong section of our constitution. Therefore, I don't think we ought to adopt it and put it in this particular section. I believe we have fairly well taken care of the race issue insofar as our Bill of Rights are concerned. If we have not, then certainly the authorization is there to the legislature to do that. As long as I'm able to, I will certainly fight for the proper laws to prohibit discrimination, but let's don't bother up and clutter up our constitution with something like this in the wrong section. Therefore, I am opposed to the amendment. Not because of what...I certainly appreciate the position and sincerity of Mr. Derbes in advocating this amendment, but I think it's just in the wrong place, and we shouldn't put it in our exemption laws. I ask you to vote against the amendment.

Questions

Ms. Maybuce Senator DeBlieux, as an old friend --you and I--you said that you think it's in the

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wrong section. May I ask you which section you think it should be in; evidently, you're inferring it should be in a section.

Mr. De Blieux The section for it, providing for laws in prohibition against discrimination in the Bill of Rights section, Ms. Maybuce. That's where I think we're taking care of the situation.

Ms. Maybuce It's not there, sir.
No, sir. You have not.

Mr. De Blieux We've got enough leeway in that particular section of our constitution to...for the legislature to enact any laws they see fit in prohibiting discrimination.

Ms. Maybuce I'm sorry to publicly let everybody know that you and I are on different sides of the fence, for once in our lives. It's not taken care of there.

Mr. Goldman Senator De Blieux, I just want this for information. To get a federal tax exemption on something like this, do they, or do they not, have to testify that it's open to all races and public functions, and so forth?

Mr. De Blieux In certain phases. I don't know what this would...certainly would cover, Mr. Goldman, but I do know that in many instances, the federal tax laws for nonprofit corporations certainly have a non-discriminatory clause in it.

Further Discussion

Mrs. Warren Mr. Acting Chairman and delegates, I guess the first thing I would like to say: Mr. Derbes was asked a question, and I don't think he was able to answer it. I'd like to try to answer it for you now. A minister's home is just as sacred and is just as much his as yours and mine. The only difference is that the church provides for a home for the minister. Even members of a church do not have the right to intrude on the privacy of their ministers. We have had a parsonage for our minister for many years until he decided that he wanted to own a home of his own, and then we sold it. I think that Mr. Derbes' amendment, in a sense, is good. It is trying to hit at the very thing that we are talking about now. We are talking about the exemption of organizations for special things. These organizations are supposed to be providing a special service for all the people of our state. I have never stood before you as a race--and I told you from the beginning, race does not enter into it--but, if we are going to exempt people, and let them have property untaxed, then we are doing wrong. I don't think there's any question in our mind when it comes to the privacy of machinery that farmers use. That's theirs. But, anybody, whether they're black, white, blue or green, if they're going to buy a piece of farm equipment, they should have the same status with exemption. I'm not expert on drawing these amendments. If you think something needs to be changed, we should change it. But, I don't think we should go against the very concept, because the church is the very foundation of justice. Any church, any minister that would come out and say that he was opposed to an amendment like this, it's not really a church. In other words, the church is really the building. I'm going to get right down to the nitty-gritty. We, as human beings, are the living Church of God, and we are going to have to make the decisions here, now, and let the world know if we are Christians. We say a prayer every morning that we want to do the things that would be pleasing in the eyesight of God. I want you to think over before you press your little button, and ask yourself, "What are we doing?" If you think anything needs to be changed in the amendment, ask for the changes, but don't deny anybody the right to participate in any function that's going to be beneficial to any child or any human being in the State of Louisiana. I thank

you.

Motion

Mr. Derbes Mr. Chairman, I would like to withdraw the amendment and resubmit it in a form that's already been drafted, which will except, e-x-c-e-p-t, personal property used in the home or on loan in a public place from the effect of the amendment. I ask the convention's leave to do so.

[Motion to withdraw amendment adopted: 80-15. Motion to reconsider tabled. Amendment withdrawn and resubmitted with correction. Amendment reread.]

Explanation

Mr. Derbes All right. I've merely tried to answer some objections which I frankly didn't think were entirely well taken. But in order to assuage your fears, I made the change in the amendment. The change is self-explanatory. In case you haven't already received your copy, it merely excepts from the effect of the amendment, a private property--personal property--used in the home or on loan in a public place. So, on the basis of this minor change, I would hope that those of you who may have been opposed to it previously, could accept it now.

Questions

Mr. Avant Mr. Derbes, as I interpret your amendment, as you've changed it now, if I have a collection of art works that are on loan to a public place, therefore would be exempt in the ordinary course of circumstances, that I can still exclude members of certain races from looking at my art works in that public place, and enjoy the exemption. Isn't that what your amendment does?

Mr. Derbes Mr. Avant, you know I really need your help...it seems to me that those kind of objections are really rather minor. Let me answer the question now.

Mr. Avant You don't know. I don't think that's minor...now if I've got a five thousand...

Mr. Derbes Your question...

Mr. Avant ...collection of art works....

Mr. Derbes Yes....

Mr. Roy Let's not argue. Just answer if you can, Mr. Derbes.

Mr. Derbes Your question, it seems to me...it's my opinion that it, that the access to the public place would still be required under the Bill of Rights. That, therefore, nobody could really discriminate against any individual in the viewing of your art work so long as they are in a public place. If the exception built into the amendment is a little too broad to suit you, then I suggest that you propose an amendment to cure the defect. But I don't think that the objection you raised really goes to the substantive merit of the amendment.

Mr. Avant I just want to know whether or not, under the proposal as it is now drawn and submitted by you, if I loan a collection of art work to the museum that is situation in City Park in New Orleans, I think it's Delgado Museum, that I could say that you will exclude certain people from viewing these art works and still enjoy the tax exemption, even though they were in a public place? Isn't that exactly what your amendment does?

Mr. Derbes No, Mr. Avant, and I state to you categorically, affirmatively, and definitively, that this amendment does not affect access to public buildings.

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Mr. Willis Mr. Derbes, does not your amendment destroy the distinction between "mine" and "thine" as incorporated in the Right to Property in the Bill of Rights, which says that you can use, control, etc., your private property?

Mr. Derbes Mr. Willis, I see no difficulty in that regard. What is yours, is yours; what is mine, is mine. I'm entitled to discriminate on the basis of race and access to my home, and in access to my personal property, if that's my pleasure, and you are, too. But if you are entitled to exemptions under (C) and (D) by virtue of your nonprofit status, or your fraternal status, as an organization, then you are not entitled to an exemption if you discriminate in access to property on the basis of race. It doesn't destroy ownership, it merely says that the state can't subsidize your discriminatory use of the property.

Mr. Willis I understand that, but aren't you confusing the difference between discrimination and distinction?

Mr. Derbes Discrimination and what?

Mr. Willis Distinction....

Mr. Derbes I, frankly, I'm listening to your words as carefully as I can, and I don't see any difficulty.

Mr. Willis Let me give you....let me give you a vivid question.

Suppose I refuse, under your amendment, access to someone is refused--regardless of his race--white, black, yellow, red, or brown--is refused access to a private cemetery, an Arab cemetery, a Jewish cemetery, or a Catholic cemetery. That cemetery cannot enjoy the exemption. Suppose I refuse somebody access to my plow in my field, regardless of his race. That destroys my exemption to that plow. Or if I refuse a member, anybody, regardless of his race, to be a member of the crew on my boat, on my ship, or to have access to my bonds or my stocks, then your amendment would knock all those exemptions out.

Mr. Derbes Mr. Willis, I don't know how you voted in the Bill of Rights Section, but I suggest to you, that in terms of....

Mr. Willis The record will show how I voted.

Mr. Derbes ...in terms--I don't recall--but in terms of employment, in terms of access to private property, all of the ordinary laws of the State of Louisiana, and the United States of America apply. You may discriminate against anyone for any reasonable reason....

Mr. Willis Yes, but you mustn't hesitate to see what I may do because I don't discriminate... but I distinguish.

[*Motion for Previous Question rejected: 26-69.*]

Further Discussion

Mr. Rachal Mr. Chairman, delegates to the convention, I have sat in this convention since its beginning, and of all the amendments I have... listened...read, and have, prior to any discussion being started, I felt that if any one was motherhood and the flag, it was this one. I realized it would bring out profound statements to suggest how this was going to muddy the water; we have statements about it's political--and my God--how can we say this is political with all the political maneuvering we've had on this floor since January?

I recognize that an amendment of this type, and being as inclusive as it is, can cause problems. So I listened more attentively...attentatively than I have before, to what some of the objections were. I respect the thoughts and the opinions of the

people who express them. But as time went on, this thing became ridiculous. Rather than some kind of assistance in...with all of the wisdom we have on this floor...to try to help with the wording that could protect what we say is already protected somewhere else; well, if it's protected somewhere else, and it's protected by the federal constitution, why should we worry about including it again at this point? This will not be the only thing that has been repeated a second time. There are organizations, and we are talking substantively about organizations which deny solely on the basis of race. If some are concerned about private schools, the day is past when there is to be a private school that can segregate on the basis of race alone.

So the arguments...I hate to give dignity to some of the questions and some of the statements that have been made because they cannot be dignified; and simply they are tactics again to illustrate that contrary to some of their--that I was beginning to believe that in this state, we are not yet ready to move into the twentieth century when it comes to issues that have to do with race, and the denial to organizations tax-exempt status, when they choose to take advantage of that exemption, and then deny access--general access--to citizens based on race alone.

I rise to support this amendment, of course. While I recognize that I can do little about changing the opinions, I could not sit there and let--have you think that I believed that the questions raised were all with sincerity, because they reach a ridiculous state. I urge your support of the amendment. If there are some genuine concerns that you have, then why not help to amend this amendment so that it can serve the purpose, and only the purpose, for which it is intended?

Further Discussion

Mr. E.J. Landry Mr. Chairman, ladies and gentlemen, it seems that I always come up under tremendous pressure. I can't conceive of your not being able to understand what this young man, Derbes, was trying to tell you. If there ever was a time in my life that I understood loud and clear what he was trying to teach me, and to teach you, it was just a moment ago when he made the presentation. Surely you understand that it belongs--his amendment belongs exactly where he put it--and it speaks clearly to the fact that no one, no organization, and that's what he tried to tell you, should benefit from public taxes. I mean that's not hard to understand. The only way in the world that you would not understand it is if you are prejudiced. We must not be prejudiced at this stage of the game. Now think carefully what he tried to tell you.

There is no doubt in my mind. I was afraid, I was tremendously afraid that you would vote your prejudice. That's why I'm here. I'm here to implore with you, to put that amendment where it belongs, reread the proposal; recheck it. I'm going to give you an instance--this is a personal instance. I have been surrounded by instances of personal prejudices where black people in my community have not been afforded--well educated--have not been afforded certain rights that they deserve. It's taken years. Thank God, I have been privileged to see changes in the thing that you're talking about in organizations. I implore you; please accept that amendment where it belongs.

This is always a privilege. I'm sure that you're not rude; I don't think you are rude. I think you are interested in other things that are very important. But, why don't you listen just a minute, even though I have to repeat, even though you were busy a moment ago, with something that you thought was more important than this simple amendment?

This young, brilliant boy has brought to your attention a concept that you can't afford to vote against. That concept belongs exactly where he has it. You will be putting on the line the fact that you believe that this convention, in no manner, shape or form, is prejudiced; the taxpayer's money of this state should not go to finance any

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kind of organization that cannot live with this amendment. I'm asking you to support it, and support it well.

[*Previous question ordered.*]

Closing

Mr. Derbes I'd like to answer one or two charges. First the charge...first I'd like to answer Mr. Jack's charge that this amendment is political. I don't know what he means by that. If he could bring out in one of his questions exactly what he means, perhaps we could all benefit from his analysis. I can tell you that all that I am trying to do by virtue of this amendment is to give a choice to the people of this state. If you want to discriminate on the basis of race, then you're not entitled to a tax exemption in Paragraphs (C) and (D). If you want to discriminate, that's O.K., but you don't get your tax exemption. I could recount the history of discrimination in this state, and I'm not going to bore you with it. I will say, briefly, that it's time we all realize that this state should not subsidize with tax monies from other sources, the operations of discriminatory organizations specified in these paragraphs. I'm not telling you you can't discriminate; I'm not telling you you can't have a tax-exempt status. I'm simply saying that if you do discriminate, then you can't have your cake and eat it, too, so to speak.

Thank you very much. I urge your adoption of the amendment.

[*Record vote ordered.*]

Question

Mr. Fulco That's a question I asked. Would you also include in your amendment, "nationality?" I'm voting against you.

Mr. Derbes No, I don't want to complicate it, Mr. Fulco, and I refer again to the answer that I made to Mr. Stinson's question...I think that....

Mr. Roy You've exceeded your time, sir.

[*Amendment rejected: 52-54. Motion to reconsider tabled. Motion to revert to other orders adopted without objection.*]

Report of the Secretary

[*Journal 703*]

Announcements

[*Journal 703-704*]

[*Adjournment to 9:00 o'clock a.m., Thursday, November 1, 1973.*]

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Thursday, November 1, 1973

ROLL CALL

[93 Delegates present and a quorum.]

PRAYER

Mr. Stovall Let us pray. Eternal God, we feel about us today the shaking of the foundations; the tremors come from all directions. We are inclined to say: What next? But, we're grateful that over and against this set of facts, there is the witness of our faith. The Eternal God is your refuge, a very present help in trouble. We feel this morning that You're calling us to a new day, to a new future, to a new possibility. You're calling us in our nation to new integrity and honesty. You're calling us in this state to a new sense of responsibility. You're calling us in our individual lives to make a decision to live for You by living one for the other. Give us grace to make this kind of decision and to move forward to the day that You desire for us and for all mankind. On this All Saints Day, we give thanks to You for dear loved ones who have brought to us a great heritage of faith and life. We give thanks to You for all who have served our nation and our country faithfully. We pray that we might be worthy of the heritage that is ours. Guide us in our deliberations, for we offer our prayer in Your name. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

Personal Privilege

Mr. Leithman Mr. Chairman and members of the convention, I guess we would be remiss, if we would not close down our recent Muscular Dystrophy fund raising project without one final comment. I would suppose that I would probably be the person to do that because I'm very fortunate to serve as vice-president of the National Muscular Dystrophy Association. I bring to you this morning a message from those persons in our national headquarters, which includes Jerry Lewis, the chairman, Mrs. Nixon, who is the president of our board, these people--certainly through the executive secretary, asked me to convey to you a warm feeling of thanks for what you all have done during the past week in raising these monies. I personally feel that something happened during the past week which really transcends a ball game or just a donation of sorts. I think I saw a group of people here that daily are cast into battle, opposing each other one way or another. I saw something last night at the ball game--I saw these same people drawn together in a mutual cause which really went beyond the football game or a normal donation of sorts. I will certainly be proud when we have our next meeting of the vice-presidents and the board--this includes some real nice people, Patty Duke, and Joe Namath, and Eddie McMahan, and Ben Martin, the coach of the Air Force Academy, Governor West. Each of us, of course, when we're there, will brag to some extent as to what we did, or what happened back in our states. Well, Louisiana has never been short. But, certainly when we meet next time with this delegation, what you all have done in conjunction with the L.S.U. students, will certainly be smoke coming out of my pipe at the next meeting. Let me...one thing that the chairman,--I think John Alario,--certainly deserves one hundred percent credit for putting this thing together at a time when our minds were occupied and preoccupied. He certainly found time to do such a wonderful thing. We would be remiss if we wouldn't thank our cheerleaders, Mrs. Badeaux, and Mrs. Corne, and the other ladies that were there, Miss Perkins and Brien, last night. I've never seen four more attractive cheerleaders in my entire life. I think we ought to give these people a hand. But, what you all did, again in closing,

thanks from the board of directors of Muscular Dystrophy at the national level. It was certainly appreciated, and we'll do everything to make this fact known countrywide. Mr. Chairman, to you, for your guidance in the thing and we have a--from the coach and I,--a small gift that we would like to present to you. But, we'll close it on that note. If you ever have an opportunity to go by one of the crippled children's hospitals,--we, in New Orleans, we have our meetings at the crippled children's hospital up near Audubon Park,--and if you're ever in that area, go in and see what work is being done. You will certainly see just how wonderful this project that the L.S.U. kids, and what we have done in the last week--just where those monies will go. Again, thank you from the Muscular Dystrophy victims around the country. Thank you very much.

Mr. Henry Thank you, Kenny.

I might say that the four thousand dollars that you all raised here at the convention--Kenny Leithman says will more than cover his expenses to make the report on what was collected.

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26 introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation, other delegates and members of the committee.

A proposal making provisions for property taxation.

The convention has adopted, as amended, Sections 1, 2, and 4 of the proposal. Voted to pass over Sections 3, and 5. On yesterday, reverted and again took up consideration of proposed Section 3, which at the present time has been amended so as to provide with respect to other property exemptions.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Abraham]. On page 3, in Floor Amendment No. 1 proposed by Delegate Rayburn, et al, and adopted by the convention on yesterday, in line 16 of said floor amendment, change the semicolon ";" after the word "purposes" to a period "." and delete the word "except" and delete lines 17, 18, and 19 in their entirety and insert in lieu thereof the following:

"However, the exemptions granted by this Paragraph shall not apply to any property owned, operated, leased, or used for commercial purposes which are unrelated to the exempt purposes of any corporation or association described herein or to any such corporation or association if any part of the net earnings thereof inure to the benefit of any private shareholder or member thereof."

Explanation

Mr. Abraham Mr. Chairman and fellow delegates, the purpose of this amendment is to clarify the intent of Paragraph (C) of the Rayburn amendment. Now, there were many questions asked, and there were many reservations that some of us had about whether the language was stated properly in order to bear out the intent. Now, and for that reason, I have offered this amendment. But, in the interest of furthering the work of this convention, and moving along not to delay it any, I've been assured by the various members of the Committee on Revenue that Style and Drafting will take care of this particular thing whenever it comes before them, that they will get the intent and the language worded properly. So, for that reason then, I will go...I'm going to withdraw this amendment knowing what the intent is, so we can move on to other business. But, I will say this, that in the event this particular article comes back from Style and Drafting, and the intent is...it's not written the way it should be done, then I will offer an amendment at that time to correct it.

[Amendment withdrawn.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Jenkins]. On page 4, strike out lines 28 through 32 in their entirety, and on page 5, strike out lines 1 through 32 in their entirety including all Floor Amendments thereto, and on page 6, strike out lines 1 through 5 in their entirety, and insert in lieu thereof the following: Now, that had the effect of striking out all of old (F) and inserting in lieu thereof:

"(F) Notwithstanding any provision of this Section to the contrary, the legislature may authorize the State Board of Commerce and Industry, under such conditions and terms and with such approval as the legislature may specify, to provide for the exemption from property taxation of any new manufacturing establishment or an addition or additions to any manufacturing establishment already existing in the state.

No exemption granted under the authority of such laws as may be enacted pursuant to this Section shall extend for a longer initial period than five calendar years, or be renewable for an additional period in excess of five additional calendar years."

Explanation

Mr. Jenkins Mr. Chairman, delegates, this section would delete Section (F) as it stands in the committee proposal and would substitute a different provision. As you know, at present, the Board of Commerce and Industry has the authority to grant industrial tax exemptions in the state. The committee proposal changed that. It said that new industrial tax exemptions would have to be approved both by the Board of Commerce and Industry and by the local governing authority. Under the 1921 Constitution, industrial tax exemptions can be granted both to new manufacturing establishments and to additions to existing manufacturing establishments. Now, this question has come up before in previous amendments, and it's because this is so important to the future of this state, and so important to industry in this state that it's important to raise this question again. This amendment does not go along either with the 1921 Constitution or with the committee proposal. It goes with a middle ground. It, in effect, leaves it to the legislature to establish the rules under which any industrial tax exemptions would be granted. As I said, the 1921 Constitution leaves it to the Board of Commerce and Industry. The committee proposal leaves it both to that board and to the local governing authority. This amendment says that the legislature will establish such rules. The legislature could very well provide that any industrial tax exemption would have to be approved by the local governing authority. But, the thing that we would not be doing under this amendment is locking into the constitution a new concept that might prove to be unworkable. We know that our industrial inducement program thus far has been working well with just the Board of Commerce and Industry approving these applications. If we lock into the constitution a system whereby it has to be approved by the local governing authority, we may soon find that it doesn't work well at all; but, we'll be stuck with it. It will take a constitutional amendment to change that. So, what this says is this gives the legislature the opportunity to try such a system, but, if it doesn't work, the legislature can change it. I've been distressed by some of the things said at this mike about industry coming to the state. There seems to be an impression among some people that industry has got to come to Louisiana, that we have some things that just make it imperative, necessary that people come here. If you talk to the people at the Board of Commerce and Industry, you're going to find that that's not true. We're involved in a highly competitive effort to gain new industry for this state; to gain the construc-

tion jobs, the manufacturing and industrial jobs, the capital investment, the growth and prosperity that this state needs to move us forward. So often, there are just one or two factors that will make a given industry decide to come to Louisiana over Texas as some other state. Or, one or two factors that will make them choose to go to that other state rather than Louisiana. So often, the factors have been political instability here, or possibly an instable tax situation. People involved in big industry and big business feel more than anything else instability in the political climate. They fear that more than they do even high taxes. They would rather go into a situation where they knew what the tax rates would be, and they knew that their investment was secure. The real problem in this whole question of industrial tax exemption, and the question of giving veto power to local governing authorities over them comes in the question of additions to existing manufacturing establishments. Industry doesn't fear a veto by a local governing authority of new manufacturing establishments. Those are always going to be approved. But, look at the position we put industry in if we say that the local governing authority can veto exemptions on an addition to an existing plant. Take Standard Oil Company out here in Baton Rouge--they have a tremendous multi-million dollar investment, but under the proposal as we have it, if they wanted to expand--say a twenty million dollar expansion program--the tax exemption on that program would have to be approved not only by commerce and industry, but by the local governing authority. Frankly, there's a lot of fear about what might happen in the local areas if that were true. Certainly, we might have a situation where we'd breach faith with industries that have agreed in the past to come to Louisiana. I think what would happen in the future is that we're going to discourage capital from coming in because, although they know their initial application will be approved, they fear that additions will be disapproved--exemptions for additional capital improvements. So, what I'm asking you to do is go along with the middle ground. Let's leave this question to the legislature. If the legislature wants to give it a try, to allow local governing authorities to veto these exemptions, fine. But, if that doesn't work, let's give the legislature the opportunity to change that and not tie it down here in the constitution. So, I urge the adoption of this amendment. I'll try to answer any questions.

Questions

Mrs. Miller Mr. Jenkins, I want to be very sure now what this Paragraph (F) is doing. What you're doing is stripping away from local government; is this correct? Stripping away from local government the authority to have some control over what the legislature may do to us in those long sixty day sessions, when those of us out in local government are so busy making a living we can't stay down here in Baton Rouge and watch what you all are doinn. So, what you're doing is you're stripping away our authority to have any control over the tax bases of our property out in Jeff Davis Parish and Acadia and some of these country parishes?

Mr. Jenkins No, ma'am. We're not stripping away authority; in fact under this amendment, local governments could have much more authority than they do under the 1921 Constitution.

Mrs. Miller If the legislature gives it to them?

Mr. Jenkins Certainly. If the legislature grants..

Mrs. Miller Have you ever known the legislature to be that generous?

Mr. Jenkins Well, Mrs. Miller, of course, I haven't been in the legislature very long; I've just sat through three sessions. But, I have never once, in those three sessions, seen local

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government come to the legislature with anything reasonable and seen it denied. In fact, I've seen, on the contrary, I've seen local government come with a lot of things that are unreasonable and they still get approved by the legislature.

Mrs. Miller But, what you're proposing is a converse; it's not local government coming and asking the legislature for something. Isn't this the legislature imposing something upon local government without giving local government the power of the veto, to say this is not what we want? Don't you think...excuse me, I'm asking too many questions at once.

Mr. Jenkins No, ma'am. I don't think it's imposing anything on local government because, in the case of the industries that come to an area, there are very few services that are mandated back to the local governing authority for that industry. An industry does pay a number of taxes even with the property tax exemption. They're going to be paying sales taxes; they're going to be paying income taxes; they're going to be paying some property taxes. There are all sorts of fees that are paid. Certainly, there are all sorts of benefits that accrue to a local area as a result of an industry coming. Also, let me say too, that it's somewhat unrealistic to grant veto authority to one local governing authority when you talk about a situation where any large industry that comes to an area always affects a number of parishes. I know here in Baton Rouge it would be somewhat ridiculous, really, to give veto authority to the City-Parish Council over expansions at one of our local industries, because we're talking about an industry that employs people in an eight or ten parish area. Probably a majority of the employees do not even live in East Baton Rouge Parish so there's no--it's a thing of statewide concern. That's why commerce and industry, certainly, I think, should have the authority. But, we're giving here the discretion to the legislature to grant a veto authority to local government if the legislature thinks that that's appropriate.

Mrs. Miller Well, don't you think under the provisions that we've adopted already, we have the legislature walking hand in hand with local government, and now, you want to say let's don't hold hands anymore?

Mr. Jenkins No, ma'am. I think that we're giving authority to local government to veto a complete statewide industrial inducement program. Now, we can have our Board of Commerce and Industry traveling to Chicago, and New York, and Los Angeles, and Atlanta, and across the globe, for that matter, trying to induce industry. They can...they never know what offers they can make--what inducements they can offer because they're going to have to go back under the way the committee proposal has it...go back to the local governing authority and try to get some agreement there. You can't have an industrial inducement program based on that, I don't think.

Mr. Anzalone Mr. Jenkins, do you realize that any time a new industry locates in a small municipality, that a greater financial burden is placed on that municipality?

Mr. Jenkins I think that that's true to some extent, Joe. But, you know, there are very few industries that locate in municipalities in the first place. Most of them locate out in the parish somewhere.

Mr. Anzalone Well, now don't say "most" if you don't have figures because these are hollow statements, because I tend to disagree with you, because of the five that have located in Tangipahoa Parish in the last four years, all of these are inside municipalities. So, I wouldn't say that most are located outside of them.

Mr. Jenkins Well, I don't have the figures, Joe, but I think if you would...if we had the figures, I'm almost positive they would show that. If you look up and down the river parishes, you'll see that very few of the industries are in municipalities. But let me answer your main question. Your question, as I appreciate it, was: Does this give an extra burden to local governing authorities, particularly municipalities? I think in some instances it does give an additional burden, but the point is that the benefits to the local area almost always far, far outstrip the disadvantages because of the new jobs to the area, and with new jobs go...people are going to be buying homes and paying some taxes; you are going to have people who have incomes and are going to be paying taxes; you're going to have an increase in the sales tax; you're going to have a tremendous economic impact on the community, which is going to be favorable. You've got to look at the pluses, not just the minuses, and the pluses far outweigh the minuses.

Mr. Anzalone Now, you mentioned something about that these industries paid sales tax, income taxes, and some property taxes. Would you illustrate to me which property taxes these people pay?

Mr. Jenkins As I appreciate it, things like inventory taxes would be paid and not exempt. I think there are a number of things...

Mr. Anzalone You think, or is this one of the deals that the Commerce and Industry Board is going to make with the manufacturing establishment to come into this state, to exempt them from this?

Mr. Jenkins I think they have authority to make certain exemptions, and it depends, I believe, on the agreement that they make.

Mr. Anzalone Which most certainly always occurs--whether you realize it or not--or did you know, to include inventory? That it is exempt.

Mr. Jenkins Well, I can't...I don't have the figures in front of me to tell you one way or the other, quite frankly.

Mr. Anzalone Well, I don't have mine either, but I have read it. But, would you agree that the industry itself pays no sales tax?

Mr. Jenkins No, I can't say that because if it buys things from local dealers and things like that, it will be paying sales tax. It certainly...

Mr. Anzalone No, sir, not if you are a manufacturing establishment; you are exempt from the payment of sales tax.

Mr. Jenkins Well, certainly all of their employees who are earning wages are going to be paying sales taxes, Joe.

Further Discussion

Mr. Stagg Mr. Chairman and fellow delegates, at this microphone in days past, someone said, "If it is not necessary to change, then it is necessary not to change." I am concerned about one single facet of the industrial inducement exemption, and that is the word "jobs," and the future of the young people of this state. A study made in my parish about the graduates of a very fine high school in the western part of Shreveport shows--the name of it is Fair Park High School--out of a recent graduating class, more than half of the students now work in some other state. Now, ladies and gentlemen, you and I and those, particularly those citizens in Caddo Parish, paid to educate those children from the time they were in the first grade. And education is probably the most costly local governmental activity, and so in the state, also. Imagine what it cost, then. If we had the figure, I would love to be able to

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use it. But, what does it cost the state to produce the education for a single child from the time of kindergarten through high school graduation, and perhaps, through his college education, also? Then to find that half...over half of the students of a recent high school class--and it can be multiplied around the state by similar statistics--no longer work in Louisiana, and we no longer gain the benefit of the expense of educating those children. It is, then, a net loss to the taxpayers of Louisiana. I think Mr. Jenkins has a good amendment because I don't think it's necessary to change the method by which this state has induced industry to come to Louisiana. I'm certain that certain of you delegates disagree that the exemption is worthwhile, or does even attract anybody--that our natural resources, our fresh water, and our rivers and harbors perform a function of attraction to industry. But, one of the parts of that attraction--that of natural resources--is by any measurement becoming less of an attraction because of the lessening of the quantities of natural resources that can be devoted to industry. Therefore, at this time, it would seem to me to be quite foolhardy to do away with or to damage in any regard the inducement system built around the ten year property tax exemption. I do not feel that this convention should take any action with respect to inducement of industry which would damage the prospects for our children and for the future betterment of Louisiana. I therefore rise in support of the Jenkins amendment, and suggest to you that you focus on one single item--jobs for the people of Louisiana, and the future of those jobs, if for any reason our industrial inducement plan turns to be less effective with local veto power, than it has been in the past.

Questions

Mrs. Warren Mr. Stagg, you just mentioned that jobs were the things that you were concerned about. Did you know that that's what I'm concerned about, too?

Mr. Stagg I would hope so, Mrs. Warren.

Mrs. Warren The other day, Mr. Chehardy sent through an amendment that said that if these industries come in here and got that exemption, that they would be required to give "X" number of jobs. I didn't agree with, then, maybe the limit, but the concept was good. The proof of the pie is in the eating. Mr. Jenkins said, and I wanted to ask him, so I'm going to ask you now, he said that industrial...people coming in for industry wanted to know and be sure what their tax base was going to be. Don't you think that the citizens of Louisiana should know how many jobs are going to be afforded to their unemployment, as well as industry would like to know their tax base?

Mr. Stagg Mrs. Warren, I agree that we have had some industries who came to Louisiana and got considerable tax exemption to produce, comparably, per dollar of inducement, fewer jobs than you and I would have hoped to. I listened with great interest to the governor when he said, on this subject, that the jobs he would be going after, and the industries that he would be going after would be focused on those that produced the maximum number of jobs per dollar of inducement. That, I think, is an attitude that ought to pervade our industrial inducement efforts because I think the end result ought to be the creation of new jobs for the people in this state who want to work. Though I don't agree with Mr. Chehardy's plan of so many percentage points for exemption per job created; I think that's a restrictive thing. We may, for an example, produce an exemption of five hundred thousand dollars for a plant that makes clothes that has women and other people who need jobs working behind sewing machines. They'll have for that five hundred thousand dollar exemption, they'll hire two hundred and fifty ladies

to go to work. But, then again, there may be a five million dollar exemption that would produce only fifty new jobs. So, I don't think there is a gauge that you should place to prevent a needed industry from coming to this state with a percentage of exemption based simply on the number of jobs, because sometimes we come out much better than that so-called stepped-down or stepped-up basis that was suggested by Mr. Chehardy.

Mrs. Warren Mr. Stagg, did you know that some of these people working in these sewing factories have to be on a production in order to hold their jobs? Did you know that some of them, if they're not on production get a wage so low that they're ashamed to take it home?

Mr. Stagg Mrs. Warren, I'm not familiar with that kind of operation in our parish. They work on an hourly basis by...

Mrs. Warren I am.

Further Discussion

Mr. Arnette I'd just like to make a couple of points to the convention. First of all, Mr. Jenkins says we need his amendment because we need stability in state government, and in their dealings on tax exemptions. Well, I'll agree we need stability, but stability doesn't come from having the legislature and giving them the power to change it every year, at every session, at their whim. Is industry going to think this is stability to have one exemption granted one year, and then when they come up for a renewal or for an addition or something like this, they find they've got to go to another body to get approval, they've got to deal with another group of people? That isn't stability. Stability is putting it in the constitution--who they have to deal with. If they know who they have to deal with, then that is stability, and that's what I think we need to do. Secondly, we voted down this same proposition twice in the past. First, we voted it down when we refused to delete the approval necessary by local government. Secondly, we rejected this type of idea when we took away the power of the legislature to grant additional exemptions to this section by two-thirds vote. We deleted that. So, I submit to you that we have rejected this same idea twice in the past. Let's stick to our guns and reject it again. Third, this may surprise you, but some parishes actually don't want industry, and I think it ought to be up to them. If they don't want it, they shouldn't want to give the exemption, and they don't have to give the exemption under the committee proposal. But, under Mr. Jenkins's proposal, it would be rammed down their throat--maybe a kind of industry they don't want, maybe a polluting industry, maybe they don't want these pollutants in their air; maybe they don't want their water polluted; but, yet this industry would be rammed down their throat. I don't think this is what our local governments want; I don't think it's what the State of Louisiana wants. I think we need to have the okay of state government. I'd like to close with one short statement. Ask Mr. E. J. Landry about what exemptions on the state level have done to his parish. Ask him what shape his schools are in. He's got all the industry in the world in that parish, but none of them is paying a nickel's worth of taxes. As a result, all the people in that parish are suffering.

Are there any questions?

Questions

Mr. Mire Mr. Arnette, did you know, really, how much assessment St. Charles Parish had, directly related to industry?

Mr. Arnette Directly related to it...

Mr. Mire Directly that industry themselves were assessed for, and how much...what percent of tax

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they are paying in St. Charles Parish--Mr. E.J. Landry's parish?

Mr. Arnette No, I don't.

Mr. Mire Well, you shouldn't make statements like...

Mr. Arnette I have to agree that I did speak a little rashly, there. I was referring to Mr. E. J. Landry's statement about how the school system is, and what shape it's in, and how much industry is exempt in that parish. That was just a short brochure that he pointed out. But, I would like to say that this is a local tax, and my point was that I think the local people ought to have something to say about exemptions from a local tax. This is supporting their local schools and their local government. I think the local government and the local schools ought to decide who should be exempt and who should not be exempt.

Mr. Mire Did you know, too, and I know you do, Greg, that industry does not vote on bond issues as far as schools are concerned?

Mr. Arnette That's right.

Mr. Mire Did you know that St. Charles Parish had an ample leeway up to their twenty-five percent limitation to vote any kind of bond issue that they'd want for school improvement?

Mr. Arnette Well, I imagine they did.

Mrs. Zervigon Mr. Arnette, doesn't this say that the legislature may provide approval from anybody?

Mr. Arnette They surely may.

Mrs. Zervigon Do you really think that they would like to alienate people out in the parishes by not providing an adequate check system?

Mr. Arnette Well, Mrs. Zervigon, they had the opportunity to do that in the past, and they... I just...I don't see your point.

Mrs. Zervigon Well, let me ask you one more question. You used the phrase "ram industry down somebody's throat." You can't force an industry to go someplace, can you?

Mr. Arnette No, you surely can't, but suppose...

Mrs. Zervigon And supposing they don't get the exemption from the property tax, they might go locate in your parish anyway...

Mr. Arnette Let me...let me give you an example, Mrs. Zervigon. Suppose I live in a parish on the Mississippi River, and I don't want a polluting type industry in my parish. But, the governor and...or whoever has the approval to give these... these exemptions says, "Okay, you can have an exemption in this particular parish--Greg Arnette's parish." But, I don't want that industry in my parish. What can I do about it? Absolutely nothing. I've got that industry there, and I've got them there with an exemption. I don't think that's right.

Further Discussion

Mr. Abraham Ladies and gentlemen, I don't understand all the furor about this; how people on the one hand can say that we want all these benefits of industry, but we don't want to have all the other things that go with it. We don't want the pollutants and all this type of thing. Well, if these people who speak against pollution and so forth are so concerned, then why are they driving automobiles, and why don't they go back to the horse and wagon days? That way, you won't have to worry about pollution. I don't know of

anybody who walked to this convention hall this morning. You want the benefits, but you don't want to have to pay for them. Well, what we're trying to do here is kill the goose that laid the golden egg, and you're going to do it before it's over with. Mr. Arnette says he wants local governing authority to have the approval of these exemptions. Well, then why did not we give them--the local governing authority--approval on the exemptions for homesteads and all these other exemptions that we put into this...this article here? I've heard tell of watermelon bills in the legislature; well, we've got a watermelon proposal before us now. But, the point that I really want to make is this: that it just is not feasible to have the governor and the Board of Commerce and Industry, and various other state officials go out, try to work...entire industry to come into this state. After they spend all the time and the money to make feasibility surveys and economic surveys, they don't know which parish they're going to locate in, to begin with. They're going to have to make surveys to determine this, and after they have made all these surveys and they decide on a particular location, then they've got to go to the local governing authority and say, "We'd like to build a plant in your parish." Now, I don't know what would happen then if the parish said, "No." Then, they're going to have to go look elsewhere, and you have that happen about three times, and you're going to have industry saying, "Well, to heck with it. I'm not going to worry about going into that state. I'm going somewhere where I feel like I am wanted." What do you think is going to happen the next time the governor walks into a corporation president's office and starts talking about the benefits of Louisiana--the things that Louisiana has to offer? The man is going to laugh in his face, and he says, "Go on home. You don't have any authority anymore. Bring all your police jury presidents up here, then I might talk to you." Well, he is not going to talk to all those people. But, all this does here, really, it puts it in the hands of the legislature, and, by golly, I think that's probably where it ought to be from the standpoint, if there are any inequities in this, if there are problems with it, then we are in a better position to change it. I just...I am real concerned about how people can stand up here and say that we want to have the final say-so about everything. Well, I'd like to have the final say-so about everything, too, but I haven't had it about some of the things that are in this constitution now. So, if you are going to grant these exemptions to one, then let's be fair to the other, and let's don't worry about trying to get the local governing authority involved. If we do that, then let's say that they're going to have the authority to say yea or nay on all exemptions including homestead exemptions, farm equipment, boats, etc. I urge the adoption of this amendment.

Questions

Mr. Lanier Mr. Abraham, is it not a fact that this industrial inducement exemption is a discretionary exemption and not a fixed exemption like the exemptions that we have adopted in Paragraphs (C) and (D)?

Mr. Abraham Yes, it's a discretionary exemption.

Mr. Lanier So, there is a very obvious distinction between those exemptions and the industrial inducement exemption, is that not correct?

Mr. Abraham It's no more an obvious distinction than it is in the others, Walter, because the problem here is that you're still going to have... how many people are you going to have to go to, to get permission for this?

Further Discussion

Mr. Newton Mr. Chairman, fellow delegates, I rise in support of this amendment. I've been in support of this concept ever since I found out, contrary to what Greg said, that the industrial exemption and the powers and authorities of the Board of Commerce and Industry are presently locked into the constitution, and the legislature can't really do anything about what they are doing. They can't require that a job...a new industry provide so many jobs for so many dollars of exemptions, or anything like this. I'd like to point out to you that the Board of Commerce and Industry, together with the governor, are making some policy decisions which I think should be left to the legislature. I think Senator Rayburn can confirm this. There was a twenty-five million dollar exemption granted to Crown Zellerbach over in Bogalusa for pollution control. Now, that may be good, and it may well be necessary. As I understand from Mr. Hernandez, that it was necessary. But, if we're going to grant industrial exemptions for pollution control, this is a policy decision that should be made by the legislature. I want to point out, contrary to what Greg said-- Mr. Arnette--that the legislature could not change this and could not say that the local governing authority had any control. Under this amendment, they could--they could try. I want to also point out that local government does have some control over these industrial exemptions. If a plant is going to locate in a parish, they are going to have to come by the police jury or the governing authority, and if that governing authority doesn't want that industry to locate in that parish, they are not going to locate there because they have to have the cooperation of local authorities before they will locate there. There's one question I'd like to ask, and I'd like you to think about it: What if we leave this local control in here and it turns out that it doesn't work? Where are we? What's going to happen to our industries--existing industries and our quest for new industries and new jobs for the people of this state? In the mood the people of the State of Louisiana are in now, I don't know whether you could get a constitutional amendment passed. I'll yield to any questions.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, there's one point that I wanted to bring before you that I don't think has been brought out by those speaking in favor of this amendment. I am definitely in favor of it. But, we must remember this: that an industry is not just chiefly for the locality of the parish in which it's located. That industry extends out and creates benefits for a much larger area than where the industry is developed. We have people working here in our plants here in Baton Rouge that live in Hammond; they live in Livingston Parish; they live in Ascension Parish; they live all over this state, you might say. Many of those commute from day to day. It would be absolutely hard to localize an industry that didn't have an effect throughout an area greater than that where it's situated. I think that we should learn that we've got to pull together in this. So, therefore, it's not something that can be regulated strictly by local option. It has to be on a state basis. I ask you, for that particular reason, let's support this amendment. If we...as it has already been said, and I'd just like to reemphasize this, if we make an error here, we can't correct it next year, as we can do in the legislature. This amendment that's proposed by Mr. Jenkins will allow the legislature to correct any inequities that may exist as a result of the tax program. I ask you to go along with the amendment.

Questions

Mr. Lanier Senator De Blieux, do you feel that the constitution has made any errors in consti-

tutionalizing all of these various exemptions in Sections (C) and (D)?

Mr. De Blieux Yes, I think they have made some errors, and I think it's going to take a constitutional amendment to correct them unless we can put a provision in there to do that.

Mr. Willis Senator De Blieux, what is the greatest magnet to industries coming in Louisiana? Isn't it to make money?

Mr. De Blieux Certainly, but they also...that's their idea...

Mr. Willis You've answered my question. I want to ask another.

Mr. De Blieux But the reason for the state wanting those industries is to create jobs and income for our people.

Mr. Willis I'm coming to that, Senator. You've answered the first question. I want to ask you the next question. Isn't the criteria which industry uses to determine whether or not it will make money, is not looking to jobs they're going to give, they're looking to make money, to whether or not we have communication, transportation, raw materials, a labor market, education, and they want plenty of laissez-faire. Isn't that correct? That laissez-faire is that little gift of exemption. Isn't that correct?

Mr. De Blieux Well, that's true to a certain extent, yes.

Mr. Willis To a great extent, and to the most extent.

Mr. De Blieux Yes, that's right.

Mr. Willis So that when industry decides to settle, it doesn't matter how many governors or representatives of commerce and industry go to meet them they know what we've got, and we've got the Mississippi River, and we've got a monopoly on its end, don't we?

Mr. De Blieux You know, Mr. Willis, back in one period of time with that Mississippi River there, you can judge the basis of industry coming in the state by the attitude of government with respect to industry. We've had some periods of time in our past history which certain administrations we got no industry, you might say, or practically very little, while other times, we had booming industrial development. Industry looks to see what the rules are under which they are going to have to operate. That's of as much importance to them as the other items that you have itemized there, because they need to know that they are going to be treated fairly, and that they know what the rules are in advance. Because if they have to have a change in the rules every two or three years, they are not willing to subject themselves to that type of treatment.

Mr. Willis Well, I know they're looking for fairness, but don't they, as American citizens, have the fairness all over America? So, we're quibbling with...

Mr. Henry You've...the gentleman has exceeded his time.

Further Discussion

Mr. Goldman Mr. Chairman and fellow delegates, I'm not going to tell you how to vote for this, and I'm not going to tell you whether I'm for or against it. But, I'd just like to state something that I think is a truism that maybe you haven't thought about. I think we're debating a moot question. Politically, it may be desirable for the local governing authorities to have some

say-so as to whether industry gets an exemption and comes into their area or not. Realistically, I don't believe it makes any difference. Industry, today, is not the sweatshops we used to know fifty years ago. Industry, today, is a good citizen, and wants to be loved by those that they are surrounded by. Before industry decides whether they make a contract or not, with the governor or the Board of Industry and Commerce, don't you know that they've had many people in the area in which they are considering, feeling the water, going down into the depths of the water to find out how well they are going to be received in that community? I don't care what kind of exemption you give them, if they find that water cold and bitter, they're not going there anyhow, even if you gave an exemption of everything for the next hundred years. So, I think we're debating a moot question. I think the people in any area have a great deal to say in the way they react from the grass roots to whether they want an industry or not. I don't think...I'll answer questions, but I don't think there are any questions for me to answer because if you ask me questions regarding the procedures that are taken, I don't desire to answer them. If you ask me any questions based on just what I've said here, I'll be glad to answer them.

Further Discussion

Mr. Anzalone Ladies and gentlemen of the convention, when you talk about the attraction of industry to the State of Louisiana, the first thing that you've got to realize is that (1), the Mississippi River in itself attracts industry, and (2), the remainder of those of us who live in the country have to go out and hustle it ourselves, with the assistance of the Department of Commerce and Industry that have been very, very beneficial. Now, for the past six months or so, in the Sixth Ward of Tangipahoa Parish, we have secured an industry for our ward. Now, our ward covers an area of approximately eight to nine miles long and five to six miles wide. Of course, these people want to become citizens, but let me give you an example of the type of citizenry that we have attracted. First of all, we had to pledge the property of the taxpayers of the Sixth Ward of Tangipahoa Parish to the tune of eight hundred thousand dollars to build that building. Then, we had to take out of the treasury of the town of Independence, the sum total of thirty thousand dollars for some drainage, site preparation, site clearing, etc. Then, the police jury of Tangipahoa Parish had to take thirty thousand dollars out of the parish treasury to provide for further drainage, further site preparation, and dirt fill on the building itself. So, we have spent a total of sixty thousand dollars inducing these people to our ward. We have pledged our credit, and we feel that in a system such as this, we should have the opportunity that if we are going to pledge our credit and spend our money, then our people should get the benefit of it. Well, this isn't the way that it always works. We have the situation where the first twenty-five people that were hired to work in this plant not only lived outside of the taxing district, but they lived outside of the parish. Now, when local governmental officials look to the assistance of its citizenry, it does so for those local citizens. The state must look at the statewide level. When you're talking about industry, you're talking about industry for local people. In our particular situation, we have pledged our credit, we have spent our money, and to date, we have four percent of the total work force in this plant. These people live elsewhere; they spend their money elsewhere. For all practical purposes, we don't even see them. They come into the edge of town early in the morning, and they leave by night, and that's the last thing of it. Now, where are all of these benefits that we're going to get from the sales tax? They don't live there. In Tangipahoa Parish, we have seven municipalities about six miles apart.

A man is not going to come from Ponchatoula to Independence to buy his stuff because he works in Independence. He's going to go home at night, so we don't get the sales tax. Very seldom, I guess, would we sell him a gallon of gasoline, so no merchant back home is going to get anything. So, when you talk about something that's going to be good for the local people, please realize that the local people know better than commerce and industry because the only thing that they're going to publish next year is the fact that we secured five billion dollars worth of industry for the State of Louisiana. These people are not going to spend their own money all of the time--don't believe it. We attracted a two hundred and thirty-two million dollar corporation into our city, and we had to not only pledge eight hundred thousand dollars and put up the sixty thousand dollars, but make a lot of other concessions, also. So, they're not granting you a great tremendous gift. Sure, they're giving us jobs. The only thing that we want to be assured of is, back home when we get an industry, we want it to be for the local people. Now, if it's not going to be for the local people, then to be perfectly honest with you, we don't want it. It's just that simple. People talk about industry; the greatest industry in this state for the past hundred and fifty years has been the agriculture industry. There's nobody in the world that says anything about let's do this or do that, but, yet you let one plant come in that wants to hire forty people, and you'll go to spending fifty thousand dollars of borrowed money in a minute. The only thing that we ask is that if you send us an industry, let us make sure before we pledge our credit, the property of our citizens, that it is going to do something for our citizens. That's all we ask.

Questions

Mr. Flory Mr. Anzalone, in the local option area, does that include, also, taking a plant from another city in this state and bringing it to your area?

Mr. Anzalone I beg your pardon.

Mr. Flory The local option that you speak of, does that mean taking a plant from another area that's operating, and bringing it to your area, and doing away with the jobs in the original place it was located, and creating new jobs in your community?

Mr. Anzalone Mr. Flory, I...I don't understand your question at all. I don't have any idea of what you're trying to ask me.

Mr. Flory Well, are you familiar with the plant built north of Amite?

Mr. Anzalone Yes, sir.

Mr. Flory You know that that plant was...they closed it down in New Orleans and did away with all those jobs there, and then they hired the people in your area when they located up north of Amite?

Mr. Anzalone Yes, sir.

Mr. Flory That's what you're talking about is in the search for local option to move industry?

Mr. Anzalone Well, of necessity.

Further Discussion

Mr. Womack Mr. Chairman, fellow delegates, it's about three things I want to cover. It was mentioned up here that the local people should have the right to determine whether their air, and their water, and their noise, etc., was going to be polluted. I'd like to remind you that the state agencies control all of those factors.

The next thing is that the local people have their right and their say when they come in and vote the bond issue. Just take it for yourself, nobody is going to move into a community that says "We don't want you." The trouble is that most of the communities want somebody there and can't get them. If you want to see a group of people, investors, that turn cold pretty fast, you start out answering their questions with indecision when they meet there. Now, our area has been a victim of that. When we had a committee, said "Well, we can't tell you exactly what we can do, but we'll go back and meet another time or two." By the time they went back and met a time or two, a good industry had moved somewhere else.

The thing that we are overlooking here is: No. 1, when an industry moves into an area the first time, they have a total option. The thing that really traps them is the next time they get ready to invest another two, three, or four, five million dollars, and they want to go where they already are, they don't have much of an option at that point. They are already entrapped.

The final thing, and I think the most important of all, is the fact that we are asking the people that has the money, "Where do you want to spend it?" In this manner, we are attempting to tell them where, how, and in what manner and in what locality, and under what conditions you are going to spend the money. This is putting the cart ahead of the horse, really. Let's just face it, the board of directors, the chairman of the board, the superintendent of plants, and the bankers, the financing interest that put them...that puts up the money, has got a grave responsibility. It's up to them to determine where they can show the best profit. If we are going to come in and start saying, "Well, we don't like the way you want to do business. You're going to do business the way we want to do business," then we've raised --waving a flag at them that I don't think we should wave. As far as I'm concerned, industry has said to me that we favor this. We don't think it's all the answers, but we think it would put industry in a more advantageous position, and put our board of directors, our bankers, etc., in a better position to spend the money and invest the money under this amendment, than what we have prior to this. This is all Lantz Womack needs to support this amendment. I would urge you to seriously consider it from that point.

Questions

Mr. Anzalone Mr. Lantz, you mentioned an extension of the exemption, or possibly granting a new exemption for a two, three, or four million dollar improvement. Do you have any doubt in your mind that if an industry moves into--and I'm speaking strictly of a rural area--moves into a rural area, treats the people the way they are supposed to, gives the jobs that they are supposed to, produces the income and the wealth of the area that they are supposed to, that if they were to come along five--ten years later for a two or three million dollar improvement, that there wouldn't be any doubt that it would be given to them?

Mr. Womack I think, possibly, you are right there. But by the same token, I don't think there's any problem with it the other way. Since you... brought up a question, I'll go ahead and cover one other item that I overlooked that might be touching your question a little bit. But you are talking about your local people. I don't know where my children, and your children, and my neighbor's children is going to work if we tell them that you can't go to any industrial plant anywhere except your own community here. We have more children than we have plants. Then go to an area where they have more plants than they have children, I guess they would shut down and go to another state. I hope that we don't get this state so sectionalized to where our children can't move from one area to another to

follow the better jobs, when and if they have properly qualified themselves to take those better jobs. I still favor using local labor as long as you can use local labor. But, by the same token, I still want our people to be able to be flexible enough to move. Every now and then, a young man's better off if he'll leave home.

Mr. Anzalone Now, Mr. Lantz, you will notice that I will ask you a question to whether you can answer yes or no.

Now, on the other hand, if an industry moves into a rural area, does not do the the things that they are supposed to do, and they are actually, because of the position of a small municipality in a rural area, a liability to this municipality rather than an asset, then don't you think that after ten years of trying something like this, that maybe a future exemption should not be granted?

Mr. Womack I would say you may have something there. But the state can turn it down. By the same token, I just don't think you ought to throw away a barely good apple...

Further Discussion

Mr. Gauthier Mr. Chairman and members of the delegation, I rise briefly in opposition to this amendment and to give you my reasons for taking this position. You and I have voted to give local power, or local government, more control of its affairs. I suggest to you that we did this, bearing in mind that getting the local people involved in government was very important. Now whether you agree or disagree with this concept at this time, is not important. So, we are now talking about financing. I suggest to you that there is nothing wrong with allowing the local people to have some say-so in granting exemptions that pertain to their tax structure.

To give you an example of what local people can do with industry. Take the parish of St. Landry, the little town of Eunice, Louisiana, where the people decided to draw industry in the area. First of all, the city purchased a tract of land, they then built a plant, and then they leased it to industry for twenty years. The local people, in conjunction with the Commerce and Industry Board--but more important, mostly the efforts of the local people accomplished this. Now, you say that if we leave exemptions up to local control, you are going to have trouble getting industry in here; I suggest to you that the example Eunice, Louisiana, provides is a model. I suggest to you that it further accomplishes this. We all hear about the apathy of people about government. I contend that part of this is caused by the fact that a lot of people have no respect in their local government, because they felt their local government couldn't do much. In this constitution, we have given local government more power to accomplish what it should for its local people.

Now, look at what Eunice, Louisiana, did. Look at what it accomplished. I suggest to you that this is a model that the rest of us should follow. Under what we have already established in this convention, we can do it. I urge the defeat of this amendment. Thank you.

[Previous Question ordered.]

Closing

Mr. Jenkins Just very briefly, I wanted to answer some questions that I failed to answer adequately on the opening statement. Mr. Anzalone had asked me with regard to property taxes, which property taxes industry continued to pay, even if they had an industrial tax exemption, there are several.

One is, even if an industry has an industrial tax exemption, it pays, continues to pay property taxes on its land. It also continues to pay

property taxes on its inventories and cannot be exempted by those. Of course, at the end of the ten-year period, the total value of the property goes on the books, and the local governing authority then has that property to tax, which it would probably not have had otherwise.

Also, it has some rippling effects because property adjoining industrial plants naturally go up in value, and this increased the tax base of the area, particularly under our reappraisal plan.

So, with regard to sales taxes, too, the question was asked what sales tax does an industry pay? It pays sales taxes on all of its construction. For example, the lumber, the equipment, the capital improvements that it makes--sales taxes are paid on that. If he goes out and buys an automobile or some sort of transportation device, naturally sales taxes are paid on that. So, the only things I believe that would be exempt from the sales tax would be the raw material, or some part of the raw material that's in process. So, naturally, these taxes are paid. It's a real benefit to the local area in that regard.

I think the real question that we have to face is whether or not we are going to have an industrial inducement program. The way we have the committee proposal right now, I really don't feel we can have a real program as such, because if the governor or the Board of Commerce and Industry goes to New York and some other major city and attempts to discuss with a given industry the possibility of coming to Louisiana, the governor nor the Board of Commerce and Industry can really talk with authority, because they can't say what a given local governing authority will do--whether or not that local governing authority would be amenable to an initial exemption--and certainly, whether or not in the future, it would be amenable to some addition, exemption for additions that might be made to a given plant. So if we want a real program, I think this is the way to do it. This does give some flexibility. The legislature, if it chooses, could allow local governing authorities to have this veto power. But if that didn't work--if it stifled our industrial inducement program--the legislature could change it... rather than going for a constitutional amendment as would be required under the committee proposal.

So I urge the adoption of this amendment.

Questions

Mr. A. Landry Mr. Jenkins, you say you wanted to give industry stability, and yet the legislature will be changing, or could change those laws. Is that correct?

Mr. Jenkins Well, naturally the legislature could change the given rules...

Mr. A. Landry Under regulations. Yes. Now...

Mr. Jenkins But naturally, once a given industry has a contract with the Board of Commerce and Industry, that contract cannot be impaired.

Mr. A. Landry Do you realize that, for instance in my parish, that we have approximately ten million dollars of industry which is exempted from taxes. Three particular ones, all they are doing is processing our gas and our oil, and that their value was three million five hundred thousand dollars, and they do not hire twenty people between three of them. You know that I'm going to have to vote against your amendment. If your amendment passes, would you support that local government could get at least thirty percent of those taxes which would be a very small amount, but to help pay for all of the services that industry does need?

Mr. Jenkins Ambrose, I think that if you analyze that situation in your own area, you'll find, first of all, that you have to have somebody to process that oil and gas. You can't do without it.

The hostility that I see toward the people that do that doesn't really make sense because somebody has to do it. If the state did it, obviously there would be no taxes that would be gathered on it. So I think that if you look at your local situation, you are going to see much more in the plus side from having those industries there, and providing the property taxes that they do, and that they will...the exemption. They're not. So, it seems like a good program to me. It's helped this state tremendously in the past.

[Quorum Call: 109 delegates present and a quorum. Record vote ordered. Amendment adopted: 66-43. Motion to reconsider tabled.]

Amendment

Mr. Poynter The next amendment sent up by Delegate Ambrose Landry, amendment...and it goes to this amendment.

Amendment No. 1. On page 4, line 28, In Floor Amendment No. 1, proposed by Delegate Jenkins and just adopted.

On line 7 of the text of the amendment, immediately after the word and punctuation "state," add the following:

"These exemptions shall not apply to more than seventy percent of any tax levied by a political subdivision wherein the manufacturing establishment is located."

Vice Chairman Casey in the Chair

Explanation

Mr. A. Landry Mr. Chairman, ladies and gentlemen of the convention, I think that this proposal is just a very small, minute amount of taxes. I personally believe that industry would not mind paying a little tax if they want to come into a parish and use your minerals, and your gas and oil. In past experience it has been in our parish, I can recall a sulphur company that came into our parish, had a ten-year exemption, employed a few people, and nine and a half years later, they had removed all of the sulphur from the ground and moved out. Then another company came in, and of course, got another ten-year exemption. For instance, I don't know how it'd affect your parish, but in Lafourche alone, we don't have much industry. We don't have the Mississippi River. The railroad companies dammed Bayou Lafourche back in 1905, so we have no water transportation. All we have to offer the industry is our minerals.

But take ten million dollars of cash value of our industry, and because we have adopted Section 1 of this article, setting a fifteen percent value of any other property other than homesteads and lands, would mean that in my parish, it would mean a million five hundred thousand dollars worth of assessments. Then, if you take that and figure the millages on it, an average of sixty mills, it would mean that industry, the combined group of industry that has the exemption under the present law, it would alter the amount to twenty-seven thousand dollars a year that we'd have to pay. I just don't believe that industry would oppose that. On the contrary, they would know that if they want to come into Lafourche, or St. James, or St. John the Baptist, they would consider the millages of that parish, and that would be an inducement to them. The lower the millage would be in your parish, the better off they would be to come in that parish. I could tell you that the industries in my area has not employed many people. We have one right at the outskirts of the city of Thibodaux which has over a million dollars investment, yet does not produce more than six jobs. I say that I know this company, and the companies that are in the parish of Lafourche, certainly would not object to paying thirty percent of the taxes because they do get hospital service, school service, sewerage, water, fire protection, and police protection. I think

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it's a small amount to ask industry to pay to reimburse the parishes for the expenses that they have to furnish all the services.

I yield to all the questions.

Questions

Mr. Abraham Mr. Landry, two questions. First of all, does the industry itself get all these services, or doesn't the people who work there get the services?...hospitals, and schools...

Mr. A. Landry Industry...also gets those services, Mr....

Mr. Abraham But the plant itself uses those services, huh? It's not the people?

Mr. A. Landry The industry gets a lot of service, and of course, if they are only employing four people for a million dollars exemption, that's not much, either.

Mr. Abraham One other question. If this doesn't amount to a whole lot, would you consider amending your amendment to provide that this seventy percent limitation will apply to all exemptions that we've just...we've granted, including the homestead exemption, and the farm equipment and all the other?

Mr. A. Landry If you'll look at my vote yesterday, Mr. Abraham, you'll find I voted against it.

Mr. Roemer Ambrose, I'm trying to understand your amendment. Let's take an example: If we pass a ten mill tax in a parish, as I understand it on your amendment, seven mills of those would not be paid by the industry, but they would just pay on three mills. Is that correct?

Mr. A. Landry That's correct.

Mr. Roemer O.K. Do you think that this is a legislative matter given the amendment we just passed prior to this submission? Or do you feel this is a legitimate thing in our constitution?

Mr. A. Landry I think it belongs in the constitution because that way, industry would be assured the legislature could not, next month, or next year, turn around and on the exemption, say ten percent.

Mr. Roemer I understand that. Why did you pick this seventy percent figure? What kind of research has been done there on its effect?

Mr. A. Landry Well, I haven't done a research statewide, but I did research in my parish. It would only mean that in my parish, that all those who are now enjoying the exemptions, all of them put together, would only pay twenty-seven thousand dollars worth of taxes to our parish authorities--or to our taxing bodies. That would be divided, of course, the same percentage of the millages that the school board has, and other taxing bodies.

Mr. Roemer So why the seventy percent, Mr. Landry? That's all I'm asking. Why not sixty percent, or fifty percent?

Mr. A. Landry I feel that...this would help. I'd like to make it higher than that, but I don't think that the convention would accept any higher than thirty percent. Trying to get the best deal we can...

Mr. O'Neill Mr. Landry, I'm curious about the statement you made about these industries receiving all of these services. I think about our industries up and down the river here, and I see all of them. They have their own security--internal security systems--most of them have their own fire fighting equipment and what-have-you. Really, they don't really get any of these services. Maybe the

industries in your area do. But I'd like you to specify a little more what...exactly what services they do get. It was a little vague.

Mr. A. Landry Let me say this, that they still get police protection even if they have security. Nicholls State University has their own security, also. But, the city police and the sheriff's office also furnish them security. They may have their own fire fighting equipment, that's true. But they still rely on the fire departments to help them in case of a need. They still have, even though they only have maybe four or five families who comes in from Texas to work these gas-gathering plants, they still have to have schools; they still have to have hospitals. Some of them do get sick. It's the taxpayers of our area who pays as much as sixteen and a half mills on a hospital district to furnish them that service. I feel that this is asking very little out of industry when you say thirty percent of the taxes--that's all they would have to pay. I believe that they would prefer that, knowing that they are going to pay that much; and it'd be so little to them that they could charge it off anyway.

Mr. Goldman Mr. Landry, this amendment of yours would apply to future exemptions, wouldn't it? It couldn't apply to those, as you said in your research, your present industrial exemptions; they're under contract and they couldn't be changed by this amendment if the constitution is passed.

Mr. A. Landry It is my understanding that it would only affect those in the future, after the adoption of this constitution.

Further Discussion

Mr. Jenkins Mr. Chairman, we're not now dealing with the question of local option. This amendment has nothing to do with that. What we're talking now about is the guts of the whole exemption program. Either we're going to grant an exemption, or we're not. This says we're not. We have an industrial inducement program that's been working well in this state in the past, just as it is. I just can't see tossing it out the window in this manner. Why this thirty percent--this seventy percent, thirty percent figure? Somehow I can't believe that there's been a lot of thought or study that's gone into that. Certainly not compared to the thought and study that's gone into working out a rational program of industrial inducement in the past. If we put a percentage like this in the constitution, I think we are just going to be boddling this document with one more, somewhat irrational statistic that's going to bind and hamper us in the future.

Many speakers have said in the past, what a high percentage of our tax load industry is paying our state now. I certainly have read figures showing that in this state, business and industry pays a higher percentage of the tax load than in any other state. Now I don't know whether that's true or not, but I certainly read that in a number of places. Now that is true, giving our industrial exemption program as we have it now. What we will be saying if we adopted this amendment is, that even though our taxes are as high as they are now on industry, relative to our taxes on other--on private citizens, we are going to increase it even more. We're going to make industry pay an even larger percentage of the tax burden. Why do we have this program anyway? The reason is to encourage investment, because it is through new plants, through new establishments, through new machines, that progress occurs in an industrial society. It's the same reason that we have the type capital gains tax, which is taxed to the lower rate than regular income. It's to encourage investment; to encourage people to do something to help our society progress. That's the reason we have this industrial inducement program.

Now remember, too, that we are talking not only about new establishments, we are talking

about old industries that are established in this state. We're talking here about all the industry up and down the Mississippi River. Right now, if they expand, they are entitled to an industrial tax exemption on that expansion. But under this amendment, that industrial tax exemption would only apply to seventy percent of the tax load. Now, I just can't see how industry in this state can buy that. You're going to be taking away an advantage which we've given them--just about the only advantage that we give industry in this state. Now think about it. What does our government do to encourage industry in this state? About the only thing that we do is our industrial inducement program. Look at our surrounding sister states. Every one of them has a personal... does not have a personal income tax. We do have a personal income tax. Every one of them has no corporate income tax. We do. Look at the tax on inventories, not a single one of the surrounding states, Mississippi, Arkansas and Texas, not a single one has an inventory tax. We do. This industrial inducement program of tax exemptions, is one of the few things that we have to attract industry. It is the major tool that the Board of Commerce and Industry has. I just can't see kicking out, throwing away, a program that has worked so well, and putting even more taxes on people who are already paying a higher percentage of the tax load here than they do in any other state. So, I urge you to vote against this amendment and similar amendments that might be offered.

[Previous question ordered.]

Closing

Mr. A. Landry In closing, I'll ask you to support my amendment. Thank you.

[Record vote ordered. Amendment rejected: 41-67. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Chatelain]. On page 6, between lines 5 and 6, add the following paragraph--now this is drawn a little bit differently. But, in effect, it would still add a paragraph to the Jenkins amendment. This would be part of (F) the way it's drafted. So it would be another unnumbered paragraph within Paragraph (F):

"Notwithstanding any contrary provisions of this paragraph, after the effective date of this constitution, no extension of an existing industrial exemption, and no new industrial exemption may be granted except with the approval of a majority of the members of the municipal and/or parish governing authority, or authorities, exercising jurisdiction wherein the exemption is to be granted. In no case shall the extension of an exemption, or the granting of a new exemption, be for more than five years, and the amount of the exemption shall in no case exceed seventy-five percent of the total taxes payable."

Explanation

Mr. Chatelain Mr. Chairman and fellow delegates, I believe in the interest of time, and I think the convention has clearly spoken in the Jenkins amendment, and in... I believe the Jenkins amendment can do what my amendment really would like to do. I believe that we have debated Section 3 long enough, and I believe it would be in the best interest of this convention and to everyone that I should withdraw my amendment. With your leave, I will do so, sir.

[Amendment withdrawn.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Velazquez]. On page 4, line 28, in Floor Amendment No. 1, proposed by Delegate Jenkins, adopted by the convention on today, after the language added by the text of that amendment, add the following: "The legislature shall provide for a system whereby employment proportionate to exemption shall be required for various classes of industry."

Explanation

Mr. Velazquez Mr. Chairman, fellow delegates, this merely mandates the legislature to set up a system tying employment to tax exemptions. It does not mandate numbers of employees to specific dollar amounts of investments. But, instead it allows the legislature to study this problem and then to divide industry into classes. Then once the legislature decides on the classes, they can assign ratios or proportions. In the 1921 Constitution a tax exemption was given for fifteen years to building fixtures and machinery used for manufacturing or commercial purposes on land situated on the navigational canal leased from the Board of Commissioners of the Port of New Orleans, provided the investment should be twenty-five thousand dollars, and at least twenty-five persons were kept in constant employment. This is in page 275 of the copy the Louisiana State Constitution provided to all of the delegates. So, this is not a new concept in Louisiana. Unfortunately, we managed to work our way... ourselves away from the good concept into poorer concepts. I feel that the basic reason most citizens put up with bad odors and peeling paint and the noise of industry is because, basically, industry provides employment. I request your favorable consideration for this amendment.

Questions

Mr. Stagg Tom, in your amendment, the first three words say... four words say "the legislature shall provide." In the Jenkins amendment just adopted by the convention, in line 2, it says... well, I'll read this thing: "notwithstanding any provisions of this section to the contrary, the legislature may authorize the State Board of Commerce and Industry," so in the principal amendment to which you are adding yours, it is permissive to the legislature. In your amendment, you state the legislature shall, which you say in your opening question is a mandate. Would it not be better for your amendment to be amended to say that the legislature may provide for a system since the basic amendment is permissive?

Mr. Velazquez I would prefer if you would go ahead and pass the amendment in this way, and if you prefer to make an amendment to the effect you've just mentioned, I'd be very happy to support it.

Mr. Stagg Well, Tom, do you know that I cannot support your amendment while it's in this form? That's it.

Mr. Velazquez I'm very sorry to lose your support, Mr. Stagg.

Mr. Tobias Mr. Velazquez, I'm reading the amendment. What do you mean by classes of industry? I just don't understand it.

Mr. Velazquez It seems to me that industries can be divided into classes. They're divided into classes for the purposes of industrial organizations and for purposes of industrial societies. It seems to me that industry can be divided into classes, and different classes of industry require different investment amounts per employee. Therefore, for me to stand up here and try to give you a ratio would be unfair to all industry, since some industries require a greater amount of investment per employee.

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Mr. Tobias Would you give me an example of...for example, two or three classes that you mean to cover by this? I don't understand the word.

Mr. Velazquez I would think that a plant that hires seamstresses and sews clothes would be in a different class from an oil company that requires about ten million dollars per employee. If a four hundred thousand dollar garment plant employs two hundred people, it seems to me that they are under a different industrial class than an oil company which requires ten million dollars of investment per employee.

Mr. Goldman Mr. Velazquez, though I have a lot of sympathy with the concept of what you're talking about, in looking into the future I'm just wondering: can you see far enough into the future in the development in the electronics industry whereby a certain service may be provided nationwide into other states surrounding us that this state may direly need in the future, without which service this state may become isolated and not be able to enjoy a service that would be of great benefit to the people and may not employ any people, but because of a thing like this in the constitution they may not locate here and the service may be denied to this state? Now, I'm looking far into the future and maybe not so far, because things in the electronic field have developed very rapidly, and they're going to develop even more rapidly, and with my imagination I can foresee a lot of that. Can you foresee anything like that, that this might hurt us later on?

Mr. Velazquez I can see an industry that hired very few people, but I feel that if they're going to hire very few people, at least one of them should be from Louisiana. I think if the legislature could provide for that...set up a special class for that type of industry if it is only going to hire one or two people. But, I think that we ought to have at least one...I think one Louisianian ought to be smart enough to work for those people.

Mr. O'Neill Tom, in your opinion, under the amendment as we have it now under Section (F), don't you think that the legislature could do exactly what you're trying to put in the constitution under this section right now?

Mr. Velazquez You make a very good point, Mr. O'Neill, but the legislature, in the past, has seen for some reason not to do a whole lot of things that they should be doing. I urge your favorable acceptance. Thank you.

Further Discussion

Mr. Bollinger Mr. Chairman, fellow delegates, I rise in opposition to this amendment. I think the convention has already spoken on the issue of exemption by the number of employees in an industry. Mr. Chehardy had offered an amendment similar to that effect. However, I rise in opposition to this amendment for a different reason. In Lafourche Parish we have a sugar mill which produces bagasse as a by-product of sugar. Right next door to the sugar mill is the only bagasse paper plant in the United States, and it produces paper from this bagasse. What's left over after this is a pith which is like a dust. The management of the two corporations combed the United States and found a company in Indiana which came in and took this pith and makes a type of cattle feed out of it. It has been a tremendous problem in our parish to dispose of the pith of the bagasse. The industry which came in to make the cattle feed employs approximately ten people. It hires, maybe, a two million dollar investment, but probably, with Mr. Velazquez's amendment, would not be exempt. I think Lafourche Parish has benefited greatly because of the service this industry provides. However, you would exclude the option of allowing this industry a tax exemption, or property tax exemption. I think there are many, many, many

instances across the state which probably have similar affects on similar local governments, and yet, you would only allow the jobs to govern the exemption. I think there's many more factors we have to consider. Mr. Chairman, if there are no other speakers, I move the previous question.

Questions

Mrs. Warren Mr. Bollinger, can you foresee that if these industries does not afford any jobs for the people, substantial, then there are going to be a number of people that are not going to be able to pay for these services that are provided by these industries?

Mr. Bollinger You said they can't afford jobs?

Mrs. Warren They're not going to be able to buy the services. You can't get nothing today for nothing. So, how will they be able to afford these services if they don't have any jobs?

Mr. Bollinger Well, Mrs. Warren, my point is that some industries just don't require a lot of people to operate it. It's pointless to hire two hundred people if you only need fifteen. However, it is often very possible that, although you only employ a few people, that the side effects of this industry are tremendously beneficial to the local citizens and the local government and the state. I think that if you discriminate on the basis of the number of employees in an industry, that you're being unfair to the many other benefits you might derive from this industry coming in.

Mrs. Warren That could be in proportion to the number of jobs that were needed.

Mr. Bollinger I'm sorry, I didn't understand...

Mrs. Warren That could not be in proportion to the number of jobs that will be needed?

Mr. Bollinger Yes, but I think that there are so many other...more things that come into effect besides the number of jobs, and this only applied to the number of employees.

Mrs. Warren If a man ain't got no job, he's not going to like your amendment.

Mr. Velazquez Mr. Bollinger, do you really think it's out of the way to have a two million dollar investment and only have ten employees?

Mr. Bollinger Do I think it's out of the way?

Mr. Velazquez Yes. You seem to think this is a very rare situation.

Mr. Bollinger No, I don't think it's rare, Mr. Velazquez. But, the point I'm making is that I think it's very beneficial to the people in the area for the service they provide, and it does not only apply to the number of jobs the industry provides, but it helps the environment, it helps the economy because it's bringing some marketing... a product in our industry which is made in our area from our own products, which before had to be moved out or disposed of.

Mr. Velazquez Do you know how much money it takes to create one job in the steel industry?

Mr. Bollinger How much money it takes?

Mr. Velazquez Yes, to create one additional job it costs three million dollars. Do you realize that in the Baton Rouge figures are that for one petro-chemical plant, it requires 14.7 million dollars investment per employee. Therefore, a two million dollar investment that hires ten employees is a tremendous thing; it's wonderful; that's a wonderful ratio--two hundred thousand

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dollars per employee. There's a whole lot of industries that's got to invest ten times that amount to hire one man.

Further Discussion

Mr. Jenkins Mr. Chairman, I apologize for coming up again. I'm real concerned that we do real harm to our industrial exemption program. So there are a couple of things that I want to point out about this that haven't been brought out. Suppose we have a plant located somewhere in Baton Rouge or somewhere along the river, somewhere in Louisiana, and suppose there's an investment there of five million dollars, and it employs a hundred people and suppose that meets the standards set up under this provision. Now, suppose here comes another plant that wants to invest five million dollars right next door to that first one, but because it's developed a new process or a new set of equipment or because some new invention has made technology better available to it, it's required to employ only seventy-five people to do the very same thing. Now, under this amendment, that second plant would lose its exemption. That doesn't make sense. What we're doing there is we're discouraging technology. We're discouraging innovation. It's kind of an anti-progress, anti-technology amendment. I'll tell you what it will lead to in this state. It will lead to--relative to other states--it will lead to an industry which has outmoded equipment, outmoded machinery, inferior processes. It will make Louisiana behind other states, relatively speaking, and I don't see that that's a good policy for us to encourage. It seems to me this will encourage featherbedding and deadheadism. In this example that I gave with the two different plants with a hundred and seventy-five employees, if the second plant is required to hire twenty-five employees more, what will they do if they're not needed? They'll just be on the payroll? That doesn't make sense. That's not the sort of thing we ought to encourage. But, in any case, even if that were desirable, the legislature, under the amendment passed earlier, could provide such a system, and then if it didn't work, could change it. We shouldn't lock in such a thing in the constitution, though. It might prove to be unworkable; so I urge the defeat of this amendment.

[Previous Question ordered.]

Closing

Mr. Velazquez Mr. Chairman, fellow delegates, I feel that the people of Louisiana want industry here for the purpose of creating jobs. I think that the legislature must be made to do its duty. We know that being in the legislature is hard work, and it's going to be difficult to write a law of this type. But, we never came to this convention to make life easy for the legislature. We came here to make life easy for the people. I don't think this will make Louisiana non-mechanized; I don't think this will destroy progress. The legislature will be meeting every year now, and if they want to change the classes to take care of the problem of mechanization, or to take care of the problem of automation, they can do so. I think that if anybody comes and says he has an industry that required a two million dollar investment and has ten employees, this isn't a terrible situation, because in other industries--other parts of the country, and even here in Louisiana--the amount of money you have to invest per employee is rising. The figures show, for the Baton Rouge area, the tremendous amount of money it takes to increase employment in the petrochemical industry by one person is almost fourteen, fifteen million dollars, so that the two hundred thousand dollar per employee investment in Lafourche is not out of the way. Actually, it's very low, overall, in this country; so I urge that you give this amendment your favorable consideration. Thank you very much.

[Amendment rejected: 38-73. Motion to reconsider tabled. Motion for the Previous Question on the Section rejected: 44-60.]

Amendment

Mr. Poynter Mr. Derbes sends up amendments at the present time.

Amendment No. 1. On page 3, in Floor Amendment No. 1, proposed by Delegate Rayburn--now this goes to (C)--et al. and adopted by the convention on the 31st. After the language added by the Rayburn amendment, add the following paragraph: "The exemptions provided in Paragraph (C), and those provided in Paragraph (D) that apply only to property use for cultural, mardi gras carnival, or civic activities, shall not extend to any property if access thereto is denied on the basis of race." I incorrectly said this would go in (C). Actually that would go at the end--an unnumbered paragraph in (D) the way the Rayburn amendment was drawn.

Explanation

Mr. Derbes Ladies and gentlemen, I won't take up too much of your time. The amendment as proposed yesterday failed to receive a majority of votes. The vote tabulation was fifty-three in favor and fifty-three against. Much of the criticism that was levied and asserted against the amendment was that it seemed to go to personal property mentioned in Section (D)--property used for agricultural purposes, property used in connection with one's employment and occupation, property in the home, paintings, and so forth. What I've done here is I've tried to rephrase the amendment to take care of property owned essentially by organizations, and not only of immovable, but also of an immovable nature. You all understand the problem. I'm not going to waste your time by a lengthy discussion. What I attempt to do here is merely to insure that if there is discrimination based on race in access to property, that the organizations participating in that discrimination should not enjoy a tax exempt status for that particular property. So I urge your adoption of the amendment. Thank you for your patience.

[Previous Question ordered. Record vote ordered. Amendment rejected: 46-62. Motion to reconsider tabled.]

Motion

Mr. Chehardy Within as much as it really appears that the more we bring up issues, the more the people are losing and the more industry is gaining, I wish we'd close up the section right now before anything else leaves the people of the state, and I'd like to move the adoption of the entire section.

[Motion for the Previous Question on the Section withdrawn.]

Amendment

Mr. Poynter This goes back to Paragraph (A) set forth in here.

Amendment No. 2 [by Mr. Dennery]--the technical instructions need to be changed when you get a copy--On page 2, in Amendment No. 1 proposed by Delegate Mire and adopted by the convention on October 24, 1973, delete the last line of said amendment as that line has been amended and needs to be added, which reads, "all public property used for public purposes." Now when you get your copy, the amendment indicates that that line reads all public property, but it had been subsequently amended by Delegate Pugh and actually reads "all public property used for public purposes." At any rate, delete that line and insert in lieu thereof, the following: "A. All public lands; all other public property used for public purposes." Now that becomes your first exemption. I don't

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know if you still have that language before you, but Section 3 reads now, "in addition to the homestead exemption provided for in Section 1 of this article, the following property shall be exempt from ad valorem taxation. A.--and as the Denny amendment would have it--"all public lands; all other public property used for public purposes." Again, as amended by Delegate Mire and subsequently amended by Delegate Pugh, it reads at the present time, prior to the offering of the Denny amendment, as "all public property used for public purposes."

Explanation

Mr. Denny The purpose of this amendment is to clarify a problem which arose when Mr. Pugh amended the original committee proposal. The original committee proposal exempted all public property. Mr. Pugh was worried about the situation where a public agency foreclosed on property, and the property remained vacant. It still remained off the tax roll, and he felt it should be put on the tax roll. However, by adding his amendment which merely says "all public property used for public purposes," we ran into the situation that all public lands which might not necessarily at the time be used for public purposes--such as sixteenth section lands, public golf courses and so forth--might very well be put on to the tax rolls, and I don't believe that was Mr. Pugh's intention, and he has so expressed himself to me. Therefore, I have proposed an amendment which will exempt all public lands, and all other public property which is used for public purposes, so that I think Mr. Pugh's problem is solved, and I think the other problems which arose as a result of the Pugh amendment will also be solved. The committee tells me that they have no objection to this amendment. I'll be glad to answer any questions, Mr. Chairman.

Questions

Mr. Lanier Mr. Denny, at the mouth of Bayou Lafourche in Lafourche Parish, we're presently in the process of getting the L.O.O.P. which will be a large complex of storage tanks for these international tankers that ply the petroleum trade. Some of the land that I understand that will be leased by the L.O.O.P. is owned by a public body. As your amendment is drawn, does that mean that the tanks that are attached to this land--I think they would probably become immovable by destination--would be exempt from taxation?

Mr. Denny No, sir. That's the reason we use the word land rather than immovables. I think land is very clear. Only the land would be exempt. Any improvements on the land would not be exempt, unless it's used for a public purpose.

Mr. Lanier So, it is your intent by specifically using the word "land" that you do not intend to apply this exemption to immovables by destination that may be attached to the land.

Mr. Denny It would not apply to immovables by destination attached to the land unless those immovables by destination were used for a public purpose.

Mr. Bollinger Mr. Denny, in the same instance Mr. Lanier was referring to, if the public lands was used in a competitive type of situation, for instance, if the income derived would be income dollars that could have been competitive in the choosing of a site to place these tanks, would then the public lands be subject to property taxes?

Mr. Denny No, Mr. Bollinger. I think the answer to that is if the public body is not paying taxes on this land, and therefore, presumably the amount of the lease would take that into account and would provide the revenues in lieu of taxation.

Mr. LeBleu Mr. Denny, up at Toledo Bend Lake, when the State of Louisiana and the State of Texas constructed the dam up there, the State of Louisiana bought or acquired fifteen or sixteen recreation sites on the Louisiana side. Since the dam has been completed, some of these recreation sites have been developed at the state expense and then leased to a private operator on a basis of gross earnings--percentage of gross earnings. Now, in many instances, there are private marinas and so forth--campsites--that are in direct competition to these recreation sites, and I just wonder under your amendment whether these sites, which would normally be tax-exempt as long as they were owned by the state and, say, operated by the state, they would be tax-exempt? Under the lease arrangement, would they then be tax-exempt or would they be subject to local taxation?

Mr. Denny Well, Mr. LeBleu, the land itself would still be tax-exempt. Any improvements which were placed on that land would go on the tax rolls, but presumably, the lease arrangement will take that into consideration.

Ms. Zervigon Mr. Denny, if you will recall when the Pugh amendment passed, one of the things that troubled some of us was whether a public building, which is from time to time leased to private organizations, would be exempt or not. Do you suppose that your amendment exempts that public building which is leased to a private organization from time to time?

Mr. Denny I would think that if it's leased for public purposes, it would remain exempt. If it were leased for private purposes, I would think that, quite possibly, it could be placed on the tax rolls to that extent, but the land itself would not.

Ms. Zervigon How would one distinguish the two in the municipal auditorium in New Orleans, for example?

Mr. Denny Well, Ms. Zervigon, I think the distinction would be based upon the normal definition of public purposes. If it's to the advantage to the city of New Orleans to lease this for one night for a publicly invited function of some sort, I would assume that the assessor would consider that to be a public purpose. On the other hand, if it's leased for a purely private purpose, I would think that the assessor could very well claim that as of that date or some percentage of the year, it could be placed on the tax roll...

[Previous Question ordered. Amendment adopted: 95-12. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 96-19. Motion to reconsider tabled.]

Recess

[Quorum Call: 92 delegates present and a quorum. Motion to revert to Section 5 adopted without objection.]

Reading of the Section as Amended

Mr. Poynter For Section 5 has been previously amended. As amended, Section 5 now reads as follows:

"Section 5. Adjustment of Ad Valorem Tax Millages
Section 5. The total amount of ad valorem tax revenues actually collected by any taxing authority in the state shall not be increased or decreased because of the provisions of this article above or below ad valorem tax revenues actually collected by such taxing authority in the year immediately preceding the year in which the provisions of this constitution relating to ad valorem taxes are implemented. To accomplish this result, it shall be the mandatory duty of each affected

taxing authority to adjust millages upwards or downward without regard to millage limitations contained in Article VI of this constitution"-- then the provision picks back up with the text contained in the printed proposal on line 31-- "nothing provided herein shall be construed to prohibit any taxing authority from collecting a larger dollar amount of ad valorem taxes by means of the following: (a) by levying additional millages as provided by law; (b) by placing additional property on the tax rolls; or, (c) by reason of increased property values due to economic conditions. Nothing contained herein shall be construed to diminish the security of outstanding bonds."

Amendment

Mr. Poynter Amendments sent up by Delegates Perez, Mire, Conroy, and Chehardy:

Amendment No. 1. On page 7, delete lines 22 through 32, both inclusive, in their entirety and on page 8, delete lines 1 through 6, both inclusive, in their entirety and all amendments thereto, and insert in lieu thereof the following:

"Section 5. Prior to the end of the third year after the effective date of the constitution, the assessors shall have determined the fair market value or use value of all property subject to taxation within their respective parishes to be used for the purpose of implementing the provisions of this article. Except as hereinafter provided in this paragraph, the total amount of ad valorem taxes collected by any taxing authority in the year in which the provisions of this article are implemented shall not be increased or decreased because of the provisions of this article above or below ad valorem taxes collected by such taxing authority in the year immediately preceding the year in which the provisions of this article are implemented. To accomplish this result, it shall be the mandatory duty of each affected taxing authority in the year in which the provisions of this article are implemented, to adjust millages upwards or downwards without regard to millage limitations contained in Article VI of this constitution. Such millages shall thereafter remain in effect subject to such changes as may be permitted by law. Nothing provided herein shall be construed to prohibit any taxing authority from collecting in the year in which the provisions of this article are implemented, or in any subsequent year, a larger dollar amount of ad valorem taxes by means of the following: (a) by levying additional or increased millages as provided by law; (b) by placing additional property on the tax rolls; or, (c) by reason of increases in the fair market value or use value of property after the first determination of such value on the basis of which the provisions of this article are to be implemented."

Explanation

Mr. Conroy During the course of the discussion of the original section and the prior two amendments which were considered, there were a number of comments and observations and questions about how the millage adjustment or rollback or rollup provision operated. This proposed amendment, in my opinion, does not really change what would be the effect of the amendment as previously adopted by this convention but does clarify its operation, I think, would make it a lot easier for people concerned with its administration to follow its operation. This resulted from--as I said--discussions with a number of people. I hope this amendment in its present wording would be clearer and easier to follow in describing exactly how the millage adjustment provision works. I urge the adoption of the amendment. I'll yield to any question.

Questions

Mr. Roemer David, I'm trying to find out what

the changes are from what the committee proposal said. What about this "shall not diminish the security of outstanding indebtedness" and that sort of thing?

Mr. Conroy That sentence was left out, Buddy, because now as Section 4 is worded, it seems to me that that provision is covered under Section 4. Section 4 as originally written had dealt only with a particular section of the article. Section 4 as now amended by this convention applies to the whole article. So, I don't think the sentence is necessary. That's the only reason it was left off. That question had been raised on the floor, and I'd had to concur that it was a duplication...as it stood at the present time.

Mr. Roemer O.K. Well, number 2, in the sentence that talks about "shall not be increased or decreased because of the provisions of this article above or below ad valorem taxes collected by such taxing authority in the year immediately preceding the year in which the provisions of this article are implemented"--that's referring to the three years hence collections, then?

Mr. Conroy Correct. Correct.

Mr. Kean David, this takes care of the millages which are set forth in Article VI dealing with local government. But, aren't there some millage provisions in other proposed articles of the constitution which would deal with school taxes, for example?

Mr. Conroy Not that I was aware of until Mr. Perez just mentioned that to me.

Mr. Slay Mr. Conroy, we say here "in the year in which the provisions of this article are implemented." Does that mean we roll them back just for one year? Supposed you have a five mill maintenance tax, and we roll it back to three mills; then the next year does it automatically go back to five?

Mr. Conroy Mr. Slay, that was the very reason why the language was changed to add in the next sentence which now says "such millages shall thereafter remain in effect." That's the very purpose of that addition in here.

Mr. Slay So the three then...from then on out...the rest of the life of that tax?

Mr. Conroy Right. Subject to whatever authority that taxing jurisdiction might otherwise have to increase millages.

Mr. Winchester David, this is along the line that Charles Slay asked. In other words, if a five mill tax is reduced to three, there is no way that that tax can be increased to five later on?

Mr. Conroy If the taxing jurisdiction had authority to increase its millages up to five, it could, under whatever general authority it would have to increase millages, go back up to them. But, it would not automatically go back up, it would stay at the three unless they had some other authority under which they operated. For example, the alimony millage that is...jurisdiction is allowed to assert; if this resulted in an adjustment downward of that millage, they would still have the authority to go back up to whatever their allowed millages would be.

Mr. Winchester The very next year?

Mr. Conroy Yes.

Mr. Winchester Regardless of the amount of the total assessment?

Mr. Conroy Yes. That's right.

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Mr. Winchester Then, would that operate the same way as say a school maintenance tax was voted for five mills and it went down to three...

Mr. Conroy That would depend on how it was voted. If it was voted at a flat level, it would go down and stay down. If it were voting with an authority to go up to a certain millage and it went down, then they could go back up. That's right.

Mr. Winchester All right. Then, if the issue said that they shall levy five mills, then if it goes down, it can't go back up?

Mr. Conroy That's right.

Mr. Winchester But, if the authority says that they can levy up to five mills, then it can go up?

Mr. Conroy It would automatically go down. But, they would still have that authority to go up to a higher rate. That's correct.

Mr. Avant Mr. Conroy, I have several questions. Number one, reading this sentence "except as hereinafter provided in this paragraph the total amount," etc., etc. That sentence makes me look in this paragraph for an exception which would permit the total amount of ad valorem taxes collected by a taxing authority in that particular year to be increased or decreased because of the provisions of this article...

Mr. Conroy This paragraph...No, this paragraph which refers to the last sentence it begins "nothing provided herein"...

Mr. Avant Well, I'm not sure that's correct. It says "except as hereinafter provided in this paragraph the total amount can't be increased or decreased because of the provisions of this article." So, that clearly means that somewhere in this paragraph there should be an exception which permits the total amount collected to be increased or decreased because of implementing the provisions of this article. I want you to tell me--where is that exception?

Mr. Conroy Mr. Avant, I already answered that question...

Mr. Avant Where is it hidden in this paragraph?

Mr. Conroy That is intended to refer to the last sentence, totally.

Mr. Avant Well, then...

Mr. Conroy That's its sole purpose is to refer to the last sentence.

Mr. Avant Well, then the next thing is the sentence that says "such millages shall thereafter remain in effect subject to such changes as may be permitted by law." Now, we're talking about an exception to some otherwise general limitations on millages that are contained in Article VI. That's what we're talking about. We are changing them because of an exception that's made here. Then it says that that change "shall remain in effect subject to such change as may be permitted by law." Now, my question is "What law--state law, general law, local law, special law--what kind of law--home rule charter--or what kind of law are we talking about?"

Mr. Conroy Mr. Avant, we're talking about all of them because at this point we don't know what the procedures will be for the authority to levy millages, and necessarily this has to be subject to whatever those authorities may be, but it would refer to all of them. That's why the broad term is used which does refer to the constitution, to the statutes and to home rule charters--wherever the provisions are set forth for the millage...

Mr. Duval David, just a few questions trying... I had underlined the same thing Mr. Avant had underlined "such millages shall thereafter remain in effect subject to such changes as may be permitted by law." What precisely was the intention of the amendment in that regard?

Mr. Conroy The precise intention was to deal with the situation that we don't know at this point in writing this constitution how millages will be controlled--whether they will be controlled by the constitution; whether the constitution will give authority to the various entities to levy millages, to increase them, to change them; or whether home rules charters will control the millages, because we don't know where that authority will ultimately vest. This simply says that wherever it is that you have the right to change them, you can change them in accordance with whatever those limitations are.

Mr. Duval If it's solely provided in the constitution, I assume it would be changed to this constitution.

Mr. Conroy If it were solely in the constitution, that would be the only place where the authority existed.

Mr. Duval One other question, David. If you had...you had said that if you have authority for, say, five mills, and then it's rolled back to three under this provision, you could go back up to five--or the governing authority or the taxing authority could go back up to five. Is that right?

Mr. Conroy That's right.

Mr. Duval Well, doesn't that...but, when you roll back to the three, isn't that in essence, though, achieving the same level that the authority up to five was...?

Mr. Conroy I think you'll find this very confused when you go to parish to parish. I don't know the answer to that question. That is a difficult question to deal with in trying to have a statewide level--for example, on the alimony level. If it's to be the same level in all parishes, the answer to your question is no, because they would have thought they were using it, but they really weren't as compared to a neighboring parish which was on this basis.

Vice Chairman Casey in the Chair

Mr. O'Neill David, I had the same question that Mr. Avant did. But, following even further in that sentence "The total amount of ad valorem taxes collected by any taxing authority in the year in which the provisions of this article are implemented shall not be increased or decreased." This article in this section will be implemented the third year after this constitution is adopted. So, are you saying...

Mr. Conroy I think it's actually the fourth year.

Mr. O'Neill Well, the fourth year. But, are taxes going to be rolled back to three years after this constitution is passed?

Mr. Conroy In the fourth year they will roll back to the level they were at the third year. That's right.

Mr. O'Neill So, in between now and then all sorts of things can go on, right?

Mr. Conroy That's correct.

Mr. O'Neill Is that your intent?

Mr. Conroy That is the intent.

Mr. De Blieux Mr. Conroy, I'm concerned about

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the phrase, which Mr. O'Neill referred to, in which you say "in the year immediately preceding the year in which the provisions of this article are implemented." Now, as I read this particular article, that we are going to change and reevaluate all of the property as a result of this particular article. Now, we also have a provision that says this will be done once every four years. Now, there is nothing in here to say that you will have an adjustment in the millages for every time that it is done because the way this is worded if I'm... tell me if I'm wrong--it looked like to me it's only at the time that we initially make this reevaluation.

Mr. Conroy That's absolutely correct. That is positively correct.

Mr. De Blieux All right. Now, if you initially make this evaluation then four year later you make another one. Well, then it would not be subject to this provision. Is that...

Mr. Conroy That is absolutely correct; it would produce more revenues. That's correct.

Mr. De Blieux Now, shouldn't we have a provision that every time that they reevaluate the property that they adjust the millages?

Mr. Conroy Not in my judgement, Senator De Blieux. In my judgement, the whole purpose of what we are doing is to permit the local government to assert taxes on increased values in property. It seems to me we wash out a good bit of what we have attempted to do if we don't put local governments in a position where they can increase their revenues as the property values within their taxing jurisdiction increase. Their costs are going up comparably; the whole level of income and expenses is increasing. This is the way in which they are able to increase their revenues and meet the higher cost.

Mr. De Blieux Well, now wouldn't that be taken care of in the provision where it says "economic values or increased millages and so forth"? As I understood this...

Mr. Conroy Well, that's one and the same under this approach, Senator De Blieux, one has...

Mr. De Blieux As I understood this particular provision, is to prevent--you might say--an automatic windfall where they are collecting a whole lot more money than is absolutely needed for the operation of the government as a result of the adjustment of the property values.

Mr. Conroy But, once the things are placed on the rolls and the present fair market value determined, after that, when they are reappraised, the only change in value is a change in value as a result of its economic increase in value. So, that these two provisions tie-in together.

Mr. Rayburn Mr. Conroy, I'm a little concerned about the language that reads "such millages shall thereafter remain in effect subject to such changes as may be permitted by law." Supposing that you had a rollback and suppose the legislature passed a law that said you could not...once millages had been rolled back, you could not increase them without a vote of the people, and you had a lot of things happen in this particular taxing area where a lot of people moved out, and you had to increase them. What would happen then?

Mr. Conroy Unless there was some other provision by which they could increase their millages, they wouldn't be able to do it. I would think that the legislature would provide various ways to cope with that or the constitution may. We haven't dealt with that provision in local government yet.

Mr. Rayburn Well, we really don't know what we

are talking about now as far as this language is concerned, do we?

Mr. Conroy We don't know in what way the changes might be permitted by law. That's correct. We do not know that. There is no way to know until we get to the local and parochial government section of the constitution.

Mr. Rayburn Well, would you not believe that this language is a little premature at this time, when we really don't know what we are talking about?

Mr. Conroy Senator, the problem is that at any point one or the other is going to be premature, because we have to know essentially what we are going to do here when we get to talking about millage limitations and local and parochial. So, I think that we may well have to consider some way of coming back to this if what we do there is wrong or doesn't fit with this. But, I think we've got to go forward in one area before we have some guidelines as to where we are in the other.

Mr. Rayburn Will you admit, though, that what we do later might have a tremendous effect on this particular language?

Mr. Conroy There is no question about it.

Mr. Champagne The question I have is: without regard to millage limitations contained in Article VI of this constitution, would you agree that if it said "without regard to millage limitations contained elsewhere in this constitution" rather than to just Article VI?

Mr. Conroy I would have no objection to that, Mr. Champagne. The language was changed to the reference to Article VI because there was some question raised as to what other limitations or what was referred to here, as to whether there were any limitations under the Bill of Rights, for example, that would be still be affected and would intend to be affected. I understand that the school millages may be in another article, and that may have to be clarified. But, this was to make it clear that we weren't trying to take away somebody's property by taxation and...

Mr. Champagne Now, the next section which says--that's been asked a lot of questions about--"such millages shall thereafter remain in effect subject to such changes as may be permitted by law." Now this here, for instance, in local government they have made a provision, if adopted, that said they fix a certain millage, but by a vote of the people they can raise it. That's what this means, does it not?

Mr. Conroy That's right. If that provision as presently before the convention is adopted, this provision would fit in precisely. But, if that approach is changed, then there could be some question, as Senator Rayburn pointed out, as to whether this would fit with it. But, this is designed to fit what we have seen so far.

Mr. Flory Mr. Conroy, let's go back to that sentence that Senator Rayburn and them asked you the question about the rollback. My question to you is: If in order to produce the same amount of revenue it requires an increase in the millage, you have waived the limitations in Article VI. All right. Thereafter, you say "they shall remain in effect subject to such changes as may be permitted by law." Are you suggesting by that, that if the millages are beyond the limitations in Article VI that the legislature could require, by special act, them to roll back that millage?

Mr. Conroy If this constitution so authorized the legislature to do, yes.

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Mr. Flory Well, I'm talking about in the language you have right here. You say "as may be permitted by law."

Mr. Conroy We haven't decided where that...who is going to be the entity that has that power. That's the problem, Mr. Flory, that's the same problem Senator Rayburn was pointing out is that we don't know exactly what that means, because we haven't decided in this constitution what it means.

Mr. Flory Well, if they...instead...the five-mill limitation were in effect, it took nine mills to produce the same amount of money. How long under your amendment would the nine mills be in effect?

Mr. Conroy It would remain in effect.

Mr. Flory It would remain in effect forever?

Mr. Conroy Until changed pursuant to whatever change provisions might exist in this constitution, or in statutes, or in a home rule charter.

Mr. Dennery Mr. Conroy, let me change the course of conversation. I want to find out what happens if you lose some property on the tax rolls?

Mr. Conroy Right.

Mr. Dennery Now according...as I read the exception, the only exceptions apply to...

Mr. Conroy Now, which exception are you on?

Mr. Dennery I'm looking at the last paragraph "Nothing provided herein." You are talking only about additional property, or increases in the fair market value, or levying additional or increased millages. Now, let us assume that the state buys a large tract of land in a particular parish for use as a state park. That will have removed--and let us assume that happens in the third year after the tax roll is made up--then in the fourth year when this becomes effective, you will have less property on the tax roll. But, according to your...the language as I read it, everybody else's taxes are therefore going to have to be increased in the millages in order to get the same dollar value of total taxing.

Mr. Conroy If you mean in that one...if it should coincide with the one year of switchover?

Mr. Dennery Yes, sir.

Mr. Conroy Yes, yes. If it should coincide with that one year of switchover.

Mr. Dennery Well, then why in your exceptions didn't you include the possible decrease as well as the possible increase? Suppose the market value of property goes down in that year?

Mr. Conroy I'm not following you. I'm sorry.

Mr. Dennery Suppose the economic situation is such, if you look at your (C), you say "by reason of increases in the fair market value." Suppose there is a decrease in the fair market value...

Mr. Conroy Well, the reason I say "increases" is because the first part of this says "it will not prohibit a larger dollar amount being collected. So, necessarily it deals only with increases after that.

Mr. Bollinger There is still one point that I'm not clear on. I understand that the authors tried to solve the problem of the alimony tax, which would come up, but in doing this I think you might have incurred another problem and that is this: Suppose the voters of a taxing district authorized a maintenance millage up to five mills.

Mr. Conroy Up to?

Mr. Bollinger Up to five mills, and with the rollback it went down to let's say three mills.

Mr. Conroy Right.

Mr. Bollinger Then, would not this taxing authority have the right to raise its millage up to five mills again...

Mr. Conroy Yes.

Mr. Bollinger ...without an additional vote of the people?

Mr. Conroy Yes.

Mr. Bollinger Don't you think that this would definitely cause a problem, since they authorized the millages on the basis of revenue produced and not with the new assessment and new percentages?

Mr. Conroy No, because I'm not sure on what basis they would have approved it. I think that this is the best way that I can think of...that we could think of to compensate for the problem that exists in the assessment level. We don't know what happens to assessment levels or what has happened to them in recent years.

Mr. Avant Mr. Conroy, I come to this next... this last sentence--the one you referred me to while ago: "nothing provided herein shall be construed," etc. "in the year in which the provisions of this article are implemented or any subsequent year." Then you say "by levying additional or increased millages as provided by law," and we still don't know what law we're talking about--whether it's statutory law or local ordinance enacted by the taxing authority itself...

Mr. Conroy That's correct. This constitution still has to deal with that problem. That's correct.

Mr. Avant Well, wouldn't you say then that if this amendment is adopted that then, as of that point at least, the millage limitations that are contained in Article VI have been, in effect, read out of the proposed constitution, and you've got to go back and put them back in, in some fashion?

Mr. Conroy No, no, I wouldn't say that at all.

Mr. Avant Well, would you please explain that to me, because that is clearly the effect of it to me, and I wish you would explain to me why that isn't so.

Mr. Conroy Because if the constitution provides what the millage limitation shall be and does not permit any deviation from those limitations, then that is the law which would be applicable here.

Mr. Avant Well, I don't...of course, the fact that I don't agree with you is immaterial, but I want to ask you this...

Mr. Conroy I think that's the definition we have used consistently in this proceedings for "as provided by law." It means constitution first, and then other applicable provisions.

Mr. Avant Let me ask you this: is it not an accepted tenet, I guess, of local government that--or state government, as far as that's concerned--that you do not accumulate surpluses of funds. In other words, you're not supposed to have big surpluses that you can use just for pork barrel, and so forth.

Mr. Conroy That's correct.

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Mr. Avant No, there's nothing...we have a limitation on the legislature that no appropriation shall ever be made for contingencies or things like that. We don't have any such limitation on local government, do we?

Mr. Conroy We don't yet. That's correct.

Mr. Avant All right. Don't you think, then, that somewhere, somehow, we've got to write something into this constitution, in view of this particular section that local government would be prohibited from accumulating or having surpluses, and that in any year in which they have a surplus in excess of a stated percentage of the budget, that the following year they must reduce millages or must reduce taxes...

Mr. Conroy Mr. Avant, I agree that that's a very desirable provision. I would disagree that this section makes it necessary or it should be included in this section. I think this section may point up the necessity for such a provision, but I don't think it changes the necessity or lack of desirability...the desirability of it. This section deals solely with this question of the millage adjustment, attempts to clarify it, and put it in the perspective of what the overall law may be, but I think your question, quite properly, points out the question of the desirability to this convention of the nature of the limitations on millages to be imposed on local government, yes.

Mr. Avant Now, isn't it true--talking about this section again--that in spite of this language up here which says that they won't collect more or less money...

Mr. Conroy Right.

Mr. Avant ...that that's not like going to a gas pump and filling up a five gallon can. That's a nice statement in principle, but it's going to be unusual if they collect the exact amount of money that they collected the year before.

Mr. Conroy Well, that's correct, and the last sentence realistically is designed to give them some means to collect more because they would certainly, in nearly every taxing jurisdiction in this state, be sorely hurt if they had to collect the same amount in 1973 that they collected in '72. They will need greater revenues, and the last sentence is designed to assure that they would continue to get the normal increase that they would get in the normal ways of increased values, and so on.

Mr. Avant In some areas they may be less. Isn't that right?

Mr. Conroy Not recently.

Mr. Casey Mr. Conroy has gone far past his time.

[Motion to suspend the rules to allow three additional minutes for questions adopted: 82-9.]

Mr. Abraham David, I don't find any real fault with this, but I just want to be sure of one thing. I'm looking at the article on local government now and where we say that "the governing authority can levy an amount not to exceed four mills," and then we say that "millage rates may be increased in any parish when approved by a majority of the electors." So, even if we set that at four mills, and through this mandatory adjustment this might come to five or six or whatever it may be, they still...the local government will still have the authority of going to the voters to get this general millage rate increased in the future, if it so desired. Is that not correct?

Mr. Conroy Yes.

Mr. Abraham All right. Now, whenever we say that "such millage shall remain in effect, subject to such change as may be permitted by law," I would hope, and I ask you, is there any way that this could be construed as a statutory law overriding any provisions of the constitution? When you talk about law, you're talking about this constitution, aren't you?

Mr. Conroy Not in my opinion. If this constitution is the deciding factor on how those millages are to be determined, yes. But, at this point we may change that and may provide that the legislature will set what the millages will be. So, there was no way to word it, at this point, till we got to that section.

Mr. Abraham I see. But, is there any real problem with setting the millage at what we have because it's automatically going to adjust itself. Will it not?

Mr. Conroy Right.

Mr. Jenkins David, like others, I'm still trying to understand this. Let me call your attention to the sentence, "such millages shall thereafter remain in effect, subject to such changes as may be permitted by law." Now, suppose we have a five mill school maintenance tax that has to be renewed by the voters every five years. Suppose, also, that in the readjustment of millages, this millage has to be increased to ten mills to produce the same amount of revenue. Am I correct that despite this sentence, the voters will still vote every five years on whether to maintain that tax and that they will vote on whether to maintain a ten mill tax rather than a five mill tax. Is that correct?

Mr. Conroy That's correct.

Mr. Jenkins All right. Another question on a different subject: In the last sentence, am I correct in saying that no taxes would be increased because of reappraisal of property caused by this constitution, or by this article, until future reappraisals come about; but not the first reappraisal?

Mr. Conroy That's correct. That's the clarification that this makes.

Mr. Jenkins So, that...the suggestion that Mrs. Zervigon had the other day...this does not cure her objection.

Mr. Conroy No, it incorporates and spells out the response which I made to Mrs. Zervigon when she asked the question. In other words, it doesn't result in any increased revenues the first time this reappraisal is made, but it will permit local government units to get additional monies in future reevaluations of property.

Mr. Jenkins Thank you.

Mr. Goldman Mr. Conroy, all this...all these questions that have been asked pertaining to "as provided by law" over the last ten or twelve minutes didn't we, about three weeks ago, when we were considering the Local and Parochial Article, vote to pass over the finance and revenue section, in order...because this delegation decided that the horse should come before the cart--and they decided that the horse was really this particular article, in establishing certain basic things about revenue and taxation, with regard to ad valorem taxation--we get this settled first, then we go back to the other and we provide all the things that are supposed to be provided by law in that other article. So, wouldn't it be...wouldn't that answer everybody's question? When we get back to that other article--Article XVII--

shouldn't we keep this particular thing out in front of us so we make sure we provide the proper law in the other one...in the other article, so that it wouldn't preempt any of this, or it wouldn't cause confusion?

Mr. Conroy You're absolutely correct, Mr. Goldman, and that's exactly the way I hope we'll proceed.

Mr. Burson David, isn't it true that at the present time the law is, on any millages dedicated to repayment of bonds, that it's the duty of the governing authority to adjust millages upward or downward on a yearly basis, since they can't use that money for any other purpose?

Mr. Conroy Yes.

Mr. Burson This is done routinely across the state in all sorts of...

Mr. Conroy Yes, and that would still be preserved...that procedure would be preserved under this amendment.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I hope that I will have your attention because of the fact that this is a very crucial provision with respect to the proper operation of local government. If you will remember when I appeared on this podium a few days ago with respect to this question of automatic rollup and rollback of millages, I called your attention to the fact that this question of increased assessments and, therefore, reduction in millages and decreased assessments and, therefore, increased millages, that there were certain loopholes that still had not been closed. This particular amendment does not attempt to close those loopholes. All it attempts to do is to rewrite that which we have already covered and that which we have already adopted to make it clearer as to what the intention of this convention would be. I raised the question when the amendments were offered previously as to how we were going to handle this problem of the automatic increase or decreases in millages as a result of the increase or decrease in assessments. I was told by the proponents of the measure at that time that we would straighten it out in the Local Government Article, so that the same situation prevails now, and that is that that is an area which still has to be straightened out. This amendment did not attempt to straighten out the problem with respect to the question of the increase or decrease in millages. In other words, if you had to decrease your millage as a result of increase in assessments, the question is: could you come back the next year and impose more millage again? What is now in the present article does not attempt to solve that problem; what is in this amendment does not attempt to solve that problem. I say to you that problem must be solved, but this amendment does not attempt to do it. All it attempts to do is straighten out the language of the present provision so that it will be made clear as to the procedure that will be followed and the effect of the first reassessment, and that it would not affect reassessments thereafter. Of course, the reason for that is just the same as in sales taxes: as sales increase, there's an increase in the amount of revenue from sales taxes; as income increases, there's an increase in the revenue from income taxes. All this provides is that for local government--once you get the assessors to go back and assess on the proper basis--then any normal growth values will be reflected in increased income from the imposition of millages. As has been pointed out before, local government has a responsibility and the obligation, if the amount of income from those millages is more than the needs, that they must roll the millages back automatically; that's in the present law. We have no real problem there. In answer

to Senator Rayburn's question--I think it was brought out a little earlier--the question is: which comes first--the chicken or the egg, or the cart or the horse. If you will recall, we passed up the provisions of revenue on local government in order that we could straighten out this property tax problem. I say to you there's no way for us to pass this up now, that we must resolve this part of it. I would suggest to you that there are two technical corrections that should be made which I think will satisfy all of the delegates, and I'll be glad to join in an amendment which would do two things. First of all, we recognize that there are provisions in the constitution, other than in Article VI, which deal with the authority of local governments--particularly school boards--to impose taxes, so that the words "in Article VI"...or rather "Article VI of" should be deleted so that it would read "to millage limitations contained in this constitution." The other provision, I think, which has given some of the delegates trouble--and particularly Mr. Avant, I believe--was the question of whether or not, by law, any of these millages could be changed. I suggest to you that if we were to knock out the word "law" and say "this constitution," and if the constitution then gives the authority to the legislature to authorize certain provisions with regard to the imposition of local taxes, then that would also cover it. So, I'd suggest that we pass this amendment, and I will be happy to join with anyone else in amendments to take out...or to amend these two provisions. I think we will then have polished this provision up where it's a thoroughly understandable provision, as opposed to what we now have which is very, very confusing to me. I'll yield to questions.

Questions

Mr. D'Neill Mr. Perez, is anyone drawing those amendments yet?

Mr. Perez Can you speak a little louder, please?

Mr. O'Neill Is anyone drawing those amendments as of yet?

Mr. Perez No, sir, not as of yet. I haven't had the opportunity, but I'll be glad to do it immediately, or I'll be glad to ask Mr. Conroy whether he'd be willing to withdraw the amendment for the technical changes and then come back with it, if Mr. Conroy's agreeable.

Further Discussion

Mr. De Blieux Mr. Vice-Chairman and ladies and gentlemen of the convention, I asked for the floor mostly to ask some questions, and possibly some of the speakers who are proposing this amendment may be able to answer it, I hope, to my satisfaction. I'm very much concerned about this particular provision in this amendment that says that this re-adjustment of millages can only be done one time, because as we have drafted the proposal and stated that this reevaluation should take place every four years, I can anticipate that you will have some other times when I think that you ought to adjust the millages. If this cannot be done as a result of this particular provision in the constitution, I'm just afraid that it's not going to work. We certainly need some way to adjust the millages where we have a reevaluation of property. Now, otherwise, the reevaluation of property means nothing in the constitution. I particularly call that to your attention. I want somebody who's sponsoring this amendment to tell me why we can't have adjustment of millages every time, every four years, when we have a reappraisal of all of the property, because that's the whole purpose of having the readjustments when you reappraise all of the property--not for this one time when all the property has to be reevaluated. I anticipate that we'll have an economic upsurge or something of that sort many times in property

values, and that's why we have to have a reappraisal of property. Another thing, under this particular provision, I would just like to ask this--this is already in our proposal, but it might need some clarification. Down in the last sentence it says, "by reason of fair market value or use value after the first..." No, that's not the...fair market... the last sentence..."by reason of increases in the fair market value or use value of property after the first determination of such value on the basis of which the provisions of this article...are to be implemented." Now, I can visualize a time when on...after this original implementation, you may have a piece of property that lies right outside of a municipality. It may be acreage; it may be a hundred acres, but during that three year period of time immediately following the reevaluation of this property, that piece of property might go from a hundred dollars in value to five thousand dollars in value or more. Now, under this particular provision, as I read it, after you've once determined the value of that property, placed the millage on it, you'll never be able to increase the value of that property. I just don't think that's what we intend to do here. I need some answers to those particular problems. I just hope that somebody can give them to me.

Questions

Mr. Roemer A question, Senator: in your opinion would this amendment permit in the situation where we have a maximum millage of, say, five mills, and after the rollback--if the property values went up--it went to three--could the governing authority raise it back to five without a vote of the people? What does this amendment do about that--the parity concept?

Mr. De Blieux I see nothing in here about that. Of course, if the local governing body has the right to set the millages, well, then, of course, they can set it within the limitation that is provided in the constitution or by law. There's nothing to keep them from doing that.

Mr. Roemer Well, in other words, in your opinion, if we pass this amendment, then the local governing authority could raise it back to five mills without a vote of the people. Isn't that true?

Mr. De Blieux Oh, I'm sure they could do that, even...under the present provision that we have in there on the rollback, Mr. Roemer. Under both provisions I feel like they'd have that authority.

Mr. Roemer Well, then don't you agree that both provisions are inadequate?

Mr. De Blieux Well, I can't necessarily say that because I don't know how you would handle it--the situation you...I don't believe you can lock out the right of local governing bodies to make some adjustment in the millages.

Mr. Roemer Without a vote of the people, Senator?

Mr. De Blieux Well, I don't know how you want to handle that, but I certainly feel like you ought to leave some leeway in the article somewhere, that where the legislature could give a right of action on this, either by vote of the people or of the governing body--whichever is necessary in order to meet the demands of government.

Mr. Roemer I understand that, Senator. I agree with you completely, but my point is, and my question would be: would you subscribe to or adhere to the parity principle--that is, prior to this constitution, if a local governing authority was at a hundred percent of parity, parity meaning its maximum millage, and then they had to roll forward or roll back, then it would still be at a hundred percent of parity and could not increase without a vote of the people? Wouldn't you go along with that sort of concept?

Mr. De Blieux That might be a reasonable way, but I think that that particular way should, probably, ought to be taken care of by statutory law. But, let's take this situation. Suppose, as a result of...as you know now, every governing authority has a right to assess seven mills alimony tax. Now, if they are at their maximum, as you have indicated--a maximum seven mill alimony tax--then you have a reappraisal of property in which the property, we'll say, has increased enough to give them the right to roll back the millage by two mills back to five mills; now, under the present law, they would have a right, if we did not change that, the right to increase that as to six mills or seven mills. Now, by the same token, if they were at five mills, we'll say, and because of the reevaluation of property, they had to roll up their millage to eight mills, then they have then taken away the right to increase their millage. Because then they would have passed the maximum provided. Now, how you are going to check those particular situations, I don't know. But, that's one...I think you've pointed out something that we certainly should allow some way to take care of in this matter.

Further Discussion

Mr. Slay Mr. Chairman and fellow delegates, I'm going to make this real short. I wanted to raise a question, but our time ran out. We must realize that we're only speaking about a few millages that would be rolled back. Most of our millages in the State of Louisiana are for bond issues, and they are automatically rolled back. Under the law you cannot collect more money than it takes to pay a bond issue. So, we're speaking about rolling back...the general operating taxes or your maintenance taxes or such. The bond issues are automatically...have got to take a rollback regardless of what we do. Thank you, sir.

Questions

Mr. Burson Mr. Slay, I think you've adequately covered the bond situation. Now, isn't it true that under the present law that wherever you have an alimony tax that this is set by a simple ordinance by the local governing body?

Mr. Slay That's right, and I mentioned that that's one of the ones that would have to be rolled back. It's a four mill parishwide tax except in municipalities that maintain their own road system, and it's two mills there. That would be rolled back. Then you have maintenance taxes that are voted by the people that could be rolled back and, also, the five mill constitutional tax for school boards.

Mr. Burson So, really the only tax we're talking about where you don't have the mechanics under the present law for rollbacks, or the option... you've got the option on the--I don't know that anybody's ever taken it--but, theoretically at least, if a local governing body chose to do so under the present law, they need not enact the whole five mill alimony tax, let us say; they could enact just four if they wanted to.

Mr. Slay That's exactly right.

Mr. Burson The five mill is simply an upper limit, isn't it?

Mr. Slay That's exactly right.

Mr. Burson So that the maintenance millage is the primary area where you would have a vote of the people anyway, and this is the area that we probably need to deal with specifically when we get to the maintenance authorizations for education and for local government; don't you think?

Mr. Slay I'd agree there.

Further Discussion

Mr. Chehardy Mr. Chairman, fellow delegates, I rise in support of the amendment, and I'd like to call to your attention the fact that there is very little change in this provision, or in the amendment suggested here, from the one that we passed last time, and of course, the one passed last time was merely a clarification of the Revenue and Taxation Committee's original proposition. Actually, everything that Mr. Slay says is what I wanted to say, but I wanted to come up here to stress the importance of passing this provision because this is the one protective measure to insure against any severe harm coming to any taxpayer in the state, whether it be an individual homeowner or whether it be a businessman or what have you. For example, one of the few areas in the whole country that survived a reassessment period was Kentucky, and Kentucky survived it only because it did have millage rollback and millage rollup provisions to take care of the various counties--in our case, parishes. So, I do hope that many of the questions that arise--we could sit here from now on, and at the end of eternity, there would still not be an answer to every conceivable "if" that people could raise. I do believe that we have provided here the best that we can to prevent damage to the taxpayer of the State of Louisiana. I do hope that we give it a favorable vote and put this measure behind us.

[Previous Question ordered. Record vote ordered. Amendment adopted: 106-8. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendment No. 1. This is sent up by Delegate Perez, Kean, and O'Neill.
Amendment No. 1. On page 7, of Floor Amendment No. 1 just adopted, at the end of line 18, delete the words "Article VI" and at the beginning of line 19, delete the word "of".
Amendment No. 2. At the beginning of line 27, delete the word "law" insert in lieu thereof the words "this constitution".

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, when I appeared before you just a couple of minutes ago, I suggested two technical amendments to clean up the language of this article, or rather this provision. One would delete the words "Article VI of" so that the requirement would be to adjust millages upwards or downwards without regard to millage limitations contained in this constitution.
The other change would be to change the word "law" in the next sentence to "this constitution" so that it would read "such millages shall thereafter remain in effect subject to such changes as may be permitted by this constitution." Of course, if the constitution authorizes the legislature to enact laws, then, of course, when you say "permitted by this constitution" if the constitution gives the legislature that authority, this would also take care of that eventuality.

Questions

Mr. Leigh Mr. Perez, I noticed that in your amendment, two, you delete the word "law" at the beginning of line 27. I'm wondering if that shouldn't be 21.
Mr. Perez I didn't count the numbers. I relied on someone else to prepare the amendment--the staff--I hope it's the right line.
Mr. Leigh Well, you have "Article VI of" is in lines 18 and 19, and the word "law" is in the next couple of lines. Am I right?

Mr. Perez I count it as line 21. What does the amendment say?

Mr. Leigh Twenty-seven.

Mr. Perez With it being in line 27, I move to withdraw the amendment to change the word from 27 to 21.

[Amendment withdrawn and resubmitted with correction.]

Questions

Mr. De Blieux Mr. Perez, as I understand this amendment as you propose here now, that if there's ever any changes in the local, the right of the local governing bodies to have a change in millage, they'd have to do it by vote of the people. The legislature cannot give any local subdivision, or local authority, to have a millage of their own discretion. Isn't that true?

Mr. Perez Senator, as you know, we have a provision which has not, as yet, been adopted, which deals with the financing of local government. All the provisions which we have as they have now been submitted, require a vote of the people to increase taxes.

Mr. De Blieux But, now, this will not allow the local governing body to change the millages except if for readjustment purposes in any way, shape, or form, because their limitations imposed by this, you can't have the authority of a legislative act to do that.

Mr. Perez That's correct. This says "by the constitution." It's only what the constitution will authorize with regard to taxation by local government that will apply.

[Amendment adopted without objection.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Roemer, et al.]. On page 7, line 22, in Floor Amendment No. 1 proposed by Delegate Perez and others, and just adopted:
On line 19 of the text of the amendment, immediately after the word "constitution" before the word "such", change the period to a semicolon and add the following: "however, whenever at the time the adjustment is made, the millage actually levied by a taxing authority is less than or equal to the maximum authorized to be levied. The maximum millage so authorized shall be increased or decreased without further voter approval in proportion to the amount of the adjustment upward or downward."

Explanation

Mr. Roemer Mr. Chairman and fellow delegates, Delegates Bollinger, Duval and myself are trying to cover what we consider might be a loophole in the amendment passed previous to this one by... submitted by Perez, Mayor Conroy, and Chehardy. It has to do with the relationship of current millages to authorized maximum millages. Now, let me give you four examples of the conditions that could exist as a result of reappraisal and rollback and rollforward, and what this amendment tries to do in each of these four situations.
Number 1. You would have a ten mill authorized tax already voted on by the people, or in the constitution, or whatever. The local governing authority could have issued or utilized eight of those ten mills. Now, as a result of reappraisal, the land values in the district could go up. So, to keep the same dollar revenue--and that's the amendment we just passed--the millage would go down to six. We're afraid that without so stating clearly in this constitution, the authorized millage level might remain at ten. So, instead of

the local governing authorities only having two mills left between what they currently have and what has been authorized, they would have four mills. Not only would they have four mills, it would be four mills against a much larger tax base. So, what our amendment would do would be to lower the maximum millage authorized in the same relationship that the currently used millage is also lowered by reappraisal. So, in the example I just gave you, ten authorized mills, eight used. If we lower it as a result of reappraisal--the millage used to six--then the maximum would be lowered to 7.5. The relationship between eight and ten, and six and 7.5, is exactly the same.

Now, the second example would be ten authorized mills with eight being used. As a result of reappraisal, the millage is raised to twelve. Well, you see, that local governing authority has been penalized. If we don't put in this constitution something that would allow them to raise their maximum millage to the same percentage as their current millage is. In my example, that is ten authorized and eight used, if as a result of reappraisal the used millage was raised to twelve, then the maximum would be lifted to fifteen. The relationship between twelve and fifteen is the same as between eight and ten.

The other two examples I want to give you is when the local governing authority is exactly at a hundred percent of parity, or in other words, at their maximum authorized millage. For example: if ten mills are authorized and the local governing authority is at ten, and as a result of reappraisal the millage was lowered to six, then the maximum would be lowered to six and the parity would remain the same.

The final example; if ten are authorized, and that's the maximum, and they're at ten, and as a result of reappraisal you raise the millage to twelve, then the maximum would be raised to no more than twelve, and parity would remain the same, and the condition would be similar. I understand this is very technical. I also understand, and I hope you do, that it could be very important to our local governing authorities. I hope you support our amendment.

Questions

Mr. Duval Buddy, is that... isn't it so that the intent of this amendment is that, when you use the word parity that a local government... governing taxing authority will be in precisely the same position before the implementation of the new constitution than as they are presently?

Mr. Roemer Exactly. If I can define parity as a certain percentage of your maximum allowable, if you are at a hundred percent of a parity prior to reappraisal, I want to make sure you are at a hundred percent of parity after reappraisal.

Mr. Duval Don't you want to make sure that the people in an area won't be taxed... at a actually higher level without actually having a vote of the people?

Mr. Roemer Exactly right. I'm afraid that as a result of reappraisal, if you're lower than your maximum allowable now, and that gap is widening, then you could go back to ten without a vote of the people. I don't think we want that.

Mr. Duval On the other hand, if a local government is not taxing at the full amount of authorization, and a rollup takes them beyond that authorization, they lose millages, wouldn't they?

Mr. Roemer Exactly. Without this amendment, we would, in fact, be penalizing those local governing authorities that have been helping the people for years by not putting the maximum allowable millage on them.

Mr. Dennery Buddy, I'm not a hundred percent

sure I understand exactly what you are getting at. Are you talking now about if you presently have ten mills authorized and you actually have eight mills levied, and by virtue of this, you are required to levy ten mills, will you still have an additional two mills that you can levy, or only a proportionate amount?

Mr. Roemer The same parity concept does--in other words, the relationship of eight to ten, whatever that is--would be maintained, the differential will be maintained after reappraisal. In your example, it would be 12.5 to 10, as compared to 10 to 8.

Mr. Dennery Thank you.

Mr. Roemer You understand why I do that, Moise? Because the base has either contracted or expanded to give you the differential to begin with. In other words, if you're at eight of ten now, and you have to raise to ten as a result of reappraisal, that's because your base has contracted. Therefore, the relationship should remain the same. You don't get the same two mills. You get two and a half mills because it's two and a half times a smaller base.

Mr. Dennery Thank you.

Mr. Flory Buddy, as I appreciate what was adopted earlier, the... a local governing authority could be at the maximum of ten mills. If this becomes effective, let's say in January of 1978, and the governing authority adopts a budget in December to become effective January 1, 1978, isn't it theoretically possible that they could double their budget, thereby doubling the millage when it becomes effective on January 1, 1978... Now what would your amendment do to that situation under the language already adopted by this convention?

Mr. Roemer Nothing whatsoever. We would... if they are authorized at a certain millage level, all we want to do is maintain that parity level.

Now, Gordon, if they come up with a budget that requires a vote of the people, in other words, additional mills to meet it, then that's their problem. They still have to submit that to the people.

Mr. Flory No, but under your general maintenance taxes, etc., they're not subject to a vote of the people. If they are at ten mills, then their millage would automatically, under that situation, go to twenty mills.

Mr. Roemer That's correct.

Mr. Flory Isn't that correct?

Mr. Roemer That's correct.

Mr. Rayburn Buddy, what do you really mean by the language "the maximum millage so authorized shall be increased or decreased without further voter approval." Now, suppose that under the present law the local governing authorities are bound by law to levy the proper millage to retire bonded indebtedness and otherwise. Suppose in the year prior to the time this article goes into effect, that they hire some additional staff, or they increase their budget. Would they be able to increase their millage over and above the five mills, say, that the people voted without the people having a chance to vote for that increase?

Mr. Roemer Well, what's the law now? What would they have to do...

Mr. Rayburn The law now is they can only levy the amount of millage to retire their bonded indebtedness.

Now, you say here that it can be increased or decreased without further voter approval. I'm

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just wondering if they would increase their budget; if they would increase their staff, or they would have additional expenses incurred. Could they increase their millage over and beyond what the people have voted--say a five mill?

Mr. Roemer No, Senator, this doesn't...this doesn't affect that whatsoever. We're talking about the relationship between that five mills authorized, and what they're actually spending now to retire those bonds. We want to maintain that same relationship. Increase in budgets and that sort of thing is not affected by this, whatsoever.

Mr. Rayburn Well, you state here that it can be increased or decreased without voter approval.

Mr. Roemer As a result...remember the context of it, Senator. It's in Section 5, and we're talking about the reappraisal date, now. We're not talking about the operating budget.

Mr. Rayburn That's right. But, we have been told that in some areas in this state that the reappraisal will lower their revenue--will lower their revenue. Now, under the present, existing conditions--at five mills--meets their bonded indebtedness, and reappraisal, they've got to have eight or ten mills. Can they raise that without going back to the people, increasing the original five mills the people voted on?

Mr. Roemer Oh, yes, sir. Under the provision of this article that we passed already they can do that. That's already in the law now that we passed thirty minutes ago. All we're trying to make sure is that if the difference is widened, they can't go back up without a vote of the people.

Mr. Rayburn Well, really and truly, then, Buddy, in areas that we have been told that we might have caused a hardship, with this language, they would not have any problems. They could adjust it according to their needs, and according to what the obligations--the prior obligations--were. Is that correct?

Mr. Roemer That's right, and not be penalized.

Mr. Rayburn That's right. Then they would have no problems. So no one could say if we adopt this amendment, that we had placed a burden on them or that we had caused a hardship on them, and they couldn't meet their outstanding indebtedness with what we've done.

Mr. Roemer You're absolutely correct, Senator.

Mr. Champagne Was this applying to the alimony tax, or this applies to any millage?

Mr. Roemer Any millage.

Mr. Champagne Any millage--including the alimony tax?

Mr. Roemer Yes.

Mr. Champagne Well, don't you think that as far as the alimony tax is concerned, if...rather than a fixed millage, if we establish the same amount of money, we might be better off than...putting a fixed millage? This would probably take care of that?

Mr. Roemer Could very well be.

Yes. But we haven't done that, yet, Walter. I was working with an amendment we had already passed. I've got to make it livable.

Mr. Conroy Mr. Roemer, do you have any idea how many taxing authorities are, in fact, imposing less than their authorized millages at this time?

Mr. Roemer No, I have not the faintest idea, David. There could be one, there could be a hundred.

Mr. Lanier Mr. Roemer, were you aware that in Lafourche Parish, the Lafourche Parish Police Jury has the authority to levy up to two mills in the city of Thibodaux, and the other municipalities for road maintenance purposes?

Mr. Roemer I was not aware of that.

Mr. Lanier This alimony millage that's authorized by the present constitution. Did you also know that we only have used one of those two mills?

Mr. Roemer I did not know that.

Mr. Lanier Wouldn't...isn't your amendment designed to protect that type of a situation where an agency has only used a part of its alimony or maintenance millage. Rather than have that...the one that's not being used up, gobbled up by the rollup, they would...it would be preserved on a pro rata basis, depending on what the adjustment is.

Mr. Roemer Exactly, and the key word in your question is pro rata.

I don't even want to freeze it at one mill if that's the differential, because if the tax base contracts, then one mill means a lot less, as you know, Walter.

Mr. Lanier Then this is designed to protect situations like the Thibodaux situation and other such situations that may exist around the state?

Mr. Roemer Very definitely.

Mr. Winchester Buddy, wouldn't this more or less apply to alimony tax and not bond taxes? Could bond taxes have to produce the amount of revenue necessary to pay? The bond issues...the call is no fixed millage.

Mr. Roemer That's correct. That's correct. We're talking about where we've got certain maximum peg in the law. Not the floats.

Mr. Winchester Yes. Thank you.

Mr. Chehardy Buddy, the way I look at it, I don't think you're adding or taking away. You may be outfoxing yourself, now, if you're looking for the industrial end of it. But here's how I read it. If the maximum millage is twenty mills in a district, all you're adding or saying is that in the event that twenty mills yields...if ten mills...are used of the twenty allowed, yields a million dollars. After the first year in which we implement the constitution and have reappraisal, we have two million dollars. Therefore, we cut the millage to five mills. Therefore, five mills equal one million. Therefore, the maximum millage will, at that moment, automatically become ten mills because ten is to five as twenty is to ten, and that becomes the new ratio. I see nothing wrong with it. I think we can pass it with impunity. I know from the taxpaying standpoint, I see no harm at all.

Mr. Roemer Well, as one mathematician to another, I salute you.

Mr. Kean Buddy, I've got the same question I think Mr. Winchester was talking about. While I know this is directed, as you have indicated, to specific millage authorization, did, nonetheless, raises the question in my mind when you say millage, actually levied by a taxing authority is less than, or equal to the maximum authorized to be levied. Whether you might not be affecting general obligation bonds where the millage has to be levied each in amount sufficient to pay principal and interest. Therefore, when you talk about equal to the maximum authorized to be levied, it seems to me you raised that question. Under those circumstances, would

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you have any objection to this--to an amendment to this section--to this provision which would make it clear that this would not apply to general obligation bonds?

Mr. Roemer I don't think it affects. I understand your concern, and I would have no objection to spell that out. None whatsoever.

Mr. Avant I think I understand it Buddy, but I want to make sure that I do.

The adjustment that you refer to when you say "in proportion to the amount of adjustment", is the adjustment in millage that is necessary to be made in order to produce the same amount of revenue?

Mr. Roemer Yes, sir. As a result--remember the context--as a result of Section 5, the millage adjustment necessary here. That's what I'm talking about.

Mr. Avant All right, so forget any particular maximum. Whatever the maximum is, if the actual millage levied has to be doubled in order to produce the same revenue, then the maximum is doubled. If it is cut in half to produce the same revenue, then the maximum authorized is cut in half.

Mr. Roemer Only in two of the four cases are you correct. That is when the levied millage is the same as the authorized millage, that happens. When it's not, the proportional difference is maintained. You know...what I'm trying to say is that generally what you said is correct. I don't want to mislead you, though. We keep the proportional difference the same. It's the parity concept. If you are at eighty percent of parity prior to reappraisal, you will be at eighty percent of parity after reappraisal.

Mr. Avant It's got to be less or equal to. It couldn't be in excess of that...What point in time does this first clause here refer to? That's before reassessment, huh? That's the point in time you're referring to when you say the millage actually levied. It's before there has been a reappraisal.

Mr. Roemer That's exactly right.

Mr. Avant Well, how could...how could before that time anybody be levying a millage in excess of the maximum amount allowed to be levied?

Mr. Roemer I don't say that. It says "less than, or equal to," Jack.

Mr. Avant Well, then, that covers the whole barbwire because nobody would be levying more than he's authorized, would he?

Mr. Roemer That's exactly right...exactly right.

Mr. Shannon Buddy, I'm an old farmer, you're a new farmer, so I'm not familiar with parity. They didn't have such things when I was on the farm.

Mr. Roemer I grew up under the parity system.

Mr. Shannon I will...I'll give you an example of what I want, and you tell me whether or not...well, what will happen to this.

Say a taxing authority is authorized, presently, to tax up to five mills. They are presently taxing one mill. What will happen to them under your proposal.

Mr. Roemer It depends on what happens under reappraisal. Reappraisal happens first. Let's take the two things that can happen. Let's say that under reappraisal, they have to increase their millage to get the same dollar revenue. That increase goes from one mill to two mills. O.K.? In that situation, the maximum allowable

would go up in the same proportion. In other words, one to five would be the same as to two--to whatever number. O.K.? On the other hand, they could go down in the millage if their base increased. The maximum would go down, also.

What I'm trying to do, V.C., is make sure the people aren't double taxed without them being able to vote on it.

Further Discussion

Mr. Conroy Mr. Roemer had discussed this proposed amendment with me during the time that the discussion was going on about the prior amendments. I explained to him that I was opposed to this concept, partly because it goes too far, and partly because it doesn't go far enough, depending on your point of view. I think by the time I finish explaining my position on it, you may feel that you're more in favor of it than ever. But I do feel that in fairness, it should be described a little bit further.

This proposed amendment does maintain the relative position of the taxpayers within a given jurisdiction to their taxing authority. I think that's what it's designed to do. I think it does it very well in that respect. In other words, if within a particular taxing jurisdiction, the taxpayer knows that less than the full millage is being employed at the present time; he knows after the adoption of this constitution that proportionately the same amount is available to the governing authority to impose the tax. The fact of the matter as I understand it, or as I'm led to believe, is that very few taxing jurisdictions, in fact, are assessing less, or levying a millage less than their actual authorized millage. In which respect, this amendment would have very little effect insofar as it relates to protecting a taxpayer. But I think we have to look overall--or I look at this overall--as a question of uniformity within the state. A decision as to whether, in this constitution, we do or do not intend to try to achieve some degree of uniformity within the state. The Local and Parochial Government proposal at this time, proposes a flat millage level beyond which parishes could not go without going to a vote of the people; let's say it's a four mill alimony tax, and let's just use the alimony tax as an example. If, at the present time, a taxing jurisdiction is employing that four...four full four mills, but the assessment practices within that taxing jurisdiction differ from the neighboring parish, the effect of this amendment would be to freeze both parishes at their present level. Although one parish may say the reason...that this is unfair because the reason we're not getting enough money to operate our parish right now is that the assessment levels are too low. When you correct the assessment levels within our parish, we should have the opportunity to generate the same number of dollars as our neighboring parish has, or would have under the constitution. So I say that...that this either goes too far, or not far enough. What I mean is, that it leaves unanswered the question of how this constitution is going to deal with local governing authorities on their millage level, if this constitution is intending or directing that there be a maximum millage level for all parishes, and a uniform level of millages for all parishes, then I think that this amendment makes such an approach meaningless because under this, you would have throughout the state, every parish would have a--probably wind up with a different maximum millage level--after you put this amendment into effect. So that while you might say that a maximum millage level is four, it would differ from one parish to another depending on what their present millage...or assessment practices would be. I know it's confused; it's made more confusing because we don't know yet, what we're going to do with millage levels in the Local and Parochial Government area. I had suggested to Mr. Roemer, when he mentioned it, to Mr. Perez when he had mentioned

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a similar problem, that I thought that this concept and the problems involved in this, were best dealt with in the Local and Parochial Government field when we got to the question of how this constitution was going to approach millage levels. I still feel that. I still feel that until we know what we want to do about prescribing millage levels--authorized millage levels--that we should not attempt to get into this sort of proposition.

Therefore, I oppose this amendment, and will answer any questions.

Questions

Mr. O'Neill David, you talk about this thing being in effect as though it's going to be in effect for a long time. But, taken in the context of this session, it's only going to be once this millage rollback or rollforward has taken place, right...in the context of this section?

Mr. Conroy Not this amendment, not this one. The other one, yes; not this one. This one would prescribe for all time, under this constitution, what your maximum authorized millage limitation was within a parish.

Mr. Landrum Mr. Conroy, are you saying that we should have uniformity in millage, statewide?

Mr. Conroy Well, my...I have to answer that in two ways. One is that I think that the maximum authorized millage should be the same within all parishes, yes--that...that the maximum authorized should be uniform. This amendment would result in varying maximum authorized millages. But, I guess my more significant question, or the question I raise, is that I don't think that this convention has made that determination, and until the convention does, I really don't think we should attempt to grapple with this proposition here.

[Previous Question ordered. Amendment adopted: 95-12. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Dennery]. On page 7, line 22, in Floor Amendment No. 1 proposed by Delegate Perez, et al, and adopted by the Convention on November 1, at the end of line 2, after the word "assessors" add the words "and the Louisiana Tax Commission" and on line 4, after the word "within" and before the word "respective" delete the word "their" and insert in lieu thereof the word "the".

Explanation

Mr. Dennery The purpose of this amendment is... you have to refer back to Section 1 (C) which reads that "assessors shall determine the fair market value of all property subject to taxation, etc., except public service properties which shall be valued at fair market value by the Louisiana Tax Commission." In the amendment which was previously adopted, there is a provision that within the three-year period, "prior to the end of the third year"... "the assessors shall have determined the fair market or use value." The purpose of this amendment is merely to add the Tax Commission so that we may be certain that not only do the assessors reappraise all the property that they normally would appraise, but that the Tax Commission will also reappraise the public service properties which it is required by law to appraise. I'll be glad to answer any questions.

[Amendment adopted without objection.]

Amendment

Mr. Poynter The next amendment is sent up by

Delegate Perez as follows:

Amendment No. 1. On page 7, line 22, in Floor Amendment No. 1, proposed by Delegate Perez and just adopted, after the language added by that amendment, add the following:

"The provisions of this section shall not apply to millages required to be levied for the payment of general obligation bonds."

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, if I can have your attention for just a moment, I hope we can pass this amendment and then the section. The reason for this provision is that there should never be an automatic rollup or rollback--or any other provision with regard to taxes required to service general obligation bonds--because the contracts for the... for these general obligation bonds require that only such millage as is necessary to pay off those bonds can be levied so that there is an automatic rollup or rollback under any conditions for these... for the millages for general obligation bonds. What I'm concerned about was with the Roemer amendment, which was previously adopted, which would authorize increases or decreases in millages. It may have some affect on general obligation bond millages, and there is no reason to have that. It might, in fact, provide for more taxes than is needed for the servicing of those general obligation bonds. Therefore, I suggest that this amendment should be adopted.

Questions

Mr. De Blieux Mr. Perez, I can certainly understand to where that you would not necessarily... this provision of rollback would not apply because you automatically have that on millages for bonds. But, if you happen to have a situation where you must increase more millages than was voted--for instance, suppose there was a subdivision that had a five mill vote of the people to service those bonds, and as a result of the adjustment of the millages, it required eight mills to pay those bonds--you couldn't do it if you adopted your amendment.

Mr. Perez No, sir, Senator. First of all, you don't have a fixed millage on a general obligation bond.

Mr. De Blieux Oh...

Mr. Perez Just a minute, sir; I'll answer you; then you can disagree if you'd like. A general obligation bond requires the imposition of such millages as are necessary for the payment of those bonds in an unlimited amount. So, regardless of what the millage rate is at a particular time, it is adjusted either upward or downward, and there is no ceiling on millages for general obligation bonds. A general obligation bond is one where the full faith and credit of that particular taxing authority is pledged to the payment of those bonds, and they must impose whatever tax is necessary to service the bonds. That's the present status of the law.

Mr. Flory Mr. Perez, I voted against the...your prior amendment just for that reason. But, doesn't your amendment now correct a possible situation where--under the provision of the prior amendment--where it said that you could do away with the maximum millage? That also applied to general obligation millages to retire bonds where they could have raised the maximum--or doubled it, if necessary--but your amendment now corrects that situation.

Mr. Perez This would make it clear that you have to impose whatever tax and only so much tax as is needed to service those bonds.

Chairman Henry in the Chair

[Previous Question ordered.]

Mr. Rayburn Mr. Perez, I tried to get this answered when Mr. Roemer had the floor with his amendment that was adopted. Does this amendment really mean that the provisions shall not apply to any bonded indebtedness? That you shall have the right to raise them up or down at your discretion?

Mr. Perez The purpose of the amendment is not to raise up or down at anybody's discretion, but that which is required under the bond contract; that is, just that amount which is needed to service the bonds.

Mr. Rayburn The required amount to service the bonds, only?

Mr. Perez That's correct.

Mr. Rayburn Well, Mr. Roemer said his amendment did that.

Mr. Perez No, sir. His amendment did not attempt to do that. In fact, in response to a question, he said he would be agreeable to an amendment of this kind because the millages which must be imposed for the servicing of general obligation bonds are not limited, and you must apply enough to service the bonds, but you cannot apply any more than is needed to service the bonds. So, therefore, there should not be a provision for any automatic increase or decrease, or rollup or rollback because it's already taken care of.

Mr. Rayburn Well, in other words, Mr. Perez, this language is in line with the present law. Am I correct?

Mr. Perez That's correct. That's correct. Move for the adoption of the amendment, if there are no other questions.

[Amendment adopted without objection.
Previous Question ordered on the
Section. Section passed: 11-1.
Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter The next section is: "Section 6. Revenue Sharing Fund

Section 6. There is hereby established and created a special fund in the State Treasury to be known as the Revenue Sharing Fund. The fund shall be composed of moneys which shall be transferred to it annually out of the state general fund by the state treasurer in the amount of eighty million dollars. This provision shall be self-operative. The legislature may allocate additional sums to the Revenue Sharing Fund and shall provide for distribution of the moneys in the fund to those local governing bodies, municipalities, police juries, boards, commissions, districts, and other agencies as may be designated by it."

Explanation

Mr. Nunez Mr. Chairman and delegates to the convention, revenue sharing--it's a simple section. All it does is establish a section in the constitution known as "Revenue Sharing," and it sets up the amounts to be established as eighty million dollars, and it sets up...allows the legislature, as they have done in the past, to set up a formula of distribution. To give you some background as to why the need for revenue sharing, when the legislature--because of court action--abolished the property tax relief fund which reimbursed parishes for homestead exemptions, we went into a formula of revenue sharing. That first formula was basically a fifty percent based on homestead exemptions and fifty percent based on population. Since then--in this past session--there was a

committee set up, and they changed that formula somewhat, to eighty percent population and twenty percent homestead, getting away practically entirely from the homestead exemption idea. We felt it necessary to continue the revenue sharing idea in the constitution simply because it guarantees the local governing authorities some portion--in many instances, a lot more than they got before; in some instances, a lot less--But, it does guarantee the local governing authorities of this state a portion of what they got before under the old property tax relief fund. We simply felt that we should continue it in the constitution. That's all we very simply do, and I think we used the exact same language. We probably changed the word "money" to "monies" or something of that effect. But, we're just continuing in the constitution the concept of revenue sharing with the...allowing the legislature to set up the formula.

Mr. Chairman, if there's no questions, I move final passage of the section.

Questions

Mr. Duval Senator, I'm just trying to get some information on this. I was wondering: was the property tax relief fund in the constitution before it was repealed?

Mr. Nunez Yes, the property tax relief fund was in the constitution.

Mr. Duval The property tax relief fund, the method of distribution, was a constitutional provision?

Mr. Nunez It wasn't a method of distribution.

Mr. Duval Right, I understand that, but the...the provision for the relief fund...

Mr. Nunez The concept of the property tax relief fund was in the constitution.

Mr. Duval So you say, then, that this should also be in the constitution for the bonding purposes, primarily?

Mr. Nunez Well, we felt like to establish a minimum base of eighty million. The old property tax relief fund consisted of approximately--I think it was sixty-three million. But, if we'd have held it at sixty-three million, it would have been many parishes would have gotten less--based on the formula the legislature adopted--many parishes would have gotten less than under the old property tax relief fund. As it...the final determination was we increased it to eighty million--about eighty-three million I think the first time was; it was eighty-six million last time...Most parishes--all except three parishes, Mr. Duval, all except three parishes--came out whole or better. I have a list, if you would like me to pass around, as to the amount of increases. Many parishes doubled, doubled their amounts. There's quite a number. It's a twenty million dollar increase we distributed over the parishes. I might add, this was done at no...no request from the parishes for additional revenues. But, each parish that--under the formula--that deserved an increase, the legislature gave them an increase. The four parishes who lost were East Baton Rouge, St. Tammany, Jefferson, and St. Bernard. To make up the differences, the legislature made supplemental appropriations to those parishes to bring it down over a period of years to what the other parishes are getting.

Mr. Duval Senator, so I can fully understand the committee proposal, the sum eighty million dollars, would the revenue sharing fund be limited to eighty million dollars for all time?

Mr. Nunez No, the legislature can...the...the eighty million dollars is a minimum base we're

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putting in the constitution. The legislature can increase that fund.

Mr. Duval Now, is the way the committee proposal reads that it would be by other methods, other than the revenue sharing fund itself?

Mr. Nunez No, it just says that the legislature can increase the fund.

Mr. Duval Is that what the committee proposal... that's the intent of the committee proposal?

Mr. Nunez Yes.

Mr. Duval All right.

Mr. Nunez I'll read it to you... "The legislature may allocate additional sums to the Revenue Sharing Fund and shall provide for the distribution of the moneys."

Mr. Champagne Senator, what we really mean is at least eighty million; isn't that it?

Mr. Nunez I said a base, a floor, a minimum of eighty million dollars.

Mr. Champagne Yes, well, I just want to make it clear that at least eighty million.

Amendment

Mr. Poynter Amendment sent up by Delegates Gravel, Flory, Edwards, et al. A note of correction with respect to some of the coauthors in the latter line of the listing of the coauthors Mr. E.J. Landry's name is typographically incorrectly indicated as A.J.; it should be E.J. Amendment No. 1. On page 8, delete lines 7 through--and this is also...

[Motion to waive reading of the Amendment adopted without objection.]

Explanation

Mr. Gravel Mr. Chairman and ladies and gentlemen of the convention, the proposed amendment to Section 6 would, in effect, extend the committee's revenue sharing concept, and primarily for the purpose of restoring to some extent the shrunken bonding capacity of school boards and the other local governing bodies. I think, throughout the entire time that we have been discussing this article, valid positions have been taken to the effect that because of the increased homestead exemption, there have been...has been some encroachment upon (a) the tax base of local governing bodies, and (b) the bonding capacity of local governing bodies. The amendment that you have before you proposes, as I said, an extension of the existing statutory law and, also, an extension of the provisions recommended by the committee. In this amendment, instead of providing for a floor of eighty million dollars, as recommended by the committee, we propose that the floor be ninety million dollars, or forty-five percent of the income tax--whichever is the greater. Now, the reason that the income tax was utilized as one of the factors for the determination of this fund is because it is a growth tax. At the present time, the income tax produces about one hundred and ninety-two million dollars annually, and it increases at the rate of approximately four million dollars annually. So, at the beginning...

Mr. Chairman, there are a lot of people, I think, raising their hands. Maybe I can...I don't know whether they are asking to ask a question at this time or not.

Mr. Henry We're writing the names down, Mr. Gravel.

Explanation continued

Mr. Gravel In addition to the proposed constitutional guarantee, by Paragraph (B), of a minimum of ninety million dollars, authority is also here provided for the legislature to give additional amounts or allocate additional amounts to the revenue sharing fund. The proposed amendment in Paragraph (C) incorporates--seeks to incorporate in the new constitution--the present statutory formula by which distribution will be made to the various parishes of the revenue sharing fund. It also provides that unless the legislature otherwise by law provides for a different manner of determining population, that population shall be determined on the basis of the last federal decennial census. Paragraph (D) of the proposed amendment makes it clear that after deductions for retirement systems and commissions, as presently authorized by law, that there shall be a first call on the monies distributed in each parish by those tax recipient bodies defined by law who suffer losses as a consequence of the homestead exemption. Thereafter, any balance--in the event that those losses are fully offset--will be distributed within each parish as directed by the legislature or as provided by law. Paragraph (E) provides that these constitutionally approved funds--the revenue sharing fund--are subject to being bonded and that when the bonds are issued and authorized as approved by the State Bond Commission, that they will then carry the full faith and credit of this state. Now, in sum, let me tell you this very clearly. The main reason why these provisions are essential in the constitution is to provide, to the extent herein provided, a bonding capacity which, in effect, has been taken away from local government as a consequence of the homestead exemption. For at least two sessions of the legislature, we have been faced with the very serious problem as to whether we could, by legislative act from year to year, provide for a revenue sharing fund, and then be sure that those funds could be bonded. Bond attorneys and others who are much more knowledgeable in the field than I am have consistently told us that unless there is some constitutional guarantee in this new constitution--such as we have by this proposed amendment, such as we did have prior to 1972 under the property tax relief fund in the Constitution of 1921--that unless such provisions are set forth in the constitution, that the bonding capacity of local governing bodies will be substantially curtailed and diminished. I'll yield to any questions with respect to the proposed amendment.

Questions

Mr. O'Neill Mr. Gravel, under this section, it would appear to me that small municipalities within East Baton Rouge Parish--I mention Baker and Zachary because they are in my area--would not come in for any of these funds. It would go straight to the parish, and it would be distributed, and we wouldn't be getting any of those on the basis of our homesteads up there or on the basis of these being a municipality. Why haven't you included municipalities in this?

Mr. Gravel Well, for two reasons: number one, municipalities did not receive any reimbursement at all from the property tax relief fund; number two, the legislature can provide--as it has provided at the last two sessions of the legislature--that with respect to the distribution of excess funds, municipalities may be included. But, I want to make it clear that municipalities are not included in this proposed amendment with respect to the priority funds because they were not included under the property tax relief fund and because they do not sustain losses as a consequence of the homestead exemption. They collect their taxes, and that's the reason for it.

Mr. O'Neill My second question is: it appears that even though these homestead exemptions will

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be lost, with the rollup and rollback features, they're going to be made up; so, it seems to me that if you're making it up from this fund and then making it up as well with the rollup features, that they're getting reimbursed twice.

Mr. Gravel No, sir, that's not correct. The rollback or rollforward provisions will not, will not affect the loss revenues occasioned by the homestead exemption. They may maintain them at the current level, but they will not adversely... they will affect those particular losses. Those losses will still be there. That...those...Mr. O'Neill, I'm still trying to answer your question. If you...maybe it's answered. Are you...does that answer your question?

Mr. Blair Camille, three main reasons that I think I'm going to be against this...and number one I'll have to ask the question. Do you think the constitutional convention should take it on itself to up this base from eighty million to ninety million dollars? Shouldn't that be a legislative problem?

Mr. Gravel Well, I think in view of the fact that we have increased the homestead exemption from two thousand dollars to three thousand dollars, that an increase from the eighty million dollars that was legislatively appropriated in 1973 to ninety million dollars would not be unreasonable. We have, at present, an eighty million dollar base in the constitution with a two thousand dollar homestead exemption. We are increasing it to ninety million dollars with a three thousand dollar homestead exemption. So, I don't think that that's wrong.

Mr. Blair O.K., my second question. It is my understanding that we're going to try to get rid of all dedicated funds or as many as possible. As you know, the legislature at the present time can only handle about eighty percent of the funds that we have coming in because they are dedicated. I understand at the present time, in their proposal, that's out. Now, here we come in your (C) section; aren't we dedicating funds again?

Mr. Gravel Well, we are making provisions in whole or in part, depending upon how it works out in each parish to compensate the losses occasioned by a homestead exemption at the state level. We are doing only, Senator Blair, what we have been doing in a different manner since the early 1930's. This isn't any change in result, but it is a change in the approach that we are making with regard to compensating local governing bodies for the losses they sustain as a consequence to the homestead exemption.

Mr. Blair Now, the third and last question. If I'm not wrong, we killed the bonding aspect in the legislature the last session, or the session when we set this up. Should we get into the bonding?

Mr. Gravel Well, in 1972 the legislature refused to authorize the bonding of these funds and that's where the problem started, because as a consequence of the refusal of the legislature to go along with that, we have created the problem that now exists, and local governments, school boards, and so forth cannot bond moneys that theretofore they could bond as beneficiaries of the property tax relief fund. You're correct. That's the mistake that was made in not providing for it prior to this time.

Mr. Perez Mr. Gravel, as I would assume that you would suppose that the legislature would divide up these revenue sharing funds between the school boards, and the local governing authorities, and special districts, and so forth, similar to the manner in which they have been doing that in the past? Is that right?

Mr. Gravel Well, let me make sure we are talking about the same thing. The provisions of this amendment would first of all automatically require payment to the local governing authorities to offset the losses occasioned by the homestead exemption to the extent that those funds were available. Beyond that, any excess funds would be distributed as provided by the legislature.

Mr. Perez Well, as I read it--and I just want to know whether there is an error in the amendment--it says "the remaining funds"--that is, after taking out for the retirement systems and the commissions--"the remaining funds to the extent available by first priority, shall be distributed to the tax recipient bodies, as defined by law." So, I would assume that you would...the legislature would have to enact laws to determine the method of distribution. Is that correct?

Mr. Gravel Well, they would have to enact a law to define what constitutes a tax recipient body.

Mr. Perez Well, could they then from time to time change that law?

Mr. Gravel I would think they would change it to the extent that there would be a change in the kind of a body that would be considered a taxing authority or tax recipient body.

Mr. Perez Well, the problem that I'm concerned with is when you get down to the bonding provision authorizing for the bonding, if from time to time the legislature may change the amount that any particular authority may receive...how you would be in a position to be able to bond those funds?

Mr. Gravel Well, I think you can bond them without any question if the provisions of the existing law apply to the particular body that seeks the bond and especially if those bonds are approved by the State Bond Commission after full consideration has been given to them, then the bonds would carry the full faith and credit of the state. I certainly would note and would assume that the legislature would see that those bonds would be validly protected by whatever legislation subsequently might be required.

Mr. Perez But, when people buy bonds the main thing they want to know is what funds are going to be available to service the bonds and if the legislature from time to time can change the amounts that each recipient body can receive, then aren't we in a problem with regard to the issuance of the bonds?

Mr. Gravel Well, I don't think so, Mr. Perez. I don't have that intention or that...I don't think the language says that. I think that we are talking about offsetting the losses that tax recipient bodies by whatever name they are called...offsetting the losses that occasioned as a result of the homestead exemption.

Mr. Perez What happens if you don't have enough to offset the losses--then it becomes a determination by the legislature as to who's going to get what--whether the school board will get it, or whether the local governing authority, or special districts, and so forth? Isn't that correct?

Mr. Gravel I think that this language would clearly imply that these funds, if there were not a sufficient amount of money to pay, they would be prorated according to service...

Let me just say this and make it clear that there was a reason for providing hereto that the full faith and credit of the state would be behind these bonds when approved by the state bond...

Mr. Perez That's my next question. Why?

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Mr. Gravel Sir?

Mr. Perez Why would you have the full faith and credit of the state behind bonds which are locally issued?

Mr. Gravel Well, in order to fully validate the bonds. Frankly, to make them more saleable and another reason would be to get maybe a better interest rate. But, this would be the state's guarantee constitutionally of this procedure. Incidentally, it's my understanding now--I'm not sure of this--but it's my understanding from people that I think know about it, that the full faith and credit of the state is behind most of the ad valorem bonds that are issued by local governing bodies.

Mr. Perez Would you mind showing me later, I know you can't do it now, where that authority is because that's news to me?

Mr. Gravel Mr. Slay told me that with respect to the school board, I understand it...as I said, I'm not sure of that and I don't...

Mr. Perez Just the one last question. Don't you feel that this might impair the credit of the state by having the state put its full faith and credit behind all of these bonds throughout the entire state?

Mr. Gravel Only to the extent, however, that the state is in a position to raise these revenues. I think that's true anytime the state pledges its full faith and credit behind bonds to the extent that there is a certain limit to which the state can...or its political subdivisions can sell bonds that are backed by the full faith and credit of the state. I think that's correct. That's the reason for the approval--the necessity...the requirement for the approval by the State Bond Commission before the full faith and credit of the state was even pledged. That's the state agency that would make the determination.

Mr. Lanier Mr. Gravel, are you familiar with the case of Levy v. Parker?

Mr. Gravel Yes, sir, the circumstances.

Mr. Lanier In the district court opinion appears the following language: "tax relief funds designed to assist localities by making funds raised by state taxes available to local governmental agencies, must be administered by statute and in practice so as to avoid that governmental favoritism to one person over another, that the Fourteenth Amendment was designed to prescribe." Are you familiar with that language?

Mr. Gravel Yes, sir.

Mr. Lanier Now, the way this thing is set up, does it not give preference in this revenue sharing fund to those units of local government and those units of special districts that are subject to the homestead exemption over those which do not?

Mr. Gravel That's correct.

Mr. Lanier Do you feel that this distinction would survive the legal provisions of Levy v. Parker?

Mr. Gravel Absolutely.

Mr. Lanier On what basis?

Mr. Gravel I don't think Levy v. Parker dealt with the problem at all. This provision here... Levy v. Parker did not hold, for example, that the property tax relief fund which was a reimbursement...part of a reimbursement plan, also was unconstitutional or it violated the equality concept. It said that because of the way that

it was administered in each particular locality, that the administration of it was unequal, and not uniform, and therefore unconstitutional.

Mr. Lanier In Levy v. Parker, did not the opinion treat the property tax relief fund as a revenue sharing type of device?

Mr. Gravel Well, I don't know whether it's treated as a revenue sharing or as a reimbursement proposition. Either way, it amounts to me to about the same thing and that's what...essentially what it was. The property tax relief fund was for the purpose...was for the purpose, of course, of reimbursing certain political subdivisions for the losses they sustained as a consequence of the homestead exemption. This revenue sharing fund operates exactly in the same way. There is one difference, of course, between this provision and the provision that dealt with the property tax relief fund, insofar as the status of the homestead exemption is concerned. But other than that, the concept is substantially the same.

Mr. Lanier Under our present law, do not the people in municipalities and special districts that are not subject to the homestead exemption pay the same state income tax, which is the basis of your proposal, as do people who live in parishes, and school board districts, and districts that are subject to the homestead exemption?

Mr. Gravel I think they do.

Mr. Lanier Are you aware of the language on page 3 of Levy v. Parker in the district court which says that "challenge relates solely to the Louisiana constitutional provisions, statutes and practices that determine the manner of distributing state funds"?

Mr. Gravel I'm generally familiar with that language.

Mr. Lanier Would you agree that where you have a revenue sharing fund set up with state funds collected from individuals, that this has to be uniformly administered throughout the state?

Mr. Gravel Well, not necessarily agreeing with that, but...let me answer that. This is not tied in, Mr. Lanier, with the income tax itself. That's the percentage of money that is determined. In other words, the revenue sharing fund consists of moneys that are in the general fund in an amount equal to forty-five percent of the income tax. That's for the purpose of tying in an amount with a gross tax. We are not talking about distributing the income tax money in this provision. I don't think it would make any difference if we did. But in any event, we are not distributing the income tax money here. We are distributing money from the state general fund...

Mr. Winchester Mr. Gravel, why was the wording in your amendment changed from the wording in the article and which said: "the legislature shall provide for a distribution of the money"? The thing I'm concerned about is the eighty-twenty formula. One reason I'm concerned about that is this: tax issues or bond issues are for twenty-five to thirty-five years, maybe forty years...

Mr. Gravel Mr. Winchester, I just really can't hear you sir; I'm sorry. Go ahead, please.

Mr. Winchester Did you hear the first part?

Mr. Gravel No, sir. I wish you would repeat it. There were some folks talking here; I just didn't hear you.

Mr. Winchester I was asking why your amendment changed the wording of the article presented by our committee which says on page 8 "the legislature shall provide for distribution of the moneys in

the fund." The reason I'm concerned about it is the eighty--twenty. The reason I'm concerned about the eighty--twenty is that bond issues are from twenty-five, to thirty-five, to forty years duration. The eighty--twenty in the constitution down the line could pinch a parish that had these bond issues of that length of time. I was wondering if the eighty--twenty could be left out? Why does it have to be in the constitution?

Mr. Gravel Well, I think that it is necessary and certainly much more desirable for the validity of the bonds to have a constitutional formula. The formula that we have in here is the one that... the formula that was adopted by the legislature at its last session. It is for the purpose of providing a permanent formula so that the validity of the bonds can be more readily ascertained.

Mr. Winchester But, wouldn't that catch the other way if the money that was allocated to a parish on the eighty--twenty basis gave them much less, due to a change in residences and things like that? Wouldn't that hurt the bonds more than it would help--putting it in here at this particular time? At least I think so, it would.

Mr. Gravel Well, Mr. Winchester, I think the reason for that, and I rather agree with it, is that if you don't have a permanent formula and the formula can change from year to year depending upon the acts of the legislature, then that may make it much more difficult to issue and sell bonds. That's the only answer that I can give to you. I think it's a valid one; that a permanent formula is necessary if we are trying to do what this amendment seeks to do and, that is, to provide a bonding base. I think that's necessary, yes, sir.

Mr. Winchester Thank you.

Mr. Stagg Two quick questions, Camille. Under the present revenue sharing of last year and this year, do the sheriffs get a percentage of the money...the eighty million dollars for receiving the check from Baton Rouge and distributing it?

Mr. Gravel Yes, they do.

Mr. Stagg In the original Gravel amendment, you had a line in there that said that "none of these percentages or commissions should exceed ten percent." That's not in the one that was distributed today. Why?

Mr. Gravel Well, in the first place, the original amendment there was just a working base that was distributed to a number of people, you know, to come up with ideas and to make a determination as to what might finally be approved. I don't recall exactly where the suggestion came that that be eliminated. But, it's my understanding that Act 153 of 1973 provided for approximately ten percent in some instances, that went to the sheriffs, and that, in addition to that, there was some additional payment that went to a retirement fund, so the ten percent factor might or might not be valid. In any event, this is subject to the legislature's determination under the proposed amendment.

Mr. Stagg I think just before we went home on Saturday the original Gravel proposal was distributed to all delegates. So, I took it home with me, and I discussed it with the members of the city council, and the police jury, and the school board. In that one, there was a provision that seven and a half percent of the money would go to the municipalities. They were all very delighted about that when I talked to them. Now, it appears that in Paragraph (D) the language says at the end of Paragraph (D): "Any balance thereafter remaining in any parish distribution shall be allocated within each parish in accordance with law." Is that the allocation that now

remains for cities and municipalities?

Mr. Gravel That's correct, because it was pointed out that the municipalities did not receive any funds as first priority money, either under the property tax relief tax or under the last two acts of the legislature where we had a distribution of the permanent...

Mr. Stagg Then, if that's what the cities are going to get it would then, in your opinion, would it not...

Mr. Gravel Wait. Let me make sure that I don't misrepresent this. It doesn't mean that the cities are going to get the balance. It simply means that if provision is made for the cities, it would have to be made on what we might call excess or additional funds over and above those funds necessary to compensate for homestead losses.

Mr. Stagg All right. Then, if an allocation to a city could be made in accordance with law and changed in accordance with law--in other words, at the pleasure of the legislature--how then could a city use any of those funds for the issuance of bonds?

Mr. Gravel There might be more of a problem, Mr. Stagg, with respect to the bonding of potential additional revenues subject to change by the legislature. I think that would reduce it. But, I would like for you to keep this in mind that the cities did not participate in the property tax relief fund at all--with the exception of the city of New Orleans. Only after the first priority money was paid.

Mr. Henry You're out of time again, Mr. Gravel.

[Motion for suspension of rules to grant ten additional minutes for questions adopted: 83-6.]

Mr. Jenkins Mr. Gravel, I believe it's true, isn't it, that in 1971 the revenue sharing--or at that time, property relief fund--amounted to about sixty-three million dollars and that under this, probably next year that fund would go up to ninety million dollars? Now, isn't it true that this forty-three percent increase will have come about without any demonstrated need at all in any of the localities of the state who are benefiting from this increase?

Mr. Gravel Well, I'm not sure that I agree with your figures. It was my understanding that the property tax relief fund would have been approximately seventy-one million dollars in 1973. Now, that may have included the state's five and three-quarter mills, Mr. Jenkins, I'm not sure, but somewhere in that area. But, the revenue sharing fund that was distributed this past year was, I think, eighty-one million dollars...between eighty million and eighty-one million dollars without taking into consideration the supplemental appropriations to Jefferson, St. Bernard, East Baton Rouge, and St. Tammany.

Mr. Jenkins Let me ask you this, Mr. Gravel. You've tied this fund to a percentage of income taxes.

Mr. Gravel Correct.

Mr. Jenkins Now, my question is--you've said that it's a growing tax--but, is there any logical reason to tie the needs of local government to the income tax when we have already seen, perhaps, that this increase is without any demonstrated need? Wouldn't it be that the increase in the income tax revenues might not be in any relation to the needs...any logical relation to the needs of the local governing authority?

Mr. Gravel That's why we have the provision here

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that the legislature could add additional funds if that's what...

Mr. Jenkins No, but couldn't it substantially increase faster than the needs of the local governing authority?

Mr. Gravel It increases at the rate of approximately four million dollars a year at the present time. That is considered to be a normal increase to which...which would relate to the property tax relief fund increase. On a proportionate basis, it's probably about the same kind of an increase.

Mr. Jenkins Let me ask you one last question. Some of us would like to see a deduction against state income taxes of federal taxes paid, in the future, to make up for that tax increase in 1971. If we adopt a provision like this, won't we--anytime we want to reduce the state income tax by giving a deduction against federal income taxes or anything else--have a built-in opposition from virtually every local government official in the state?

Mr. Gravel I don't know whether you would or not, because you still have a ninety million dollar guaranteed floor. We are talking about moneys from the general fund. The only reason that the income tax was mentioned here is because that was the principal tax on which the property tax relief fund was based. We tied this in only with a percentage of that tax which was a growth tax in order to comply largely with the request of local government that there be some growth in the revenue sharing fund as there was in the property tax relief fund.

Mr. Rayburn Mr. Gravel, what are the present proceeds today derived, or on the '71-'72 year which is factual, from the income tax?

Mr. Gravel The income tax in '71-'72 was a hundred and eighty-four thousand dollars, and in '72-'73 it's a hundred and eighty-eight thousand dollars and it's...a hundred and eighty-eight million, excuse me.

Mr. Rayburn That is a projected figure?

Mr. Gravel Well, let me give you the three figures I have, Senator: for '71-'72, one hundred and eighty-four million; for '72-'73, a hundred and eighty-eight million; for '73-'74, projected at a hundred and ninety-two million.

Mr. Rayburn Now, Mr. Gravel, if your proposal is adopted, even saying the projection is right and correct, and we increase the present amount that's in the constitution today from eighty million to ninety million--or forty-five percent, which is greater--you are then placing the legislature in a position of raising or finding, or taking from some source, some four or five million dollars. Am I correct? A forty-five percent of your own figures of a hundred and ninety-two million plus will only be eighty-six million. So, the legislature at the next session will have to find some four million to comply with the provisions of your amendment. Am I correct?

Mr. Gravel That would be correct, Senator. I think that the total amount paid out in revenue sharing this past session of the legislature was around eighty-six or eighty-seven million, taking into consideration the eighty million dollars that was paid out under the general bill, and I think five or six million under the four supplemental bills...around eighty-six million.

Mr. Rayburn Now, Mr. Gravel, I also note here that where you say "after all the deductions"--and I know why you took the ten percent out; some sheriffs get seven, some eight, some twelve, some fourteen, and some above that--now, after all deductions have been withheld, then you say that

"in the parishes to the extent that funds are available." I happen to represent a parish who now has a deficit. Now, in the event those funds are not available, will they still have that deficit?

Mr. Gravel Well, I think it's possible, Senator, that some parishes may not get full offset for all of the losses occasioned by the homestead exemption as a consequence of this provision. As you know, there were four parishes including the one that you represent that had to get supplemental appropriations from the legislature.

Mr. Rayburn But, they still didn't get enough. They are still a hundred and fifty-seven thousand dollars short in St. Tammany and more than that in St. Bernard.

Mr. Gravel That's correct. That's one of the problems that, of course, came about as a consequence of the assessing practices in that particular parish, I think.

Mr. Rayburn Now, Mr. Gravel, if I read your amendment right, it will allow the bonding of these particular revenues, even the surplus. Am I correct?

Mr. Gravel That's correct.

Mr. Rayburn Now, it also states further that the legislature shall define by law the amount--or the way that the surplus will be distributed. Is that correct?

Mr. Gravel That's correct.

Mr. Rayburn Now, let's assume that in my parish where the police jury gets fifty percent, municipalities twenty-five, and school board twenty-five--it varies in other parishes and other areas in this state--supposing that next year after this thing is adopted that the police jury bonds that fifty percent, and later we feel the school board needs that money worse than the police jury needs it and we want to give the school board fifty percent and the police jury twenty-five, and they have it bonded, where would we be then?

Mr. Gravel I think frankly, Senator, that there's going to be very little likelihood that the so-called excess of surplus moneys can be bonded.

Mr. Rayburn Under the provision of this, it can be bonded, and can it not be even bonded without a vote of the people?

Mr. Gravel What I'm saying, though, just so there is no misunderstanding, I think that the authority to bond is here, but whether or not the bonds would be saleable would be a very serious question in my mind with respect to the surplus and because of what you say that this is something that's left strictly up to the legislature from year to year. I think there would be some difficulty in bonding.

Mr. Rayburn Mr. Gravel, my parish that I live in gets several hundred thousand dollars in surplus; St. Tammany loses several hundred thousand...hundred plus thousand, let me correct that. Now, if the police jury who gets fifty percent of the excess...if prior to election year they want to go out with a big road building program, and they want to bond that surplus, do the people have any chance as to whether they could bond it or not?

Mr. Gravel Well, we get back to the same point, I don't think that there would be any...there is no requirement under this provision that there be any such vote--if these particular bonds are authorized and approved by the State Bond Commission they would carry the full faith and credit

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of the state. Now, whether or not the State Bond Commission would approve the bonds on that basis, I don't know.

Mr. Rayburn How many bonds are outstanding today by the State Bond Commission, Mr. Gravel?

Mr. Gravel I think we are talking about the bonds--let me finish answering--the bonds would have to be issued and authorized in the form and manner prescribed by law. Whatever the legislature would prescribe in that regard would have to be built into this concept.

Mr. Rayburn But, under the language of this amendment they could bond it--if I read it correctly; it says they can bond it--without any vote of the people. If I'm wrong, I wish you would correct me.

Mr. Gravel Senator, did the bonds...the legislature in my judgment--under the language that we have in here that "these bonds shall be issued and sold as provided as law"--the legislature clearly could provide that such bonds would not be approved by the State Bond Commission unless they were approved by the people. But, that would be a procedure that would have to be followed and would have to be so stated by the legislature.

Mr. Rayburn Mr. Gravel, today under revenue sharing moneys that go back to the various municipalities and the various parishes, or police juries or governing authority of the parishes, are they bondable?

Mr. Gravel I don't think so.

Mr. Rayburn Do they have the full faith and the credit of the state behind them?

Mr. Gravel Well, I don't think they can be bonded. I...

Mr. Rayburn What is the purpose of putting the full faith and the credit behind revenue sharing?

Mr. Gravel Primarily to give some authority by the State Bond Commission to determine the purposes for the bond issue and to exercise some jurisdiction control over it. Then, assuming that the State Bond Commission is satisfied that the bonds are properly issued and authorized, and in accordance with law and for a valid purpose, then the full faith and credit would be put behind it to make the bonds more saleable, probably, and also to get a better rate of interest. Now, it might be that bonds could be sold without that procedure, but I rather doubt that they could be so sold.

Mr. Rayburn Mr. Gravel, under the present law today, there is no law that says the full faith and credit of the state shall be behind revenue sharing funds. Is that right?

Mr. Gravel Not that I know of. That's correct.

Mr. Rayburn If the legislature does not enact laws to set up, establish, and more or less control the proceeds of revenue sharing as far as bonding indebtedness is concerned, then the governing authorities could bond them at will unless the legislature provides otherwise, according to this amendment?

Mr. Gravel I think they've got to comply with state law because in Paragraph (E) we say "these bonds shall be issued and sold as provided by law."

Mr. Rayburn Well, the state law just says advertise them and take the lowest bid.

Mr. Gravel Senator, I'm assuming that as a

consequence of this provision that the legislature is going to have to make provisions with respect to the issuance and...

Mr. Rayburn But, in the event they don't, they can just sell them at will without any vote of the people, or anything else, if the legislature doesn't do otherwise?

Mr. Gravel I would not think so. I think that this is a mandatory provision; it was put in here for that purpose with respect to the procedure that would have to be followed.

Mr. Thompson Mr. Gravel, year before last when we divided it on a fifty-fifty basis, we had eighty million dollars; is that correct?

Mr. Gravel I think that's approximately correct... I don't know what the aggregate was, but it seems to me that the total was about eighty million dollars for the revenue sharing fund under the general bill and approximately...toget...and with the supplemental appropriations, I think that it aggregated eighty million dollars year before last and about eighty-six million dollars last year. I think that's correct, Mr. Thompson--about that.

Mr. Thompson Had we applied this fifty-fifty formula against the eighty-twenty formula, do you realize forty-seven of the sixty-four parishes lost money?

Mr. Gravel I know, but they were working on an eighty million dollar base as opposed to the ninety million dollar base that we'd be working on here...that would offset it.

Mr. Thompson Well, all you're doing is sweetening the pot, to give more money to divide to keep from these parishes going in the hole; is that not correct?

Mr. Gravel Well, the truth of the matter is that in both years, the local governing bodies got--except in four parishes--got substantially more in most instances. In all but four instances--got more than they would have gotten under the property tax relief fund, so, I can't see anything but the fact that from the point of view of local government and the school boards that they are getting the advantage of an increased amount under this distribution.

Mr. Thompson You would also say then if we went to a hundred million, that probably all sixty-four would get more, but you're disregarding the fact that somebody's got to raise this hundred million; aren't you?

Mr. Gravel Well, we haven't gotten to a hundred million.

Mr. Thompson I know you haven't, but I'm just assuming you...

Mr. Gravel Mr. Thompson, the more you put into the pot and the more you distribute, I suppose the more people will get. That's correct.

Mr. Thompson Where are you going to get the money from? The legislature's going to appropriate it? You're locking in the constitution... aren't you locking in the constitution a fictitious figure that shouldn't be locked in? We've been leaving lots of things to the legislature, and conditions are going to change from year to year, and we're probably writing a constitution for the next fifty years, don't you think?

Mr. Gravel Mr. Thompson, without any question at all, the amount of money that we're talking about when we say ninety million dollars for next year, represents a progression of what we've already done on the basis of the last two years--a growth

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progression that everybody recognizes is going to be necessary to compensate for the increased money problems that these tax recipient bodies have and the losses that they sustain by increased and additional homestead exemptions. There's nothing...the progression is about the same as it's been ever since we had the old property tax relief fund beginning back in the thirties on a percentage basis. This isn't a radical change or departure from what we're doing at all.

Mr. Thompson Would you accept an amendment to see and leave it up to the legislature?

Mr. Gravel If there was such an amendment, Mr. Thompson, I believe that the whole purpose of this amendment would be destroyed--that is, to provide an adequate bonding base for local governing bodies including the school boards. That's the only purpose for the amendment.

Mr. Goldman Excuse me...Mr. Gravel, I have a little problem here on account of a peculiar situation in Ouachita Parish with the Monroe City School System. In Paragraph (D) it says "after deductions for retirement systems and commissions as authorized by law the remaining funds to the extent available by first priority shall be distributed to the tax recipient bodies as defined by law within the parish to offset current losses, etc., because of homestead." Would that eliminate the distribution to the Monroe City School System?

Mr. Gravel No...

Mr. Goldman Or should we have an amendment in here that would guarantee that the city school system would get it.

Mr. Gravel I don't think you have that problem because in both acts of the legislature in 1972 and '73, the Ouachita Parish City School Board, I think, was recognized as a tax recipient body, and it is one.

Mr. Goldman Of the parish?

Mr. Gravel I believe so...I don't know exactly whether it's the parish or the city.

Mr. Goldman Or of the city?

Mr. Gravel But, to the extent that they lost by reason of the homestead exemption, they were specifically considered and compensated.

Mr. Goldman The reason I ask the question, I asked several attorneys here, and they thought that possibly this language unless it was amended might eliminate the Monroe City School System.

Mr. Gravel No, sir. I don't think it would. As a matter of fact, the Monroe City School Board is in the present constitution. It's also considered in both present...both of the revenue sharing proposals that were adopted in '72 and '73. Clearly, it is a tax recipient body under the law and under its practice and procedure.

Ms. Zervigon Mr. Gravel, do you recall that you and I had a conversation on the floor about a question...a technical question I had about this amendment?

Mr. Gravel Yes.

Ms. Zervigon In that I wasn't sure, where it says in Paragraph (D) "after deductions for retirement systems and commissions," that those deductions would be made at the parish level rather than at the state level.

Mr. Gravel Yes...

Ms. Zervigon You said to me at that time that you intended for it to be at the parish level

after the distribution.

Mr. Gravel I think that's what it says. But, in order to clarify it, if the amendment passes, I certainly would feel that an amendment further clarifying it, if you think it's necessary, should be accepted.

Ms. Zervigon Thank you.

Mr. Burns Mr. Gravel, on what basis was the last distribution made to the parishes out of this revenue sharing fund? I mean what formula was used?

Mr. Gravel This is the formula that was...this formula is the formula in Act 1...I think it's Act 153 of 1973--the present revenue sharing law.

Mr. Burns In other words, the last distribution was made on the basis of eighty-twenty?

Mr. Gravel Yes, sir.

Mr. Burns Now, you referred two or three times to the main purpose of your amendment, to establish a bonding base for the parishes throughout the state...

Mr. Gravel Yes, sir.

Mr. Burns I just want to give you an example of St. Tammany Parish. When the homestead exemption fund was done away with and the revenue sharing fund went into effect, and the state tax was removed, it had the effect of cutting St. Tammany Parish's bonding base from seventy million down to forty-four million because of the subtraction of the homestead exemption for...Now, does your amendment do anything to reestablish that base?

Mr. Gravel Only to the extent that St. Tammany Parish would be treated on the same basis as every other parish in the state. In other words, I don't know what the exact consequences would be, but St. Tammany Parish would be treated in exactly the same manner as every other parish.

Mr. Burns But, in other words, you're not in a position to say whether we would benefit by your amendment or be further...

Mr. Gravel I would think that there are only four parishes that might have, you know, would not benefit--only a possibility of four parishes: East Baton Rouge, St. Tammany, St. Bernard, and Jefferson--insofar as dollar amounts are concerned. I'm not sure that that's correct even, but those were the only four parishes that suffered some loss when an eighty million dollar distribution was made. Those four parishes required supplemental appropriations from the legislature in order to get back up to what they were during the years of the property tax relief fund.

Mr. Burns That's just a year-by-year problem... proposition, and subject to the whims of the legislature.

Mr. Gravel That's correct.

Mr. Nunez Mr. Gravel, the present percentage of funds that are derived for the revenue sharing, if I read it right, is forty percent from the income tax, forty percent from the alcohol beverage tax, and forty percent from the public utility tax. That's what the present statutes require; isn't that correct?

Mr. Gravel That's correct, yes, sir.

Mr. Nunez Now, and that amount makes up the eighty-six million dollars; isn't that correct?

Mr. Gravel I think, Senator, that amount made up the eighty million dollars. In other words,

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forty percent of those taxes for the fiscal year 1972-'73 produced a little over eighty million and a little less than eighty-one million dollars.

Mr. Nunez Well, my point is it's pretty close within that field. Now, what you're doing with your amendment here, you're placing into the constitution a permanent figure--that is, forty-five percent of the income tax revenues of this state.

Mr. Gravel No. A sum equal to forty-five percent. In other words, we're not allocating...it amounts to the same thing in dollars, but we're not allocating the income tax itself...

Mr. Nunez Well, don't you spell out in this amendment...let me read it to you; it says...

Mr. Gravel If you read it at the very beginning, the formula specifies the sum from the general fund--a sum equal to forty-five percent of the income tax.

Mr. Nunez That's correct. So, forty-five percent of...equal to the income tax of the state. Now, from my figures from the Revenue Department, and I think you have the same figures, what you're saying is ten years from now--and I think this is perfectly correct--ten years from now we will be doubling the amount of revenue sharing in this state, isn't that correct?

Mr. Gravel Well, no. If this same projection holds out, it would increase by four million dollars per year. Ten years from now we would have increased the fund by approximately--if my quick arithmetic is correct--by twenty percent. In other words, the projection is, is that this...the income tax will increase by about four million dollars a year. That's the experience of the current three years that I have before me.

Mr. Nunez The figures that I got from the Revenue Department, Mr. Gravel, is that the income tax production is increasing from eight to ten percent per year, and the fund will double by 1983--from eighty-six million to a hundred and sixty-six point five million dollars.

Mr. Gravel From how much?

Mr. Nunez A hundred and sixty-six point five...

Mr. Gravel No, your starting figure.

Mr. Nunez Starting figure of today is about a hundred and eighty-four million...is about eighty-three million. Eighty-three million is what we're getting out today if you use the forty-five percent figure. What I'm saying is, Mr. Gravel, don't you agree that what we're doing is, is locking in or dedicate...dedicating revenues in the constitution that are declining. All of our state revenues are declining--our oil revenues, our lease revenues,--all those revenues are declining, and the only revenue that's increasing in this state are the sales and the income tax, and you're taking and dedicating forty-five percent and giving it--aren't you doing this--giving it to local taxing units, whether they need it or not by the way? Whether they need it or not, you're dedicating it to them for the next...from here on out in this constitution?

Mr. Gravel We're providing for the same progression of an increase in payments to local governing... local governing bodies, local governing authorities, on the same basis as it has been progressing since the property tax relief fund went into effect. The actual progression--and incidentally, those same three taxes were involved in the property tax relief fund--the progression was a little bit greater when the three taxes were involved on a year-to-year basis, under the property tax relief fund, than under the forty-five percent...than

applying the forty-five percent, presently, solely to the income tax. The only reason why we didn't use the other two taxes is that they're relatively small taxes. They produce smaller amounts, sixteen million by one and seven million by another.

Mr. Nunez How can you say you're providing the percentage of increase for the homestead exemption, when the formula you want to lock into the constitution only reimburses the parish back for twenty percent based on homestead exemption and eighty percent on population? To me, it's completely foreign to the idea of what the property tax relief fund was all about. I think you'll have to agree with that.

Mr. Gravel Well, I think we're not talking about homestead exemptions at all in the formula; we're talking about number of homesteads. Population eighty percent, number of homesteads twenty percent--that's the permanent formula on which the distribution can be based in order that there will be provisions in the constitution of a permanent nature that will justify the issuance of bonds. Senator, I can't say it any differently; that's the purpose of it.

Mr. Nunez One more question, Mr. Gravel. Aren't we having a tremendous amount of difficulty in this state today with this method of distributing these revenue sharing funds through the various taxing bodies, the various methods that have been set up? Aren't we having a tremendous amount of difficulty? Aren't you locking those difficulties into the constitution?

Mr. Gravel Number one, I don't think that we're having any serious difficulties other than the fact that the distributed funds are not bondable. That's the only difficulty I see. That's the problem.

Mr. Nunez One more question. Mr. Gravel, don't you think this should be a classic example of what should not go in the constitution?

Mr. Gravel Absolutely not. If it wasn't for the fact that it was necessary to provide a bonding base in the constitution to take the place of the homestead exemption loss, which springs from the constitution, I'd say leave it to the statutes. But, the homestead exemption is in the constitution; therefore, the offset to the loss should be in the constitution to the extent that it can be done.

Mr. Chatelain Delegate Gravel, I'd like to be cleared up on some things in Section (D). First, after deduction for retirement systems and commissions--I think I know what the commissions are; that's perhaps the sheriff's commission, running his office--but what retirement systems do you have reference to here, sir?

Mr. Gravel Mr. Chatelain, I think that maybe Mr. Mire could answer this question correctly. I think there's a provision that stems from the old property tax relief fund that something like a quarter or a half of one percent goes into certain state retirement systems, including the assessors'. What other retirement systems, I don't know. But, I do know there is some call on this money for retirement systems and some call by the sheriffs who act as the tax collectors and distributors of the fund within their parish for their commissions. That's what...this is to authorize the legislature to continue those. Now, let me answer that...Mr. Mire has given me this. The Assessors' Retirement Fund gets quarter of one percent; the Clerks' of Court Retirement and Relief Fund gets at a quarter of one percent; the District Attorneys' Retirement System gets point sixty-two and a half of one percent--Municipal Employees' Retirement System, the Parochial Employees' Retirement System, the Registrars of Voters Employees' Retirement System, the Sheriffs' Pension and Relief Fund, and the Teachers' Retirement

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ment System. I don't know what that adds up to, but I'm guessing about three percent or so--maybe three to four percent.

Mr. Chatelain All right, thank you. Another question is: beyond that "the remaining funds, to the extent available, by first priority shall be distributed to the tax recipient bodies, as defined by law, within the parishes to offset current losses because of the homestead exemptions granted." Now, I'm concerned about one thing--the city of Lafayette, for instance, the 1973 formula, collected two hundred and fifty-two thousand dollars from this revenue sharing fund. Here you give all of it first to the retirement funds, the commissions for the sheriffs, etc., school boards and police juries, and if there's any left, it's distributed to all of the remaining political subdivisions. Would you have any objection to all of the surplus going to the cities since the other...

Mr. Gravel Yes, I would, because let me explain to you what happened with respect to Lafayette and other cities. They did not get into the distribution picture until after full reimbursement had been made to all of the tax recipient bodies in the parish who sustained homestead exemption losses. Now, the city did not sustain any homestead exemption loss. The city only collected whatever amount it collected as a consequence of the legislative distribution that was made as part of Act 153. In other words, it was only the surplus or excess monies in which the municipalities participated in the distribution. I think that is a matter that is going to have to be left and should be left up to the legislature.

Mr. Chatelain But, as you appreciate it insofar as this formula is concerned, would you estimate that the cities will get as much as they did in the past?

Mr. Gravel If the legislature...I would think if the funds are there--what would be there for the distribution. I don't know what the projection would be, but I would assume that the legislature in the future, to the extent that there would be excess funds, would probably primarily distribute to the municipalities, school boards, and police juries on such formulas as they might determine with respect to such excess funds.

Mr. Chatelain Thank you.

Mr. Stinson Mr. Gravel, revenue sharing then is not to make up the loss due to homestead exemption; that's not correct, is it?

Mr. Gravel I think to some extent, yes, sir, it is.

Mr. Stinson Well, if it was, then it wouldn't be based on population; it would be based on homesteads, wouldn't it?

Mr. Gravel Well, to the extent that you're saying that from this fund you're making up those losses occasioned by homestead exemptions, I think so. It's not based upon the number of homestead exemptions in a parish. That's correct.

Mr. Stinson Yes, sir. Now, this that we're considering today compared with what you passed out last Saturday--last Saturday, the mayor of New Orleans objected, and he's going with this one--the only reason is, and the only difference is, you're cutting out other municipalities and leaving New Orleans in.

Mr. Gravel I didn't discuss that at all with the mayor of New Orleans or anybody from New Orleans. Let me explain that so it'll be very clear as to what happened in that regard. The amendment...or the document that was distributed last Saturday was one that had been tentatively worked up between representatives of the school

board and the suggestions contained by Mr. Steimel, and I thought it looked like a pretty good proposal because it appeared to be substantially based on what we had done. It was pointed out to me yesterday, day before, that actually it was not consistent with what had been done by the legislature in the last two years. We changed it to make it substantially conform to what had previously been done by legislative acts.

Mr. Stinson Now, when you and Mr. Perez were talking in Paragraph (D), where it says "distributed to the tax recipient bodies, as defined by law"--now, I believe both of you...neither one of you understood what it provided. That means the tax bodies as defined, not as to any distribution; that's just what tax bodies are.

Mr. Gravel Correct. That's correct, yes, sir.

Mr. Stinson Now, we come on down and say "to offset current losses." Now, the "current"--does that mean today or each year?

Mr. Gravel That would mean in the annual distribution.

Mr. Stinson Well, I want to give you an example. Suppose that my school board can levy ten mills, and they're only levying five; the police jury can levy six, and they're levying it. Well, isn't that going to make my school board maybe--if they agree--to say, well, we're going to levy the whole ten then, so we can get more. What results is, there's going to be more taxes maybe on the people than are really needed?

Mr. Gravel I don't know if I get the illustration. Will you...

Mr. Stinson In other words, if it's based on how much they're levying--that's the loss--as how much is being levied. If someone is not levying the maximum, then they say, well, we're going to gain more money out of this fund by increasing our millage--it's going to put more burden on the people, isn't it?

Mr. Gravel Well, I think that to the extent, Mr. Stinson, that the homestead exemption exists, it puts the burden somewhere else. I don't think there's any question about that.

Mr. Stinson I know, but it's going to raise it on the little merchant, and business people and people that are not covered by homesteads.

Mr. Gravel Well, frankly, I don't know that we can really tell that until we see how the percentage valuations work out in each parish.

Mr. Stinson That's what I'm bringing out. So, you're putting it in here; how are we going to change it if it's a burden on someone or disastrous to someone?

Mr. Gravel Well...

Mr. Stinson By a constitutional amendment?

Mr. Gravel I don't believe that this is going to result in any unfair burden because the distribution is going to be made on an equal and uniform basis throughout the entire state. Now, as long as that is done, I don't think there's any unfairness or inequity. If we're trying to, you know, compensate, as I say, for the losses that are sustained. I don't know of any other way to say it to you. But, there's no question but that, if we're going to make up for homestead losses--or losses occasioned as a result of the homestead exemption--than from some other source besides the home, we're going to have to get funds to make it up.

Mr. Stinson But, wasn't the theory behind this

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actually to make up what they lose because of the homestead exemption? To repay the homestead exemption?

Mr. Gravel That was the property tax relief fund idea. There's something added to the property tax relief fund-homestead reimbursement concept by revenue sharing because they are getting some more money in most places...

Mr. Stinson Well, this is not to get rid of surplus funds that the state has--just where they think it should go--is it?

Mr. Gravel This is really more an equalizing of the distribution of funds than it is that, because...and it does provide for some additional amounts. There's no question about that.

Mr. Stinson But, if you had surplus funds, there are a lot of other purposes it could go to also, isn't it, such as teachers' salaries and such as that?

Mr. Gravel That's correct.

Vice Chairman Casey in the Chair

Mr. Kean Camille, it's been a long time since I wanted to ask this question, but as I understood an answer you gave to Mr. O'Neill sometime back, when he asked whether or not this would not result in payment out of the revenue sharing fund for increased losses by reason of the increase in the homestead exemption, your answer was that it would not do that because Section 5 would not be applicable to a loss resulting from an increase in the revenue...in the homestead exemption. Did I understand your answer correctly? Let me put... let me ask the other...If I read Section 5 correctly...

Mr. Gravel Now, you say Section...

Mr. Kean Section 5, which is the rollback-rollup provision. It says that you will be entitled to rollup, we'll say, if it's necessary to bring in as much ad valorem taxes as were collected by such taxing authority in the year immediately preceding the year in which the provisions of this article are implemented. Now, as I understand the proposal with respect to the homestead, it will remain as it is for a period of three years. Then, assuming at that point that we've made our appraisals and we're now going to the new system, the new homestead exemption goes into effect. So, we're going to collect less in the year in which the new homestead exemption goes into effect than we did the year preceding, and we would then have a right to rollup to cover that loss, would we not?

Mr. Gravel That's correct.

Mr. Kean Under Section 6 then, if you're going to be given revenue sharing funds to cover the amount of that loss, you then covered it with the rollup, and you also get it back through revenue sharing; am I correct?

Mr. Gravel That's correct.

Mr. Kean So, in effect, you got a sort of double dip on that phase of it.

Mr. Gravel That's correct.

Mr. Kean All right. Now, with respect to the application of the fund to offset losses because of the homestead exemption, do you not think it desirable that we put some cutoff date on the application of the homestead exemption--as for example, December 31, 1972--in order to avoid the problem we would get into with special district taxes in the future?

Mr. Gravel No. I don't think we ought to do that because any special provision that might be required, of course, could be considered by the legislature under the grant of the language... under the language here, defining those special districts as tax recipient bodies, if they wanted to do so. That doesn't say that they would provide that they could share in this fund and be a tax recipient body for this purpose, if I understand you...

Mr. Kean But, if the legislature said that special districts were tax recipient bodies, and we provided otherwise that the homestead exemption is applicable to special district taxes, would we not be then in the same boat we were in before with having multiple special districts created in order to take advantage of the homestead exemption and, in turn, getting revenue sharing funds?

Mr. Gravel I think if legislation was passed that would do that, it's very likely that we could get into the problem.

Mr. Kean Well, don't you think for that reason that we ought to put some language in this provision to avoid the possibility of that abuse?

Mr. Gravel Mr. Kean, I don't think really that it's necessary. I think that what we're talking about would be the situation with respect to the homestead exemption at the time that this constitution is adopted; that we would be talking about tax recipient bodies who actually do sustain losses as a consequence of the homestead exemption. Those would be the people that would have the priority claim. Now, beyond that on surplus monies, then the legislature could make distribution even to tax recipient bodies that might be special districts.

Mr. Kean But, without something in here...without the legislature saying that these special districts would not receive the benefit of revenue sharing, they could get it?

Mr. Gravel That's true. The legislature, as I recall it, actually provided in that Act of 1956 that no special districts would be entitled to homestead exemption. That would be a radical change if the legislature did do that.

Mr. Kean Now, one other question, Mr. Gravel, with respect to Paragraph (E)--as I understand it, you could vote bonds secured by revenue sharing funds without a vote of the people; in other words, the police jury could issue bonds, pledge these funds without any vote of the local electors?

Mr. Gravel Well, the legislature could provide under this language that a vote of the people would be required--under the sentence that said, "these bonds shall be issued and sold as provided by law." I mean that would be a...up to the legislature to determine whether or not a requirement should be made with respect to ratification of a proposed bond issue by the people.

Mr. Kean But, it...without some...again, some legislative requirement, this does not impose any requirement.

Mr. Gravel No. There are two things here--the legislative requirement, if any, and the approval of the State Bond Commission would be required. The State Bond Commission, in my opinion, could say we're not going to approve any bonds and give...and pledge the full faith and credit as security for their payment unless such bonds are approved by a vote of the people. I think you've got two safeguards here--both the legislature and the State Bond Commission militate against that possible point.

Mr. Kean One last question, Mr. Gravel. As I appreciate the bonds issued and secured by the

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revenue sharing funds, they would be general obligation bonds of the state, in effect, to which the state's full faith and credit is pledged; but, if that local governing authority, the parish, wanted to issue its own bonds and the people approved those bonds, then those bonds would only be the obligation of the parish?

Mr. Gravel That's correct.

Mr. Kean So that you would have a device here by which you could sell bonds with a higher security through the use of the revenue sharing funds than you could if the parish itself decided to sell its own bonds secured by general...by pledge of the ad valorem taxes.

Mr. Gravel That's correct.

[*Quorum Call: 93 delegates present and a quorum.*]

Mr. De Blieux Now, Mr. Gravel, the first question I want to ask: what is the rationale behind the forty-five percent of the income tax?

Mr. Gravel To tie in this particular fund with a growth tax.

Mr. De Blieux Now, as you well know, we are having a dwindling in the revenues from the severance taxes and balances in royalties. Now, if it should become necessary for the state to have an increase in revenue, wouldn't they automatically be increasing the amount allocated to all of the local subdivisions by forty-five percent because they'd have to ask for forty-five percent more money than they need in order to get this increased revenue; isn't that correct?

Mr. Gravel You mean if they increase the income tax?

Mr. De Blieux Yes.

Mr. Gravel That's correct.

Mr. De Blieux Therefore, you might have some money to distribute to local parishes that they don't need, just in order to get the state's share; isn't that correct?

Mr. Gravel It's possible to do that, but there's also something that can be done, you know, to offset that if it gets to be any kind of a serious problem.

Mr. De Blieux How are you going to offset it if you lock it in the constitution?

Mr. Gravel Well, you could offset it by making other provisions with respect to any one of at least thirteen other different taxes that are collected at the state level and distributed back to the parishes and local governing authorities now--such as the Act 10 money, the cigarette tax money, and things of that nature. If you got such a serious problem, that could be certainly adjusted by the handling of other collections in a different way.

Mr. De Blieux But, do you think it's wise to lock such an issue that we might have to make adjustment in our whole tax structure to keep from having an injustice done in this regard, in the constitution?

Mr. Gravel I think it's a good idea to put it in for two reasons. Number one, it helps to insure an adequate tax base. Number two, it does permit for some increase in the amount that can be allocated to local governing authorities consistent with the increase in the cost of operations, and in whatever cost and

expenses that they have. I think it is wise to do it.

Mr. De Blieux Now, the next question I want to ask you: What is the rationale of having this money distributed through the tax collectors--and they're taking a commission out of it--if the only thing they're going to do is just write another check and send it to the tax recipient body? Why can't the state treasurer do that and save that extra work and commission and that routine and everything?

Mr. Gravel That's why the provision is to the effect that these deductions shall be made as authorized by law. Can I answer you, Senator De Blieux?

Mr. De Blieux Well, just let me ask you this question: the only purpose is to allow the sheriffs to get their commission?

Mr. Gravel The purpose at this time is to allow the sheriffs, certainly, to get their commissions because that's the law now. If the legislature wants to make some other provision with respect to retirement programs and the payment of commissions to sheriffs, then it's not necessary that these commissions be deducted here. This is only a provision authorizing the legislature to permit such payments--either to the sheriffs by way of commissions, as it's presently done, or to payment for the retirement system.

Mr. De Blieux Wouldn't it be better that the legislature make provisions to supplement these sheriffs' offices rather than doing it this way, where it serves no useful purpose other than allowing deduction of these commissions?

Mr. Gravel I think the legislature can do that under this authority if it wants to.

Mr. De Blieux Now, the second question is: if this convention should see fit to initiate a new procedure for retirement systems, why should we lock in the fact that the distributions be made to the retirement systems here in this particular provision?

Mr. Gravel If the legislature would see fit to do so, it could very well not make any provisions at all with respect to these particular funds for retirement systems. I think...I don't think this mandates the legislature to do anything. It simply says that the payment of retirement benefits and commissions as provided by law shall be made from these funds. Now, if the legislature provides otherwise, then it's not necessary to do so here. I think this gives a broad authority for the legislature to act or not to act.

Mr. De Blieux Now, my last question is with reference to that sentence you have in Paragraph (D), "to offset current losses because of homestead exemptions granted by this article." Now, aren't you, in effect, tying in Levy vs. Parker which is an unconstitutional distribution of the homestead fund?

Mr. Gravel No, sir.

Mr. De Blieux I'd like for you to go back and reread that decision in the light of this.

Mr. Tobias Mr. Gravel, aren't you tired of answering questions?

Mr. Gravel Yes.

Mr. Casey Very good point, Mr. Tobias. You've far exceeded your time, Mr. Gravel.

Further Discussion

Mr. Rayburn Mr. Acting Chairman, and fellow delegates, I rise in opposition to this particular

amendment for many, many reasons. First of all, let me say that I don't think this body should attempt to appropriate money. I think that should be left to the legislature. Under our present language in the constitution, we dedicate eighty million dollars, or not less than eighty million, to take the place of the five and three-quarter mills of the property tax relief fund which the state is not in anymore. We do provide that the legislature may increase that amount--which they have. The appropriation last year was roughly eighty-six million dollars. Our proposal still allows the legislature to increase that amount. There was an attempt through the bonding attorneys of this state, at the last session of the legislature, to get a provision where the local governing authorities could bond any surplus that any municipality or any public body might receive. That attempt was defeated soundly in the legislature. This provision gives the right back to bond those monies, and it further states that the legislature may allocate the surplus at their wisdom. Well, now, if you give your police juries fifty percent, your school boards twenty-five, your municipalities twenty-five, later you feel your school board don't need twenty-five, your parish might need seventy-five, how are you going to change it if it's bonded? What are you going to do? I can see, now, where if a municipality prior to election wanted to bond these funds, pave a lot of streets, overlay a lot of streets, or do anything else to get a few votes, they could bond them. I can see in some parishes of this state where they have oil, where they have wealth, where the school board don't need any monies, they could bond these revenues. I can see in some other parishes where they need them, once they are bonded and the need shifts on down the line--ten years from today or five years from today--from one municipality or the parish governing authority, if those funds have been bonded, what could the legislature do? So why would you have a provision in there that says the legislature from year to year can allocate the surplus? Now, under last year's revenue collected from income tax was a hundred and eighty-four million dollars. This amendment provides for forty-five percent of that to be dedicated--which you're talking about--on ninety million dollars, which is the greater. Next year's projection will only bring in, with a forty-five percent figure, eighty-three million, so you're saying to the legislature, "You've got to find seven additional million dollars someplace to be able to have ninety million to distribute." The revenue department, according to figures that I have received has a projection that in ten years from today, if we continue the normal growth we've had in the past ten, that this ninety million dollars or this forty-five percent of the income tax will be a hundred and sixty-six million dollars--almost double the ninety million. I don't believe that there's no way that this body should place itself in a position of appropriating money, particularly millions of dollars, and saying to the legislature, "Find some way to make it up," without any knowledge of the need, without any knowledge of whether or not they're in trouble financially--just say, "Here it is." The language also says that the legislature from year to year can allocate it. Well, once it's been bonded, how are you going to change the allocation? I'd like to know that.

Further Discussion

Mr. Chehardy Mr. Chairman, fellow delegates, I think what's important right now is to get across a little historical background on what has been done here, why there is a revenue sharing plan. We've heard a lot of talk about what we're taking out of the income tax money which belongs to the state. But, the important thing to remember is that the income tax, public utility taxes, and alcoholic beverage taxes were instituted originally for one purpose alone: to make up the loss that

the parish has suffered by virtue of the homestead exemption. Now, that's the first thought to keep in our minds. That money belongs, in its initial creation, to the parishes of this state who lost money by virtue of the homestead exemption. In the Levy-Parker case, when the homestead was knocked out because of the method of distribution being held unconstitutional, in effect, we lost the homestead exemption because up to that point the homestead exemption law was dependent upon some revenues, some fund in the state, to be returned, out of which all homestead exemption monies were reimbursed to the parishes. To offset the effect of that judgment, Constitutional Amendment Number 2, which was passed by the people a year and a half or so ago, was proposed. Constitutional Amendment Number 2 reinstated the homestead exemption as an absolute right. It also created an eighty million dollar base. The purpose being to help the parishes offset the losses suffered by the Parker-Levy decision. Now, there is today a revenue sharing committee, made up of members of the house and of the senate and of other officials throughout the state, which has been studying the problem of a formula for over a year. Everyone has a tendency to sit here, look at the parishes for his...the figure for his parishes and say, "Well, wait, I can do better with a seventy-thirty or a sixty-forty or all homesteads." I would prefer to see it all homesteads. But, the point is, the effect, the eighty-twenty is what was used in the legislature at the last distribution. Now, what is being offered to the people here is ninety million dollars instead of eighty. Whether it is legislation or not, it is coming out of the income tax, which admittedly took in last year a hundred and eighty-five, I believe, or a hundred and eighty-seven million dollars, and ninety million is certainly less than that figure which was originally intended just for the people of this state. Now, in addition to that--if you stop to think--the forty-five percent alternative is a perfect hedge against inflation in the future, to insure the communities of the state who will honor the homestead exemption which we are passing--some money which they can really know is coming in a dedicated fashion. The legislature will then still be in a position, if need be, to supplement this with additional funds. Now, I would prefer--and I've said it, and I'm going to repeat it--an all homestead situation. In other words, for each house, you get so much of the funds. But, that will not please everyone else; and if I say we want ten percent homes, or ninety percent homes and ten percent population, that might please us, but it won't please someone else. What I'm driving at is, it has taken the best brains in this state the better part of the year trying to reach the eighty-twenty provision. If we lose this opportunity of cementing in a ninety million dollar base, we're not giving anything to the people; we are merely saying, "out of the income taxes originally dedicated to support the homestead exemption, we're going to let you keep a miserable portion of it--Forty-five percent. We're going to keep public utility taxes at the state level, and we're going to keep alcoholic beverage taxes and fifty-five percent of income taxes." So, let's get it straight; we're not bleeding the income tax fund, we're merely giving back to the community that which was originally created for that specific purpose.

Let me just have a few seconds more to try to get across the point. Now, there's a lot of people--I've heard the rumble around here that this is done to please New Orleans. Well, that's fine if this pleases New Orleans, or if it pleases another area, that's great. But, whatever it is, every area of the state gained--every area of the state gained in the last distribution--except three of us. That was Jefferson, I believe, St. Bernard, St. Tammany, maybe one other parish. That was not the fault of anyone. I believe when you can reach a formula where ninety percent of the parish..ninety-five percent of the parishes

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come out at parity, or on a par with what they were receiving before, we've done pretty well.

The reason I'm saying this, this is so vitally important. If we only realize, the people of the state voted in this revenue sharing fund. Out of thirty-five amendments, they only passed three, and this was one of them--preservation of the homestead, establishment of a revenue sharing fund--and this might be a sugar coating being offered today to the public; I don't know. I was not privy to its original increase to ninety million. But, I'll tell you one thing; it pleased me on behalf of the people of the state and the communities of the state, to see a ninety million dollar base with a built-in hedge against inflation of the ninety million or forty-five percent, whichever is greater. I, for one, cannot urge too much the passage of this particular amendment. After it is passed, if anyone wants to amend it further to change the formula or leave the formula to the legislature, that's another point. But, I think we'd be very remiss not to establish this ninety million or forty-five percent in the constitution, which is properly owing the people of this state. If you'd like to ask any questions...

Questions

Mr. Rayburn Mr. Chehardy, what was the purpose of revenue sharing to begin with? Was it not to replace the taxes that had been received by the local governing authorities from the property tax relief fund?

Mr. Chehardy Yes, that would primarily be the purpose. That's what I said...

Mr. Rayburn Was that for the homesteads? Is that what you said?

Mr. Chehardy What is that? Yes, it would be to offset the loss by the...

Mr. Rayburn How many homes on a homestead exemption do you now have in Jefferson Parish? I'm looking at some figures here that show seventy-one thousand, one hundred and twelve. Is that correct?

Mr. Chehardy Well, you know, that's approximately right. I don't recall the exact number, Senator.

Mr. Rayburn O.K., Mr. Chehardy. Under the eighty-twenty plan, you receive eight million, two hundred twenty-seven thousand?

Mr. Chehardy That's right. We lost under the plan.

Mr. Rayburn Alright. I'm looking at Orleans Parish with the same amount of homesteads--seventy-one thousand. Do you know what the eighty-twenty plan--I'm not trying to pit Jefferson against Orleans--they received thirteen million plus, out of the eighty-twenty deal?

Mr. Chehardy Right. But, the legislature didn't do any better for us at that time, and I don't know that they'll do any better for us in the future. I don't see any reason...even if it was at that figure then, the ninety million is going to give us a little more. The forty-five percent is going to insure us as a hedge against inflation, and...

Mr. Rayburn Where is the ninety million coming from, Mr. Chehardy?

Mr. Chehardy Out of the income tax fund which properly belongs to the communities of the state.

Mr. Rayburn What state agency are you going to take it from--the old age pension, the welfare, the charity hospitals? You got any suggestion who we should deprive?

Mr. Chehardy No, no, no. That's not right.

We're not going to take it out of any of them. We're going to take it out of the income tax, Senator.

Mr. Rayburn Mr. Chehardy, you are a business man. Every dollar of the income in this state today is budgeted. That four or five extra million you're talking about is budgeted. Now, if you take it out of the present budget and put it in revenue sharing, where are you going to take it from? Have you got any suggestions--from the charity hospitals, from the old folks, from the colleges or universities or public schools? Where is it coming from, Mr. Chehardy?

Mr. Chehardy No, let's take it away from industry. I can give you the answer. Let's take it from the timber companies. Let's, right now while we have the power, repeal industrial exemptions. If you want to...you know, we could give you the same answers back, Senator. Wait, you asked a question; let me finish answering you.

Mr. Rayburn Mr. Chehardy, I'm talking about facts. You're talking about where it could come from, but it's not coming from there.

Chairman Henry in the Chair

Mr. Chehardy Senator, there was a hundred and eighty-seven million in income tax last year...in income tax money. That money properly belongs to the communities of the state. Every year they're cutting down what the homeowners got until finally, when the homestead was knocked out, eighty million was put in. But, I also want to make a point that in addition to the eighty million given away last year that amount was supplemented. Now, what was the supplemental figure? Can someone give me that answer? Well, how much was the supplemental, John? Eight million? So that's eighty-eight million. So, ninety million is only two million above what was totally given out last year, and if we don't freeze ninety million in there--and forty-five percent is just about ninety million dollars--just about this figure, and we started off at par. I think that if we don't freeze it in, we're going to have a lot more questions to come up later thinking why the homeowners shouldn't get it--or why the community shouldn't get it, not the homeowner.

Mr. Blair Mr. Chehardy, did the people pass on eighty million or ninety million?

Mr. Chehardy The people passed on eighty million, and we're here to do their job, and I think that's a mandate to us to get them all they can get.

Mr. Blair Do you think it's the duty of this Constitutional Convention to appropriate more money that the legislature has to find?

Mr. Chehardy No, but I think it's the duty of this constitution to guarantee to the people and to the communities back home every single dollar that we can that properly was originally instituted as a tax for the people of...for the communities of this state, and the income tax falls right in that category.

Mr. Henry You've exceeded your time, Mr. Chehardy.

[Motion to suspend rules to allow five additional minutes for questions adopted: 73-12.]

Mr. O'Neill Mr. Chehardy, under the figures that Senator Rayburn quoted, you would have to agree that this amendment is definitely favorable to New Orleans.

Mr. Chehardy I believe I started off with the premise that a lot of people have said this is favorable to New Orleans. I also know that it's favorable to every parish in the state, because every parish in the state under that provision

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other than three, got more money than they ever got in their lives.

Mr. O'Neill Well, it's not favorable to the municipalities in my district.

Mr. Chehardy Well, Grady, that's typical of what--of the problem--Mr. O'Neill. Everyone is sitting down and weighing in their one sixty-fourth of the state their problem, and they're refusing to look at the problem of sixty-four parishes as a united group. If we all took that stance, we'd have nothing left to go home with, or nothing left to offer the people when we got back. I could very easily take a hard position and say, "To heck with it, as far as I'm concerned. I don't want any part of it. Let the legislature handle it." But so far, what did we get more out of the legislature, we're not getting any worse here than we got out of the legislature. But, we're getting a guarantee, possibly, of a lot more money over years to come.

Mr. Roemer Lawrence, why are you supporting the eighty--Lawrence--why are you supporting the eighty--twenty concept and locking that into the constitution? Why?

Mr. Chehardy I'm not particularly concerned. If you heard what I said earlier, I said this. I said I am particularly impressed with, and a million percent sold, on the locking-in of the ninety million dollars, or the forty-five percent of the income tax...or whichever is greater. I said if we're against the concept of the eighty--twenty provision, then after that, worry about repealing that and leaving it up to the legislature to establish a formula. But I, for one, am not going to pass up a chance to fight for ninety million dollars for the municipalities of this state, which, the way it's worded, could actually be bondable, in my opinion, could be bondable, and a guarantee for a broader base over years to come. We've heard everyone say, "We need more money." We saw Webster Parish complain the other day. All right, here's a chance that we got more. So, when you say, "Why?" I'm answering you that's exactly my position...

Mr. Roemer Well, would you take a position at the microphone now that you would support an amendment that would delete eighty--twenty altogether, and leave it up to the legislature? Would you support that?

Mr. Chehardy I'm not forced to take that position now. I am not going to weaken my argument on what I'm doing right now. I believe this, the people gave us a mandate when one of the three amendments they passed out of thirty-five, was the revenue sharing plan which is a concept that will help every municipality, every school board in this state. It would be just as remiss to pass this up as to turn down monies that we're taking and giving to the state, when the state says, "Here, I'm going to give it back to you. It's your money." That's the main thing.

Mr. Roemer I understand that. Do you support the concept in your amendment which says that the first priority on the distribution of these funds will go to those tax recipient bodies that have suffered homestead exemption losses...

Mr. Chehardy Right, I asked the question and checked out one proposition on that. Would that, in effect, be tying it to the homestead to such an extent that it would be, in any way, considered a homestead exemption fund? I've been satisfied that it is not that. That the initial distribution has nothing to do with the state as a whole; that once it enters the parish doors, then they are setting up priorities to sort of make certain that the distribution of the money goes where it should go.

Mr. Roemer Well, then, it's your understanding that where you have two tax recipient bodies, like a school board and a police jury, they would receive first priority of these funds, and receive the funds themselves in proportion to the homestead exemption losses. Is that correct?

Mr. Chehardy That's exactly what the thing...

Mr. Roemer You support that?

Mr. Chehardy I'm supporting the whole provision right now. I told you...I'm supporting every provision contained in this amendment.

Now, I'm interested primarily in making certain we get the ninety million--I'm going to repeat it for you in case you didn't understand it, Buddy...

Mr. Roemer Oh, I understood it.

Mr. Chehardy ...and that's not difficult to understand. So I am supporting...

Mr. Roemer I'm just trying to get you to answer a direct question with a direct answer.

Mr. Chehardy ...I am supporting...I am answering you direct. I am supporting the whole thing and reserving my right to do what I please when the next amendment should be proposed, if there's one.

Mr. Roemer Well, one final question. Do you support the provision that says the prorated shares on the basis of homestead exemption losses? Do you support that?

Mr. Chehardy I'm supporting that in every provision. I don't know what it takes for you to hear it. Now, if you put your ear up close to here, and I'll scream it at you a little bit.

Mr. Kean Mr. Chehardy, you've made mention several times about the fact that this would give the municipalities of the state some additional money. I can't find the word "municipality" in this proposal at all.

Mr. Chehardy No...well, let me clarify it for you, then.

You do represent the municipal association on this. I understand your concern. But, also, you must realize that living in most municipalities of the state, other than Orleans, are people who are also recipients of the homestead exemption from their parish taxes. They, in turn, will receive help in those communities which could alleviate the pain of the people in the municipalities. People in municipalities have enough of a problem in the fact that they do not have a homestead exemption other than in Orleans. But this will benefit every resident of a municipality.

Further Discussion

Mr. Thompson Mr. Chairman, fellow delegates, I rise in opposition to this amendment. What this amendment does, is they've changed from the eighty million to the ninety million; they're telling you that you are getting more money. For all of you that have had access, and I would ask all of you before you vote to look at one of these maps that will show you, forty-seven percent--forty-seven of the sixty-four parishes under this eighty--twenty formula--would lose money if you divide the same amount of money each year. This has been figured. There's no errors in it. It's accurate. They just added ten million dollars more--I'm not going to answer any questions until I get through, so you can sit down and wait for that--what they're trying to do is trying to give you more money and saying you're going to get more for your parish. That's true. Forty-five percent of the income tax, they're figuring this on a hundred and eighty-eight million income tax this year--amounts to ninety million. What are you going to do when you have a smaller--take income tax take than a

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hundred and eighty-eight million! You're going to have less money. Where is this money coming from? The legislature is going to have to provide it. Where are they going to get it from? They're going to get it from other services that the state cannot afford-- maybe your hospitals or some other place--this money is not gratuitous money. It has to come from the taxpayers in one form or another.

I'm going to make it short and brief because I think the speakers ahead have said just about everything else that I could add. This is nothing but sugarcoating to get you to buy a pretty bitter pill that's going to happen to the other forty-seven parishes. Forty-seven from sixty-four leaves you seventeen going to gain, and forty-seven are going to lose. It's just that simple. I urge that you vote against this amendment.

I'll stand to questions.

Questions

Mr. Weiss Delegate Thompson, a lot of emphasis has been made on the first paragraphs. But I'm concerned about Section (E). Is it true that if, in Calcasieu Parish we've decided, that is, the police jur, decided, without a vote of the people, to build a domed stadium, that they would be issued negotiable bonds upon the revenue sharing promised that parish, and that the full faith and credit of the state would back it according to this statement? Is that correct?

Mr. Thompson Yes, sir, that is correct. I don't think anything should be backed without the vote of the people. Then we could all have domed stadiums in our parish?

Mr. Weiss Right.

Mr. O'Neill Richard, I have several questions. First of all, I wanted to ask you if you think this eighty--twenty formula should be in the constitution in the first place?

Mr. Thompson No, sir, I do not.

Mr. O'Neill Well, let me ask you in line with that. Under this eighty--twenty formula--eighty percent is based on populations--now were it based on one hundred percent homestead, did you know that East Baton Rouge Parish would stand to gain one hundred and thirty thousand dollars, and Orleans Parish would stand to lose four million--if it were based on homesteads?

Mr. Thompson I didn't know this, but I would assume that this would be correct. Thank you, Mr. Chairman. If there are no... I'm sorry.

Mr. Goldman Mr. Thompson, I'd like to ask the question concerning the tying this in--the forty-five percent--tying it into the income tax. If this were passed, wouldn't this have the effect of almost nullifying the possibility of passing an amendment that I have in Article XV which isn't out of the committee yet, to reinstate the federal income tax as a deduction from the income in order to then establish the taxable income for the State of Louisiana income tax?

Mr. Thompson Yes, sir. It certainly would.

Mr. Goldman I think, well, I don't know how to put this in the form of a question. But isn't it true that in taxing the...your federal income taxes in the State of Louisiana actually double taxing you, plus taxing you on monies that you've never even smelled, let alone seen, because it's deducted from you before you even get it.

Mr. Thompson This is absolutely correct to the tune of fifty million dollars. Thank you, Mr. Chairman. I again urge defeat of this amendment.

Mr. Arnette Mr. Thompson, did you know that I thought we could maybe save a little time if you'd try to move the previous question?

Mr. Thompson Sir?

Mr. Arnette Did you know that I think we might save some time if you'd move the previous question? We've debated this for over three hours.

[Motion for the Previous Question re-jected: 25-71. Motion to take up other orders adopted: 71-39. Adjournment at 9:00 a.m., Friday, November 2, 1973.]

Friday, November 2, 1973

ROLL CALL

[The roll call is omitted.]

PRAYER

Mr. Asst. Ch. Sec. by whom the week are guided in judgment, and light shineth up in darkness for the blind, grant us in all our doubts and uncertainties the grace to ask what Thou wouldst have us do, that the spirit of wisdom may save us from all false creeds, and that in Thy light we may see light, and in Thy straight path we may not stumble. Through Jesus Christ our Lord. Amen

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSAL ON THIRD READING AND FINAL PASSAGE

Mr. Foyster Committee Proposal No. 26, introduced by Delegate RaBurn, Chairman on behalf of the Committee on Revenue, Finance, and Taxation, and other delegates, members of that committee.

A proposal making provisions for property taxation.

The status of the proposal is that the convention has adopted as amended the first five of the sections of this proposal; presently has under consideration Section 6, dealing with the revenue sharing fund; and in particular, at the time of adjournment, had pending--and amendment proposed by Delegates Gravel, Flory, and others--to that section.

Further Discussion

Mr. H. H. H. Mr. Chairman and ladies and gentlemen of the convention, I want to call your attention to a few questions that I have about this amendment and why, as I see it, I cannot support it. The first thing is: if you take the arbitrary figure of forty-five percent of the income tax. Of course, I can understand the reason for just picking out that figure because forty-five percent of the present income tax we have would yield approximately ninety million dollars. But, by saying that, hereafter, forty-five percent of the income tax would go to the revenue sharing fund, it automatically means that if we should ever get ourselves into a position where it is necessary for the legislature to increase the income tax, it's got to increase it forty-five percent over and above what it needs to operate the state government, in order to get the necessary funds for state purposes. Now, that would be forty-five percent, whether you needed it for local government or not, to be put into the revenue sharing fund. I don't think we ought to put ourselves in that particular position. Funds ought to be raised because they are needed, not upon a percentage basis to be distributed because you have to get funds for other purposes. Another thing is that I can see the need possibly for the increasing of funds to the state government from some other sources, and I believe the most opportune fund to increase state revenues possibly would come from the income tax because, as you well know, the state gets most of its money at the present time from the severance taxes, from the income tax, and from sales taxes. Now, the severance taxes and those oil revenues are decreasing. It's not going to be many years hence when we're going to have to find another source of funds for the operation of the state government and to meet the very needs and demands that are made upon us for the operation of a government. So, the most logical place for us to go, possibly, would be the income tax. I think we have reached, you might say, a complete saturation point insofar as sales taxes are concerned. Now, if you have to increase your

tax forty-five percent more than you need, it might be an unbearable burden to the people who pay those taxes, just because you've raised some thing like this out of the budget, and you can't do otherwise. Another objection that I find about this is that there's no way for the formula you're putting into the constitution, that is, the eighty percent limitation, twenty percent homestead formula. It may be that at some future date that that will not be the best formula for the distribution of revenue sharing funds, but yet, if you lock that into the constitution, there's nothing we can do about that. Part of the trouble that we have with our constitution now, we've got so many things locked into it that it takes a constitutional amendment if you ever want to correct something or change something. I believe the people are tired of voting on constitutional amendments that they see as matters of the legislature, which the legislature should be able to take care of. I am somewhat concerned about the fight that this money has to be first sent to the sheriffs of the various parishes before it can be distributed. It looks like to me that we ought to be able to cut out a little of our red tape rather than requiring it in our constitution by this means of distribution. If this money is going to be distributed by the state, it ought to go direct from the state treasurer to the tax recipient bodies or agencies, or wherever it should go, without all that red tape and intermediary's route so that somebody can collect a commission out of it. Then the only thing they have to do is just cut another check to send it to somebody. I think that if the sheriffs need money for the operation of that office, let's appropriate the money from the treasurer like we should do it--appropriate it direct to them for the operation of the office. Let's don't do it through this means; I just don't think that's the proper way of doing business. I feel like, from the reasons that I've given you, that this is a bad amendment. I certainly hope that you will oppose this amendment and reject it.

Further Discussion

Mr. Slay Mr. Chairman and fellow delegates, I am addressing myself to Section (E) of this amendment alone. I am not disturbed about how the money is distributed, and so forth. But, I am disturbed about the bonding capacity of the various political subdivisions of the state. Now, I want to look first at what we have in local and parochial government, in Section 40, if we adopt this as it is. In reading about general obligation bonds "which any political subdivision for any single purpose, including the existent bonds of such political subdivisions," and it says, "and payable solely from ad valorem taxes." Now, as you read on down, it says that you can vote ten percent of your assessed value--including homestead exempt properties--for police jury purposes, twenty-five percent for school purposes. Now, remember, this is to be paid solely from ad valorem taxes. Now, we come along with revenue sharing, and if we are not allowed to bond the money that we receive under revenue sharing, we're going to pay these bonds--including those bonds voted against my homestead exemption at twenty-five percent for school purposes. We're going to levy taxes to pay that, and we're going to have to double the load on business and industry. You get my point there? This is to be...they are to be paid solely from ad valorem taxes unless you are allowed to bond your revenue sharing money. That is the point that I wanted to make; I feel strongly about that point--that we do have to provide that monies that are voted against my homestead exemption and paid by revenue sharing should be bonded. I'm not talking about the excess money that Rapides Parish receives above what we have voted on my homestead exemption. I'm speaking about the part that you vote against what is under the homestead exemption. That is the point that I wanted to bring out. If anybody has any questions, I'd be glad to try to answer them.

Questions

Mr. Ryaburn Mr. Slay, did you know that under the present provisions of the present law that the local governing authorities that now receive revenue sharing can use that money at their discretion to retire bonded indebtedness or any other thing that they so desire to use it for? Did you know that's the present law?

Mr. Slay On bonds issued prior to 1972. Is that not correct?

Mr. Rayburn They can use it for anything after '72. In the first year, we defined what they could use it for and listed about six things: bonded indebtedness, capital construction, and so forth. This year we sent it to them with no restriction, to use at their discretion, Mr. Slay. That's the present law.

Now, I'd like to ask you another question. Where you're saying here that the bonds...they may bond any amount of the revenues they receive, whether surplus or otherwise, it says "the proceeds derived or those to be derived." Now, what do you mean by "proceeds to be derived"?

Mr. Slay Under this provision, I am assuming we are speaking about revenues to be derived in 1975 or sometime down the line if a bond issue...as the revenues come in from revenue sharing...

Mr. Rayburn Mr. Slay, as you know, this revenue sharing program has been in effect two years and it's had...as of today, it's had two formulas...I mean two methods of distribution. The first one was fifty percent homestead and fifty percent population. The second one was eighty percent population and twenty percent homesteads. Where the provision for the legislature to allocate the surplus at their discretion, in some parishes they split it a third, a third, a third between the school boards, police juries, and municipalities. In some it's fifty-forty deal, and it varies throughout the state. Now, if the legislature in the future, in the event this amendment was passed, and they happened to give the police jury forty percent of it and the school board thirty and the municipalities thirty, and later next year they saw where they needed to maybe give the school board forty percent in the place of thirty, if this money had been bonded, would not their hands be tied, and they could not change the allocations?

Mr. Slay That's right, Senator, if we adopt the amendment as is, that would. As you notice in the beginning, I said I was directing my remarks strictly to Section (E).

Mr. Lanier Mr. Slay, as a matter of fact, the bonds described in Section (E) of this amendment and the bonds described in Section 4D of the local government proposal are two different types of bonds, aren't they?

Mr. Slay They are different types of bonds.

Mr. Lanier One is an ad valorem bond, and the other one is a bond that is secured by the distribution of the revenue sharing funds.

Mr. Slay As I read Section 4D, it says "ad valorem bonds" and they "shall be paid solely from ad valorem taxes," and this is not an ad valorem tax--the revenue sharing is not.

Mr. Lanier Have you looked at the definition of "general obligation bond" as is found in the local government proposal? It's Subsection 1D of Section 51. Then, is it not true--after you've had a chance to look at that definition--that a general obligation bond is an ad valorem tax bond?

Mr. Slay That's what it says.

Mr. Lanier So, this would not be a general ob-

ligation bond.

Mr. Slay I would not interpret "revenue sharing" as being a general obligation bond under that definition.

Further Discussion

Mr. Nunez Mr. Chairman and gentlemen and ladies of the convention, the formula for property tax relief fund started out one hundred percent for homestead exemption. That was the original formula. In 1972, it was changed to fifty-fifty. In 1973, it was changed to eighty-twenty. Now, we're sitting here today, trying to lock this formula into the constitution. The formula has proven to be controversial. The formula has proven to be--and all you have to do is go talk to the treasurer's office or talk to your people who administer the formula; talk to your tax collector and the various people who are working with it--and you'll find out that it just is not as efficient as it should be. There's a lot more work to be done on it; there's a lot to be desired from this particular formula. That, to me, is the most important thing. We are locking into the constitution a controversial formula--a very controversial formula--one that, I'm sure you realize, benefits certain areas of the state and takes away from certain areas of the state. Now, if that's what you want to do, go ahead and adopt this amendment, and I predict to you we'll be back here in two years--not this convention, but submit it to the people in the form of an amendment--we'll be amending that formula. We'll probably be amending it and amending it and amending it because I predict to you we'll never be able to straighten that formula out to satisfy everyone, and certainly it doesn't satisfy everyone today. If they would not have increased...if there would not have been an increase in the amount of revenue sharing, considerable number of parishes would have lost funds from the fifty-fifty share to the eighty-twenty share. But...and that, I think, is the most important feature of this thing. But, what are we doing also? We're dedicating...or we're saying forty-five percent of the...of an income tax or from the general fund--it doesn't make any difference where it comes from--it's tax money; it's state money. In the next ten years, in the next ten years, according to the Revenue Department, according to the figures they gave us yesterday, that fund will practically double. That fund will double in size, and what are you doing? You're giving to parishes monies that they haven't asked for, that they haven't budgeted, that they don't even know what they're going to do with or how they are going to spend it. But, you're going to lock into the constitution a formula that size. I just can't understand it. Let me take a minute and read to you what has happened from the property tax relief fund to revenue sharing in some parishes. I'm not going to pick any out; I'm just going to read down the line--and I'm not going to pick on any; I'm going to start with the A's. Acadia Parish went from four hundred and eight thousand in '71-'72 to a million, two hundred and forty thousand. That sounds like three hundred percent. Allen Parish went from two eighty-six to five hundred and fifteen--double. Ascension went from two fifty-eight to nine hundred and nine. Avoyelles went from four ninety-four to nine hundred and sixty. Beauregard went from five...two sixty-nine to five sixty-four. I can go on and on and on and on. They're not all as bad as these, and I don't think these are bad. But, this is what we did. This is what we legally did. We doubled the amount from the parishes or from the state to those particular parishes. Now, where did the money go? Was there a great cry and need for improvements in those parishes that we had to do that? I didn't get one request, not one request, from any parish to go ahead and do what we did. We did it because some judge said the property tax relief fund was unconstitutional and we had to find a better method to distribute that money. So, what we did, in

effect, the way I read it--and everybody who gets up here and tells you differently, I just don't understand them--there's no more property tax relief fund, and in effect, it's a eighty percent revenue sharing formula based on population and twenty percent based on homestead exemption. We've got completely, on one hand, away from property tax relief fund; and, on the other hand, we went almost to population. Now, I don't understand the cause of it, but that's what we have done. In this convention here...in this convention, I see no connection at all when you gave a three thousand dollar homestead exemption and increase in this fund. You can abolish the revenue sharing fund. You can abolish it. It isn't going to affect ability or the nonability of that parish or that homeowner...don't let me say that parish...that homeowner that is exempt that he would have to pay taxes--not one penny. Certainly, the parish would have to find additional places to find revenue. Certainly, they would. But, we have to find it. Let me tell you, if the legislature, and seventy percent of them didn't come back because they voted for it, would ever have thought that when they took off the federal exemption, it'd increase your taxes--and that almost doubled the intake to this state in state income taxes--if they thought that all this money was not going to go to what they were told it was going to go to--that's to provide the needed services of this state--it was going to go to the parishes, local government, I don't think you could have got five votes for it. But, still it passed this legislature, and because of it, a great many--better than seventy percent--of our legislature was defeated because of that vote. Here, we're going to sit here, and dedicate one other thing. The revenues of this state I think we all know--we have heard it time and time again--are decreasing. The oil revenues are predicted in the next ten years, if you look at the charts, are on a downward grade. The income revenues are on an upward grade--the income tax revenues. The sales tax revenues are on upward grade. Ten years from now, it's predicted that the major source of revenues of this state will be from income tax, and will be from sales tax and will not be from oil royalties and leases and severances. So, what are we doing? We're taking forty-five percent of those revenues, and we're dedicating them. We're dedicating them to something that says: To local government or what have you, to taxing bodies of this state, to use as they see fit--to use as they see fit, with no obligation at all. We don't care if you need it or not, gentlemen; we're going to send it to you, and that's what we did. That's what we did. We didn't hurt nobody that was being...you hurt me. Let me tell you this would probably help me more than anything, but you'd have to make it five hundred million to get me straight in St. Bernard Parish. You're not going to do it by adding ten million, and I don't see how we can sit here and dedicate revenues by rewriting this constitution, and that's what we're doing. That's what we're doing.

Vice Chairman Roy in the Chair

Further Discussion

Mr. Lanier Mr. Chairman and fellow delegates, in order to properly analyze the amendment that is before us, I think we should go back in history a little bit, and see how we ended up at this particular point. In 1932 we had a terrible depression, and the ad valorem property tax caused a great deal of hardship, particularly on homeowners who were unable to find jobs. This created a very bad social situation because these homes were being seized to pay taxes because these people were unable to work and get the money to pay the taxes. In order to protect the homes of these people, the governor of our state and our legislature, and the people themselves, by constitutional amendment, put in the homestead exemption, which was a two thousand dollar exemption from property taxes.

Because of this extraordinary remedy, many governmental agencies, or all governmental agencies, were deprived of a certain amount of tax revenue because they could not collect taxes on this amount. So, the state set up the property tax relief fund to make up this difference. This is a form of revenue sharing. Now, over the years, this fund grew and grew. It was made up of money that was collected from the state income tax, the public utility tax, and the alcoholic beverage tax. These are all statewide taxes that were collected across the state on a uniform basis. What we have now gotten ourselves into is a combination of property tax relief fund and excess revenue sharing, and quite frankly, in my opinion, this is not the best way to solve the problem that faces our local governments and our school boards in our special districts. What we're doing is: we're taking money from the different parishes, from the different cities, from the different districts; we're sending it to Baton Rouge where it is then redistributed and sent back to the places from which it came. In other words, you're taking money from point A; you're sending it to point B; then, you're reallocating it to point A. Now, it should be quite obvious that when you do something like this, that you're going to lose a certain amount in administrative costs, and what you lose in administrative costs in doing this, is money that could be used to finance the needs and the requirements of people in the cities, in the parishes, in the school districts, and in the special districts. So, quite frankly, it's my feeling that the ultimate answer and the answer that we should not preclude in our constitution is to provide for independent revenue sources so that the money doesn't have to go forward and then come back, but can be retained locally where it is needed to provide for the needs of the district or the city or the parish or the school board. Now, it is understood that this is going to take time to achieve. But, I would suggest to you that this amendment will lock into our constitution an ironclad formula for revenue distribution that will make it exceedingly difficult in the future to achieve the goal that I have just described to you. I believe that the committee had the right idea in providing flexibility in the legislature. I think we have to plan for ten years from now, for twenty years from now, for fifty years from now. In locking percentages into the constitution, in locking a complicated revenue sharing provision into the constitution, in my judgment, is not the proper way to handle this subject. We should make a provision that is flexible, that will meet future needs, that will allow the legislature in the future, over a course of time, to provide independent revenue sources for the various districts involved, so that they will be self-sufficient rather than having to create this dependence which we are creating now.

I strongly urge, fellow delegates, that you give the people of the State of Louisiana the flexibility to solve this problem on a long-range basis.

[Quorum Call: 84 delegates present and a quorum.]

Further Discussion

Mr. Burson Mr. Vice-Chairman, fellow delegates, you know, this convention's been having a lot of fun the past two weeks, giving a lot of areas in the state triple the homestead exemption that they had before, when they didn't want it. I got up here and argued against that every step of the way, and I lost. But, I was told time and time again, from this podium and in private, that you don't have anything to worry about because your problems are all going to be fixed up when we get to the revenue sharing fund. Now, we're at the revenue sharing fund, and oddly enough, some of the same people that got up here and argued so strenuously for the thirty thousand dollar homestead exemption--and, indeed, said it wasn't high

enough--now are complaining because they're going to have to pay the piper. Well, you know, I don't believe in free lunch and nickel beer; I believe somebody's got to pay the bill in the end, and today's the day when we decide how the bill's going to be paid. You dealt parishes such as St. Landry a major blow with this thirty thousand dollar homestead exemption, when we had an effective homestead exemption of less than ten thousand dollars. Now, we will be all right if we pass this revenue sharing proposal and make up what we're losing in the increased homestead exemption. What this revenue sharing proposal, which I am very definitely in favor of, provides is that we will have a constitutional guarantee that this homestead exemption will be made up for. Now, otherwise, if we do not guarantee this in the constitution, then I don't see how any school board or police jury in this state that is in a similar situation, to what these bodies would be in in St. Landry, could go out and campaign for this constitution because there's no way on God's green earth that they would know that they could get the money back that they have lost through this homestead exemption that we have imposed on them in this convention. Now, it simply is not fair to take away from someone the ability to pay their bills for necessary local services and then turn around and be so irresponsible as to fail to meet our responsibility to make up that income. I am for this proposal because we are pegging to a growth tax, the income tax, the future ability of the state to pay back to the localities this bonus that we have given them that they didn't ask for--this homestead exemption. Now, some legislators are complaining that it's going to be hard to find this money. Well, I submit to you, sure, it will be hard. I made that point up here when I was arguing against the thirty thousand dollar homestead exemption. But, they didn't believe it then, because they voted for the thirty thousand dollar homestead exemption. They should have thought about that problem at that time. I submit to you that it's irresponsible to vote to increase that exemption and then back off when it comes time to have to pay the bill that you've got to pay because of your action in approving the homestead exemption. Now, there have been some problems some people have with regard to the ratio of eighty-twenty. They say it's controversial. Well, I don't know how controversial it was, but it got a majority in both houses of the legislature last time. I ask those delegates here, such as I, from rural areas: do you think it is more likely that that eighty-twenty ratio, which is the present law, will go back to fifty-fifty or that it will go to maybe ninety-ten or ninety-nine percent based on population? The legislature's not going to become more rural; it's going to become more urban. I'd say you'd better get that eighty-twenty and grab it while you can because that's the last chance you're going to get at it. Also, it just strikes me that services such as schools go to people, and why shouldn't population be a heavy factor in deciding how much money the localities are going to get. In addition, there's not a locality that's represented in this convention that's going to come out with any less money, because this proposal will guarantee twelve and one-half percent more than the committee proposal--ninety million as opposed to eighty million. Finally, I think that it's good in that it will minimize the unseemly squabble that we've had between units of local government, police juries, school boards, and cities in recent years. These units of local government should be cooperating for the mutual benefit of their parishes, and should not have to come up here and wage political warfare over the revenue sharing fund at every legislative session. For all of these reasons, I urge your support of this amendment.

Further Discussion

Mr. Blair Mr. Vice-Chairman, fellow delegates, Halloween's just left us, but I believe they left

a few ghosts and a few goblins here with us. We've only been in the revenue sharing business for eighteen months. We've had an experimental situation...

Shall I start over? Can you hear me now?

Thank you, Mr. Gravel.

I believe...Mr. Gravel stayed up extra nights coming up with this amendment. In all sincerity, we have been in this revenue sharing only eighteen months. You can call it pilot programs, experimental deal, or what not. We operated the first year on a fifty-fifty basis. Last year we went to the eighty-twenty basis. Under the eighty-twenty, some forty-seven parishes lost revenue by going that route. Now, then, why lock it into the constitution? Here are the three basic reasons why I don't think that we should pass this amendment.

Number 1, the appropriating money. This is the first time that this convention has gotten into the act of appropriating money. This is not the duty, and this is not what we are sent down here for--to appropriate money. That's the duty of the legislature.

Number 2. We are dedicating funds--in the Paragraph (C). That shouldn't be. I understand that the revenue sharing committee, they have removed all dedicated funds out of everything at the present time. At the present time, seventy percent of all state funds that come into the treasury is dedicated. Our hands are tied. Sure, the legislature tied their own hands over the period of a year. But, please don't tie it again and add on to this bad, bad situation.

Now, then, into the bonding. We are entering another field there. We have never, never yet, according to my information that I get from the staff and my memory, ever put the full faith and the credit into the local bond issues. We have done it statewide sure, but I know of no case where we have ever gone into local areas, and put the full faith and credit of the state behind the bonds. I think we can get into real serious trouble there. I like the proposal that the committee has come up with. It gives some latitude to work with. This is a bad...bad amendment in my estimation.

Questions

Mr. Burson Senator, I can understand your concern about this convention appropriating money. I would agree with you, except that isn't it true that by increasing this homestead exemption so much, that we have taken away from certain localities such as mine, the power to...raise that money and to appropriate it locally?

Mr. Blair I don't think so, Mr. Burson. I think when you go back and revalue the property, you're going to be just the same place where you are at the present time.

Mr. Burson If you take ninety percent of the homesteads off of the rolls, regardless of reevaluation, then, when you have forty percent of the homesteads that are paying some tax now, wouldn't you agree that that's going to deprive you of some income?

Mr. Blair I think if you have a good assessor, and the people that have the authority to go and reevaluate...I don't think you'll lose a dime. With your growth in your area, you are going to gain.

Mr. Burson Do you know that the U.S. Census figures show that ninety percent of the homesteads in St. Landry Parish are under the thirty thousand dollar limit that we've set here?

Mr. Blair No, I didn't know that.

Mrs. Warren I'm sorry to have to pose this question to you because you were not the person that made the statement.

Mr. Lanier got up and he mentioned that there should be a way where money, from a parish or a municipality, should be able to keep the money that they needed to operate their own business, and then send the rest they had to the state. He said this would be good, but it would take a while to do it. Now, I want to know what is your opinion?

Mr. Blair Well, I think you're speaking of what Senator De Blieux said, sending the money directly to the agency instead of sending it through the sheriff. See, the sheriff is the collecting agent and they are sending the money through him, at the present time, for the revenue sharing.

Mrs. Warren No, that wasn't...that wasn't what he said. I heard him before he got to the podium, and then I heard him when he got up there. He said if the...municipalities or the parishes could keep their money of income tax in their own parishes or municipalities, and then, what they didn't need, they could send it to the state. Now, I'm asking you what is your position on that?

Mr. Blair Well, the income tax was not set up to share with a community...the income tax was passed at a time when the state passed it...to help meet the needs, like the charity hospitals and all of that. I think it'd be too complicated to let the cities collect it in their areas, and then send the rest to the state.

Further Discussion

Mrs. Miller I want all the city boys and city girls to not listen. I only want the country boys and country girls to listen.

Do you know what Section (E) can do for us out in the country? Section (E) can give us a domed stadium. Section (E) can give us beautiful agricultural cow arenas. In fact, in Jeff Davis Parish, when the revenue sharing money came in, our police jury allocated most of it to the cow arena for the parish. School teachers, you didn't get anything. Schools didn't get anything--not much--tokens. Section (E) is a real sleeper on this thing. Now, I love to dance down the primrose path. I think nothing would be more fun than to join hands with Mr. Gravel on this and do the sweetheart waltz for the rest of our lives. I think nothing would be lovelier than to live under the philosophy of Lawrence Chehardy, that we can have abundant and endless revenue without taxation. But gentlemen, when we pay our income taxes in March and April, my husband gets very disgruntled. He is awfully hard to live with in March. I can tell you when this kind of thing goes through, there are going to be divorces in the State of Louisiana because we're not going to be able to pay those income taxes. It's the income tax that's going to have to pick up all of the things that these little parish countries are going to do under Section (E). You know what we are going to do in Jeff Davis Parish when we can get that little bit of revenue sharing? We're going to build us a civic center. We are going to get a bond issue passed and dedicate a little bit of that revenue, 'cause this doesn't say how much you have to dedicate to get the full faith and credit of the State of Louisiana behind you. I mean we've got some smart boys out in the country, too. They're not all from New Orleans.

Now, when we get that little bit of revenue, we're going to build us a civic center out in Jeff Davis Parish that's just as beautiful, and just as elaborate, as the one in Monroe, which the people of Monroe built with their own money. They didn't go to the state and ask for revenue sharing to build theirs. In Jeff Davis Parish, we're going to have ourselves a civic center second to nothing. There might be a few parishes where they are smarter than we are out in Jeff Davis. They might be able to dedicate a few thousand dollars a year of that revenue money to build themselves a domed stadium. I don't think New Orleans is the only city in this state that should have a

domed stadium. Do you?

Then, when we cannot pay these bills, we've got the full faith and credit of the State of Louisiana behind us. I say, ladies and gentlemen, if you don't want any more money for your schools, if you want to be pulling the money out of your pocket in March and April to pay your income taxes, to meet these bills of everything that's going to be built under Section (E), you can vote for this. This is the real sleeper.

I will not answer any questions because I have really spoken my mind on this. I call this--this proposal--I call the sweetheart waltz. If you all want to waltz down the primrose path, and have our children waltzing down it for the rest of your life, sell yourself to the bonding companies of this state, and let the State of Louisiana pick up the bills for everything that's going to be built under Section (E).

Thank you.

Further Discussion

Mr. Womack Mr. Chairman, fellow delegates, and especially the new legislative hopefuls who are sitting in here. I have considerable reservation about this in one particular section. I want to give it to you. That's the section up there that says that you shall increase the take for local government over the next ten years, which will amount to almost...or right at...a one hundred percent increase. Now, let me tell you a little about what's happening in state revenue, and the mere fact that the inflation--plus the growth factors--are eating up the state faster than the income of the state is at this time. You offset that for a few years by letting your equipment depreciate, by not maintaining your normal repairs, by not maintaining the advanced and the hiring of teachers and instructors which you should have. You let your student-pupil...I mean your teacher-student ratio, increase, say, from a twenty-eight to one, up to thirty-one or thirty-two to one you cut out major repairs, you let the average life of an automobile, instead of having in your vehicles in the state, twenty-two thousand miles on the speedometer, you go to forty-five thousand. Over a period of years--two or three years--the roof falls in. You get to the point to where you have got to have major taxes. This is what you hear about every two, three or four years. We have cut these things out in the budget--in the proposed budget for next year that they are already gradually putting together--there is about a five percent reduction in many of the state departments. They are going to take it away from these categories. Then, looking at the fact that your severance tax has reached a peak, and the growth factor in it is almost nothing, your royalty income has about hit the same peak, and this represents some thirty-five to forty percent of the total state revenue. When you get a growth factor of zero, or almost zero, and thirty-five to forty percent of the total state revenue, then the other sixty percent that's got to take up that slack, you go and start giving it away to local government, you're going to wind up in very, very dire trouble.

Now, the only alternative at that time is going to be major taxes. So, who is going to help you pass the major taxes? I don't believe the AFL-CIO is going to in that kind of a condition. There is no occasion for local government to help you because you have given them everything that they want here. You've given all the leeway. You've given them an extra sixty or seventy million dollars that you hope to grow. What I want to know is, where is the state going to get the money to carry on the normal operations of state government at that time, in the next years to come? This, to me, is of serious concern. I guess a little more than most of you, because I'm having to work with these budgets day in and day out. Having to go back and face the voters and justify voting for some of these taxes that I've had to vote for to maintain them. Then, I'm caught on the budget committee to where I've got to make recommendations

as to what we are going to allocate institutions when they come in and said that we can't...cannot provide the service that we're providing with the money that you are granting us at this time. So, I can see a very dire circumstances coming up. Unless something is proposed, and Mr. Gravel, you all may want to back off of this at this time and come up with something that's going to offset that sixty...sixty to seventy million dollar increase that you propose to give in the homestead exemption fund--which is going to come in the form of excess revenue. Keep in mind that for the past century, we have come up with a homestead exemption need of approximately eighty-six or eighty-seven million dollars. We propose in here to dole out to local government twice that amount in the next ten years, and keep in mind that income tax is going to be one of your few--and I guess the other major one is going to be sales tax--income tax and sales tax is your two only big sources of income that's going to maintain a reasonable growth factor that'll keep up with inflation and the growth economy that you have in the state. If you're going to give that away, then you're going to put the state in a devil of a fix further down the line to try to raise the revenue. I'm not going to be one in the legislature, I don't think, eight or ten years from now, to try to raise it...those of you who had aspirations, you remember what I'm stating here today when you vote for this.

Further Discussion

Mr. Flory Mr. Chairman, and delegates to the convention, I have no objection to Dr. Weiss taking my place, because I plan to take his place in the operating room, perhaps, sometime...

I rise in support of this amendment. As one of the coauthors, I had given a great deal of consideration to this matter. Not only the last few days, but in the last few weeks, about this particular approach to a problem that I've heard a great deal about since the abolition of the property tax relief fund. If I've heard anything at all from local government, it's been the fact that when they did away with the property tax relief fund, they needed some means whereby they could bond the revenues received from the revenue sharing funds from the State of Louisiana. Now, a great deal has been said about--and I know a number of the delegates here that said that under this formula, their parish is going to lose money-- Well, I submit to you that that is not factual. Based upon the formula that is now used, that has been adopted by the legislature for this fiscal year. No parish is going to lose money under this formula. Now, I, personally, would have rather seen a total population figure used--one hundred percent of population--as a means of distributing the revenue sharing fund. I believe it's the people that pay the taxes, the people that require the services; and that it ought to be based upon population--no question about its constitutionality--but I don't believe that that could receive a majority vote of this convention. So the next best thing has to be a formula that has been accepted by a body representative of the people of this state. The legislature has set on the eighty-twenty formula. They're the ones that came up with the eighty-twenty formula. I didn't. The authors of this amendment did not. But it's an accepted formula adopted by the legislature. I recognize there are still a group of the legislators who disagree with that formula. But it does represent a majority view of the legislature. Now, why come with an amendment of this type to the constitution? My judgment, that if you don't have some vehicle such as this, some type of formula, whatever the formula may be, for distribution, and guarantee that as recurring revenues to the local governing units, no way you could bond that money. I don't care whether you write in here in bold print that you could bond revenue sharing funds. That does not mean that you could sell those bonds without some assurance of recurring revenues. I think this is the criteria

that has got to be built into the revenue sharing funds of this state to local governing bodies, to allow them to bond that money. If you don't do it, and they did sell bonds, the cost would be so prohibitive until they could never pay for them to begin with. So you can't, for all practical purposes, sell bonds without some guarantee of recurring revenues.

Now, it's been said that, perhaps, with a sliding scale of forty-five percent, increasing revenues over the years, what's the state going to do? Is this going to create a burden somewhere down the line that might call for additional taxation on the state level as far as providing state services. I don't know...I don't know. But I suggest to you, that if the state services...the need grows for additional services, so does the need grow for additional local services. So, I would suggest that the same formula would be necessary, with some means to help local government additionally provide the services for the people on a local level. I have never objected to tax increases, even upon our own people, when we felt like that the services were needed and the revenue was necessary to provide those services. I think those members of the legislature who are here will tell you that we have supported taxes in order to provide the services to the people of this state. We will continue to do that when the need arises, justified, on an equitable basis.

So, I would ask that you adopt this amendment, and give to the local school boards, police juries and what-have-you, some means whereby they can bond these monies for capital improvement for schools, or classrooms for the children of this state. I think it's absolutely necessary that we build this into the constitution to guarantee that revenue for bonding purposes.

I'll be happy to yield.

Further Discussion

Mr. Aertker Mr. Acting-Chairman, ladies and gentlemen, a couple of weeks ago you all had Mr. Anzalone get up here and tell you a sad story about his Aunt Mary. Well, I'm going to tell you a real tearjerker today. I'm going to tell you the story of East Baton Rouge, and what's happened to it, what's happened to the East Baton Rouge Parish school system since this convention has convened.

You know, we used to, in East Baton Rouge in the previous years, we had an operation in which our assessments were on industry between a rate of twenty-five to thirty percent; and as the rate on the homesteads were around twenty percent. So, this problem was handled by this august body. They decided in order to help out everybody, and help out all these school systems, they came up with a formula that was going to help out the East Baton Rouge school system, which, incidentally, was operating, and has operated, in previous years to where it is...and has the reputation of being one of the better school systems in this state. It's operated on the basis that they had enough funding, and enough supplies, and enough materials to actually employ about a hundred and seventy-five teachers over and above the state allotment that they granted them. They had programs that people came to visit, and came to see, and came to applaud, and everything was good in the East Baton Rouge Parish school system, until we began to get this help that this convention has given us. The help came in the way that they said, "Well, instead of having this rate of twenty-five to thirty percent on industry and business, and instead of having that twenty percent rate, we're going to help you out and give you something, so we're going to let you go at the ten and fifteen percent rate." Then they looked at us, and they said, "Well, you know what? We really haven't done enough damage to them, we're going to turn around there, and we're going to...we're going to look at them and say, you know, they've got a bunch of people over in East Baton Rouge Parish that are paying assessments, and paying property taxes on homesteads that are worth between twenty and thirty thousand

dollars. So, in order to help them out, we're going to pass another thing in here. We're going to put that and say that anyone who has a home of thirty thousand dollars and under, will no longer have to pay taxes. So, we're going to help them out by taking some more revenue from them." Now, I don't know what kind of rationale that is, but ...and I don't know whether that comes under the heading of new math or something, but for the life of me, I can't figure out anything that's happened to East Baton Rouge Parish by this...by what has been done in this convention, except that you all have just about thoroughly put us out of business.

Now, you have before you something that represents a flickering ray of hope, that some light can be put back into a dead school system. What you have before you, and I'm talking about the principal of revenue sharing, and I'm talking about putting it in the constitution because, frankly, I think the people in education in East Baton Rouge Parish are going to demand that they have some guarantee that some compensation is going to be granted for the loss in revenue that this body has hoisted upon it by the adoption of those resolutions dealing with property assessment. So, I just make one statement to you. If you pass this amendment, and you pass this proposition before you, you can give some opportunity and some prospect of East Baton Rouge school system being revived enough, to have enough life and vitality into it, to once again become an operable school system. But I can tell you if this is not in this constitution, the obituary of the East Baton Rouge dead body is going to read thus. "You'd better get out there and vote against that constitution because they've got something in there that's going to bury you to where you'll never come alive." So, I ask your serious consideration to give some thought as to what you're doing to East Baton Rouge and similar school systems. I ask your favorable consideration and the adoption of this proposal.

Questions

Mr. O'Neill Mr. Aertker, you know I favor the concept, too, but it's this formula I'm a little worried about. Yesterday we drug out some figures here, and under this formula, East Baton Rouge Parish wouldn't be nearly as well off were the formula fifty-fifty, or were it based on homesteads alone. Did you know that?

Mr. Aertker No, I didn't know that. I don't believe that you know that, Mr. O'Neill, as far as I've been able to determine. The formula that East Baton Rouge has, this formula would be one that we could live with. I think that all other school systems could live with it.

Mr. O'Neill Well, I have some figures I'd like to show you back here, to show you that we'd be a lot better off with some other formula than the one that's in this amendment.

Mr. Aertker But, Mr. O'Neill, I'm more concerned about the principal of the revenue sharing being a part of this constitution; than I am really, about the formula that you have reference to, but I'd be happy to review those figures with you.

Further Discussion

Mr. Weiss Mr. Acting-Chairman, fellow delegates, as a physician I'd like to tell you just the way this floor amendment looks to me. This is a sugar-coated bitter pill amendment. Now, let's get it straight. That's all it is. It's a cathartic that will take the total tax revenues out of the State of Louisiana in the name of revenue sharing. That's all it is. It's a bad amendment. It has to be voted down. Now, there's some many good points to it. Let's vote those in when the time comes if they are presented as such. I learned early in this convention that you don't vote an amendment in just because it has some good points.

This is a dangerous amendment. I call you attention to something here that all of you should understand.

Section (E) reads: 'the full faith and credit of the state of...of the state is hereby pledged to the payment of principal and interest on bonds authorized and issued under this section.' That means that anyone in any parish, school board, or police jury, can build a domed stadium with the backing of the State of Louisiana. Now, we've had enough trouble in New Orleans with a domed stadium. They fought in the legislature to get the full credit of the state behind it. Now, they've got it and the governor's still putting money up for it. We don't know when that's going to stop.

Mrs. Miller brought out a very good point. For those of you that don't know in our parishes, that money--a revenue sharing windfall--went in our parish for such things as an agricultural arena. I'm in favor of that sort of thing in my parish a hundred percent. But I don't think you people in the rest of the state should have to pay for it. Because, also, in our area, there are other parishes that want these arenas. Mrs. Miller has already pointed out the cow palace they want over in Jeff Davis. Heaven knows what other type of endeavors that any given parish school board, or police jury, is going to want to put up with the backing of the State of Louisiana. This is hog wash. It's time we stopped this foolishness in voting in these type of amendments that have sugarcoating with laxative, cathartic, bitter contents. That's all it is. I beg you to vote this down and select the better portion of the amendment that you see fit to vote in. But, don't pass this floor amendment. It's a bad one. It's a dangerous one. It's not good for the people of the state. It's not good for the people of my area. I'm certainly opposed to it. I hope you will feel the same way.

Questions

Mr. Womack Dr. Weiss, I'm trying to get this out, and I'll use this manner in doing it. Do you realize that the statement I was making awhile ago that our royalty income estimates--we start off in '71 and '72 with a hundred and forty-eight million; it was reduced, finally, on collections to a hundred and thirty-six million, which was down 5.85 percent. Then, the next year it's dropped down to a hundred and thirty million, and right now, it doesn't look like it's going to make that. That's the first thing. Now, the second thing is, then, that the severance tax income whereas last year was estimated at two hundred and sixty-nine million, it's estimated at two hundred and sixty-six million this year, which is down one percent. This represents some forty percent of the total state income as showing a net growth factor of a minus ten to twelve million dollars. This is the thing that disturbs me. Do you understand, that's what I'm trying to get out?

Mr. Weiss Delegate Womack, I fully understand this, and I don't know that the delegates understand that half of the income--taxable income--from the state of Louisiana comes from severance, royalty and federal sources. Therefore, only half of what we get, we're paying for. I believe you're trying to point out that there is less of this coming in as severance and royalty income decreases. I fully appreciate that, and I hope the delegates will too.

Mr. Burson Dr. Weiss, I really don't remember. Did you vote for the thirty thousand dollar homestead exemption?

Mr. Weiss I certainly did.

Mr. Burson Well, now don't you think, in all fairness, that we ought--as the convention--to guarantee to the local governmental bodies of this state at least the power to do what they did

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before that we've taken away from them by increasing their homestead exemption?

Mr. Weiss I think that we have reduced the source of income to the state. You are absolutely correct, Delegate Burson. However, what's to stop the state from increasing state income taxes?

Mr. Burson I'm not talking about that. I am asking...I'd like an answer to this question: don't you think that since we have taken away from local governments the power to raise revenue that they are raising locally at the present time by increasing this homestead exemption, that we should now, in all good faith and good conscience guarantee them the source of revenue to make up for that loss?

Mr. Weiss I certainly think so, but I don't think this is the method. This floor amendment is dangerous.

Further Discussion

Mr. Chatelain Mr. Chairman and fellow delegates, many speakers before me--far more capable than I am--spoke against this amendment. I want to point out just one area of concern that I have and is the reason why I oppose this amendment. It's in the area of income tax. For the last several years, the clamor in my area has been by all the people I represent that "Let's get some relief from double taxation." That is, we are paying taxes on the federal income tax that we do not use or see. The state now imposes double taxation in the area of income taxes. We speak about the ninety million dollars as equated to forty-five percent of the income tax in this state. I say to you, my fellow delegates, before this would go into effect the question of ninety million dollars would be a moot question. We're looking down the road in ten years, perhaps, of a hundred and ninety million dollars. Instead of the people of this state getting relief from income taxes--double taxation--they're going to be plagued with this problem. I can see the day coming when this goes into effect where the local governmental agencies and others will be here at the State Capitol in Baton Rouge hounding the legislators to increase the income taxes because it was established in the Constitution of 1973 to be a basis for more money that we can take and bond with the full faith and credit of this state. The local politician, the school boards and others can take this money and bond it with the full faith and credit of this state. I say to you, the clamor will be, "Let's increase the income taxes on the people of this state." Who pays the income taxes, ladies and gentlemen? The working man, the school teacher, and all the people who turn in their tax returns--those are who pay the taxes. I say to you, for the thirty-three thousand people that I represent, I'm going to vote against this amendment for many reasons, but principally for the reason I just set forth. Thank you very much.

Questions

Mr. Rayburn Mr. Chatelain, did you know that in my home parish three weeks ago the people defeated a school bond issue--the first in the history of my knowledge of politics? Did you know if this was passed that they could turn around and bond this money, and the people wouldn't even have anything to say about it? Did you know this amendment does that?

Mr. Chatelain Yes, sir.

Mr. Rayburn Even though the people just defeated one, if this is passed they could go back and bond this without the people even having a right to speak on it, and even after they had just defeated one three weeks ago?

Mr. Chatelain Yes, sir. I want to say this for

your consolation, sir, that in the parish of Lafayette for the first time in twenty years a school bond issue was beaten last year, and I don't want to turn this money over with a full faith and credit of this state to local politicians. Thank you.

Mr. Nunez Mr. Chatelain, did you know that the bondholders of this state now have first call on the general fund, which means that off the top--so to speak--every bond is paid off, regardless? Before a salary is paid, those bonds are paid off. Did you know that?

Mr. Chatelain I'm familiar with that; yes, sir.

Mr. Nunez Did you know we have outstanding bonded indebtedness of some seven hundred, I think, million dollars? If you add local government to that, it'll be, probably, in the billions and billions and billions. The first call of every dollar of the general fund will be dedicated towards that, if the full faith and credit is behind those bonds.

Mr. Chatelain I think what you're saying, Senator Nunez, this is a very dangerous amendment--very, very dangerous.

Mr. Roy Will you yield to a question from Delegate Flory?

Mr. Chatelain I'm sure this is a friendly question.

Mr. Roy Bet it is.

Mr. Flory You're right, Mr. Chatelain. Isn't it true, though, that the school board--in a situation that Senator Rayburn asked you--couldn't they have bonded those revenues under the old property tax relief fund?

Mr. Chatelain There's many things in this area of this amendment I'm not familiar with, sir, and I have no expertise in this area. I would assume if you said they could, they could.

Mr. Burson Mr. Chatelain, of course you and I are usually on the same side. But, I was disappointed to hear you describe this as something to turn over a lot of money to local politicians. Do you think it's fair for this convention to go on a political binge of raising the homestead exemption and taking away from those local officials, that have the responsibility to educate the children of this state, a major part of their tax base, and then be so irresponsible as not to guarantee them a source of money to make up that loss of revenue? Do you think that's fair?

Mr. Chatelain Mr. Burson, I can't answer that.

Mr. Burson I didn't think so.

Further Discussion

Mr. Tapper Mr. Acting Chairman, fellow delegates, I think you've heard all the arguments pro and con. I just want to add one thing. I oppose this amendment. Some of the features in the amendment I think are good. I believe the proponents are trying to do a job with it. However, I don't agree with all of it, and I think we'd be making a mistake to lock all of these provisions in the constitution, most of which I think are legislative and should be left to the legislature. More particularly, I think this is real fiscal irresponsibility, and I know it follows the pattern of the legislature in the revenue sharing acts of the past. However, I felt that those acts were fiscally irresponsible also. When you give a parish two hundred and three hundred thousand dollars more than it needs to operate with, that parish certainly will budget those funds, and the following year they will be looking for those funds, together with the authority to bond and the authority to pledge the full faith and credit of the state. I believe that we are going too far afield here. I would hope that you

vote down this amendment. There are other amendments coming behind that will put some of these provisions in this constitution and leave the ones that belong to the legislature out of the constitution. I urge that you defeat this amendment and consider the other ones that are coming behind it.

Questions

Mr. Nunez Mr. Tapper, Mr. Burson has continually chastised this convention for passing a three thousand dollar homestead exemption and not allowing local government to raise funds. Wouldn't you say that when the legislature raised his parish of St. Landry from one million, sixty-two thousand dollars under the property tax relief fund to one million, nine hundred and twenty-three thousand dollars under revenue sharing, that we could have probably said you can have a forty thousand dollar homestead exemption, and he would still come out whole?

Mr. Tapper Yes, sir, Senator Nunez. That's one of the examples of fiscal irresponsibility that I was talking about.

Mr. Nunez Mr. Tapper, don't you think he should leave his school board hat home and wear his convention hat today?

Mr. Tapper Well, I'll let you ask him that question.

Mr. Blair Mr. Tapper, do you know any state that puts the full faith and credit behind bond issues? Any state?

Mr. Tapper I don't know of any, not unless it's voted by the legislature, I think, Senator. I don't believe they allow local government to put the full faith and credit of the state behind themselves.

Mr. Duval Mr. Tapper, I just wondered; do you know and do you think that the majority of the delegates here know that the revenue sharing fund is provided for in the present constitution, and all it provides is that it shall be eighty million dollars to be distributed as provided by the legislature? Do you think that most of the people know that--that that's what the present law is?

Mr. Tapper I don't know whether they know that or not, Stan, but that is in the constitution.

Mr. Duval And isn't that very similar to the Committee proposal, and the committee proposal actually is better than what we have in the present constitution because it allows in excess of eighty million dollars?

Mr. Tapper That is correct, sir.

Mr. Duval So don't you think it might be a mistake to try to lock in a specific formula as we're doing here?

Mr. Tapper No question about it. A formula is something that is subject to constant change and should not be locked in the constitution, Stan. I urge the defeat of this amendment.

Further Discussion

Mr. Jack Mr. Chairman, ladies and gentlemen, I rise to speak against this floor amendment. There're numerous reasons why I'm against it, most of which have been mentioned here, so I won't go into those. But to me the real biggest reason for not voting for this is this amendment puts in the constitution a formula. Now, the trouble with putting formulas in the constitution is: if the formula is wrong or if it doesn't work out properly, then the only way you can correct it is by a constitutional amendment. The very reason we are

down here is a mandate of the people. They are sick and tired of having constitutional amendments submitted to them. I have a proposal that's before a committee to limit that to six to ten. Now, we have to, in some instances, put a formula in this constitution, and that was in the case of assessments. The reason we did then, instead of leaving it up to the legislature, was because the legislature had studied the question of assessments for eighteen months and had done nothing. Ordinarily, I would have said that should have been a legislative matter. Now, let's take this formula. We won't have any trouble with the legislature dividing up the revenue sharing fund. We used to call them "watermelon bills." The legislature is an expert at dividing up money, and they'll get right down to it. If they did make an error, they can correct it the following year. If we try to have a formula to divide up this ninety million or additionally any other that we don't have and we make an error, the only way to correct it is by a constitutional amendment. So that's the reason I am against this floor amendment.

Questions

Mr. Rayburn Mr. Jack, did you know that last year there were thirty-nine parishes in this state that changed the distribution of these funds? They realized the year before they'd made a mistake, and there were thirty-nine out of the sixty-four parishes that came to the legislature in the last session and changed the allocation for distribution.

Mr. Jack I didn't, but I'm glad you mentioned it because that bears out what you and I have been saying.

Mr. Rayburn I'll just give you a couple here on top. Acadia started off with seventy-five percent to the police jury, nothing to the schools, twenty-five percent to municipalities. This year they cut the police jury to fifty percent, gave the schools twenty-five and the municipalities twenty-five. Allen last year gave a hundred percent to the police jury. This year they came back and divided thirty-three and a third percent to each of the governing authorities. Thirty-nine parishes changed the distribution allocation in the last session. Once this is locked in embodied, how could you ever change it, Mr. Jack?

Mr. Jack That is correct, a hundred percent. We can cause the ruination of the whole thing if we pass amendments like this.

[Previous question ordered. Quorum Call: .03 delegates present and a quorum.]

Closing

Mr. Gravel Mr. Acting Chairman and ladies and gentlemen of the convention, I'm going to be very brief. This matter has been discussed enough. All the questions that could conceivably be asked have been asked. Attempts have been made to answer them. The whole purpose of this amendment, as I mentioned to you earlier, is to make sure that we provide in the constitution an adequate bonding base for those tax recipient bodies whose revenues have been lost as a consequence of the homestead exemption. I urge your adoption of the amendment.

[Record vote ordered. Amendment adopted: 65-50. Motion to reconsider tabled.]

Point of Order

Mr. Nunez I see the Chairman voted.

Mr. Roy The Chairman was right here, and asked me to vote him.

Mr. Nunez It's okay, as long as he's there.

Mr. Roy Thank you, Mr. Nunez.

Amendment

Mr. Poynter Amendment No. 1 [by Ms. Zervigon]. On page 8, line 7, in Floor Amendment No. 1 proposed by Delegate Gravel et al and adopted by the Convention on November the second. Now, on line 27 of the text of the amendment at the end of the line after the word "deductions" add the following: ", in each parish,".

Explanation

Ms. Zervigon Fellow delegates, this is a technical amendment--in truth and in fact, it's a technical amendment. If you will look at Paragraph D of the Gravel amendment just passed, the amendment that I want to add comes at the end of the fourth line of Paragraph D. You will recall that the original draft of the Gravel amendment, which you took home over the weekend to study, had the distribution to commissions and retirement systems before the 80-20 formula was applied and the money distributed to the parishes. It's Mr. Gravel's intention that the 80-20 formula will be applied, or whatever formula we settle on at the end of our discussions today. Then distributions will occur within the parishes. I am attempting to add the words "in each parish" to make it perfectly clear that these deductions are made after the money reaches the parish level.

I'll yield to any questions, Mr. Acting Chairman.

[Amendment adopted without objection.]

Amendment

Mr. Poynter The next set of amendments, as I indicated, the Dennis, Goldman, Leigh amendments, and Delegate Wall wished to be added as coauthor to this amendment.

Amendment No. 1. On page 8, line 7 in Floor Amendment No. 1 proposed by Delegate Gravel et al and adopted by the convention on November 2, line 27 immediately after the word and punctuation "collector." and before the word "After" insert the following: "That portion of the fund for the parish of Ouachita to be allocated to the Monroe City School Board shall be distributed directly to the city treasurer of the city of Monroe."

Explanation

Mr. Dennis Mr. Acting Chairman, fellow delegates, this amendment is being offered to continue the present treatment of the Monroe City School System that was afforded in Act 153. The Monroe City School System receives its revenue from ad valorem taxes directly from the city treasurer and the city tax collector. These funds do not go through the sheriff's office. Therefore, he does not collect them and does not receive a commission on them. So, in Act 153 the legislature provided that that portion of the revenue sharing funds going to the Monroe City School System would go directly to the city and would not go through the tax collector. This achieves a small amount of additional revenue for the Monroe City School System, and it is fair because the sheriff is not out any expenses in collecting any of the ad valorem taxes that go to the Monroe City School System. So, I ask for your favorable vote on this amendment. I might add I have already checked with Mr. Gravel, the lead author of the amendment--the Gravel amendment, and he has no objection to this language being added.

Questions

Mr. Chatelain Delegate Dennis, to your knowledge, are there any other parishes in Louisiana that have this same particular problem?

Mr. Dennis No, sir. I asked Mr. Jimmy Prescott about Bogalusa, and he said that they do not have this same problem, that all of that money is col-

lected by the sheriff, and should, so the revenue sharing funds, should go through the sheriff's office. So, to my knowledge, this is the only situation where the ad valorem taxes are not collected by the sheriff, but are collected by the city tax collector.

Mr. Chatelain Well, that's the reason I posed that question in wracking my brains, I couldn't find out any place in south Louisiana where this prevailed, you know?

Thank you, sir.

Mrs. Zervigon Judge Dennis, just so we know what we're dealing with, is the ad valorem levied by the Monroe City School System, homestead exempt? Has a homestead exemption been granted on that millage?

Mr. Dennis Yes, yes, on that millage--not on other taxes within the city, but on the school taxes it is.

Mrs. Zervigon So, they will definitely receive a portion of this money?

Mr. Dennis Oh, yes.

Mrs. Zervigon They don't have to wait around for the excess if any?

Mr. Dennis Yes, that's correct.

Mrs. Zervigon Thank you.

Mr. Shannon Judge Dennis, do you have two school systems in Ouachita Parish?

Mr. Dennis Yes, sir.

Mr. Shannon You have a city school system and a parish school system?

Mr. Dennis Yes, sir.

Mr. Shannon But, you're asking only for that portion...what is "that portion" of the fund for the Parish of Ouachita to be allocated to Monroe City Schools?

Mr. Dennis It's that portion that will be determined by the legislature, under this amendment that we have just adopted of Mr. Gravel's.

Ladies and gentlemen, if I might, ladies and gentlemen, I think it was just an oversight in the Gravel amendment that this was not provided. Mr. Gravel can correct me, if that's wrong. The Gravel amendment says that "the money shall go to the tax collector of the parish," and Act 153 provided that that portion of the Monroe City money did not go to the tax collector. So, I'm simply putting this, Mr. Gravel's amendment, in line with Act 153.

Mr. Flory My question has to do with the commissions for...that go to the retirement system. If the monies go to the city treasurer, would the deductions be made for the retirement system, as is done in other parishes, for the assessor, or the district attorney, etc. that now get retirement funds from these monies?

Mr. Dennis I don't know, sir. It's my opinion that this would do whatever Act 153 did. If it did it under 153, it would do it here. If it didn't, it wouldn't.

Mr. Winchester Judge Dennis, my question was somewhat that Mr. Flory asked. It is my understanding that the taxes for the school for the city are not collected on the sheriff's roll. Are they collected direct by the city? Is that correct?

Mr. Dennis That's correct, sir.

Mr. Goldman I was going to ask that question for Mr. Winchester. He asked it of me, and I gave him

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the same answer Judge Dennis did, but I wanted to make sure he got the answer.

Mr. Newton Mr. Dennis, suppose the city of Monroe School Board were merged with the parish school board, then you would have to have a constitutional amendment to get this provision changed, if you're successful in your amendment, wouldn't you?

Mr. Dennis Well, if they were merged, I don't think there would be a city school system any longer, and you wouldn't have this problem. This would just be an obsolete provision.

Further Discussion

Mr. Wall Mr. Chairman, fellow delegates, this amendment is a fair amendment, and it's the way in which we paid the part to the city school system in the last session of the legislature, and there was no objection from the sheriff, the tax assessors, or other people because the sheriff didn't have to collect this money. It means approximately forty thousand dollars more to the city school system. The fact of the business, they added my name as a coauthor to this particular measure, and it doesn't set out any particular amount, and it's something that there's no problem as far as the legislature or the people of Ouachita Parish, or the city of Monroe. I ask your favorable vote.

[Previous Question ordered. Record vote ordered. Amendment adopted: 104-7. Motion to reconsider tabled.]

Amendment

Mr. Poynter The next set of amendments sent up by Delegate Womack: Amendment No. 1. On page 8, in Floor Amendment No. 1 proposed by Delegate Gravel, and others and adopted by the Convention on today, delete lines 5 through 11 of said amendment in their entirety and insert in lieu thereof the following: "(B) There is hereby allocated annually from the State General Fund to the Revenue Sharing Fund the sum of ninety million dollars. The legislature may appropriate additional sums to the Revenue Sharing Fund."

Explanation

Mr. Womack Mr. Chairman, fellow delegates, this was the item that I spoke against in the original amendment by Mr. Gravel, and is the reason that I voted against the amendment that he offered. I had one or two other minor reservations I think will be cleared. But, what this does, it guarantees the ninety million which is sufficient at this time to take care of the homestead exemption, and says in the constitution that the legislature may appropriate additional funds. Now, my reason for offering this amendment is: Number 1, that roughly forty percent of the state's revenue to the general fund is from the severance and royalty income of the natural resource of State of Louisiana which everybody knows is on a downward trend. The past year that figure was slightly in excess of four hundred million dollars. The current year we're operating in now, it's estimated to be three hundred and ninety-two million, and it's very questionable as to whether it will reach that figure or not. So, forty percent of the state's revenue is on the decline of about two percent a year. This income tax to the State of Louisiana represents in the neighborhood, general neighborhood of fifteen to sixteen percent of the total state revenue. If we're going to dedicate almost half of this other sixteen percent, that means that fifty percent of the total state revenue will show a decline of some eight million dollars, and how in the world are you going to maintain state government on this? The only ones that can suffer will be appropriation to education, and your ADM Fund, or your appropriation to higher education which

will have to be reduced, your old age assistance, law enforcement, hospitals, charity institutions; some of them have got to suffer, or you've got to pass on a sizable increase in taxes to the individual in the State of Louisiana. So, my idea of this is to come back and set up an amount sufficient which this amendment will do to take care of the homestead exemption, and that's an obligation we have, and then, leave leeway enough to the legislature to act, then, in accordance with the funds available in their better judgment, in years to appropriate additional money as it becomes necessary, or as the money is available to assist local government. So, I'd urge the adoption of this amendment.

Further Discussion

Mr. Roemer Mr. Acting Chairman and fellow delegates, I rise to support Mr. Womack's amendment. I voted for the Gravel amendment with some serious reservations, and this was one of my major reservations, in that in the passage of the Gravel amendment, we have in effect, dedicated nearly half of one of the most substantial sources of revenue in this state. Now, you know as well as I, two things. Number 1, that we in the Revenue, Finance and Taxation Committee, have worked for months in an attempt to eliminate constitutional dedication. Under the present laws and constitution of our state today, almost an absolute majority of the funds in this state, are dedicated prior to their receipt, in the treasury. We were hoping in Revenue, Finance and Taxation not to limit the hands of the legislature in the use and management of those funds for the benefit of us all. I'm afraid that if we keep the Gravel amendment as it is, and not eliminate this either-or situation, that we will in future days, and years in this state be handicapped with a major source of our state revenue. I don't think we hurt our local governments at all by the passage of this particular Womack amendment. The reason I feel that way is that we have guaranteed them a base of ninety million dollars, which is substantially above their guarantee today. In addition to that guarantee, we give the legislature the right, as the need may arise, to raise that amount to meet the needs of local government. So, I would urge you to go along with us; let's leave some flexibility in this constitution; keep a base guarantee, and not tie up a major source of state funds with a constitutional dedication.

Questions

Mr. Jenkins Several questions, Buddy. The main thing Mr. Womack's amendment does is take out this forty-five percent of the income tax. Can you see any logical connection between forty-five percent of income tax, on one hand, and the needs of local government, on the other?

Mr. Roemer None whatsoever.

Mr. Jenkins All right. A second question: if in the future we wanted to take off that law passed in 1971 that required that people pay state taxes on their federal income taxes, wouldn't there be a tremendous lobby made up of local government people against any such move to reduce state income taxes because of the effect it might have on them?

Mr. Roemer I'm glad you brought that point up. You're absolutely correct. If we were to...if we were to attempt to reverse that law that passed, like you say, '71--which I hope someday the legislature will--it would be a tremendous pressure lobby here not to. The reason being is that the income tax collection would be cut by some forty percent, Woody, and this revenue sharing fund would suffer. I don't want to see that happen.

Mr. Jenkins Now, one last question I want to ask you: suppose that in some time in the future, the state needed and wanted to raise an additional fifty million dollars in revenue and the legisla-

ture decided that the income tax was the means by which to raise that. In order to provide fifty million dollars for the state, wouldn't they have to raise the state income tax by almost a hundred million dollars?

Mr. Roemer Right, ninety-six million.

Mr. Jenkins So, this could lead to exorbitant increases in the income tax, couldn't it?

Mr. Roemer Right. Not only does it cripple the effectiveness of the revenues today, it certainly limits their use in the future--no question of that.

Mr. Abraham Buddy, are these the only funds that the state shares with the local governing authorities?

Mr. Roemer Are these the what?

Mr. Abraham Is the only fund that the state shares with the local governing authorities--this ninety million dollars or eighty million dollars?

Mr. Roemer It's the only direct fund like this that I know of, yes.

Mr. Abraham There are no other funds that the state returns to the parishes?

Mr. Roemer Not that I know of--not in this same...

Mr. Abraham Not for schools, or anything else?

Mr. Roemer Well, not that I'm familiar with. Are you trying to tell me something?

Mr. Abraham Yes, I'm trying to tell you that this is very small...this is about ten percent or twelve percent of the total funds that the state returns to the parishes, and there are no constitutional guarantees on the other funds.

Mr. Roemer Oh, I understand.

Mr. Abraham The amount of money they return for schools and things like that.

Mr. Roemer I understand. Yes.

Further Discussion

Mr. Burson Mr. Vice-chairman, fellow delegates, I rise to oppose this amendment because it places too low a ceiling on a problem that we, again, I would remind you, have created for many local governments in this state. All the welter of statistics that I've heard cited from this podium, I have yet to hear--and I'd be very interested to hear sometime before we adjourn Christmastime or whenever we get finished--someone tell me how much we're going to add to the homestead...how much we're going to add to the homestead exemption rolls, and how much we're going to decrease the tax base in Caddo, Orleans, St. Landry and the other parishes that we're assessing at a higher ratio than we set in this constitution. I haven't heard that figure, and I won't hear it because there's not one soul in here that could tell us what that will be. You've got...if you put a ceiling in here, and it may be we need a ceiling--I'm not married to the forty-five percent of the income tax, although it is attractive because it places in there a relationship--I would remind you, it doesn't say you get your forty-five percent out of the income tax. It says that the revenue sharing fund shall be an amount equal to that. But, the point is that your homestead exemption is going to rise. You're going to have more homesteads; you're going to have your tax base continue to be eroded by that thirty thousand dollar homestead exemption that we have built into the constitution, on every single new home that's built. Also, you've got to guarantee somewhere in here a sufficient fund to

compensate for that loss in homestead exempt revenue in order to make your bonding provision meaningful. Otherwise, it's not meaningful because before deciding whether or not to sell any bonds based on your ability to bond the revenue sharing fund, any bond attorney worth his salt is going to want to make sure that the state has guaranteed adequate sources of revenue to pay that revenue sharing fund. You know, I sympathize with the legislators in here that point out about the declining revenues in the state, but every single one of them voted for that thirty thousand dollar homestead exemption. There's an old saying: if you want to play, you've got to pay. Now, we were rolling in the clover last week and everybody was saving the homeowners, and giving thirty thousand dollar homestead exemptions. It was pointed out by a few voices crying in the wilderness from up here that somebody was going to have to pay the bill. Well, now, it's time to pay the bill. You know, it's kind of like when you go out on a party and everybody has a big time, and you're surprised sometime when you get the check at the end. Well, we're getting the check right now, and all in the world that the amendment that we've passed today guarantees is that the state is going to pick up that check that it wrote with that thirty thousand dollar homestead exemption. I submit to you that while we may need a limit, that this ninety million dollars is too low because there's no way in the world that anybody here can tell us that that small amount over what revenue sharing was last year, will be sufficient to make up for this additional homestead exemption.

Questions

Mr. Roemer Jack, in all fairness, you referred to this amendment as setting a ceiling on revenue sharing fund. Now, it does not do that, does it?

Mr. Burson Effectively it sets a constitutional ceiling, and puts the local government in the position that they've got to come here to Baton Rouge and beg for anything more, if they need more to make up for what they've lost in homestead exemptions.

Mr. Roemer Now, come on, Jack. You can read it better than that. Doesn't it say that the ninety million dollars is a base, and that the legislature may increase that? Is that a ceiling, under your definition?

Mr. Burson They can increase it if they want to increase it, and if they don't want to increase it, then you've placed the people who've lost the revenue through the increase in homestead exemption in the position of having to come here and fight among the sixty-four parishes, and fight among the governing bodies that have lost, to get the money that they need.

Mr. Roemer Well, I think we can both agree that it's not a ceiling, and a base. I appreciate your answer.

Further Discussion

Mr. Chatelain Mr. Chairman and delegates, I rise in support of the Womack amendment. If you will remember a few minutes ago when I stood before you before, this is one of the strong points that I objected to against the Gravel amendment. This does two things: it limits the ceiling to ninety million dollars, and I wish it were eighty million instead of ninety million; we except that the legislature may increase it. Secondly, it does not use the state income tax as a guide or as a basis to supply the monies needed. I submit to you that if we don't adopt this amendment, we're going to have a lot of trouble from a lot of people who file their state income taxes in this state. I urge you support this amendment.

Further Discussion

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Mr. Stagg Mr. Chairman and fellow delegates, I, like Mr. Chatelain, was forced to vote against Mr. Gravel's amendment because it dedicated yet another tax, to yet another purpose. I do support in part the amendment offered by Mr. Womack, and if he is listening, I'd like to suggest to you, and to the members of the convention who are listening to the debate, a possible alternative, if it can be found to be constitutionally sound. If you would look at your copy of the Womack amendment and read with me: "There is hereby allocated annually from the State General Fund to the Revenue Sharing Fund" and then take out the words "ninety million dollars," and substitute in their place, so that it reads "allocate to the Revenue Sharing Fund, a sum equivalent to the amount lost to the tax-recipient agencies by reason of the homestead exemption." That makes the...that does away with the fallacy of putting a specific sum of money in a continuing constitution. Ninety million dollars might be old hat by 1978. It might be entirely insufficient, and here we are going back to the public with an instant constitutional amendment, to cure what we shortsightedly did in great haste this morning. Mr. Chairman, I'd like to suggest that while this matter is under debate and fresh in everybody's mind that we attempt to come up with a solution to the problem that does away with the dedication of funds, and at the same time, permit a specific amount of money to be not put back into the new constitution. I wish I knew what parliamentary procedure to hassle you with, Mr. Chairman, in order to try to get this done.

Chairman Henry in the Chair

Further Discussion

Mr. Champagne Mr. Chairman, ladies and gentlemen, I rise in support of the Womack amendment. The Womack amendment takes care of every bit of opposition that I had to the proposal that we have just adopted. I feel that the additional sum of ninety million dollars which is not a ceiling, but which is a guarantee, will adequately take care of the additionally homestead exemption which will not take effect before three years after the adoption of this constitution, and after the assessors of this state have had ample opportunity to reassess their property, and do an outstanding job at assessment. I am committed to the school people of this state, and to other people likewise, I feel to lock in a figure in this constitution which would guarantee, and place a certain figure--at least forty-five percent--which would dedicate an income tax, would be a wrong thing to do at this time because I think that they would sit back and just wait for the money to come in. In addition to that, I am not so naive as to believe that there are not additional good ventures in this state which shall need to be taken care of in the next ten, fifteen, twenty to fifty years from now. While I have been one of the strong advocates of not expressing ultimate, complete confidence in the legislature, I do feel that in this instance, if we did not adopt this amendment, that we would not in good faith, give them some reasoning assurance that they can provide additional funds, and let you never forget that when these people place their pressures upon their legislators, full knowledge of the fact that they are going to submit themselves to the electorate for a vote. They will in the end, do your will and not theirs. I assure you that they are responsive to the people, but let's not guarantee, or let's not unduly tie their hands in this respect. I hope that you will allow me to join with you in support of this amendment, and had it been put this way in the original Gravel amendment, I would be willing to admit that over ninety percent of these delegates would have voted for the amendment, and I would have been one, would have joined that vote. Thank you.

Questions

Mr. Goldman Mr. Champagne, did you know that I

was for this amendment?

Mr. Champagne Yes, sir.

Mr. Goldman I have two questions. When Mr. Burson spoke, he spoke of this being a ceiling. Would you agree with me that this is not a ceiling?

Mr. Champagne Not a ceiling by any means, sir.

Mr. Goldman All right. Now, would you also agree with me that in the purported amounts of money that the federal government is planning to pay to retired people at age sixty-five to a couple, up in the year 1980, they're going to be paid something like two thousand dollars a month, or better, and by that time, would you agree with me, if that's what they get on social security, they'll be building forty and fifty and sixty thousand dollar homes?

Mr. Champagne That's correct.

Mr. Goldman Would you also agree with me that by 1980, a forty thousand dollar home will be about equivalent of a shack?

Mr. Champagne I would agree with you fully, and the big thing that we have in our proposal, as we adopted the other day, in my estimation, is the three years in which, to do all this correction, and three years of certain inflation. Everyone of you know, if you built a home in the last eight or ten years, that it has greatly increased in value, and the thirty thousand dollar figure is not so stupid a figure as some people would have you suggest it is.

Further Discussion

Mr. Bollinger Mr. Chairman, fellow delegates, I think the major point that we have to look at in Mr. Womack's amendment is the fact that it deletes the forty-five percent of income tax. We all know that "King Oil" is not going to last forever. The royalties are decreasing; the severance taxes are decreasing; we have a constitutional limitation on the amount of property taxes we can levy on a state-wide basis. Where is the money going to come from to run state government? Sales taxes, or income taxes? Sales taxes are pretty well heavily burdened now. With this provision, anytime the state needs money to run the affairs of government, it's going to have to raise twice as much in income taxes because forty-five percent of whatever they raise is going to go to our local government. So, you're going to have to tell all your constituents that "Yes, we're going to tax you double, but you're going to get half of it back, maybe. Does this make any sense? There is no ceiling in this provision without the forty-five percent. The ninety million dollars is only a minimum. It cannot go below this figure. How ridiculous can we be to think that we're going to get something for nothing, like Mr. Burson was saying, but on the other side of the calendar? I'll yield to any questions, Mr. Chairman.

Further Discussion

Mr. Duval Mr. Chairman, fellow delegates, I didn't speak on the other amendment, in that I thought it was fully discussed. I thought everybody understood it, and I think I made a bad mistake. You know, the games people play is a song, and we're playing some very dangerous games right now, and I hope we understand where we're going. What we've done is we've passed an amendment that dedicates forty-five percent in essence, of the income tax, for all time. So, that means, if the income tax doubles ten years from now, that the local government use are going to be getting these monies whether they need it or not. You understand that. They're going to be getting these monies whether the priorities are there or not; whether the assessment...whether their particular assessment base yields enough money or not. So, things like

hospitals and other state services are going to be sorely neglected very possibly. We are legislating; we are slipping into that terrible area of legislative. That's why I support the Womack amendment in that it gives some intelligence back to the proposal. It puts some, at least, basic figure, and lets the legislature in the future increase it, if the need arises. But, we're doing it right now for all time, dumping this money in without showing us a need for it. I hope you realize how fiscally irresponsible that is, how terribly irresponsible it is, and it's totally lacking any analysis at all. I suggest to you that you try to think about what you're doing instead of all of us playing games, grabbing what we can right now for our local units, when where do you think the money's going to come from ten years from now when the state has to have more services? It's going to come from your pocket-book. You're saving the people, you think. You're saving them--baloney! You're going to cause them to be taxed more. You're not saving the people. Think about it for a while. Where is the state going to get its money to render its services? It's going to get it from the people, and the state is losing money now...going to go into local government that may not even need the money ten years from now. We don't even know what the amount's going to be. It's a totally unintelligent provision. I suggest to you that you adopt the Womack provision.

Questions

Mr. E.J. Landry Mr. Duval, you made a statement about the distribution of income tax money. I want you to help me to understand what that Number 1 in (B) really means. To me, it means this: that a forty-five percent factor, a percentage of the state income tax collections in the State of Louisiana will be used as a factor to determine the distribution of the money in the state general fund. Now, if it means anything other than that, please explain it to me.

Mr. Duval It means precisely this: that forty-five percent of the amount received from the state income tax, wherever it comes from will be distributed to the parishes, or ninety million dollars, whichever is the greater. That's what it says.

Mr. E.J. Landry I don't read it that way, sir.

Mr. Duval Well, you and I have a very great difference, then because I read it precisely that way because that's what it says.

Mr. E.J. Landry A sum equal to forty-five percent of the total state income tax collections.

Mr. Duval That's right.

Mr. E.J. Landry Now, that's a factor. It's forty-five percent of whatever's collected from the state income taxes, but that forty-five percent is used to distribute whatever monies you have at that time in the state general fund.

Mr. Duval Mr. Landry, what it means is that if the income tax is five hundred million dollars, forty-five percent of that money will be distributed to the parishes. That's precisely what it means.

Mr. E.J. Landry Are you sure that it means forty-five percent of the state income tax money?

Mr. Duval Yes, I am sure.

Mr. E.J. Landry Better let these people listen to it...you better let these people listen to it. I'm not a lawyer, but somehow, somewhere...

Mr. Duval It doesn't mean it comes out of that fund; it just means the amount will be equal to that.

Further Discussion

Mr. Rayburn Mr. Chairman...and fellow delegates, I rise in support of this amendment. At this particular moment I'm at more or less a loss as to know why the committee members on my committee had such a change of heart so quick. They voted almost unanimous to undedicate all dedicated funds. About ten or eleven members of that committee voted today to rededicate them. So, I guess that's what makes the wheel turn. I can see a danger in dedicating these funds, particularly for the people of this state who are now paying a heavy income tax. I think there's a little politics behind some of the language I read in the amendment that was just adopted. There's a lot of members in the legislature--and I happen not to be one--that pledged to come to the legislature and repeal the law was passed recently that disallowed your income tax on your state tax. I did not pledge that. Every man that opposed me pledged to do that. But, once you tie this down in the constitution, and once you say that forty-five percent of all the income tax is going back to the local governing authorities, I can see now that lobby that will be here if the day ever comes in my life, as long as I'm in the legislature, where I try to help the little working people of this state; where I try to reduce some income taxes that they are now paying, which a lot of you in the legislature promised that. Your hands will be tied. They will be sleeping with you, dining with you, walking with you, and talking with you. Don't reduce them; if you're going to do anything, increase them because we're going to get half of it, almost. Don't you know, it'll be a big yelling here in Baton Rouge when the day comes that you try to take some income tax that the poor laboring people and the working people are paying today; when you try to reduce them, what's going to happen? We'll have more mayors, more police jurors, we'll even have the constables, marshals, and everybody else over here dining with us and staying with us. You'll never get it done. You'll never be able to reduce the income tax that the working people, and the poor people in this state are now paying.

You know several years ago, they kind of hooked all us salary people, passed the bill by withholds; brought in about six more million dollars...than it'd been bringing in. Today, the individual people are paying a hundred and five million. All the wealthy corporations and everything else involved, other than the people, individual people, are paying only seventy-nine million. We are spending roughly ninety million today on revenue sharing. Under the Womack proposal, we will continue to spend that amount, but the legislature will have the right, and will have the authority to increase that amount. The thing that bothers me, and certainly I want to increase it where we can, I want to help the local government people, but there might be a day when we can't do as much as we want to do. If it's tied down in this constitution, our hands are tied as members of the legislature. We have been real lenient in the past. We raised the eighty million to eighty-seven, roughly, million and appropriated about three million more to take care of Jefferson, St. Tammany, St. Bernard, and St. Charles Parishes--to help them with their problems. I think our record is clear along that line. But to say today, that on down the road we are going to dedicate and tie down forty-five percent of the income tax from now on in this state, I don't think is right. I think the legislature, at a future date, if the monies are available, will help, and increase, the local governing authorities with their problems. They will raise the ninety to ninety-five, maybe a hundred, or maybe even more. But if the day comes that the monies are not there to do it, if you leave this forty-five percent figure in there, they'll have to do it. I wonder how many of you who so eagerly voted for this, will be back over here helping the legislature pass additional taxes to carry it out. I can hear some of them crying

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now--those devils in Baton Rouge raised my taxes. Oh, yeah. So, when you've got to look at both sides of the street, you've got to look a little different than you have when you're just looking at one side. The most criticism I've ever had since I've been in the legislature is voting for dedicated funds--PAR, CABL, Times-Picayune--all the rest of them. Here you are dedicating them today and don't even know what you're dedicating in dollars and cents--don't know how much you're dedicating--and really don't know what you're dedicating it for. Then you went on and let them bond it with the full faith and the credit of the state. That's the people, and that's the legislature. They can build, spend, or do anything they want to, and don't you think this is not the biggest day that's ever been in Louisiana for the bond people. They had this same amendment at the legislature. They tried to pass it. We beat the devil out of it. But they come back here today and get what they want. This was the biggest day they've had since they've been in existence. I don't know what all goes on on those bonds, but I'll guarantee you, there's some plums on some of those trees when you see some of those fellows go to work. I never have been able to see one, but I've seen a lot of people shaking the tree waiting for them to fall.

[Oath of Office administered to James W. Morris. I Journal 715.]

Further Discussion

Mr. Chehardy Mr. Chairman, fellow delegates, the prime reason that I'm up here is to again point out that we should not lose sight of the fact that the income tax was originally instituted for one reason. It was instituted, along with alcoholic beverage and the public utility taxes, to make up for the communities of this state, for the parishes of this state, the money that they would lose by virtue of the homestead exemption being granted. Over the years they have dissipated that fund, and it's been wasted. Now, all this is doing is guaranteeing forty-five percent of what was originally guaranteed as a whole to the parishes of this state--to the school boards, to the police juries, to the commission councils to run their respective communities with monies that they lost by virtue of the homestead exemption. That's all it is. When you say ninety million dollars as a base, which is what we...which is being offered as the alternative to the forty-five percent, this forty-five percent is no more than a hedge against inflation, against the dollar losing its value over the years to come. Ninety million in... ten years from now, may not be the equivalent of ten million today. The one way to insure some stability to the parishes of this state, by virtue of the homestead exemption, is gearing it and relating it to some fixed income. This does just that. So, I believe we are listening to a lot of rhetoric and a lot of Fourth of July speeches on a subject which is just cold dollars and cents. This is money properly belonging right where it's being placed; and not a hundred percent of it, but only forty-five percent of it is being used as it's guaranteed. So, I do hope that we vote against this amendment and help to make sure that we do not do violence by creating the homestead exemption, and that we do follow through on the original concept of the income tax.

Questions

Mr. Nunez Mr. Chehardy, you said that the legislature passed those taxes with the intent that they would be dedicated for the homestead exemption. Did I understand you to say that?

Mr. Chehardy Yes, sir, that's exactly what I said.

Mr. Nunez But, do you realize when the legislature took the federal income tax out--that you

would pay tax on it...do you think that that was the intent that those monies would be dedicated to pay off the homestead exemption?

Mr. Chehardy Well, I would say this, Mr. Nunez: I was shocked, and of course, I'm not a senator, nor was I a legislator, so I couldn't do much about that deal where they left off the federal income tax exemption. To my mind, it's a sad commentary that it occurred. But, that doesn't lessen the fact that the...income tax has a specific dedication in its creation. That is to go back to the community, Senator. I believe you know that as well as I do. No matter what you add to it, you can't change that fact.

Mr. Nunez Well, do you know that that practically doubled the income tax take to this state, to the revenues of this state?

Mr. Chehardy I know that it did increase...I know this year, for example, we're up to about a hundred and eighty-seven million dollars, not even counting other monies dedicated to return to the homestead fund, which is no longer going there. I'm talking of public utilities and alcoholic beverages. But, you're right, it did increase it.

Mr. Nunez You said you were shocked. I was shocked that we, in this problem the other day, that you're trying to get the convention to bail out the assessors that have got us in this problem that we have today. I'm shocked at that. Aren't you?

Mr. Chehardy Yes, I am, too, Senator. But, Senator, you know that I'm advocating still the two percent ceiling on income tax. I want to repeal that exemption on the federal income tax, also. So, we'll fight on that level when it comes--together, I hope.

Mr. Rayburn Mr. Chehardy, did you know that the reason the legislature did that was to provide some money for our underpaid school teachers?

Mr. Chehardy What is that, sir?

Mr. Rayburn That the reason that the legislature passed the bill to disallow you the credit you paid for federal income taxes was to raise some money to pay the school teachers? Did you know that's what the money was for?

Mr. Chehardy No, sir, I didn't know that. What I thought it was, they said it was an error that they left out that federal exemption.

Mr. Rayburn No, that wasn't an error, Mr. Chehardy. You know better than that.

Mr. Chehardy But, they said it was an error, didn't they, Senator?

Mr. Rayburn I didn't say it was. I'm saying that's where the money went...

Mr. Chehardy But that's what the legislature as a whole said, and so did the governor at that time.

Mr. Rayburn I don't believe...and while you were being shocked, Mr. Chehardy, don't you think some members of the legislature, when we had to provide almost four million dollars to give your parish about two million of it for things that you did have some control over that happened, that it shocked us a little?

Mr. Chehardy Well, I know it shocked you, Senator. As I said, if we just do away with some of those industrial exemptions, we could relieve the shock that you and I feel for the poor widow woman.

Further Discussion

Mr. Gravel Mr. Chairman, ladies and gentlemen

of the convention, although I...really support the concept of having some ceiling, which is not contained in the amendment that we've already adopted, I don't believe that the floor and the ceiling of ninety million dollars should be the same. That would, of course, be the result of this amendment. As a consequence, I oppose the amendment. I am in favor, I think many of the delegates are in favor, of closing out the open end of the provision as it is contained in the amendment that we have adopted. I believe there's...I hope there's a possibility that we can work out some dollar amount as a ceiling to allay some of the fears that have been expressed by those who oppose the amendment that we just passed, and, also, of those who are supporting this amendment by Mr. Womack.

Now, let me say one thing that I believe should be rather obvious. We're not by this proposed amendment, doing anything that's radical, or new, insofar as allocations are concerned, to the tax recipient bodies in this state. The property tax relief fund has been with us since 19--since the 1930's. The source of funds for the property tax relief fund has always been the income tax, plus two other taxes. There really hasn't been any taking away from the old people, or taking away from the charity hospitals, or the highway program, by virtue of the revenue sharing program, which is a new approach, and new only insofar as it is an approach to the concept of compensating tax recipient bodies for the losses that they sustain as a result of the homestead exemptions. Now, Mr. Chairman, I honestly do believe that there is a reasonable possibility that we can reach some acceptable compromise with respect to a ceiling that can be imposed. But I don't believe that this amendment accomplishes that because, in effect, what it does, as I originally mentioned, it makes the floor and the ceiling ninety million dollars. Last year--last year, the property tax relief...I mean the revenue sharing fund, contrary to what I had said a little bit earlier--I have been corrected on it--the basic amount of money that was allocated under that...by that...by the formula in the Act of 1973, was eighty-seven million dollars. Now, that did not include supplemental appropriations to St. Tammany, St. Bernard, East Baton Rouge, or Jefferson Parish. Now, that's about the level where we are. Next year, under the normal progression that we have been experiencing, both under the property tax relief fund, and under the revenue sharing plan, certainly it can be anticipated that an additional three or four million dollars to meet the normal growth demands of tax recipient bodies, might, of necessity, be required by those bodies. So, I just feel that this particular amendment, although it does bring before you the concept of a ceiling in addition to the floor that we've already established, that really doesn't permit some flexibility that we need for some foreseeable period of time, that would not cause us to establish a shrinking tax base. That's what a lockin of the ninety million dollars would do. It would mean that the tax base, or the bonding capacity, would shrink as normal growth took place in the years ahead.

Questions

Mr. Roemer Camille, you spoke a moment ago that you were against the concept of having the ceiling and the base the same.

Mr. Gravel The ceiling and the floor the same.

Mr. Roemer The ceiling and the floor the same, right. The base being the same as the floor.

Mr. Gravel I think there should be some...

Mr. Roemer I don't really think that's what we have here. My question is, are there any guarantees, absolutely, that the income tax collections will grow at a certain percentage annually? Is there any guarantee of that? That's just a surmise on your part, isn't that right? I suggest...

Mr. Gravel Wait, let me...may I answer that?

The figures that I gave you, Mr. Roemer, are the projected figures based upon the current experience of the Department of Revenue. Those figures came to me from Mr. Traigle of the Department of Revenue. It's anticipated by him, that the income tax will grow by about four million dollars a year.

Mr. Roemer I understand...I understand. But you are enough of an economist, I think, to realize that the rate of growth in that tax collection would depend on the economic health of our state. Isn't that true?

Mr. Gravel To a...yes, sir.

Mr. Roemer We have various stages of health, so it could grow at various rates. Isn't that true?

Mr. Gravel That's right.

Mr. Roemer Isn't it also true that it's dependent upon what the income tax rate is?

Mr. Gravel That's true, yes, sir.

Mr. Roemer Isn't it also true that that's not frozen into the constitution now? So we don't know exactly what those rates will be. Isn't that true?

Mr. Gravel That's correct.

Mr. Roemer So, wouldn't you agree with the premise that it's no more certain to base it on income tax collection than it is on the goodwill of the legislature.

Personal Privilege

Mr. Goldman Mr. Chairman and fellow delegates, I really asked for the floor on a point of personal privilege in order not to have misled you a while ago. I got carried away, and I think I made a misstatement without doing the proper research. I don't want you to carry that information away as being actual or factual. I did get some research done on the social security. The proposal in 1980, now, for a man and wife, sixty-five, who've paid the maximum, will be four hundred and eighty-five dollars and ten cents a month. But I have also seen proposals from the legislature... from the federal government, that somewhere... sometime in the 1980's it's going to go up as high as two thousand dollars a month. I'll have to research that out and find out exactly what year that's proposed to go into. So, I don't want to mislead you, and especially Moise Denney who came to me a while back and said, "You mean in about thirteen years, I'm going to be able to get two thousand dollars a month?" No, it may be a little longer than that, Moise. But, not too much longer. Thank you very much. I wanted to make sure that I corrected that.

Further Discussion

Mr. D'Gerolamo Mr. Chairman and members of the convention, I rise in opposition to this amendment for the following reasons. I believe the amendment that was passed by the authors a little while ago, more or less guaranteed the people of this state what they were going to do, as a guideline. I'd like to quote you some figures.

In 1972, the State of Louisiana created the revenue sharing fund. They put eighty million dollars into this fund. At that point, with the 1970 census, with the 1970 homestead, in each parish, each homestead in the State of Louisiana received \$22.83 per homestead. Per population, every parish in the State of Louisiana received \$17.56 per person. Under the amendment where we have now ninety million dollars in the revenue sharing fund, every homestead in your parish will receive \$25.69, every person will receive \$19.71. Every home, your parish will receive, \$2.86 more per home.

Your parish will also receive \$2.15 per person more under the eighty-twenty formula, and the ninety million dollars. This is guaranteed. You don't have to go to the legislature as four of our parishes had to do last year and the year before that, with your hat in your hand, begging for money from the legislature. This guarantees the money to the respective parishes.

I also go along with the forty-five percent of that amount of money that would be collected for the state income tax. This money, don't be misled that this is income tax--state income tax--money. It only means that forty-five percent as a factor of the income tax money is used. Now, bear in mind, when the income tax factor increases, you are also going to have an increase in services to the people who move into your parish, which causes the income tax factor to increase. This will proportion itself out. We have a guaranteed factor for population and increase--a guaranteed factor for inflation in here. But, you also, on the other hand, have a guarantee that you will get ninety million dollars of the homestead exemption--revenue sharing, I should say. For this reason, I believe that we should defeat this amendment and stay with the amendment that has been passed because it is better for the state as a whole. Certainly the eighty-twenty is not the best percentage for Jefferson Parish, let me tell you this. But, I believe statewide it is the best for the state for the protection of the entire State of Louisiana. I ask that you vote against this amendment. If there's no further speakers, I'll ask for the previous question, Mr. Speaker.

Questions

Mr. Rayburn Representative, in the event that the forty-five percent two or three or four years from now, would bring in, say a hundred million to be distributed, and that money is bonded. Then we have a little recession in this state, and our income tax would drop off by ten or twelve million, the monies have been bonded, and the full faith and the credit of the state are behind those bonds; what would we in the legislature have to do to take care of a situation like that?

Mr. D'Gerolamo Senator Rayburn, I'm sure it's a hypothetical question. This could possibly exist. But it could have existed all along...this could happen. We are talking about if you...put any amount in the revenue sharing...this could have happened. I agree with you.

[Previous Question ordered.]

Closing

Mr. Womack Mr. Chairman and fellow members, you never cease to be amazed at what you have. My good friend, Mr. Gravel, says now that he wants to come back with a ceiling. A ceiling may be good for five or ten years, and I've had two proposals offered; one a ceiling of a hundred million, one a ceiling of say a hundred and thirty million. Fifteen years from now, neither ceiling will be realistic, just as though forty-five percent of the total income tax is not realistic at this time. Nobody knows what a realistic figure is. Now, my good friend from the great state of Jefferson, Mr. Chehardy, says we want to guarantee these homesteads. Nobody will question the sacred heart or the sacred entity of the homestead exemption. But, is that any more sacred than the health, the welfare, the education of your children? I just want to ask you this.

I want to tell you school people. Somebody said while ago you're going to lose your school people. If the school people want to come in here and set aside another twenty or twenty-five million dollars, that you don't know whether the local government need or not for homestead exemption, to dole it out to them, and it come out of the general fund--the place your retirement money comes from; the place your salary money comes from--and

then say you're protecting the homestead at the expense...of your salaries, then that's a decision you have to make. What I'm telling you here is, that the forty-five percent has absolutely no relationship to the need of local government--absolutely none. I believe somebody brought out a day or two ago that forty-two percent of the people today are renting. It could be that homestead need, homestead exemption need could be going down. You have twenty percent of the total population today that is not school age. So, maybe the needs of education is going up. What you are saying, that while fifty percent of the total revenue of the state, if you pass this, is showing a net decline in growth factor, and you're going to maintain the teacher's salaries; you're going to maintain retirement, police protection, hospitalization, all these other thing--you're kidding yourself. They came back and said, "Let's go ahead and eliminate this now and withdraw it and go to cleaning up." Let's go ahead and adopt this, get rid of the forty-five percent, and then if you want to put a realistic deal in there that guarantees a total homestead exemption shall be appropriated each year, I have no basic objection to that. What I'm trying to do is to protect the general fund of the State of Louisiana. I believe I know a little bit more about the problems of the general fund of this State of Louisiana than some of you, because I've been sitting on the Budget Committee for some ten years, now, working day in and day out with the problems, trying to appropriate the money. I know what the needs are. I also make a very, very close month by month study of the income of this state, and an analysis of the ratio of income to need, and the trends of the things that are affecting this state income. You can take it from me, you can't stand pulling this amount of money out from the general fund of the State of Louisiana.

Then, in addition to that, I just can't conceivably see why we want to set up a large sum of money, which could be twenty, twenty-five, or thirty million dollars from an income tax fund, and going to give it to local government just in case they need it. I can tell you ahead of time, state government is going to need it a lot worse than local government.

So, I'd urge the adoption of this. Then if you've got any further technicalities that will be a continued improvement on it, I'd be happy to go with it. So, if anyone has a question in this short period of time, I will attempt to answer it.

Questions

Mr. Jenkins Representative Womack, certainly unless we adopt your amendment, aren't we trying to do the thinking for future legislatures in determining how much money local government is going to get back without any demonstrated need at all?

Mr. Womack You're setting forth an amount of money that's going to be given to them, irrespective of homestead needs. That's exactly what you're doing. You're not taking care of homestead needs; you're giving them an amount of money. Let me tell you now, the bulk of the income tax, in fact, all of that that was passed last time, which this year represents sixty million dollars, was not passed in favor of homestead exemption; it was passed in favor of properly supporting education, hospitals, law enforcement, retirement, and the other problems of state government.

Mr. Jenkins One other question.

I believe the state's going to take in about two hundred million dollars, probably, this year, in income taxes. Suppose we needed to raise for the state an extra hundred million dollars; under this proposal, wouldn't we have to raise the income tax by almost two hundred million dollars in order to generate for the state a hundred million dollars. Then we'd give a windfall to local government of a hundred million dollars without any demonstrated need, wouldn't we?

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Mr. Womack Your projection is already two...four hundred million in ten years.

[Record vote ordered. Amendment adopted: 65-46. Motion to reconsider tabled.]

Recess

[Quorum Call: 96 delegates present and a quorum.]

Personal Privilege

Mr. Landrum Mr. Chairman, I'm tired of saying, "My machine voted red;" that's the third time today. I'd appreciate it if...

Mr. Henry Well, let me tell you how you can stop that, you see; push the green button from now on, Rev. Landrum...

You might have noticed during the past three or four weeks that Mrs. Miller has not presided, and the reason that she, as the first Vice-chairman, has not been presiding during this period of time, is because of a very serious back injury which she sustained to her lower back. I thought that I would point that out to you folks.

Now, before we get started this afternoon, and before we get too far away, I'm hopeful that the Ole Miss-LSU game, notwithstanding, you all will agree to work tomorrow. The way things look right now, if we don't start working on Sundays and Mondays--and I'm not suggesting that we work on Sundays, yet--but we have thirty-seven days left, including...not including today, excluding today, but excluding every Sunday and Monday, excluding Thanksgiving Day, the three days before...no, just Thanksgiving Day, Christmas, and Christmas Eve, and New Years, I think. We have thirty-seven working days. Now, if you throw in the Mondays, which I hope we'll begin to start working on, coming a week from this Monday, we've got forty-six working days left in the convention. Mr. Fugler is working up some information as to really what we have left to consider insofar as the content of these proposals which are listed on your daily order of business. We're going to have to start working, it appears to me, on Mondays. Now, I'm not going to suggest to you that we meet this Monday because I'm sure that some of you have some arrangements that you need to otherwise make. But, I hope that beginning a week from this Monday that we'll start coming in about one o'clock on Mondays and working one till late, or reasonably late, in the evening. We can finish our work if we'll quit talking quite so much and offering frivolous amendments, I believe that we can proceed to complete our work in that respect. Now, I know a lot of you want to know: well, what about Thanksgiving? I don't think I've mentioned this but, we might try this, if you want to--come in the Monday week before Thanksgiving, and work at least Monday through Saturday of that week, and perhaps, Sunday after lunch--now, I said, "perhaps," but this is something for you all to be thinking about; and then, continue and work Monday and Tuesday, and perhaps be in a position to take off a couple or three days for Thanksgiving. But, these are things that you all will have to decide later on. I wouldn't want you to make any hard and fast plans for Thanksgiving right now because, quite frankly, unless we move faster than we have, we might need to work the day before and the day after Thanksgiving, but it'll just depend on how we progress. Thank you.

Personal Privilege

Mr. Stagg Mr. Chairman, while everybody's quiet, and there's not a whole lot of conversation going on on the floor, it would do well if all of you would take a piece of paper and scratch yourself a calendar to just see how terribly difficult the time constraints are going to get very shortly.

Mr. Henry We've got some run off, Mr. Stagg,

that we're going to pass out to them in just a minute.

Mr. Stagg ...and when you look at those time restraints that we're going to be working under, I'd like to make a suggestion, Mr. Chairman, if it's felt to be worthy, that when you have an amendment which you think is absolutely necessary for this convention to consider, that you see how many coauthors you can get. If you don't get a respectable number of coauthors then you ought to consider that you're going to be wasting the convention's time. But, somehow or other, we have got to speed up our work, or we're going to be here the day after Christmas, and we're not going to get a decent vacation at all for Thanksgiving, and that concerns all of us. So, Mr. Chairman, I hope that you will, somehow or other, figure out how we can do this.

Amendment

Mr. Poynter This is the Nunez amendment. There is a Nunez, Alario, and other coauthor's amendment. This one simply has the author, Nunez, on it; Senator De Bliex does wish to be a coauthor.

Amendment No. 1. On page 8, in Floor Amendment No. 1 proposed by Delegate Gravel, and others, and adopted by the Convention on November 2, today, delete lines 12 through 46 of the text of the amendment, both inclusive, in their entirety--now, those of you that can't count lines real fast, that would delete everything after (B); it would delete Paragraphs (C), (D), and (E); it would leave Paragraph (A), and would leave Paragraph (B) as that paragraph was amended by the Womack amendment, which was adopted prior to lunch.

Explanation

Mr. Nunez Mr. Chairman and fellow delegates, the amendment is exactly like the Clerk read it; it deletes Paragraphs (C), (D), and (E), and rather than establish a base, a minimum base, for the... for the revenue sharing fund at eighty million. We allow the amendment that you adopted by Mr. Womack that's to stand, which establishes a base at ninety million, and the legislature, if so... will be able to increase this in the future as the needs arise. I think this would be the only sensible...the only logical way to proceed with this, rather than insert into the constitution the arguments that you've heard against, and certainly, a lot for, but the arguments that you've heard against, putting all these things in the constitution--various retirement systems, various commissions, the various sheriffs, and various other agencies that receive commissions. If we allow the legislature to determine this, I think we'll be doing this state a great favor. I see no reason why we should lock all the other things in the constitution. I see no reason why we should sit here and argue for days and days on formulas that you're never going to derive and never going to satisfy, and never going to get a formula that satisfies everyone. It's a very difficult proposition when you start trying to decide what's equity, what's parity, who should get what? It's eighteen months or two years and the special committee set this eighty-twenty formula. Let me tell you, the only reason why that formula passed was because there was a lot of little dealings going on, a lot of little negotiating going on. I think that little meeting over the weekend when we go home and somebody else sets the policy as to what we're going to do when we come back, had a lot to do with that formula, and I think you know that. So, if we're going to sit here and allow somebody else to draw up what we should do in this convention, I think we're making a mistake. I think if we put the ninety million in there, it arrives at a reasonable base--a reasonable base as to what should be distributed on the basis of revenue sharing. I think otherwise, you're being ludicrous when you start saying we're going to put anything else other than that--forty-five percent--and allow

the parishes over the next ten years to divide it up in certain ways. This gives the legislature the right to go ahead and set that formula, and to go ahead and make those divisions based on the amount of monies they have available. You don't know what's going to happen to these various funds in the state. I think it's been brought out here time and time again that the revenues of this state are in a transition period...transitional period in going from an oil, lease, severance tax revenue base to a sales and income tax base. You dedicate forty-five percent of those revenues, you're doing wrong. So, I don't think there's much more I can say about it except that I think it's the right thing to do. I don't think we should stick into this constitution that formula with all the particulars they had in that amendment that Mr. Gravel presented to you. We've increased it to ninety million dollars. That satisfies everybody but my parishes, by the way. It gives all your parishes a nice healthy increase. So, I should be the last one up here talking for this; I should be up here talking for fifty percent of the income tax, two hundred million dollars, and that'd get back to where I was before they eliminated the property tax relief fund; before the elimination of that fund, and before we got into the revenue sharing business. Mr. Chairman, if there are any questions, I'd be glad to try to answer them.

Questions

Mr. Jenkins Senator Nunez, don't you think that we're falling into the same trap that the redactors of the 1921 Constitution fell into in trying to legislate in this constitution, and wouldn't your amendment keep this provision of our constitution constitutional basic in nature, rather than trying to spell out statutory details?

Mr. Nunez Mr. Jenkins,...there's no doubt about it that, if we adopt this amendment, all we're doing is legislating, and all we're doing is probably getting ourselves into a constitutional bind when we go back to the old homestead exemption fund, and the property tax relief fund and get it thrown out of court again. I think you're absolutely right.

Mr. Jenkins In addition, if we adopt your amendment, won't we be able to move on to other business, rather than dealing with this dozen amendments we have dealing with every aspect of revenue sharing, so that we can get on with the business of this convention?

Mr. Nunez Well, no doubt about it, if we don't adopt a general amendment setting up a base for revenue sharing, every member of this Constitutional Convention is going to have his own idea of what should be a formula. You sit up here and you send us four or five amendments in now, and when you get a fifty-fifty, somebody's going to realize they'll do better with a sixty-forty or a seventy-thirty or what have you. We're going to be sitting here two or three days, debating on something that the legislature should be doing anyway. You're absolutely right.

Mr. Arnette Senator, has this eighty-twenty plan that has been proposed, has that been tested in the courts as being constitutional or not?

Mr. Nunez I can't hear you, Mr...

Mr. Arnette Is the amendment that you're seeking to take out...in other words, the part that you're seeking to take out of the Gravel amendment, has that been tested in the courts as to whether it's constitutional or not?

Mr. Nunez Mr. Arnette, I don't know if anybody's ever brought the formula to court. To my knowledge, I don't think they have.

Mr. Arnette Well, that's what I was wondering. Do you think it might be a possibility this might be unconstitutional to have a formula based on homesteads that wouldn't share equally among the people?

Mr. Nunez Well, I would say you'd have a good argument to say that the property tax relief fund was unconstitutional, and you're coming back and putting in homesteads again...there's a possibility it could be; I couldn't say, but the possibility is there.

Mr. Arnette So, you're trying to take out something that might be unconstitutional under the Federal Constitution?

Mr. Nunez Exactly right, and I'm trying to put something here that I think we can all live with, and something that the legislature probably would be fighting on a lot longer than we will here.

Mr. Weiss Delegate Nunez, would you say that your amendment now converts this old floor amendment into a fiscally sound operation? Whereas, the other, as we've passed it, leaves the gates open for fiscal instability and, perhaps, state bankruptcy.

Mr. Nunez I think it's not only fiscally sound but it's also fiscally responsible when you take something...which we know we can live with and something that we've...in the past has proven to be workable, and this is just about what we had before. We had eighty million; it was eighty-six million, and we had four or five supplemental appropriations that made it approximately ninety million. So, you're keeping everybody approximately whole that got relief from the revenue sharing formula before. I don't think you're doing damage to anyone, as I said before, except...the speaker here.

Mr. Shannon Sammy, you say "provided, however, that no parish shall receive a lesser amount than was received by the parish from the property tax relief fund in 1971." Is that the amendment you're on?

Mr. Nunez Mr. Shannon, I'd like to pass that amendment, but that's not the one up for consideration. The one up for consideration deletes Sections (C), (D), and (E), and just keeps the Womack amendment in there. It's a ninety million dollar base for the revenue sharing fund with the legislature's right to go higher, and to make the formula for distribution.

Further Discussion

Mr. Burson Mr. Chairman, fellow delegates, it seems as though the net effect of this amendment would be to insure what I think we should have expected from the beginning. It's going to take away the guarantee that the homestead exemption that this convention has so generously increased, will not necessarily be recoverable, according to a constitutional guarantee. I'm not surprised at that 'cause I don't think I'd be surprised at anything at this stage. I want to apologize for being parochial, especially to those delegates who so conscientiously voted for a ratio of assessment, that would insure that the tax base in their parishes would remain undisturbed. I'm looking forward to being able to go back and tell the police jury and the school board at home that you have had your tax base eroded to the point that only ten percent of the homes in the parish are left according to U.S. Census figure, but you're not in bad shape because you can make this up by going to Baton Rouge and genuflecting to the members of the legislature who voted to increase the exemption and take away your base, so, they can do you a favor by giving it back to you, maybe, but it's not guaranteed. Or, you can make it up by doubling or tripling the tax on the taxpayers that you have

left to pay the tax in your parish, which won't be many. But, you ought to be able to rely on these people because in the Constitutional Convention they guaranteed us, when the thirty thousand dollar homestead exemption was imposed, that this would be made whole in the revenue sharing provision, and they just changed their mind once. Maybe they'll only change their mind once in the legislature, and decide that there are other state priorities that come ahead of refunding this homestead exemption to you. If they believe that, then they believe in Santa Claus, just as apparently a lot of people here do; but I don't. I'm against the amendment.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, you know, I think it's very difficult for us to sit here in this convention hall and think that we will know what's going to happen twenty or twenty-five years from now, and yet, that's what we're trying to put into this constitution through all of this legislation, so it will take care of the situation, twenty, twenty-five, thirty years from now, which as you have seen over the past years, may be entirely different, not even twenty years from now, just ten years from now. Therefore, I think that we should have some leeway in order to change this without having to come back and submit a constitutional amendment. We've gotten ourselves in that particular position now, and that is the reason we are assembled here, because we just have to try to get things done by constitutional amendment because of our present constitution. Therefore, all of this should not be in our constitution. We should be framing a constitution directing policy, not legislation, which is being done in this amendment. As you can clearly see it, that's nothing in the world except stuff that the legislature should take care of, and I tell you, Mr. Burson, we should not try to set the local governments against the state legislature, and the state legislature against the local governments; we ought to work together. We've got our problems, and as long as I've been in that legislature, I think I've seen where the legislators have been working with the local government to settle their problems. For your information, at the present time now, the finances of running all of our government--state and local--is financed almost entirely, about eighty percent by state revenues which are collected and sent back one way or another to the local government--either through road programs, school programs, or even revenue sharing, cigarette taxing, etc. because we have to help to finance the local governments in their problems, and we want to help to solve them. That's what we've been trying to do. Those legislators don't forget they are elected to office, just like your police jurors, just like your school board members, just like your mayors, and they have to face the people every four years, the same way those local people have to face the electorate. So, therefore, don't think they're going to do something which is going to tear down, and be contrary to your local operations. They recognize that fact because that's the closest to the people--your local government. Now, in this particular provision here that we have, we're saying that the money should be paid, setting up in the constitution, to the retirement systems, who at the present time are collecting a percentage of the tax revenues. That's a heck of a way to finance a retirement system, based on tax revenues or ad valorem tax. It should be done by a direct appropriation for the amount of money that's needed to keep that retirement system actuarially sound--not in the form of what percentage of the tax revenues because that can vary from year to year, and it may be too much or it may not be enough. That's no way to finance a retirement system. In addition to that, we are setting up a formula that's saying, "the money shall be distributed upon an eighty-twenty formula" in this amendment. That may not be the correct formula

five years from now. It may be good for today, but it may or may not be, five years from now, or ten years from now, or twenty years from now. So, why do you want to write that into this constitution, that's going to require a constitutional amendment to change it? I just say that the legislature, working with its local people, has a whole lot better chance to meet our needs from day to day operation, than it is to write all this legislation into the constitution where you can't change it except by constitutional amendment. Therefore, I think this is a good amendment, and we should go ahead and do that and leave the ninety million dollars in there that we have put into it. We have raised it by ten million dollars; that's enough. Let the legislature take care of it from there on out. I ask that you support the amendment.

[Previous Question ordered.]

Closing

Mr. Nunez Mr. Chairman and fellow delegates, I think you've heard all the discussion on this. I know there are a lot of amendments, and a lot of people think they're going to get their own formula in. I think a lot of people are going to be in for a surprise, that eighty-formula...that eighty-twenty formula I'm sure you realize benefits in this--we might as well say it--it benefits the big city areas. I think possibly this convention might be in a mood to change it. We went along with it in the legislature simply because of various other things that were happening at the time. If we would adopt this, I think that we're going to be in a position where you might find that formula might be changed in this convention. I hate to see a formula locked into this convention, or this constitution. I think we'd be doing wrong. I think we'd be doing wrong for generations to come, and we'd be faced with a mass of constitutional amendments annually if we locked in any kind of formula. I think this is the only reasonable way for us to do it. We'll set the base high enough--so let's go ahead, please, and set it at ninety million dollars, and allow the legislature to do the rest with the formula and everything else. I'd certainly appreciate your support on it.

Questions

Mr. Champagne Senator, you would have no objection to the following section which sets up a method--not percentage?

Mr. Nunez Pardon.

Mr. Champagne You would have no objection--in other words, I'm trying to find out if I should vote for your amendment. You would have no objection to the following section which provides a method--not percentages, but a method?

Mr. Nunez I would have no objection to the following section that you're talking about...the section of the committee.

Mr. Champagne Yes, right.

Mr. Nunez No, not particularly.

Mr. Champagne Ok.

Mr. Aertker Senator Nunez, I presume you realize that you are deleting the statement in there that the school boards are concerned with that reads that "by first priority shall be distributed to the tax recipient bodies as defined by law within the parish to offset current losses because of homestead exemptions granted in this order." You are...

Mr. Nunez Yes, sir. I realize we eliminated it, and I realize it's not in the present constitution. I realize the legislature has distributed those

funds based on exactly what you're talking about. But, I think the feeling is--and if you'll allow me a minute or two,--that if you put it in there there's a very possibility that you'd be faced with the same decision you're now faced with. You're going to base it on distribution of homestead exemption. We're trying to get away from that and just leave it generalized where we can handle it the way we've been handling it. I don't think you have any...the school board should have any complaints as to the way the legislature's handling it. They're a tax recipient body and they've got their pro rata share of the initial amount. If there's any excess, it was divided according to the dictates of the various school boards and police juries and the legislature in conjunction. I think you'll agree with that.

Mr. Aertker But, you can understand that we'd feel a whole lot safer if this wording were retained in the constitution in view of what this convention has done relative to this entire matter.

Mr. Nunez Mr. Aertker, you might feel a whole lot safer now until another court decision comes down, and then you'd feel a whole lot unsafer if you don't have anything to gain. But, I think if you'll try looking for initial safety right now, to say let's put it in there--we did the same thing and that's why we're in the trouble we are now. I think if we leave it out, we probably would be a lot safer in the long run.

Mr. Lanier Senator Nunez, the language that Mr. Aertker referred to, this gives priority to those districts such as police juries, school boards and special districts formed before 1956 over municipalities and those districts formed after 1956, doesn't it?

Isn't this in part the thing that was litigated over in Levy v. Parker?

Mr. Nunez Correct.

Mr. Lanier If we use the state income tax which is collected from those of us that live in municipalities the same as those that live outside of municipalities...

Mr. Henry The gentleman...you've exceeded his time, Mr. Lanier, I'm sorry.

[Record vote ordered. Amendment re-
jected--41-67. Motion to reconsider
tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Alario and Mr. Thompson]. On page 8, in Floor Amendment No. 1 proposed by Delegate Gravel, et al. and adopted by the convention on November 1st, delete lines 12 through 23 of the text of the amendment and insert in lieu thereof the following:

"(C) The Revenue Sharing Fund shall be distributed annually to each parish according to the ratio which the number of homesteads in the parish bears to the total number of homesteads in the state."

Explanation

Mr. Thompson Mr. Chairman, fellow delegates, you know, a year ago...a year and a half ago, the formula used to divide the eighty-two odd million dollars was on a fifty-fifty basis. This suited everybody, the country parishes and everybody else. We got a little politics into it--what did they do--the next year they come up with an eighty-twenty formula. They said this would be the only year in which they would have the eighty-twenty formula. I want all of you that's got some of these maps, to look at them. Forty-seven of your parishes will lose money by this eighty-twenty; seventeen will gain. What do you think is right? This is supposed to be a political compromise, but who are they compromising? They're com-

promising with seventeen, not with the forty-seven. All of us know it takes more for law enforcement, for roads, for other benefits in the rural areas than it does in the heavily populated areas. So, therefore, it takes more money. So, therefore, these forty-seven parishes need a better division of this money. This is actually taking the place of the old PRT Fund...PRT Fund. We're guaranteeing ninety million off of the top so some of these services...your hospitals, your institutions, your ADC payments, your teachers' pay raises, your pay raises for your low employees in the state, etc., can suffer. So, I heartily support and ask you to vote for this amendment.

Mr. Henry All right. We went with the wrong amendment.

You want to go with the Thompson, Kelly amendment and that's what you're explaining.

Mr. Clerk, read the Thompson, Kelly amendment. Well, he's already explained the part of it. We'll read it over.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Thompson and Mr. Kelly]. On page 8, in Floor Amendment No. 1 proposed by Delegate Gravel, et al. and adopted by the convention on this 2nd, today, at the beginning of line 15 in the text of the amendment delete the word "eighty" and insert in lieu thereof the word "fifty" and at the beginning of line 18 of the text of the amendment delete the word "twenty" and insert in lieu thereof the word "fifty".

Explanation

Mr. Thompson Mr. Chairman, Mr. Alario would like to say a few words on it if it's permissible.

Question

Mr. Roemer Mr. Thompson, let me make sure I understand what you were trying to say. Did you say that forty-seven parishes would gain on the fifty-fifty basis versus eighty-twenty; is that what you said?

Mr. Thompson Yes, sir, it's on this map. This was prepared by the staff; it was not prepared by me.

Further Discussion

Mr. Alario Mr. Chairman and fellow delegates, to make sure we understand just where we are at this point...We are on the Thompson, Kelly, Reeves, Alario amendment, which reads in summary, would say that the formula for revenue sharing would be divided fifty percent by homestead and fifty percent by population. In the first year after the property tax relief fund, through the Parker v. Levy case, was ruled unconstitutional. The first formula the legislature came up with was this same formula that we're advocating at this point--the fifty-fifty formula. The next year they came up with the eighty-twenty that's in the present Gravel amendment. The figures would show, through as you have on the sheets here, that some forty-seven parishes would have gotten additional funds, more funds than what are listed under the eighty-twenty formula. We feel by offering this amendment at the fifty-fifty level that we would be reaching a compromise that would be suitable to a greater majority of the people of this state. Certainly certain areas of this state have additional problems, but we have provided funds in other tax raising measures to see that they have more money than others. Particularly talking about the...in the case of the city of New Orleans where they get fifty percent of the tobacco tax. Now, I think that's right and just; they have additional problems, the big municipality in this state, and should retain those funds. But, I don't think they ought to get into receiving the meat of all of our funds and by coming with this fifty-fifty

formula, we feel we'll have a more equitable distribution. If you would, look at the sheets that were passed around to you. You'll see just what I'm talking about and see just what the difference would be for your parish. Now, to show you just how much this revenue sharing fund has grown in the two years that we've been fooling with it in the legislature, the original property tax relief fund distributed to the individual parishes some sixty-three million dollars--that was when we had it under assessments and millage rates. Now, under the current system, and what we're advocating today, we're talking about ninety million dollars. We're talking about an increase of funds from the state treasury of nearly fifty percent. I don't know where we're going to be able to pick up the slack as our oil and gas revenues begin to decline. We're just going to have to face that issue, I would take it, when the time comes. Thankfully, you removed the language that said that forty-five percent of the income tax would be surely dedicated to this formula. Now, the Gravel amendment, of course, calls for an update of the population every ten years unless the legislature provides otherwise. In the revenue sharing formula that we established last year, we talked about a formula arriving at the population every year. Now, I'm just wondering what's going to happen when we get to the legislature if the same forces who are advocating this eighty-twenty, would be able to stop the fast growing areas in this state from allowing them to have the update of the population on a year to year basis rather than having to wait ten years to eventually get their funds. I ask that you wholeheartedly endorse this and vote for this amendment. I think it's a fair compromise which meets the greater needs of this state.

Questions

Mr. Thompson You say fifty-seven of the sixty-four parishes will benefit by this?

Mr. Alario I said forty-seven.

Mr. Thompson Forty-seven of the sixty-four will benefit?

Mr. Alario That's correct, sir.

Mr. Thompson Mr. Chairman, if there are no more other speakers.

Are there any other speakers?

Further Discussion

Mr. Newton I rise in opposition to this amendment, and I really hated to get up here. While I wanted to ask John Alario a question, and then Richard made his motion, I decided the best thing to do was to get up here and speak. I just want to make one point--and I don't have the statistics--I wanted to ask Mr. Thompson this. Now, Mr. Alario said that this would better satisfy a majority of the people in this state. I don't believe it will. I want to point out that services are rendered to people, not to homesteads. The areas of the state with the largest population should be getting the largest part of this revenue sharing fund because they have to bear the greater burden of providing services to the people who live in their area. I'm sorry I don't have any statistics. I urge you to defeat this amendment and leave the eighty-twenty formula in the present amendment.

Questions

Mr. Bergeron Mr. Newton, do you believe we ought to seriously put percentages in the constitution?

Mr. Newton Mr. Bergeron, I don't think we have any choice if we're going to have a meaningful basis for the parishes, and the school boards to be able to bond this money. I just don't think there's any other way we can do it.

Mr. Bergeron Don't you see this problem though? Don't you see if we would try to put a fifty-fifty, or eighty-twenty, whatever the percentages may be, in the constitution, that we'll be pitting the parishes with the larger population against those parishes with the smaller population because both parishes with a larger population will be looking for the higher percentages whereas parishes with a smaller population will be looking for a fifty-fifty, etc? Don't you really think we may be causing problems for ourselves here?

Mr. Newton I don't see that type of problem. To my way of thinking, the way to handle it is a hundred percent on population. I think that twenty percent on homesteads is a concession to those parishes that were going to lose considerable amounts of money.

Further Discussion

Mr. Casey Mr. Chairman and delegates, I'd like to take issue with one or two of the statements expounded upon by some of the speakers previous to me, who indicated that this might...this amendment might make this revenue sharing more acceptable to a majority of the people in this state. As one delegate from the city of New Orleans, I would like to point out that if the fifty-fifty formula were used rather than the eighty-twenty, I know my city stands to lose close to one million six hundred thousand dollars. When you compare that figure, one million six hundred thousand dollars to the overall budget of the State of Louisiana,--and our budget in the city of New Orleans is roughly let's say about one-twentieth the size of the State of Louisiana in dollar amounts--when you compare it to the budget of the State of Louisiana, you're talking about a loss of about thirty million dollars. Now, if the State of Louisiana lost thirty million dollars, you can imagine how disastrous that might be to the state. Compare that to the city of New Orleans, when we lose a million five hundred or six hundred thousand dollars, that is a disaster to us. I just can't believe that a convention of this size with a hundred and thirty-two delegates in it can take lightly the damage that would be done to an area that comprises six hundred thousand people living in the inner city itself, and services during the daytime people who work in that city to the tune of maybe an additional three or four hundred thousand people, that furnishes through those funds the services necessary to service close to a million people. I just can't imagine that you'll take an amendment of this type very lightly. I make no apologies appearing here as a member of the delegation from the city of New Orleans. I make no apologies about being from the city of New Orleans. I think it's a great city; we have more problems, our problems are magnified over and above many of the communities that exist throughout the State of Louisiana, and we need more help. The need of our help is almost out-of-sight sometime. Our problems are magnified almost out of existence. I just can't believe that a convention that is sincerely interested in the population of almost one-fourth of the State of Louisiana would do something of this type. Now, one of the speakers indicated that the eighty-twenty formula was only a one year affair. I would submit to you gentlemen that that speaker didn't read the act of the legislature, Act 153 of 1973, that I think most of the legislators here voted for. I don't think that legislator read this act which indicates that the amount to be distributed annually to each parish from the revenue sharing fund will be in accord with the eighty-twenty formula. The decision is yours, delegates. I'm just here appearing as one delegate from the city of New Orleans that wants to point out the tremendous problem that we have in financing our local activities and in furnishing services to our people. I just can't believe that the delegates here will agree or submit to an amendment of this type. I strongly urge you to defeat it.

Questions

Mr. Roy Mr. Casey, didn't a lot of the Senators and Representatives who were talking previously vote for the eighty-twenty provision in the legislature?

Mr. Casey Mr. Roy, you're absolutely correct.

Mr. Roy Don't you believe...

Mr. Henry Gentleman has exceeded his time.

[Previous Question ordered. Record vote ordered. Amendment adopted: 57-52. Motion to reconsider tabled: 54-49.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. De Blieux]. On page 8, in Floor Amendment No. 1 proposed by Delegates Gravel, et al and adopted by the convention on today, delete lines 24 through 34 of the text of the amendment, both inclusive, in their entirety and insert in lieu thereof the following: "(D) The state treasurer shall distribute the funds as provided in Paragraph (C) to the parishes as defined by law."

Explanation

Mr. De Blieux Mr. Chairman and ladies and gentleman of the convention, this amendment just simply takes out the constitutionalizing, the necessity of sending that money to the collectors of taxes in each parish so that in turn can make distribution of the money. If the money is to be distributed--looks like to me that the legislature ought to decide how it should be distributed. If it's necessary to send it to--direct to the tax recipient bodies, their agents or wherever it should go--that that's where it ought to go, without the necessity of you might say running it around the ring so everybody can get their cut out of it in order to get it distributed. That's all this amendment does, it just take it out. It does one other thing. At the present time, the retirement systems get a portion of the ad valorem taxes. I tell you that is a bad procedure. We should not try to finance retirement systems based on a percentage of taxes, when we don't know whether or not that's going to bring in more money than needed or less money than needed. This will allow the legislature to decide how the money's to be paid to the various retirement systems to make them actuarially sound. I think that's the proper way of handling our money, and letting the legislature do it without putting this into the constitution where we can't change it because it would necessitate a constitutional amendment to change anything in this. I just ask you to adopt the amendment, and at least give the legislature a chance to decide.

Further Discussion

Mr. Edwards Mr. Chairman, fellow delegates, as you know, revenue sharing was passed as a substitute for the old property tax relief fund. The monies which went back to the parishes went to the sheriffs and they took their commissions on that portion that represented taxes, and then they distributed the remainder to the tax recipient agencies. If the De Blieux amendment is passed, the sheriffs...I'm sorry, did you want a question? If the De Blieux amendment is passed, the sheriffs will be bypassed, and it will deprive each sheriff in the state of somewhere between a minimum of twenty percent of his total income or a high of forty percent of his total income because this amount of money would not flow through his hands. Whether or not you are in favor of a commission on taxes as the method of financing a sheriff's office is not at issue here. Under the provisions of the Gravel amendment the legislature can change our

method of financing. However, unless this amendment is defeated, you will bankrupt every sheriff's office in the state, without providing that alternate method of financing. If there are any questions on this, I'd be glad to answer them. But, I sincerely urge the defeat of the De Blieux amendment.

Questions

Mr. Slay Sheriff, in looking at this proposition, then, that would knock the sheriff of Rapides Parish out of some two hundred and eighty-five thousand dollars. Was that all right?

Mr. Edwards That's about right, yes, sir.

Mr. Slay The sheriffs over the whole state would be knocked out of some eight million six hundred thousand dollars. I wondered how can the sheriffs operate with that loss of funds?

Mr. Edwards They couldn't, sir, they would have to curtail their law enforcement activities, and the people would be subjected to all type criminal activities.

This is a disastrous amendment.

Mr. Lanier Sheriff Edwards, the Gravel amendment, as I read it, says "after deductions for retirement systems and commissions as authorized by law." I believe your deductions are fixed by law right now, aren't they?

Mr. Edwards That's correct, sir.

Mr. Lanier The De Blieux amendment says "the State Treasury shall distribute the funds as provided in Paragraph (C) to the parishes as defined by law. Is it your feeling that the presently existing law would not apply under the De Blieux amendment, but would apply under the Gravel amendment?"

Mr. Edwards Yes, sir.

Mr. Lanier Why is that?

Mr. Edwards They...the revenue sharing act as passed by the legislature provides that our commissions...that we receive the money to conduct our commissions, and transmit the balance.

Mr. Lanier Would that act be invalidated by the De Blieux amendment?

Mr. Edwards Yes, sir, if we don't receive the commission, we can't deduct our...I mean if we don't receive the monies, how can we deduct our commissions?

Mr. Nunez Sheriff Edwards, the way I understand it, you get...your office, or the sheriff's offices throughout the state, on a revenue sharing...you get a commission on the revenue sharing?

Mr. Edwards Yes, sir. We get a...the revenue sharing...the great bulk of it, represents monies which replaced homestead exemption funds, the old property tax relief funds. We get a commission on these monies so that we do not lose the total homestead exempt portion of the taxes.

Mr. Nunez We have locked that into the constitution under the Gravel amendment, haven't we?

Mr. Edwards No, sir. We have not locked it in. We have allowed the legislature to continue this if they so desire. If they want to change it under the Gravel amendment, they can. But under the De Blieux amendment, you would be prevented, as I see it, from giving us a commission on this money.

Mr. Nunez ...we don't have in that amendment where...the commissions and retirement, and all of

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the retirement portions of the sheriffs, the clerks, the assessors, and all these other people come out before anybody else gets anything. I thought that was in the constitution...in that amendment.

Mr. Edwards ...as provided by law, it says. If the legislature wants to change it, the legislature could under the Gravel amendment.

Mr. Nunez Do you get a commission on federal revenue sharing?

Mr. Edwards No, sir.

[Previous Question ordered.]

Closing

Mr. De Blieux Mr. Chairman, and ladies and gentlemen of the convention. Contrary to what Sheriff Edwards has said, my amendment does not change the present law. The only thing what I'm saying is, we don't want to lock into the constitution what might be the law at this particular time, because at some future date we might see fit to want to change that. Now, I can't see why we should finance sheriff's offices or retirement systems out of ad valorem tax percentages. I think if a sheriff needs enough money to run his office, we ought to see that he get it. He shouldn't depend upon just what...how much percentages he collects. I'd say this, in view of what Sheriff Edwards has said, there's some sheriffs have to take twenty to forty percent of the revenue sharing in order to run their office, there's something wrong with the way we are financing their offices. Because, if you're going to take forty percent of this money, the revenue sharing, and give it to the sheriff to operate his office, there's something haywire some place. We ought to have a better setup than that to run the sheriffs' offices. We need to make a direct appropriation to the offices for them to adequately operate those offices. Our retirement systems the same way. I might say this, in the way this particular section is worded, and this constitution, it's right in the face and teeth of that *Levy v. Parker* decision, and you're creating an unconstitutional provision in the new constitution and we're going to be right back where we started with some unconstitutional laws if we allow this to stand. I tell you, we ought to knock this particular section out, and word it--which will not change any of the law at the present time--it will just keep from locking in unconstitutional provisions in the constitution.

I'd ask you to approve the amendment.

Question

Mr. Burson Senator De Blieux, is this proposal motivated by a desire to reduce the sheriffs to the same status that you've reduced the school boards and the police juries to, to have to come to the legislature to get the money to run the operation?

Mr. De Blieux Mr. Burson, if I was attempting to do that, I'd write legislation in to this to do that exactly what you're talking about. I'm not trying to put legislation in this constitution. I'm only trying to fix it where the legislature can meet the needs as they arrive from day to day, in the operation of our government. We can't do it if we have to come back with a constitutional amendment every time we want to make a change in the laws to upgrade something.

[Amendment rejected: 15-92. Motion to reconsider tabled.]

Amendment

Mr. Hardin [Assistant Clerk] Mr. O'Neill sends up the next amendment.

Amendment No. 1. On page 8, line 7 and Floor Amendment No. 1 proposed by Delegates Gravel and

all and adopted by the convention on November 2, 1973, on line 41 of the text of the amendment, immediately after the word "shall", delete the remainder of the line, and delete lines 42 through 46, both inclusive in their entirety, and insert in lieu thereof the following:

"Have prior approval of the State Bond Commission and shall be issued and sold as provided by law."

Explanation

Mr. O'Neill Mr. Clerk, I have a technical change I need to make in that amendment if you'd allow me to I need to say "the Bond Commission or its successor." Can you write that in for me, and then read it as it would be stated on the text of the section?

[Amendment withdrawn and resubmitted with correction.]

Mr. Hardin The instructions remain the same. The language added will be "have prior approval of the State Bond Commission or its successor, and shall be issued and sold as provided by law."

Explanation

Mr. O'Neill Ladies and gentlemen of the convention, I've had several amendments on this, and it took us a little while to get clarified what we needed to have clarified. If you'll go down to about line 41, you'll see that change that we've made. In essence what we've done, is simply taken out the "full faith and credit of the state being pledged to these bonds." What we've said is, "these bonds shall be approved by the State Bond Commission or its successor, and shall be issued and sold as provided by law."

Had we passed this section--the end of this section--as it is, we would be the only state in the entire union that would pledge the full faith and credit of the state behind municipal bonds, or bonds used to put across the revenue sharing funds. I really don't think that's necessary. From this discussion I heard on the floor, I don't expect that there will be any real opposition. You do have an amendment on your desk by Senator Blair and Senator Rayburn which changes the substance of Section (E). It does take out the full faith and credit of the state, but it also makes one other change. I think that we can debate that change when we come to it. But this is one of the aims of their amendment. This is the only aim of my amendment--to take the full faith and credit of the state out of here and simply say "the State Bond Commission or its successor shall approve the bonds and they shall be issued and sold as provided by law." It's a simple amendment. From the discussion I've heard, I think we'll be pretty much in agreement that we want to take this out.

[Amendment reread and adopted without objection.]

Amendment

Mr. Hardin Delegate Perez sends up the next amendment.

Amendment No. 1. On page 8, line 7, in Floor Amendment No. 1 proposed by Delegates Gravel and all, and adopted by the convention on November 2, 1973.

On line 42 of the text of the amendment, after the words "provided by law", delete the remainder of line 42, and delete all line...and delete lines 43 through 46, both inclusive.

Mr. Henry Gentlemen, you don't want to go with... it's not needed, now.

[Amendment withdrawn.]

Amendment

Mr. Hardin [*Amendment by Mr. Nunez, et al.*] On page 8, in Floor Amendment No. 1, proposed by Delegate Gravel, and adopted by the convention on November 2, 1973, on line 20 of the text of the amendment, after the word and punctuation "state," and before the word "unless" insert the following: "Provided, however, that no parish shall receive a lesser amount than was received by the parish from the property tax relief fund in 1971."

Explanation

Mr. Alario Mr. Chairman and fellow delegates, this amendment simply insures that no parish governing authority would receive any less funds by adopting a new formula than we did receive under the 1971 property tax relief fund.

Vice Chairman Roy in the Chair

Motion

Mr. Alario Mr. Chairman, seems I have a technical error in my amendment. I'd like to withdraw it at this time.

Mr. Gravel Very technical.

[*Amendment withdrawn.*]

Amendment

Mr. Poynter Mr. Kean sends up amendments at this time.

Amendment No. 1. On page 8, line 7, in Floor Amendment No. 1 proposed by Delegate Gravel and others and adopted by the convention today:

On line 31 of the text of the amendment, immediately after the word "offset" and before the word "losses", delete the word "occurring" on line 32 immediately after the word "exemptions", delete the words and punctuation "granted in this article." and insert in lieu thereof the following:

"Applicable to state, parish, school, and city of New Orleans taxes, and to taxes levied by special districts provided such special district taxes were eligible for reimbursement or payment from the property tax relief fund prior to the abolition and repeal by Act X of the 1972 Extraordinary Session of the Legislature. Such reimbursement to any tax recipient, when added to the ad valorem taxes collectible by that recipient, shall not exceed the sum obtained by making that same computation had the millage adjustment provided in Section 5 not been made."

[*Amendment withdrawn.*]

Amendments

Mr. Poynter All right. [*Amendments by Mr. Kean.*] First of all, he is going with Amendment No. 2 as well. However, there is one technical change that goes to the instructions of Amendment No. 1.

In the instructions, immediately after the word "1973, November 2, 1973," in the third line, strike out the remainder of line 3--are the instructions, now. Immediately after "November 2, 1973," strike out the remainder of line 3, strike out line 4, and on line 5, strike out at the beginning of the sentence the words "losses", delete the word "current and", all the way from "losses" through the word "and". It would have the effect of leaving the word "current" in line 31.

Amendment No. 2, which I didn't read, on page 8, line 7, in Floor Amendment No. 1, proposed by Delegate Gravel and others, and adopted today.

On line 34 of the text of the amendment, immediately after the word "allocated", and before the word "within", insert the words "to the municipalities and tax recipient bodies."

Explanation

Mr. Kean Mr. Acting Chairman and fellow delegates, the deletion of the language that I requested as

a technical amendment was to leave in this particular section the word "current" so that it would read "the current losses". The Amendment No. 1 is designed to do two things. The first would be to insure that the revenue sharing payments to the tax recipient bodies would be designed to cover those homestead exemptions applicable to state, parish, school, and city of New Orleans taxes, and the taxes levied by special districts provided the special district taxes were eligible for reimbursement or payment from the property tax relief fund prior to the repeal of that fund. Now this is essentially what the law is today. I am greatly concerned that unless we provide in this constitution this kind of prohibition against the application of the revenue sharing funds to homestead exemptions, applicable to special districts, we are simply going to have...not have anywhere near enough money in this fund to meet the obligation that this section would create. The purpose of the amendment under those circumstances is to insure that these payments would be applicable to reimburse for homestead exemptions that were tied in with state if those taxes were levied--parish, schools, city of New Orleans--taxes, and only those special districts which were eligible for reimbursement prior to the repeal of the property tax relief fund. Otherwise, I think we are going to get back in to the kind of problems we had before the 19...1956 amendment to the property tax relief provisions which prohibited further application of the property tax relief payments in the case of special districts designed to avoid the creation of multiple special districts in order to get the benefit of the revenue sharing by reason of reimbursement of the homestead exemption. Under those circumstances, this would simply put the law in the same posture as it is today; would put some kind of a ceiling on the types of homestead exemptions to which the revenue sharing would apply. I think it would be...it would insure that we're not going to have excess demands upon the revenue sharing fund.

The second part of this amendment is designed to avoid the problem I brought up yesterday of a double-dip situation where you had to increase millage in order to compensate for a lower assessment. At the same time, you'd get the same amount of money as the result of that increase in millage, and at the same time, get back from the revenue sharing fund an additional amount equivalent to what you lost by reason of the lowering of the assessment base. It seems to me that these two would be designed, in my opinion, to avoid excessive demands upon this fund. I think it would give us some control over the amount of monies that would be involved through the revenue sharing fund. I suggest to you the desirability of these two amendments.

I'd be glad to answer any questions.

Questions

Mr. Avant Gordon, as I understand what you are intending to do is to simply provide that the reimbursement, plus the taxes collected, in other words, the reimbursement from the revenue sharing fund, plus the taxes collected by the taxing authority, would not exceed the sum of money that they would have collected from taxes had we not had this constitution.

Mr. Kean That's correct...in order that they not get it through an increase in millage by reason of the rollup provision, and that on the other hand, collect from the revenue sharing fund the loss that they would have sustained by reason of the homestead exemption.

Mr. Avant Now...now...what I'm having difficulty is...is in following where you use the language "shall not exceed the sum obtained by making that same computation."

What same computation? We haven't talked about any computation that I know of.

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Mr. Kean The addition of the ad valorem taxes collected, and the amount to be reimbursed to the tax recipient.

Mr. Avant I'm sorry. I didn't hear you.

Mr. Kean A computation we are referring to is the reimbursement to any tax recipient when added to the ad valorem taxes collected; the idea being that you would not get any more than you would have gotten if the millage adjustment had not been made.

Mr. Avant All right. Now...let me make sure I understand the intent of the amendment, then. The revenue received from the ad valorem tax the year before this constitution goes into effect is what we're talking about.

Mr. Kean That's correct.

Mr. Avant This amendment is simply designed and intended to say that the money from the revenue sharing fund, plus what you received...

Mr. Kean ...by reason of the rollup...

Mr. Avant ...by reason of the rollback or rollup, based upon a new assessment procedure will not exceed that prior year's income.

Mr. Kean That's so.

Mr. Avant If you didn't suffer a loss of income, then you don't get anything from the revenue sharing program.

Mr. Kean That would be my impression of the...

Mr. Avant In other words, that's your intent. In other words, if this would be one of those parishes where the net result of this thing is to raise assessments and produce more money than you had before, if any such situation happens, then those people don't get any money from revenue sharing.

Mr. Kean In that particular year. That's correct.

Mr. Slay Mr. Kean, I'm looking here at a Baton Rouge paper from...Mr. Kean, in looking at yesterday's Baton Rouge paper they're talking about a St. George fire protection district. It says, "Such new districts don't qualify under the state revenue sharing program replacing the old property tax relief fund, City-Parish financial sources have advised." Now what your amendment is saying, that if a new fire district is formed, no matter how much money that parish is getting, this new fire district can never receive any revenue sharing, even though an old one, say, in Rapides Parish, can just receive this money on and on?

Mr. Kean No, my position is, Mr. Slay, that if the parish got some revenue sharing funds back, and had some excess over and above what might be available to meet the existing homestead exemptions as applicable to state, parish, and school taxes, then if they wanted to make some allocation out of those funds to that district, they'd have a right to do it.

Mr. Slay Well, as I read this, it says "provided said special district taxes were eligible for a reimbursement of payment from the property tax relief fund prior to the abolishing and repeal by Act X of 1972."

Mr. Kean Well, that would mean that they couldn't get back any revenue sharing funds. But it would be nothing to keep the parish, for example, out of its other funds, from making some contribution to that district if they wish to do so.

Mr. Slay Yes, sir. That's my point. We're cutting out these new districts from revenue

sharing funds. Suppose a parish gets more money than they need to retire their school bonds, etc., to have this extra revenue sharing money. But they still cannot form a new district and put any money in there. That's what you are saying.

Mr. Kean They could take out of their general funds and give it to that district if they wish to do so. In other words, the excess, as I see it, would go into the general fund of the parish. The parish, under those circumstances, if it wanted to make a contribution to aid that fire district in its operations, they have right to use those funds for that purpose. They simply would not get a direct participation in the revenue sharing funds.

Mr. Slay Now.

One other question. Don't you think it would be the duty of the State Bond Commission to tell a parish who was going to spend more money than it's going to get out of revenue sharing, that you have spent your limit? Now, you don't have anything, and we will not approve these bonds subject to revenue sharing. Would that not be the duty of the State Bond Commission?

Mr. Kean Well, if the parish is not going to get any excess, obviously I don't think they would have any money to fund bonds with. All I'm trying to do with this amendment is to give us maximum use of the amount of money that will be available to this fund for the type of tax...tax levies that we think they ought to be applicable to. My own opinion is that by the time we take care of the increase in the homestead exemption for parish, school, and city of New Orleans taxes, that there isn't going to be any excess. If there is going to be an excess, then I want it to go to the parishes, and the parishes can then use it for whatever purposes they want to do.

Mr. Dennerly Mr. Kean, as I understand that second sentence there, that really won't become applicable until three years after the...

Mr. Kean That's correct.

Mr. Dennerly It will have no effect in the meantime. Is that correct?

Mr. Kean No, sir. It would have no effect until such time as Section 5 becomes applicable. Section 5 doesn't become applicable until three years after the adoption of the constitution.

Mr. Dennerly Now in answer to one of Mr. Slay's questions, you indicated that you thought any excesses that went to the parish above the amount required to recoup the homestead exemption laws, would go into the general fund. But as I read the provision of Mr. Gravel's amendment, it says "any balance thereafter remaining in any parish distribution, shall be allocated within each parish in accordance with law. That could, therefore, depend upon the legislature, could it not?"

Mr. Kean That's correct. But as I read the... amendment, it is designed to take the excess and make it available to the parishes on some formula to be devised by the legislature. Under those circumstances, if the parish got an excess, it would simply go into its general funds.

Mr. Conroy Mr. Kean, as we discussed yesterday, I agree with your concepts, I want to make sure how this amendment operates, though. As far as the last sentence goes, which computation would be made first? The millage adjustment computation, or the amount of the homestead reimbursement?

Mr. Kean I think the amount of the homestead reimbursement, David.

Mr. Conroy Would be made first. Then you'd determine the millage adjustment.

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Mr. Kean That's correct.

Mr. Conroy How would the increase in homestead exemption affect this? Or would it at all? I mean, would it make any difference if the homestead exemption is being increased?

Mr. Kean It wouldn't make any difference so far as the increase in the homestead exemption is concerned. It would simply mean that we would try ...you're trying to avoid making...getting an increase tax from the rollup, and at the same time, be reimbursed from the increase in the homestead exemption. And we're trying to level it off so that you don't have that kind of double situation.

Mr. Conroy So that under this the extent of the millage adjustment might be reduced by virtue of the homestead reimbursement. Is that correct?

Mr. Duval Mr. Kean, I'm just trying to understand your amendment. First, I'd like to...I think you may have answered this and I didn't hear it properly. In the event a parish would be sufficiently reimbursed under the formula for losses of homestead exemption, and there was excess, where am I to understand the excess would go?

Mr. Kean As I appreciate the Gravel amendment, the money from the revenue sharing would be used first to reimburse for amounts that were represented by the homestead exemption. If there was anything left in the ninety million dollars, or whatever the number is, then, of that excess, the legislature would have a right to divide it among the parishes in whatever manner it wished to do so. That excess money coming to the parishes would then go into the general fund of the parishes and could be used by those parishes out of their general fund for whatever their normal purposes would be.

Mr. Duval Then...exactly what does your amendment...what is your amendment designed to do? What is the main thrust of your amendment?

Mr. Kean The main thrust of my amendment is two-fold. First of all it's to insure that we're not going to get back into a multitude of special districts created solely in order that they could take advantage of the homestead exemption, and secondly, to make certain that by the rollup device of Section 5, we do not have a situation where a parish increases, brings it by an increase in millage, still gets the same number of dollars as far as taxes are concerned, and then, on the other hand, gets from the revenue sharing fund amounts represented by an increase in the homestead exemption.

Mr. Duval O.K. Now what happens in the event you increase your millage, and you don't lose any money? Where does the money go that you would normally get under the Gravel formula?

Mr. Kean If you increase your millage, and you don't lose any money in the first year?

Mr. Duval Yes, sir.

Mr. Kean Then you would still get your share of the revenue sharing. But it would not exceed what you would have gotten if there had been no increase in the millage.

Mr. Duval O.K. But under the Gravel formula, you would be entitled to more...where would this money go? It would just be distributed among the other parishes?

Mr. Kean If they had an excess, it would be distributed among the parishes.

Mr. Duval O.K. One other question, Mr. Kean. You changed the...you used city of New Orleans taxes. Why do you use City of New Orleans taxes...?

Mr. Kean Because the city of New Orleans taxes are subject to the homestead exemption taxes.

Mr. Winchester Mr. Kean, as I understand it now, there are a number of special district taxes that are covered by homestead exemption. There are a number of special district taxes that are not covered by exemption--homestead. Under your amendment, when a special district ran out five years from now, ten years from now, or three years, or two years, no more special districts could be put on the...on homestead exemption?

Mr. Kean If I understand the rulings up to this point, Mr. Winchester, the attorney general has held that under the 1956 statute which this is copied from, that if you have a renewal of a millage that was already subject to the homestead exemption, it continued subject to the homestead exemption. Any new district created after 1956, was not subject to the homestead exemption, and, therefore, would have not been eligible for reimbursement prior to the repeal of the property tax relief fund. Under those circumstances, they've continued to be treated in the future as they have in the past.

Mr. Winchester So, it could end up that only those taxes, like parish, school, would be covered in the future under homestead exemption in, say, five years, ten years from now. Was that very possible, isn't it?

Mr. Kean It's possible, and I think it's probably, because I think the amount of money that we've allocated for this, in light of the increase in the homestead exemption, is not going to be enough to take care of any more than the parish and school reimbursements. That's reason I thought we ought to have a ceiling on it.

Mr. Winchester Well, I'm sorry. But I'll have to be against your amendment, sir.

Mr. Avant Mr. Kean, Gordon, as I understand it, if this constitution is adopted at the time it's going to be submitted--the schedule we're working under--if this provision is in it, then we will have this situation. We will have parish "A", for instance, will have, say, a street lighting district in it somewhere levying certain millage, subject to the homestead exemption. Parish "B", though, would have a similar street lighting district levying a certain millage, but not subject to the homestead exemption...

Mr. Kean You've got that right now, Jack.

Mr. Avant All right, that's what we got right now. This...now, then the income taxpayers of the state through this revenue sharing fund would then be subsidizing homestead exemptions in one parish where they are not taking place in another parish. Isn't that the same thing that the courts have already said is unconstitutional?

Mr. Kean Well, I think you can have a cutoff on it...matter of fact, we had one. If you don't have that kind of a cutoff, and if we are now going to say that this revenue sharing fund is going to take care of the homestead exemption applicable to school parish, and all special district taxes from here on out, then we're not going to be able to print enough money to make the reimbursements that would be required in order to accomplish it. We're simply going to go back to a proliferation of special districts designed to get the advantage of the homestead exemption.

Mr. Avant But, my question is though isn't that exactly what the court said was unconstitutional?

Mr. Kean No, I think the court...as I appreciate the interpretation of the court based on the property tax relief fund was that you had varying assessment practices in various parishes against

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which the homestead exemption applied.

Mr. Avant All right. As a result of that and as a result to certain parishes having low assessment, then you had an unequal, in effect, distribution of that property tax relief fund where some people were getting a lion's share of it.

Mr. Kean That's correct.

Mr. Avant The court said that's unconstitutional. Well, this just perpetuates that same situation under another...

Mr. Kean I think you can make a reasonable classification. I think you can establish other classifications to cutoff date to which this exemption will apply.

Mr. Avant I have to disagree with you.

Mr. Kean If you don't, we're in trouble.

Mr. Rayburn Mr. Kean, I want you to tell me if I understand what you're attempting to do. If I read this amendment right, am I correct in assuming that what you are attempting to do is to say that all taxing districts that were eligible to be reimbursed out of the property tax relief fund when Act 2 of '72 passed will still be eligible?

Mr. Kean That's correct.

Mr. Rayburn ...and all of those that were created since 1956 that were not eligible at that time cannot be eligible in the future?

Mr. Kean That's exactly right.

Mr. Rayburn Now, on your second thing that I think you're attempting to do. You are saying at regardless of the rollup or rollback of millage in Section 5, that we cannot provide those districts with any more money than they were receiving prior to the time the increase in millage occurred.

Mr. Kean That's correct, out of all the windfall, that's all.

Mr. Lanier Mr. Kean, in simple words what you're trying to do with this amendment is to protect the municipalities of the State of Louisiana in their present position on revenue sharing. Isn't that true?

Mr. Kean Well, that's what my second amendment is designed to do, Mr. Lanier.

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, I rise in opposition to this amendment for a couple of reasons. One, is that since Act 10 of 1972 there has been allowed some special districts to be voted on and to, in fact, be included or that the people have been told that they will be covered under the homestead exemption program. This is a real confused area and some are being covered, some are not; it's never been tested in the court. I know of the problem that Mr. Kean talked about. I believe that something, or some cutoff has to be maybe set up to where you can't just promiscuously vote additional taxes and make sure that it all comes from the revenue sharing. I understand that. But, I don't believe his amendment does it. I think it should be looked at a little more carefully so that everybody will be treated alike. As it is right now, everybody is not being treated alike. Some people enjoy some exemptions on special districts, that others don't. Some have enjoyed some exemptions that they voted and passed since Act 2 of 1972. Now, if this amendment goes through and, in fact, the constitution is accepted, then there won't be any allowed in the future. But, whatever has to be done should be done uniformly and for everybody in the state.

I would ask that you vote against this amendment.

Questions

Mr. Lanier Mr. Mire, are you opposed to the second amendment that Mr. Kean proposes or just the first amendment?

Mr. Mire Just the first one.

Mr. Lanier O.K. You're not opposed to protecting cities like Donaldsonville or Thibodaux in their present revenue sharing status, are you?

Mr. Mire I...if there is anything left after the homestead exemption, I think they should get their share of it.

Further Discussion

Mr. Avant Mr. Acting Chairman, fellow delegates, what this amendment would do now--I'm talking about Amendment No. 1--it would lock into this constitution that we have been laboring on here for nearly a year the very identical situation which the courts have previously declared to be unconstitutional, that's what it would do. I think that was brought out very clearly by Mr. Kean's answers to the questions which I asked him. Now, my understanding that the very reason why the revenue sharing proposal was drafted as it was, that is, to make it based upon a formula consisting of population and number of homesteads rather than dollars lost because of homestead exemption was to avoid that constitutional issue and to get out of this issue...Now, I think you can see very readily that if you have a multitude of districts scattered out all over the state, many of which is performing the same service, some of which is subject to the homestead exemption, some of which are not, and you draw distinction; and you subsidize through a state fund financed by income taxes collected from all the people of the state, the losses of those particular parishes that enjoyed a homestead exemption in contradistinction to the other parishes, that you are in the same constitutional infirmity that you are in with respect to the property tax relief fund. For that reason, I ask you to vote against this amendment, because, I for one, don't think that we should willfully and deliberately sit here and perpetuate in a new constitution something that the courts have already declared to be unconstitutional.

[Previous Question ordered.]

Closing

Mr. Kean Mr. Acting Chairman, fellow delegates, I'll be very brief. The import of this amendment particularly that part in the first sentence of it or the first half sentence of it is designed to place a cutoff on those taxes which would be subject to the homestead exemption and would have to be reimbursable out of the revenue sharing fund. It is no different than what the present law is. I say to you that if we don't put some kind of controls such as this in this provision, then we leave it wide open...go back to the creation of multiple special districts designed to do nothing more than get the benefit of the homestead exemption. If you have to try and reimburse those, you're not going to have enough money to take care of the parish and school taxes; it's just simple arithmetic. You just can't take care of all the special districts in this state through reimbursement. Under the circumstances, this puts a cutoff on them. If there is any excess left out of these revenue sharing funds as a result of this cutoff, then it would go to the parishes in accordance with the legislative formula to be established. It would go into the general funds of the parishes or the municipalities whichever you wish to do with it and then used by those agencies for whatever the normal purposes would be. But, I say to you if we don't have some kind of cutoff such as this,

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we simply have an unmanageable situation and not enough money to deal with it even now, or in the future, or in the future many times over. I recommend and hope you will vote for the amendment.

[Division of the Question ordered.
Amendment No. 1 adopted: 54-51.
Motion to reconsider tabled: 53-52.
Amendment No. 2 reread.]

Closing

Mr. Kean Mr. Acting Chairman, fellow delegates, this is a... what I considered to be a technical amendment. I think it was the intention of the drafters of the Gravel amendment when it talks about any excess being distributed within the parish in accordance with law to include all of the agencies that were included in the most recent amendment to the 1921 Constitution which did include municipalities. This amendment would simply make it clear that if the legislature wanted to include the municipalities and any distribution of an excess, that they would have a right to do so and provide that it would be distributed to the municipalities and tax recipient bodies within the parish in accordance with law. It seems to me that the municipalities ought to have a right at least to share in some excess if any excess is available, or at least we ought not to cutoff the right of the legislature to permit them to share in that excess. This amendment would simply clarify their right to do so or the right of the legislature to permit them to do so. I ask your favorable consideration of the amendment.

[Amendment No. 2 adopted: 100-6. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Rayburn and Mr. Blair]. On page 8, in Floor Amendment No. 1 proposed by Delegates Gravel, and others, and adopted by the Convention on today, delete lines 35 through 46, both inclusive, and insert in lieu thereof the following:

"(E) Any political subdivision, as defined by Article VI of this constitution, may incur debt by the issuance of negotiable bonds, and may pledge for the payment of all or part of the principal and interest of such bonds the proceeds derived or to be derived from that portion of the funds received by it from the Revenue Sharing Fund, as provided in Paragraph (D) of this Section, to offset current losses caused by the homestead exemptions granted by this Article. No portion of any moneys allocated within any parish out of any balance remaining in any parish distribution, as provided in Paragraph (D) hereof, may be pledged to the payment of the principal or interest of any bonds. These bonds shall be issued and sold as provided by law, and shall require the approval of the State Bond Commission prior to issuance and sale."

Explanation

Mr. Rayburn Mr. Acting Chairman and fellow delegates, what this amendment attempts to do is to say to the political subdivisions that any funds that you were entitled to at the adoption of this proposal, that you will continue to receive it, and that you will be able to bond it. But, it does delete the language from the Gravel amendment, which I believe Mr. O'Neill's amendment deleted "the full faith and credit of the state." This also deletes that, and it also prohibits the bonding of any surplus. I just can't conceive of allowing a municipality, or a police jury, or a school board to bond some surplus after seeing the legislature in action trying to distribute these funds and trying to figure out what to do with the surplus. You might have a tremendous problem one year with your school boards, two or three years later you might have a more serious problem with

your municipalities. Once you give them this money, and it's bonded, then for the length of the bonded indebtedness those bonds are tied down. I have no objection to these political subdivisions bonding what money that they have prior to the time that we repeal the five and three-quarter ad valorem tax. But, I do think it would be foolish and unwise for us to say to a police jury that the legislature is going to give you fifty percent of the surplus this year and then they bond it, and then three years later we found out where the school boards might need that fifty percent worse than the police jury; we'll find ourselves with that surplus bonded. I don't think they should be allowed to bond the surplus. I finally give in, I'm willing for them to bond what they are entitled to. But, I don't think they should bond the surplus because at this particular time no one knows exactly how much surplus will be and no one knows how the legislature will divide that surplus. Thirty-nine changes were made at the last session over the previous session. Once this provision had been in effect and those funds had been bonded --and I'm talking strictly now about surplus-- once those surplus funds had been bonded the legislature's hands would have been tied, and you might have a serious problem in your school board today. Two years from now, they might be getting along pretty good and your municipality might have a serious problem, and you might want to change that percentage factor maybe from fifty percent this year to your police jury to fifty percent next year to your school board or vice versa. I'm merely dealing with the surplus. I am deleting the full faith and credit of the state. I had the staff to check...no state in the nation has that provision in their constitution, no state. I think we've gone a long ways. I hope you adopt this amendment.

Questions

Mr. O'Neill Senator Rayburn, did you know that your proposal conforms with the amendment that I had a while ago? I just want to make that clear. But, there is one little technical thing you might want to do in yours on the last line, and mine said "the State Commission or its successor." I believe when we spoke of various commissions in this constitution, we have said "or its successor." So in case this commission is changed in some future date, then the succeeding commission who takes care of that will also be included in this constitution.

Mr. Rayburn Mr. O'Neill, that language does not bother me. However, I have no objection to adding those words because in the past when we have abolished, like the Capitol Construction Commission and created a State Bond Commission, the act provided that all the functions and duties provided by the State Bond Commission would be...I mean the Capitol Construction Commission would be transferred to the State Bond Commission, but I have no objection to that language if you want to add...

Mr. Burson Senator, don't you think that as a practical matter that your amendment is not really hurting anybody because it would be very, very difficult for any unit of local government to sell any kind of bonds that would be based on a surplus that might vary from year to year?

Mr. Rayburn That's true, Mr. Burson. First of all, I don't...there was a little gimmick in there, but since it's out, where the full faith and the credit behind them, you could sell them regardless of what they were--surplus or not surplus. But since that's been deleted, I don't believe you could sell...no bonding attorneys could sell, or bonding companies could buy any bonds that was a surplus...that was at the whims of the legislature changing each time they meet. So, really and truly what I'm trying to do here, is to say they cannot bond the surplus, but they can bond what they are entitled to, and what there

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had been receiving. But, they cannot bond the surplus, because I cannot sit here and tell you what that surplus will be two or three years from today or how it will be distributed. I've gone through two years of it. I've seen two major changes in the distribution of it. I can only relay that to you and that's why I ask you to adopt this amendment.

Mr. Perez Senator, I'm sure you didn't mean to do it but what I want to call to your attention is my appreciation of the definition of political subdivision as defined in Article VI, as I recall it, does not refer to school boards or school systems. I think you would want to be sure to include school systems in your amendment.

Mr. Rayburn Are you saying that Article VI does not refer to them?

Mr. Perez Well, if we amended it, and I don't recall it. The original proposal did not include school districts. If, in fact, it has done so, then...

Mr. Rayburn Mr. Perez, I thought we amended and put in school districts and also put in the words "city schools" to take care of the two city districts. I thought we had done that, maybe we didn't; I know we discussed it.

Mr. Perez If, in fact, we have, then my question would be answered.

Mr. Rayburn Well, even if...

Mr. Perez I stand corrected. I'm told that we did include school boards.

Mr. Rayburn Thank you for admitting it, Mr. Perez.

[Amendment adopted without objection.]

Amendment

Mr. Poynter Next amendment is sent up by Delegate Perez.

Amendment No. 1. On page 8, in Floor Amendment No. 1, proposed by Delegate Gravel, and others, on November 2, on line 46, at the end of the text of the amendment add the following:--Now, you want this to go to the end of the Rayburn amendment now, Mr. Perez? It still should be part of Paragraph (E) shouldn't it? We'll change the technicality of it...in essence stays in the same place. But, it should instead of the end of line 46, it should now be at the end of the Rayburn amendment which was just adopted and it would add this language: "In addition to the above, the state shall pay out of the state general fund to each political subdivision a sum of money equal to the amount of taxes lost to each such political subdivision as the result of ad valorem tax exemptions granted by the state for manufacturing establishments after the adoption of this constitution. This provision shall not apply when the governing authority of the parish and of the school district in which such exempt industry is located approves by resolution such ad valorem tax exemption."

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, as you will recall previously we have decided that in connection with the granting of exemptions for industry that that decision will be made solely and only by the state and not by local government. We were told when the argument was going on with respect to that issue, that these were matters of statewide concern; that these were matters which went beyond parish boundaries. Since we have decided that this is a matter solely within the discretion of the state; since we have decided that local government should have no say-so with respect to the granting of such an exemption as a result of the deletion of those

words. I know that there will be those who say we are going to leave it to the legislature. But, it does mean that there is absolutely no certainty that local government will have any say-so with respect to these exemptions. I say to you that with regard to future exemptions one of two things should happen--either the state should reimburse the local government for the tax loss as a result of granting that industrial exemption or the approval of the local government should be secured in the event that local government feels that it is in need of that industry and it is willing to give up the collection of taxes in order to induce that industry into its area. Let's see if we can't analyze this thing reasonably and logically. Who is it that is going to receive the tax benefits when that industry comes into an area? The state primarily collects most of the state taxes, there will be a tremendous increase in sales taxes. The state collects the income taxes, there will be a substantially increase in the income taxes. Who gets nothing out of it--the local government. Now, why is it that local government should bear all of the burden of the new industry, and the new people who will be coming in when, in fact, they receive none of the benefits, none of the tax benefits to be derived? I don't in any manner want this...my remarks to be interpreted as being against the exemption for industry. But, I do believe that if the determination is going to be made by the state, I do believe the state should cover the burden particularly because of the fact that they are going to be the ones who will be receiving the revenue. I, therefore, urge you to adopt this amendment. I'll be glad to yield to a question from Mr. Gravel and anyone else.

Questions

Mr. Rayburn Mr. Perez, the last part of this amendment, I believe, was defeated by this convention yesterday. Am I correct or not? Where the local governing authority would approve any...and the exemptions for industry, was that not defeated yesterday by...

Mr. Perez Well, Mr. Gravel, it was twice approved by this convention on the third time around... disapproved, so I'm not sure where we stand. But,

Mr. Rayburn Mr. Perez, I want to inform you that my name is Rayburn, not Gravel.

Mr. Perez Well, pardon me, sir, pardon me, Senator. But...

Mr. Rayburn I don't know how mad you are at me, but I didn't think you were that mad.

Mr. Perez But, the answer to your question, is that this is introducing it with a different concept, that is, with the concept that if the state wants to give the exemption fine. If it's to the great advantage of the state, the state should pick up the burden not the local government, because they are the ones that's going to be deriving the increase in taxes immediately.

Mr. Rayburn But, this is the same amendment that was defeated, practically the same amendment that was defeated yesterday?

Mr. Perez No, sir, it is not the same amendment. But, it's very close to the two that did pass by this convention.

Mr. Rayburn Yes, sir. Well, anyway, I voted for it, I want you to know it. But, it seems to me like it's doing the same thing because there was a provision where the local governing authorities would have to approve any exemption and that provision was defeated and if I read this, this says the same thing. Now, where you say the state shall pay out of the state general fund to each political subdivision sum of money equal to the amount of taxes lost to each political subdivision. Could you give me any idea what you're talking about,

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Mr. Perez, because I'm going to be on the end that's got to find that money?

Mr. Perez Well, you see the problem, Senator, that we have is that with all that we have done here with the effect of the thirty thousand dollar homestead exemption, we have no idea what's that going to mean to us. We have broadened the additional exemptions. We haven't talked about what local government...what's it's going to cost local government; we have no idea whatsoever. We also have no idea what losses local government are going to have to sustain as a result of all of this because these exemptions are granted when they have absolutely nothing to say about it.

Mr. Rayburn Mr. Perez, I have some figures here. I don't know whether you will agree with them or not that states as of December 31, 1972 the amount of money was \$41,773,233.00; do you have any idea where we could find that much money?

Mr. Perez Well, this...no, Senator, this particular provision would only apply to new exemptions granted in the future. But, don't you think it's pretty tough for local government to have had to give up that forty-one million dollars a year?

Mr. Rayburn Mr. Perez, I told you earlier that I voted with your proposal yesterday. But, we lost, and I just come from the old school--when you lose, you lose.

Mr. Perez Well, Senator, I would be glad to go along with that if the people who submitted the amendment yesterday would have taken their losses previously because on two occasions prior to that this convention had voted to give local government a say-so in the subject matter. So, it is not me who's bringing this subject matter up again, and again; it's the fellows who went before me.

Mr. Flory Mr. Perez, if the state is going to make up the difference, let's say, of forty-one million, seven hundred thousand dollars, would you then agree that the state could take the benefit of the extra sales tax generated by the jobs and the money spent by the new industry located in that particular area?

Mr. Perez Well, first of all, your first part of your question is inaccurate because of the fact that this amendment does not apply to existing exemptions. It would only apply to those that would be granted after the adoption of this constitution.

Mr. Flory Alright. Then the same thing would hold in the future. That revenue increase--because of the increased sales tax collection--would you then agree that the state ought to get that money if they're going to reimburse this?

Mr. Perez Well, the state does impose a three percent sales tax statewide, sir.

Mr. Flory I'm talking about the sales tax levied by the local governing body in the jurisdiction in which the new industry is located, and generates the additional revenue.

Mr. Perez Well, the way we've been stripping local government of just about everything, and granting more exemptions, maybe you may as well take that to.

Mr. Stagg Mr. Perez, sometimes, back during the days of the local and parochial argument, when somebody would get to the microphone with an amendment like this, you would come up there and say that this is a bad, bad, bad amendment. Do you know that that's the way I feel about this one?

Mr. Perez Sir, this is one time that I would say that this is a good, good, good amendment.

Mr. De Blieux Mr. Perez, now let's get right down to this amendment. Now, you're not talking about revenue here that a local subdivision has lost, have you, because that probably has never been on the tax rolls? Isn't that correct?

Mr. Perez Well, what it means, Senator, is that in the event an exemption is granted to a new industry in the future, and that local government does not--and the school board does not adopt a resolution approving it, then any taxes which would be collectable against that particular industry, if it went on the tax rolls, would be reimbursed by the state because the state would make the determination that the tax exemption should be granted, and the state is going to receive, primarily, the benefits from the increased revenues, so therefore, the state ought to bear the burden.

Mr. De Blieux Well, wouldn't the local political subdivision also receive increased revenues from the people, the homesteads, the homes, building homes, the sales taxes that they usually collect... the other taxes that go with that, other services?

Mr. Perez Senator, that's the very problem we have. We're granting a thirty thousand dollar homestead exemption, and the average worker who is going to be working that industry is going to be totally exempt from taxation. The industry is going to be totally exempt from taxation for a period of ten years except for property, and a minor part of their investment. So, that's exactly what I'm saying to you, sir; the local government is going to be deprived, primarily--except for some limited sales taxes--is going to be primarily deprived of having any income. The state's going to receive the income; the state's going to decide who gets the exemption; and yet, the state is not going to help to support it. It just doesn't make sense to me.

Mr. De Blieux Now, Mr. Perez, you know that the state has to get its revenues from the same identical source which the local governing body gets its revenues, from the people. Isn't that correct?

Mr. Perez Yes, sir. But the state...you asked me a question; I'm trying to answer it. The state imposes an income tax; the state imposes a three percent sales tax, which is greater in many cases than other areas have; the state is not limited in its area of taxation except the five and three-quarter mill property tax. The local people are primarily limited to ad valorem taxes, and in certain cases, sales taxes. What I'm saying to you is the states make a determination as to what local government should receive by granting an exemption. I'm just saying, if they decide they want to grant that exemption, local government should go along with it, and say, well that's fine, we want these good industries here. But, the cost of the increased services as a result of those new industries should be borne by the state if they're going to grant the exemption. I just can't understand... I didn't think this would be an amendment which would even be hardly questioned, Senator.

Mr. De Blieux Aren't you actually advocating that the state raise revenue here to pass on to the local subdivision, by whatever source, and therefore, it's going to cause an extra burden to the taxpayer? Isn't that what you're advocating?

Mr. Perez No, sir. What I'm saying to you is if the state decides it wants to grant an exemption, and the local government has nothing to do with it, then they should put the money up.

Mrs. Miller Mr. Perez, our good Senator Rayburn said he went to school on this yesterday and failed. Don't you believe that we ought to give all children a good chance to come back and learn their lesson again if they fail, and not leave it there?

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Mr. Perez Well, you know, this matter was up twice before and it was decided that local government would have something to say about these exemptions. The third time around they decided no. Maybe...I think local government might win three out of four before it's all over with, I hope.

Mrs. Miller You think some of the delegates might learn more and more as we go on?

Mr. Perez Well, I hope somewhere along the line that we're going to decide that local government has responsibilities and needs the money to take care of it.

Further Discussion

Mr. Jenkins Mr. Chairman, I hate to come up again, but, here again we have a provision which would deal a mortal blow to the industrial inducement program of the state. I don't think that a majority of the delegates support this effort, but we're having so many amendments that I want to call people's attention to it. The fallacy of this amendment is that this would be the only exemption mentioned in Section 3 of this Article for which the state would be supposed to reimburse the local governing authorities. If you would follow the logic of this amendment to its reasonable conclusion then the state would reimburse every local governing authority for every property tax exemption. For example, if there is a property tax exemption for a church, then the state should reimburse the local governing authority for that. If a new church is built out here somewhere--a church that never existed before--then the state should send a check to the local governing authority for it. The state should send it for a gasoline powered boat or for a school--even for state owned public property, I suppose--for Mardi Gras carnival equipment, whatever it might be. We don't do that for other exemptions. It doesn't make sense to do it for this one. The only sacred one is the homestead exemption, and there is a historical reason for that. The historical reason is that during the thirties when the homestead exemption was created, it took something off the tax rolls that had never been there before. The local governing authorities had to have this additional revenue. When we talk about industrial tax exemptions, we are not taking anything off the tax rolls that was there. It's something that was never there. It's something that, in most cases, would not ever be on the tax rolls if it weren't for the industrial inducement program, so we're not taking anything off the rolls. On the contrary; land is kept on the rolls, and now it would be the improved value of the land; inventories go on the rolls that have never been there. There's an increase in the sales tax; there's increase in homes purchased; there's a general increase in the economic development and progress of the area, all of which benefits local government. So this doesn't take anything away from local government the way the article is now. But, this amendment would really gut the whole industrial inducement program. Where in the world would the state get the money to reimburse these localities for the taxes supposedly lost? The money simply doesn't exist, and that result, thus, would be the end of this industrial inducement program. So, in closing, I'd just like to urge you to defeat this amendment.

Question

Mr. Champagne Do you agree that if this was in the spirit of fairness--if you really adopted such a thing, which I would hope we would not--that you would have to say less the amount of sales tax generated located, less the amount of inventory ad valorem taxes increase, less the amount of income taxes generated, and everything else?

Mr. Jenkins Yes, sir. The way it's written out is sort of a one-sided thing. A thing where you have your cake and eat it, too, and that doesn't seem to make sense.

[2110]

Further Discussion

Mr. Rayburn Mr. Acting Chairman, and fellow delegates, I rise in opposition to this amendment. I look at some figures and we're talking about some forty plus additional million dollars, and I don't know where all these revenues are coming from. While some of you people...Mr. Perez is back home trying to figure out how to spend it. I'm one of the one's that's going to be over here trying to find it, and it makes it a little different. Mrs. Miller, let me say to you that maybe we should go to school more, but as far as I'm concerned, I am now getting my PhD degree in this, and I won't be back, I'll tell you that. I won't need any further education, or no more schooling if the Lord lets me survive this. This amendment does put an additional drain on the state treasury. As Chairman of the Finance Committee, I feel it's my duty to try to protect and safeguard the monies that we now have in the state treasury to operated this state on. I realize that we've done many things that's going to put a hardship on various sections of this state. Likewise, we've done some things that I'm just as convinced of as I am I'm standing here, that's going to put a hardship on the legislature. We, too, are going to have additional problems if this program is finally adopted. I think that we've got to stop just increasing additional financial burdens on the state treasurer, and let's go ahead and try to adopt this thing and try to move along with our work, and I ask you to reject the amendment.

Questions

Mr. Perez Senator, you mentioned the figure of forty-one million dollars, and don't you know that you're talking about existing exemptions and my amendment would only take care of future exemptions?

Mr. Rayburn Mr. Perez, I know that, but, I don't know what I'm talking about. I don't know what effect the homestead--the thirty thousand dollar home exemption--is really going to have. I don't know what is going to be the financial drain on this state treasury of ours, and I think we've gone about as far as we can go surmising. I'm willing to cut this faucet off, and go ahead and if we have made some mistakes, maybe we could come back later in the legislature, or even have to submit something to the people to straighten it out. But, I don't think that we can just keep on, and keep on saying to provide monies...

Mr. Perez Well, Senator, do you believe that we can, then, keep on and keep on granting industrial exemptions without local government having anything to say about it, without knowing what it's going to cost in increased services back home?

Mr. Rayburn Mr. Perez, if you will read our proposal, we had a provision in there that left it to the local governing authorities, because, in my opinion, the state's not in the ad valorem tax anymore. This convention did not see fit to adopt that language. Since they did not see fit to adopt that language, I bowed to the will of the majority and am trying to move on. I realize this: that we need industry in this state. It means added jobs, and certainly it's going to cost us a few dollars if we're going to give them tax exemptions. We've done it in the past and I guess we'll continue to do it in the future, and in most cases, in my opinion, they are worthwhile, Mr. Perez.

Mr. Perez Senator, isn't it also true that we voted on two occasions to give local government some say in this thing, and there was an awful lot of floorwalking one day, and the first thing you know, this convention changed its mind?

Mr. Rayburn That's exactly right. I saw them change it today. I saw my committee members...the majority of them...I told one a while ago, I said, "You know what you remind me of?" "You remind me

of the other day, I was driving down the road one sunshining day and I saw two cooters on a log, and when I passed one slid off." I said "You slid off that log and left me just like that cooter left that log." And I told the other one, I said, "You remind me of a man in a room with a good-looking girl. About the time he reaches for her, she's gone." That's how quick my committee left me, Mr. Perez. But, that's water under the bridge, they're gone! So this is just a new deal and I'm ready to start over.

Mr. Perez Senator, don't you think that cooter ought to get back on that log again like he was for the first two votes?

Mr. Rayburn Well, if he's as slick as he was... that log when he slipped off and left me, I suggest he stay under water.

Further Discussion

Mr. Gauthier Mr. Chairman, and members of the delegation, I will move the previous question shortly. But, before I do, I would like to reason with you on one score, and please think carefully now. The state is not in the property tax business. It has no interest in the property tax business at the present time. We have granted it five and three-quarter mills, five dollars and seventy-five cents on a thousand, if in the future, it decides to get back into the property tax business. Now, listen carefully to this: Local Government, on the other hand, forty to eighty percent of its revenues is made up from property taxes. Local government depends on property taxes. So on the one hand, you're saying the state won't be in property taxes; on the other hand, local government will, and then you're coming right back and you're saying, but, the state can grant exemptions--industrial exemptions--and we've heard over, and over, and over, that the argument against our going ahead and granting industrial exemptions is that we needed to attract industry. I submit to you that this last sentence...this provision shall not apply when the governing authority of the parish and of the school district, in which such exempt industry is located, approves by resolution such ad valorem tax exemption. The effect of that will simply be that the state will have to work closer with the local governing body in attracting industry. Don't deprive the local governmental unit of that income without at least obtaining their consent, and in effect, that is all this amendment accomplishes. I urge the adoption of this amendment, and Mr. Chairman, if there are no more speakers...

Question

Mr. Anzalone Mr. Gauthier, wouldn't you say that it would be fair that since the municipalities are going to receive so many benefits out of the sales tax that these industries are going to produce, and they're going to get their money to operate from that source, then certainly with all of these jobs and the state income tax that we have, the state should certainly receive enough money to reimburse us?

Mr. Gauthier That's correct, Joe.

[Previous Question ordered.]

Closing

Mr. Perez Mr. Chairman, and ladies and gentlemen of the convention, I'm going to be very brief. In my closing remarks, all I'm going to refer to you are the various taxes which the state collects, and which the state would receive the benefit of increased taxes in the event of new industries within a parish. The state, and not the local government, can impose gasoline--and does impose--gasoline taxes, lubricating oil taxes, special fuel taxes, inspection fees, beer taxes, alcohol beverage tax, beer permits tax, soft drinks tax,

liquor permit fees, on and on and on. The state has over forty-three sources of income. Local government basically has one, and that is a property tax, and in certain limited situations, sales taxes. I say to you that when these new industries come in, the state receives substantial increases in income in all of these areas. If the state decides that the exemption should be given for ad valorem taxes, I say then, the state should pick up the burden and not the local government unless the local government agrees that it should give up that source of revenue.

Question

Mr. Bergeron Mr. Perez, just to clarify, you did say that this exemption only pertains to future exemptions which are granted?

Mr. Perez One more time, I say this applies only to future exemptions, not to present exemptions.

Chairman Henry in the Chair

[Record vote ordered. Amendment rejected: 37-69. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Conroy and Mr. Kean]. On page 8, line 7, in Floor Amendment No. 1, proposed by Delegates Gravel and others, and adopted by the Convention on November 1. After the last line of said amendment, and immediately below the last line of all amendments to date adopted to said Floor Amendment No. 1 by Delegates Gravel and others, add the following paragraph:-- that will go at the bottom of that sheet that we xeroxed and sent out to you--"(F) In making the millage adjustment provided in Section 5, there shall be considered as ad valorem taxes collected in the year the provisions of Section 1 of this article are implemented so much of the distribution made in that year pursuant to this section to offset current losses because of homestead exemptions as exceeds the amount distributed in the prior year to offset current losses because of homestead exemptions then in effect."

Explanation

Mr. Conroy The purpose of this amendment is to tie together the provisions which Mr. Kean has added and which the Convention has added in Section...in the current section to the provisions of Section 5. The provisions of this amendment deal with the problem that in the year in which the homestead exemption is increased there may be a shift in the distribution of amounts by which a taxing authority collects. In other words, at the present time on the spread sheet that the assessors use, there's a column that's called "taxes paid by the taxpayer." Then the next column refers to homestead exemptions, and it gives figures there. Now, the purpose of the Kean amendment, and of the proposal as adopted so far by this Convention, was to deal with the column that says "homestead exemptions." In the year that the increased homestead exemption is implemented and goes into effect there may be a shift from the column that says "taxes paid by the taxpayer" over into the column that says "homestead exemption," because of the increase in the homestead exemption. Now, what this amendment says is that when that increase occurs--when the homestead exemption figures may go up--if the taxing authority also gets a greater amount of money as a result of the provisions of this section, so that it doesn't suffer any loss as a result of the increase in homestead exemption, if it's getting that money through the state--through this program of homestead exemption reimbursement, in effect--that it's not to, at the same time, consider that it lost any money for the purpose of the millage adjustment. It's to take that increase in reimbursement that it gets out, and put it over in the

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other column with the taxes collected in order to make the proper millage adjustment figure. This section is needed to implement the Kean amendment, and to tie it in with the millage adjustment. The net effect is to insure that the taxpayers' millage adjustment will be kept to the minimum that the millages will not go up excessively because if they did, the taxing authority would, in effect, be collecting twice--once from the taxpayer as a result of the millage adjustment, and then secondly from the state as a result of an excess received from the state over what had been received the prior year for purposes of homestead reimbursement. This deals only with the excess in amounts received for homestead exemptions in the year in which this program goes into effect. Only with that amount and takes it and puts it back over in the other column for purposes of redistributing the tax among the taxpayers. I'm sure there will be some questions.

Questions

Mr. Roemer David, what did the Kean amendment do?

Mr. Conroy The Kean amendment said that the total of these two figures--the two components that I'm mentioning--will stay the same. That's what it attempted to clarify, was that the total amount that you get is going to remain the same. The third column, the column that deals with the taxes paid by the taxpayer, the homestead exemption, and then you get to the third column, and his, in effect, says that that total amount is going to stay the same. So, I felt that this amendment was needed to implement that further to make sure that it was spread evenly.

Mr. Roemer Well, that's what I'm trying to find out...O.K. The Kean amendment keeps the total the same?

Mr. Conroy Right.

Mr. Roemer Your amendment keeps the differential the same?

Mr. Conroy Well, it implements it. I'm not sure what you mean by differential.

Mr. Roemer Well, you said you keep the spread the same.

Mr. Conroy That's right. It says that once you've kept the total the same, that's made up of two components, so you've got to readjust how you get to the total and put it back where it ought to be for the purposes of the millage adjustment.

Mr. Roemer Well, then how would either his or yours affect new districts in my parish?

Mr. Conroy Nine doesn't deal with new districts at all.

Mr. Slay Mr. Conroy, I don't want to be over critical, but, doesn't it seem to you that you have a bunch of words in here that's already in the first amendment? Let me read the part of the first amendment that I think says what you're trying to say. "After deductions for retirement system commission," and so forth, "the remaining funds to the extent available by first priority shall be distributed to the tax recipient bodies as defined by law within the parish to offset current losses because of homestead exemption." That's going to take care of this without your amendment.

Mr. Conroy Well, I think it makes a step forward, but it doesn't say how you go back and relate all of this to the millage adjustment formula that we have in Section 5. None of it deals with that until you add this in to make sure that's when and how you make your millage adjustment computation. So, I think it's consistent with it. That's what I discussed with Mr. Kean and went over with Mr.

Mr. Mire, to be sure that we were working all in the same process, and I think we are. But, I think that this is needed; after you've gone through five and gone through six, when you get to the end of the six, you have to double back, and be sure that you implement six and five. That's what this does.

Mr. Slay Of course, not being a lawyer, and that's such a long paragraph for just one sentence...

Mr. Conroy Well, if I had more time, I might have been able to spruce up the language. But, I think...

Mr. Slay It just appeared to me, we already had that without this long thing I can't understand...

Mr. Conroy Well, it did not appear that way to me, or I would not have suggested the amendment.

Mr. Burson Mr. Conroy, there's one thing that bothers me. I agree with your aim to keep the total the same. But, because the homestead reimbursement presumably has to come after you know what the homestead tax that you would have collected if it had not been exempt was, how could you adjust your millage before, which you would have to do, presumably, to collect the same amount of revenue you had in the year prior to the time the new homestead exemption rate was imposed?

Mr. Conroy Mr. Burson, I don't deny that there will be computation problems, but they're going to exist with or without this amendment, and this amendment is designed to at least give a little more order to it exists without this amendment.

Mr. Burson But, you do see the problem that I'm talking about? That is, you're going to be required to adjust...

Mr. Conroy As to what the millages will be.

Mr. Burson Yes.

Mr. Conroy This, I think doesn't deal with the millages. This pegs it in to help solve your problem, Mr. Burson, because it deals with actual dollar amounts that are received. So, I think it's an aid toward solving the problem you're talking about rather than increasing the difficulties in it. I understand the problems you're talking about, and they do interrelate. But, I think that this step is a needed step in that scope of things, but doesn't solve all the problems. It's still going to be a real computational headache for the assessors throughout this state, no matter how we try to attack this millage adjustment provision.

Mr. Mire Mr. Conroy, this would be a one time adjustment? One time only!

Mr. Conroy Yes.

Mr. Mire Alright, now let me ask you another question. This is whether or not you believe that we're tying these dollars so much so now, to reimburse homestead exemptions instead of, like a revenue sharing stating that so many dollars will be given to a local tax recipient because of homestead exemptions, instead of being directly related to homestead exemption, that we may be raising a constitutional problem in doing this?

Mr. Conroy Mr. Mire, I don't think this adds to that problem. I think that problem is inherent in the section as it's written with its reference to the homestead exemption. That's my own feeling about it, and this computation has to be made and has to be dealt with one way or another, and I think this spells out the way it would have to be made.

Mr. Rayburn Mr. Conroy, would you briefly tell me what you're trying to do? I've asked four

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lawyers and three law students, and none of them know what this amendment does. Would you please tell me, in your opinion, what you are attempting to do?

Mr. Conroy As briefly as I can, what I am attempting to do is to give the taxpayers the advantage--in the millage adjustment provision--is to give the taxpayers the advantages of the additional amounts that might be distributed to the taxing authority to reimburse increased homestead exemptions in the year the millage adjustment program goes into effect.

Mr. Rayburn Now, you're saying the year pursuant to the time that this goes into effect which could mean three years from now, is that right?

Mr. Conroy That's correct.

Mr. Rayburn Now, suppose that between today and two and three years from now, they create ten or fifteen, or fifty or a hundred new districts in this state. Now, does that mean that we're going to have to consider them in reimbursing to the local government at the time it does, or any new that wasn't in existence as to when we repeal the five and three-quarter ad valorem tax? Does that mean that we've got to come back and take care of all the new ones that's going to be created in the state?

Mr. Conroy No, as I understand the other part of Mr. Kean's amendment that precludes that, so I don't think we get into that problem. [...] doesn't deal with that problem at all.

Mr. Rayburn What does this do then that the other one don't do?

Mr. Conroy It ties in the millage adjustment with the rest of the provisions of this section to give the taxpayers the advantage of what otherwise would be a double dip by the local taxing authority. That's all it does.

Mr. Rayburn Well, where is that money coming from?

Mr. Conroy Which money? It's making sure that you don't get the same money twice. It's coming from the state. Under the rest of the provisions of this section the state has created this fund which may give additional amounts to the local taxing authorities, and to get it from the state. They're not to get it from the...

Mr. Rayburn What you're attempting to do here is to say that if they got X number of dollars from the state, before they can upgrade or roll the millages up that amount of dollar will have to be considered in the millage?

Mr. Conroy Yes. Say, just before the increased homestead exemption goes into effect, let's say the taxing authority got ten dollars from homestead reimbursement, then after the thing goes into effect, let's say the local taxing authority gets eleven dollars in that year as homestead reimbursement. Well, that dollar is to be--that extra dollar, the eleven instead of the ten--is to be considered the same as taxes that we would have collected in that year for purposes of computing your millage adjustment.

Mr. Rayburn That dollar will be considered in reducing the millage?

Mr. Conroy That's correct.

Mr. Rayburn Is that what you're trying to do?

Mr. Conroy That's exactly what it does. Yes. That's all it does.

Mr. Rayburn Suppose it does the opposite? Then

what happens?

Mr. Conroy It doesn't...this doesn't...

Mr. Rayburn Suppose they lost a dollar...

Mr. Conroy This doesn't relate to that at all.

Mr. Rayburn ...to provide to roll up or roll down.

Mr. Conroy Well, it wouldn't be worked into the formula. That's right. This doesn't deal with that.

Mr. Rayburn Don't you think it ought to work both ways, Mr. Conroy?

Mr. Conroy No, because the homestead exemption is going up. This is only to deal with the increase in the homestead exemption.

Further Discussion

Mr. Burson Mr. Chairman, fellow delegates. When I was in college I took four semesters of Russian, and I think that my Russian textbook made about as much sense to me the first day of class as this composite of this section does right now.

But, if I understood Mr. Conroy's and Mr. Kean's explanations correctly, they are providing that the combination of rollup and homestead reimbursement cannot be more than the tax that the local governing body could have collected. Now, try this practical problem on for size, if you will.

In order to roll up your millage to collect the same amount that you did the year before the homestead exemption is changed, you've got to roll your millage up before the tax bills are sent out--I mean the tax bills are based on what the millage is. The assessor's got to know what the millage is before he can bill for the district. The homestead reimbursement is only obtained from the revenue sharing fund on the basis of what taxes were collected, and what homestead exemption prevailed on the year before. So, on the one hand, you are after the local governing bodies to evaluate how much they are going to have to roll the millage up before they even know what the reimbursement will be in the following year. You cannot say that you're going to roll your millage up after you send the bills out because the bills include the millage. That's the practical problem that I don't see dealt with in any of this melange that I have here in front of us. I think before we go on with this thing, before we presume that we're going to go back and tell everybody everything is going to be alright somehow, that maybe we ought to be able to tell them how in the world they are supposed to accomplish this feat of legerdemain. Because, for the life of me, I can't figure out how on the school board we're going to be able to sit there and say, "Well, we know we are going to have to roll our millage up because the homestead exemption has effectively been tripled here, and we've lost all but ten percent of the homes from the rolls, but we're not quite sure, because this is the first time we've had the reappraisal exactly which homes are going to be on, and which ones are off. We're not quite sure what the assessments are that are left on the rolls. But, we're going to have to somehow or other calculate that we need to roll the millage up before we send the tax bills out that first year." We are going to get some money after the first taxes are collected from the state legislature, although we don't know how much. In fact, we don't even know if they are going to guarantee us that we'll get back the full amount we've lost on the homestead exemption. So, what are you going to do? It seems to me you've got a devil's own choice to make. You can either roll the millage up sky high and depend on that source totally to get your money back, and maybe overshoot, and I guess have to send refunds out after it's all over, or you can leave the millage where it is and hope that

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the state government is going to give you all the money--although there's no guarantee in the constitution that they're going to do that--unless you adopt an amendment that I have coming which will require the state to guarantee that they'll restore all the money lost by the homestead exemption.

I'm inviting you to ponder that problem. If anybody's got a solution, I'd be real interested to hear it before we adjourn.

Questions

Mr. Burns Mr. Burson, in theory, at least, we have to take into consideration that the voters of this state are going to read some of these constitutional articles and amendments?

Mr. Burson Yes, sir.

Mr. Burns Can you tell me how in the world any layman, any farmer, or laborer can make heads or tails of this?

Mr. Burson Mr. Burns, I think the people, particularly when they are dealing with tax matters, like to understand what they're voting on. I've heard too many voters in the precincts that I've been involved with in my short political career, when they get up, they may say it in French. But, it comes out to something like this, "I think they're going to put a tax on it je contre." Especially, if they can't understand it any better than I can understand this, I think we're going to have a lot of contre votes cast on election day.

[Previous Question ordered. Amendment rejected: 27-71. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendment No. 1 *[by Mr. Burson]*. On page 8, In Floor Amendment No. 1, proposed by Delegate Gravel and others and adopted by the convention today, in line 3 of Floor Amendment No. 1, proposed by Delegate Womack, and adopted by the convention on the same day, delete the word "ninety" and insert in lieu thereof the words "one hundred". Now, that's actually about the sixth or seventh line of that--it would be one, two, three, four--the eighth line, no the seventh line of that reprint xerox composite that was put on your desk. It changes the ninety million to a hundred--one hundred million. But the amendment is correctly drawn.

Amendment No. 2. On page 8, line 7, In Floor Amendment No. 1, proposed by Delegate Gravel and others, and adopted by the convention on today, after the last line of said amendment, and immediately below the last line of all amendments to date, adopted the said Floor Amendment No. 1 by Delegate Gravel, add the following paragraph:

"(F) No taxing authority shall be reimbursed an amount less than its losses caused by the homestead exemption."

Explanation

Mr. Burson Mr. Chairman, fellow delegates, the first amendment is rather simple. It simply changes the ninety million to a hundred million. Since we toss these figures around so nonchalantly, I didn't think you'd mind that. It seems to me that the ninety million which is only four million dollars more, and was actually appropriated last year, in the face of the fact that we are increasing this homestead exemption tremendously, the effective rate of homestead exemption in some large parishes, is totally inadequate. I don't think that the hundred million may be, but at least it will be more adequate.

The second amendment, I think, is written as that everybody can understand it. It says that "no taxing authority shall be reimbursed an amount less than the losses that it incurs as a result

of this new homestead exemption." Now, some people tell me, "Well, you're putting us right back in the soup. This is the problem we had in the Levy case." Well, of course, in the Levy case, we had a situation where everybody was assessing at different ratios, and different percentages of fair market value. Presumably, in this brave new world that we are creating with this new constitution, we're going to have the New Jerusalem where all the assessors are going to do right. All assessors are going to apply the same ratio to fair market value, to the same uniform homestead exemption across the state. If that be the case, and in truth and in fact we do have a uniform, statewide homestead exemption which everyone wanted so badly, then I certainly don't see why we could have any constitutional objection to guaranteeing the local taxing authorities that they would receive back at least what they have lost as a result of the increase in the homestead exemption. I'll answer any questions.

Further Discussion

Mr. Rayburn Mr. Chairman and fellow delegates, this amendment puts us right back where we were at when all our troubles started--puts us right--goes right back to the property tax relief fund. I don't think this convention wants to do that. I think one of the reasons we are assembled here today is to try to straighten that out. In my opinion, this puts us right back in the property tax relief fund. It further dedicates another ten million dollars of state moneys. I think we've gone about as far as we can go. I ask you to reject this amendment. I hate to keep coming to this microphone. But, I believe Mr. Burson and Mr. Gravel must have spent the night together when they come up with these two.

Question

Mr. Anzalone Mr. Sixty, you haven't been on the floor in quite awhile, and there's been a little talk going on here and there, and a few other things, that quite a few people were interested in it. We sure would like to know where you got them shoes?

Mr. Rayburn I'll tell you one thing. I went up awhile ago and changed shoes 'cause I got some slick bottom ones. I'm getting ready to slide a little myself. I don't want that mud to hurt my feet, because when Lawrence Chehardy left that log, he knocked all the water out of the pond and I got to land on the gravel.

[Previous Question ordered. Division of the Question ordered. Amendment No. 1 reread. Record vote ordered. Amendment No. 1 rejected: 33-68. Motion to reconsider tabled. Amendment No. 2 reread. Record vote ordered. Amendment No. 2 rejected: 34-62. Motion to reconsider tabled.]

Motion

Mr. Shannon I move for final passage of the section.

Mr. Henry Well, now, we have one individual who wants to speak. Senator De Blieux wants to speak. Do you insist on your motion?

Mr. Shannon Will he not waive?

Mr. Henry Senator De Blieux never waives. He hardly even smiles, Mr. Shannon.

Mr. Shannon "Wave" at me, Senator, will you? "Wave", Senator.

Mr. Henry Senator, make it quick. I don't think anybody is going to listen very well, anyway.

Further Discussion

Mr. De Blieux Mr. Chairman, ladies and gentlemen, I will make it very brief, I'll consent to that.

But, I'd just like to point out this to you on this particular section. In all of the past sections we have had and we've voted on, there's some of them that I thought we'd kind of messed up, and etc., but I don't believe any section of the constitution we've passed yet that has bothered me and concerned me so much as this particular section. I will tell you now, that the way this particular section is written, I'd just like for you to notice that the first constitutional amendment, if this constitution is adopted, and we adopt this section, probably the first constitutional amendment we will have will be to this particular section. Now when we will get it, I don't know. But, I think you have created a lot of problems for the legislature, for the taxpayers, for your local governing bodies, and anybody who is concerned with the collection of ad valorem tax and in the distribution of the money in their part. This is tied into your homestead exemptions and everything else. I just feel like the best thing we can do now is not to put this section in the constitution. I'm going to ask you to think it over very carefully, and then vote against this section.

[Previous Question ordered on the Section. Quorum Call: 100 delegates present and a quorum. Rereading of the Section as amended. Quorum Call: 98 delegates present and a quorum. Section failed to pass: 54-46. Notice of reconsideration on next Convention day. Motion to pass over Section 7 adopted without objection.]

Reading of the Section

Mr. Poynter "Section 8. Tax Assessors
Section 8 (A) There shall be a tax assessor elected by the qualified electors of each parish in the state, parish of Orleans excepted. His term of office shall be four years and the legislature shall define his duties, fix his compensation, and provide for his election.

(B) There shall be seven assessors in the city of New Orleans, who together shall compose the Board of Assessors for the parish of Orleans. One shall be elected from each municipal district of the city of New Orleans, and they shall be residents of the districts from which they are elected. Their terms shall be four years and they shall be elected at the same time as the municipal officers of the city of New Orleans.

(C) When a vacancy occurs in the office of tax assessor the duties of the office, until it is filled by election as provided by law, shall be assumed by the chief deputy assessor, except in the parish of Orleans, where the Board of Assessors for the parish of Orleans shall appoint the interim assessor."

Explanation

Mr. Mauberrret Mr. Chairman, fellow delegates, Section (A) makes the office of tax assessor a constitutional office and gives the legislature the duties to define his office and fix his salary. Section (B) makes provisions there for the Board of Assessors in the city of New Orleans and the seven assessors that make up the seven municipal districts in the city. Section (C) makes provisions for providing the appointment of a deputy assessor in case of death of an assessor.

Since 1952, Act 576 provides for the calling of an election to fill the appointment of an assessor by calling the election prior to...prior to that, the governor could appoint anyone he wished to for the length of the unexpired term. I think Mr...

Mr. Henry You completed your...?

Mr. Mauberrret Yes, sir.

Amendment

Mr. Poynter This amendment [by Mr. O'Neill], Mr. Chairman, would purport to add a new Section 9 to read as follows:

On page 9 right after the language herein contained.

"Section 9. Qualifications of Tax Assessors
Section 9. In order for a person to qualify or be elected to the office of tax assessor in any parish of the State of Louisiana, he must have the following qualifications: (1) He must not weigh more than one hundred and fifty pounds. (2) He must not be under the age of twenty-five years old. (3) Be less than five feet two inches tall, and (4) have ever been nor ever will be a member of the Louisiana Tax Assessors' Association.

Explanation

Mr. O'Neill Ladies and gentlemen of the convention. If you will remember a couple of weeks ago, I brought this amendment around and I had each and everyone of you, except Mr. Roemer, sign it. I'd like now to present a copy signed by all of our colleagues to the five assessors we have here in the convention with us. It will a little memento of all the hell they've given us.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Champagne]. On page 8, delete line 32 in its entirety, and on page 9 delete lines 1 through 7 both inclusive, in their entirety, and insert in lieu thereof the following:

"(B) In the city of New Orleans one assessor shall be elected from each municipal district. Together, they shall compose the Board of Assessors for the parish of Orleans. Each shall be a resident of the district from which elected. These assessors shall be elected at the same time as the municipal officers of New Orleans, and each shall serve for a term of four years."

Explanation

Mr. Champagne Mr. Chairman, ladies and...ladies and gentlemen, this amendment simply states the same thing that the provision I submitted does, except it does not specify the number seven. But, it provides one from each municipal district. At the present time, there are seven districts as provided by the Charter of the city of Orleans. Now, this simply provides that in the future, if the people by vote of the people, decide that they want to have eight districts, then they would automatically not be required to amend the constitution to say there shall be eight. It says exactly the same thing in less words. I check with Dr. Mauberrret and several members of the committee. There were no objections. It says exactly the same thing in less words; does not require a constitutional amendment if, at a future date, they decide that they want eight districts or nine districts, or maybe six municipal districts, it wouldn't require a constitutional amendment.

I suggest you adopt the amendment. I don't think there should be any opposition to it as presented.

[Amendment adopted without objection.]

Amendment

Mr. Poynter Mr. De Blieux sends up amendments.

Amendment No. 1. On page 8, delete lines 27 through 32, both inclusive in their entirety. On page 9, delete lines 1 through 12, both inclusive in their entirety and insert in lieu thereof the following:

"Section (A) The parish tax assessor shall be appointed by the governing authority of the parish."

Explanation

Mr. De Blieux This, Mr. Chairman, ladies and gentlemen of the convention, this is a technical amendment. I believe we ought to be able to get a lot of coauthors to it if we'd open the machine for roll call on it...I don't think it's necessary to pass it out because it's so simple everybody understands it. I wouldn't ask to go to the expense of passing it out to everybody. But it's just a separate technical amendment. I don't guess there's any objection to it.

[Amendment withdrawn. Motion to take up other orders of business adopted: 53-25.]

Announcements
[I Journal 721]

[Motion to adjourn to 8:30 o'clock, a.m., Saturday, November 3, 1973. Substitute motion to adjourn to 9:00 o'clock, a.m., Saturday, November 3, 1973. Substitute motion adopted: 66-14. Adjournment to 9:00 o'clock a.m., Saturday, November 3, 1973.]

Saturday, November 3, 1973

[Amendment withdrawn.]

ROLL CALL

[94 delegates present and a quorum.]

PRAYER

Mr. E. J. Landry Thank You, Lord, again for this special privilege--especially this morning for the special privilege that you grant to me through Your Chairman to pray in the presence of my son, his wife, and my grandchildren. Dear God, You must realize as the days go on that we are suffering with an over-education of the unintelligent. You must realize that You taught us that the truth will make us free--not education, not over-education, but the truth. Dear God, You must often ask do we not remember, although the disciples of Your son turned the world upside down; those early associations were often disappointing to Your son. Keep us from failing to understand spiritual truths that You taught because of the preoccupation with the things of this world. Make us ready to understand Your direction and not to be afraid that You will let us down. Teach us not to be afraid that if we accept You too earnestly that we will miss out on the things of this world. We thank You, dear Father, for Your goodness in Christ and Your promises for this life in the world to come. Give us the grace to remember that Your gifts will lead us to thankfulness and praise. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

Personal Privilege

Mr. Winchester Mr. Chairman and fellow delegates, I do not have very much to say, and I will certainly appreciate your kind indulgence. I and the assessors throughout the state do not have the eloquence of speech of Delegate Willis, nor the wit of Delegate Rayburn, nor the coolness or assurance of Delegate Perez, but we do have over one thousand years, collectively, of dedicated public service. We are proud to have served you as assessor. This is a nation of the people, by the people, and for the people, and we are proud to have served you in this capacity. These few remarks are not in defense of the assessors, but in tribute to them. Mr. Chairman, I'd like a record vote, please.

Mr. Henry I'm sorry, but twenty-six delegates won't join you, Mr. Winchester.

RECONSIDERATION

Mr. Poynter Reconsideration is Section 6 of Committee Proposal No. 26, which is, of course, a proposal making provisions for property taxation, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue...

[Motion to reconsider adopted without objection. Motion to pass over Section 6 adopted without objection.]

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26, introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance, and Taxation, other delegates, members of that committee:

A proposal making provisions for property taxation.

The status of the proposal is the convention has adopted the first five sections of the proposal as amended; Section 6 just...action just taken, failed to pass on yesterday, and it's just been reconsidered. In addition, Section 8 has been...under consideration at the present time.

We're on Section 8, and in particular, we're on the Lervigon amendment which was read on yesterday.

Motion

Mr. Vesich Mr. Speaker, at this time I'd love to reconsider the vote by which Mr. Champagne's amendment was passed yesterday, to Section 8, concerning the assessors for the parish of Orleans.

Mr. Poynter The Champagne amendment affects... affects Paragraph (B) of Section 8 which runs from lines 32 through 7 of the committee proposal. The Champagne amendment on yesterday deleted those lines and inserted a new (B) which, of course, deals with the assessors of the city of New Orleans.

Question

Mr. De Blieux Mr. Chairman, as I recall, yesterday Mr. Champagne's amendment was adopted without any objection. I just wonder what's...what we found wrong with it so quickly...I mean, after such de-liberation this morning.

Mr. Vesich Mr. Speaker, may I explain it?

Mr. Henry The motion is not debatable. If there's no very strenuous objection, if you will briefly state whatever your problem is on the thing--but we're not going to debate this thing. Go ahead.

Explanation

Mr. Vesich When Mr. Champagne's amendment was presented yesterday, Senator, Mr. Stagg and the rest of you were asking why we did not...we had not seen that amendment. We did not know what it would do. It would materially alter the system which we have in New Orleans at the present time for our seven assessors. We want to reconsider that at this time and place it just as the committee proposed it. Otherwise, we're going to be subjected--the amount of municipal districts in New Orleans could be decreased by the city council and a vote of the people, which would mean that then we would decrease the amount of the assessors. We want to be assured of our seven assessors. We don't mind them realigning municipal districts, but we want to be assured that nobody is gerrymandered out of office by the passage of this proposed article--if it ever gets past the people. We considered it last night; we spoke with the people from Orleans; and we would rather have it as the committee proposed it. Now, we're not saying we're making a perfect document. Sometime we do have to have constitutional amendments. Had we known the impact of this thing yesterday afternoon, we would have resisted it then. So, all we're asking you to do is leave us in Orleans to handle our own business. That's all we're asking, Senator.

[Motion for a suspension of the rules to allow reconsideration of the vote by which the Champagne amendment to Committee Proposal 26, Section 8 was adopted on November 2, 1973, adopted: 69-17. Motion to reconsider.]

Further Discussion

Mr. Bollinger Mr. Chairman, fellow delegates, if I understand Mr. Vesich's objection correctly, he said that by a vote of the city council and a referendum in the city of New Orleans you could change the assessment districts and the number of assessors. If this is correct, I think we have done a justice by Mr. Champagne's amendment for this reason: one of the objections with the old constitution is that the people, statewide, have had to vote on local issues. Now, if we have...or if the local people in New Orleans decided they wanted to change, for any reason, the number of assessors, they would have to get a two-thirds vote of the legislature in both houses, then present it to all of the people of Louisiana to change it. So, I think it's good that the local area can change it by referendum.

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This is my major objection for the reconsideration.

Further Discussion

Mr. Champagne Fellow delegates, I just want to make it clear what Mr. Vesich said is that it is in the charter of the city of New Orleans that there be seven assessors and seven districts and one elected from each district. Now, these people, by a vote of the council and a vote of the people, can amend their charter. Now, as I see it, what they want is to be locked into the constitution so that the charter cannot be amended, and I personally feel that if you're going to make an exception for one parish over the other, then we, the people, should have a chance and those people in New Orleans should have a chance to amend their charter. Now, by this statement, he says he doesn't want the people to have a right to amend their charter so that if they want eight districts, they can have eight districts; if they want six districts, they can have six districts. Now, even if they did amend their charter, as it is now with seven spelled out in the constitution, there would have to be a constitutional amendment to change the seven to whatever number of districts they want. Now, to me, it was simple arithmetic. It looked very simple to state this: that if you want protection in the constitution, then you should get it, but then you also have it subject to the vote of the people. Now, it's very simple that if you leave it this way, that you're going to have to have us vote on it to change it. That's pretty well asking for your cake and eating it too. I simply say that by a simple statement we saved words. I didn't say that there'd be one assessor in New Orleans like all the other parishes. I simply said one from each district, and that would be the board of assessors. For that reason, I made the amendment; I thought it was a good one. Most of us thought so yesterday. In fact, there were no dissenting votes. It seems as if that every time I bring something up, it passes too easy, and then the next day they want to come back and bring it up. I think I'll have to insist next time that somebody do speak on the motion.

Any questions?

Questions

Mr. Stinson Didn't anyone from Orleans yesterday object to it to you, personally, or in any way comment on it?

Mr. Champagne No, sir. I spoke to the staff and explained my views that I didn't think it was necessary for the whole people, all over the State of Louisiana, to vote on an amendment if the people of New Orleans ever decided to change their charter, that I didn't think it should be necessary for all of us to vote for it.

Mr. Stinson Can you imagine that the brilliant minds in here from New Orleans would let something go by without even asking a question about it if it was bad?

Mr. Champagne I really don't understand it, no sir.

Mr. Dennery Mr. Champagne, I don't know whether I fit with Mr. Stinson's definition; however, I was not here yesterday and, therefore, did not have an opportunity to ask you any questions about this. Thank you.
Did you say that the city charter provides for seven assessors?

Mr. Champagne I was told that the city charter provided for the same things that the constitution does--one from each district. I was told that by someone from New Orleans.

Mr. Dennery My recollection is that the city charter doesn't specify the number of assessors. I'm not sure about that. I think that the constitution presently provides that there shall be one assessor from each municipal district and that...

[2118]

Mr. Champagne As I amended it, it continues that way, sir.

Mr. Dennery But, the present constitution also says that there shall be seven assessors.

Mr. Champagne Yes, sir.

Mr. Dennery Now, your amendment as adopted would permit the people of the city of New Orleans, by amending its charter, to provide for six assessors, eight assessors, ten assessors, two assessors, or whatever. Is that correct?

Mr. Champagne By amending their charter to provide as many municipal districts as they saw fit to do so, without a vote of the people throughout the State of Louisiana on whether they wanted to amend the constitution or not.

Mr. Velazquez Mr. Champagne, do you realize I think you have a wonderful amendment there?

Mr. Champagne Thank you, Mr. Velazquez.

Further Discussion

Mr. Arnette I'd just like to make this very short, but I'd like to point out one thing. This is exactly the kind of thing that the people in my parish and in my district don't want in the constitution--exactly the kind of thing that they don't want in there. We're locking in not only the number of assessors for Orleans Parish in the constitution, but the number of municipal districts. We say "there shall be one assessor from each of the seven municipal districts," or seven assessors, one each...one from each municipal district, which is the same thing. So, if New Orleans wants to even change the number of municipal districts, they've got to have a constitutional amendment. I think this is the most ridiculous thing in the world. I think New Orleans ought to be able to change their number of municipal districts without a constitutional amendment. If we put this in the constitution, they cannot do it.

Questions

Mr. Stagg Mr. Arnette, are you as concerned as I am about the number of days of work that this convention has left to it?

Mr. Arnette That's exactly right, and I don't think we ought to be reconsidering matters of this kind that aren't vital to the State of Louisiana at this particular time.

Mr. Stagg And that we ought to go ahead and throw out this request for a reconsideration and move on?

Mr. Arnette I think that's exactly what we ought to do. I don't think we ought to plow this ground again.

Mr. Stagg And in each subsequent case, the same thing?

Mr. Arnette I think that's exactly right.

Mr. Winchester Mr. Arnette, by your thinking, it would then be possible to eliminate one assessor from each parish and maybe have one assessor for three parishes or four parishes, which I think would be bad.

Mr. Arnette Mr. Winchester, that has absolutely nothing to do with this. It just...we're talking about what Orleans Parish has got, how many assessors they have got, and how many municipal districts they've got. We're locking in their municipal districts in the constitution, which is a bad, bad, bad thing to do--as someone else would say.

[Previous question ordered on the motion to reconsider.]

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Closing

Mr. Vesich Mr. Chairman and delegates, this is the same problem, I feel, that Orleans has faced in other areas of this constitution--I mean, at least the proposals. We are unique in some respects. I think you've recognized that at times; at other times you've said, "Let us bring you into step with the rest of the state." But, you've got to recognize that we do have parochial offices that you don't have. Our parochial offices are elected in different manners than what you all have. Right now, a majority of us from New Orleans are not complaining about the system. Maybe, had we known about this amendment yesterday--we really didn't know about it--we could have, at that time, spoken with Mr. Champagne, and maybe we wouldn't be facing this this morning. But, after we reconsidered it over the night, we feel that it should be left as the committee proposed it. We're asking you to do that. Under the city charter, municipal districts can be changed; they can be realigned; and if there ever is a reduction in the amount of assessors, we don't particularly worry about the fact that it may be locked into the constitution. There are some things which we're going to have to come back and do, probably in the first session of the legislature, if this document is ever adopted by the people. We are...we are making some errors, and it's going to come back in the first session of the legislature, where there are going to be constitutional amendments to correct some of our errors. We're not saying that we are adopting a document for all times. We are admitting that there are changing times; we are admitting that the attitudes in New Orleans may change. But, we also request that if we do, with an office so important as the assessor, that you permit us to do it as we have done it in the past, and that's by a constitutional amendment. I ask you to please go along with us on this.

Questions

Mr. Arnette Tony, are we changing any of your offices in your parish whatsoever by Mr. Champagne's amendment?

Mr. Vesich No, you're not, but...

Mr. Arnette Are we changing any municipal districts?

Mr. Vesich No, you're not.

Mr. Arnette We're not changing anything in Orleans Parish by his amendment; is that correct?

Mr. Vesich That's correct. But, do you know what you're doing? You're saying that a strong mayor can come into the city of New Orleans, have the city council reduce the number of municipal districts and reduce the number of our assessors. That's what you are doing.

Mr. Arnette Well, I thought we were leaving that up to New Orleans. I think that's what it ought to do. If it's New Orleans' problem, it ought to be New Orleans' problem, not the state's. That's what I was...

Mr. Lanier Mr. Vesich, were you aware that we have no objection that I know of, in Lafourche Parish, to New Orleans having seven assessors? Were you aware of that?

Mr. Vesich No, sir, but I'm glad to hear it.

Mr. Lanier But, were you also aware of the fact that we don't particularly want to have to vote on whether or not you have seven or not, and that you should have that strictly your business and not constitutional business for all of the state?

Mr. Vesich Well, maybe somewhere along the way, before we finish this marvelous document that we're working on, that we will find a system whereby only the people in the area with the concurrence of the

legislature could vote on these constitutional offices. You know, Mr. Lanier...Mr. Lanier, you asked me a question. I'm trying to answer it, Mr. Lanier. You know, we...I got up here and argued on our judicial districts in New Orleans. When I mean that, I mean the combination of our civil and our criminal district court. You all passed it where only two-thirds of the legislature or a majority--I don't remember which, now--could change that. We considered our...we considered those as two separate judicial districts. Yet, when you took the country parishes, you made it by a vote of the people also involved. We didn't get that privilege. We...there's nothing we can do about it. We were outvoted at the time. Please don't get excited, Burt; I was counting on your vote. But, it happened that way, and it looks like we lose on the edge all the time. For an office as important as the assessor, for somebody that is dealing with the people's property, we ask that it be given constitutional status. I just can't see the argument with it.

Mrs. Warren Mr. Vesich, were you here yesterday?

Mr. Vesich Yes, ma'am, I was.

Mrs. Warren Did you know I'm from the city of New Orleans?

Mr. Vesich Yes, ma'am.

Mrs. Warren Well, who did you meet with last night to come up with this?

Mr. Vesich I said a majority of us, Mrs. Warren. I didn't say that everyone from New Orleans was for it. We haven't been together on everything...on any one particular instance, so far.

Mrs. Warren I'm asking you...I'm asking you this question because if this was a matter of New Orleans, don't you think that all of us...elected delegates or delegates appointed from New Orleans should have been in on the deal?

Mr. Vesich That's true, Mrs. Warren, but we haven't done that so far. I believe we've held two or three meetings, and that was it.

Mr. Stinson Mr. Vesich, it's in the constitution what the other parishes will have--one each--and it will have to be voted on. Now, you think--in other words, if Bossier Parish wanted two, well, we'd have to come ask for it, or if we wanted three, or if we wanted to combine with Caddo--so that's...your argument is in line with what's already for the other parishes.

Mr. Vesich That's correct. That's exactly what I'm saying. You all are protected in the constitution.

Mr. Stinson In other words, if Jefferson Parish felt that Mr. Chehardy wasn't a big enough man for that job, and they needed two of his caliber and size, they would have to come back to the constitution to do it, wouldn't they? They would have to come back to the constitution to have two, wouldn't they?

Mr. Vesich That is correct, and we would be glad to have Mr. Chehardy as our eighth assessor if we ever move things along.

[Motion to reconsider adopted: 48-46.]

Amendment Reread

Mr. Poynter The Champagne amendment which was passed out on yesterday and, of course, adopted on yesterday and now reconsidered reads as follows: Amendment No. 1. On page 8, delete line 32 in its entirety, and on page 9, delete lines 1 through 7, both inclusive, in their entirety, and insert in lieu thereof the following:

"(B) In the city of New Orleans one assessor

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shall be elected from each municipal district. Together, they shall compose the board of assessors for the parish of Orleans. Each shall be a resident of the district from which elected. These assessors shall be elected at the same time as the municipal officers of New Orleans, and each shall serve for a term of four years."

Explanation

Mr. Champagne Mr. Chairman, ladies and gentlemen, I'm beginning to think that maybe, as I said awhile ago, that every time I get up with an amendment, nobody speaks on it, and then the next day they bring it up. So, I guess, possibly, I shouldn't bring up any more. But, really, it looks like a very simple amendment to me. This means that the people of New Orleans can amend their charter to do anything they wish, which was my understanding that that's what we had said in this convention. It simply means that if at some future date they decide that they want twelve districts, or if they want five districts, or if they want four districts, that they can do so. The constitution states simply that there shall be one assessor well elected from each district. Now, when I was elected to this convention, one of the primary purposes was told to me that we don't want to vote on all those amendments affecting certain portions of the state that has nothing to do with our district. That's what I was simply trying to provide here: a means whereby the people of New Orleans could decide for themselves what they want to do, and if they so decided, amend their charter to do what they pleased. Now, I simply want to make this statement: that if...if my amendment does not pass, as I thought was a good one, and most everybody--in fact everybody--nobody questioned it on yesterday. I didn't hide the amendment. I spoke to several people from New Orleans about it. I didn't speak to all of them, but I think it was a good amendment. But, I would say this much: that in my last will and testament I will put one inscription that if any of my descendants ever have to vote on this constitution, to vote against the provision if the people of New Orleans ever decide to amend the constitution to include a different number of assessors.

I'll answer any questions.

Vice Chairman Casey in the Chair

Questions

Mr. Tapper My question is simply this: We didn't provide for that method in any other parish, did we?

Mr. Champagne No, sir. You provided, in other words...personally, I feel that all parishes ought to be treated the same. But, if...if there is an exception, I don't think that my district, the 39th District, should have to vote on what the people of New Orleans would want. I just provided that in this amendment.

Mr. Tapper I understand that, Mr. Champagne. I understand what you're trying to do, and I agree with you in principle. However, we did not provide that in other...in any other parish, let's say like Caddo or like Jefferson, that the people could, within that parish, change and increase or decrease the number...well, in most cases, and increase the number. But, here, you want to provide that in New Orleans they can. I'm just asking why treat New Orleans differently from the other parishes in this particular area?

Mr. Champagne Very simple, Mr. Tapper, because from the beginning of this convention, the people that represent New Orleans says, "We are different." They have insisted from the beginning that they are sort of a different category from anybody else, and that there is a difference. I agree with them that there is a difference, and I want that difference to be stated, and that there should be. But, I want the people of New Orleans, and not the people

of the 39th District, to decide their differences. That's why I have this amendment. I think it's fair; and, really, I don't feel that strongly about it, but it amazes me that on yesterday the vote was unanimous. Today, because of some discussion with some local politicians, there is a change of opinion. That worries me. It worries me for the whole State of Louisiana.

Mr. Arnette Mr. Champagne, I think you maybe ought to make something clear. Does your amendment change the structure of government in the city of New Orleans at all?

Mr. Champagne It positively does not. It simply does not lock the magical number "7" into the constitution.

Mr. Arnette Do you think that the number of municipal districts in New Orleans ought to be in the constitution?

Mr. Champagne I certainly do not.

Mr. Arnette Do you think that say the...municipal districts of Port Barre ought to be in the constitution?

Mr. Champagne I certainly do not.

Mr. Fontenot Mr. Champagne, there's been remarks about treating New Orleans differently than the rest of the state. If New Orleans wants to be treated the same as the rest of the state, don't you think we ought to have one assessor in New Orleans like the rest of the state from the rest of the parishes?

Mr. Champagne That's the point, Mr. Fontenot. I agreed that maybe they say they like the system as it is. I agree they should keep it as it is, if they're so different from the rest of the state. I'm simply saying that you and I in our districts should not have to vote on this change.

Mr. Fontenot Right.

Mr. Alario Mr. Champagne, if you or I in our...each of our parishes, wanted to increase the number of assessors to two or three, how would we go about increasing the number of assessors?

Mr. Champagne I'm sure, Mr. Alario, you know the answer to that. The answer would be to try to get a constitutional amendment to increase it to two.

Mr. Alario Then I would have to vote in the eighty-third district for your assessor in your parish, but yet, you don't want us to do the same thing with the city of New Orleans.

Mr. Champagne No, sir, because they ask for special treatment and special treatment they shall get, sir.

Mr. Chehardy Mr. Champagne, when you presented this issue yesterday, correct me if I'm wrong, but didn't you state that this was more or less in the nature of a technical amendment and that you had discussed it with Mr. Mauberret?

Mr. Champagne I discussed it with Mr. Mauberret, and I shall never use the words "technical amendment" again in this convention, sir.

Mr. Chehardy But, you gave the impression of one with an air of merely creating a technical change, not trying to set New Orleans different from sixty-four parishes in the state. Yet, that's what you're doing right now, you're turning away from what was misunderstood apparently by Mauberret because he just listened to what you told him. Then, when he says you're wrong instead of just backing down now, you're trying to make an issue and make New Orleans different from sixty-three other parishes. The assessor representing that parish doesn't choose

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to be in that position.

Mr. Champagne I regret that that misunderstanding that there was...

Mr. Chehardy So, you're changing your stance.

Mr. Champagne Well, Mr. Chehardy, I'm sure that if you had come before this convention, and your amendment had been adopted unanimously that you would object the following day to have it treated in this manner. Now, possibly not, you're a very big man and a great gentleman, etc., and I'm sure you wouldn't be the same.

Mr. Lanier Mr. Champagne, if we wanted to authorize each parish to have as many assessors as they wanted, then rather than have to pass a constitutional amendment for each one all we would have to do is to change it to say that each parish is authorized to have as many as they want, couldn't we?

Mr. Champagne That's right, sir.

Mr. Lanier That way everybody wouldn't have to vote on everybody else?

Mr. Champagne That's correct, sir.

Mr. Lanier Now, the second thing: are you aware of the fact that when the mayor of New Orleans, Moon Landrieu, testified in front of the Local and Parochial Government Committee, he asked us to bring New Orleans back into the state?

Mr. Champagne I understand he did, sir.

Mr. Dennery Mr. Champagne, as I understood your statements from the podium today, is it your position if the people of the city of New Orleans wanted to change their municipal districts, they should be given that opportunity, and that therefore, if they wanted to change the number of their assessors they should be given that opportunity, so that you, living elsewhere would not have to vote on it? Is that correct, sir?

Mr. Champagne That's what I said.

Mr. Dennery Are you aware sir, that the charter of the city of New Orleans provides that the municipal districts of the city of New Orleans shall remain as municipal districts of the city until lawfully changed? Are you further aware that the municipal districts of the city of New Orleans are fixed by the legislature?

Mr. Champagne I was told, sir, that your charter said that the municipal districts in your city would be changed by the people.

Mr. Dennery Well, I don't believe that's correct, Mr. Champagne, according to the charter. Are you further aware that the charter of the city of New Orleans deals only with city officials and does not deal with any parochial officials, that the parochial officials in New Orleans are in the same position as parochial officers in all other parishes: namely, they are fixed either by the constitution or by the statutes?

Mr. Champagne Are you trying to tell me that the legislature governs the city of New Orleans, is that what you're saying?

Mr. Dennery I would say that the legislature and the constitution governs the parish officers in the city of New Orleans, not the city officers. There is a distinction even though they are coterminous. There are parochial officers in the city of New Orleans just as there are in all the other parishes, and they are treated...they are not treated in the charter of the city of New Orleans because of that very fact, sir. Were you aware of that?

Mr. Champagne No, I was not, sir, but I simply do

not understand that you have a charter and you don't...you do not let the people of New Orleans decide how many districts there are, is that true?

Mr. Dennery As I read the charter, sir, it merely says that "the municipal districts shall remain until they're lawfully changed." Since they were originally set up by the legislature, I believe the presumption is that they will have to be changed by the legislature.

Chairman Henry in the Chair

Further Discussion

Mr. Landrum Mr. Chairman and fellow delegates, I rise this morning asking that you support the amendment as presented. It has been said earlier in this convention about New Orleans: we're going to bring New Orleans back into the state. That's all I heard from the first part of the year, and some things have been going on until it makes me wonder really whether or not, we want New Orleans really a part of the state at all--just push us out there in the lake. But, on this particular amendment, I have attended as--supposedly to be the first black deputy assessor in the State of Louisiana in the last one hundred years. For the past six years I have attended assessors' conventions, and I've met some very fine people throughout the state. But, it's strange to me throughout the State of Louisiana out of all the black property owners--now, I want you to understand what I'm saying now; now, if I'm wrong, then oppose me--I do believe that we should have some black representation with the assessors. Now, I'm supporting a man right now in an election who is white over a black opponent because he's a...I consider him a very fine assessor, but now, shouldn't there be new districts, or the possibility of new districts, created whereby you do not have to get rid of assessors who are already in office. I would like to see the possibility of assessors that blacks do have a chance to run for office and be elected if the people so desire. By creating new districts, it does afford a better opportunity. For this reason, I ask that you support these Champagne amendments, and only if you attend this convention, you could understand what I'm saying to you. Do you know that I have been in the assessors' convention and been the only black person out of all the people who are questioned--the only black person there--treated very fine, of course. But, I got so one day...one year I wanted to be...I'd been around white folks so long--for three days and three nights--until I say I got to find some black people somewhere just to be around them because just being there with all the whites and no blacks I don't think is right to the property owners of the state. Now, if I'm wrong, if I'm wrong, if deep in your heart if you feel that I'm wrong in what I'm saying, then you oppose me. But, if I'm right, support the amendment.

[Amendment withdrawn: 69-26.]

Personal Privilege

Mr. De Blieux Mr. Chairman, ladies and gentlemen, I'm sure that they're going to be a number of delegates just like Mr. Chehardy talking now without listening to what's being said. But, let me say this when that amendment was drawn up yesterday, there was not one single objection to that amendment. Here we have wasted a whole hour of this convention this morning reconsidering an amendment which there was no objection to. I know I might be getting myself in dutch with some of the delegates. But, may I suggest this to you, delegates. When an amendment is proposed and that amendment was passed out--everybody had a copy of it--they had a chance to examine it and yet, this morning we've taking up that same amendment and gone through the motions of reconsidering it and voting on it again. That is what's taking up the time of this convention. I'd ask of you, I beg you, let us consider these amendments carefully at the time they're proposed and stop reconsidering something when there's

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no objection to it. If there's something wrong with it, let's raise it when it's first opposed, brought up here before us and save this convention some time. If we'll stop all of these clutterings, meetings, during the time when these things are considered, maybe we can make a little bit more progress. I suggest my feeling, ladies and gentlemen.

Amendment Explanation

Mr. J. Jackson Mr. Chairman and ladies and gentlemen of the convention, I can somewhat regret that Mr. Champagne withdrew his amendment because what that leaves me as a delegate means that I have to propose an amendment to this section to allow you, the delegates from across the state, to decide upon the assessors' districts in the city of New Orleans. I am prepared--along with Delegate Velazquez,--prepared to reintroduce Mr. Champagne's amendment. It's my position was that if we did not adopt the Champagne amendment and if we did give the kind of continuous constitutional requirement that all the parishes in the state must vote on it, then I'm obligated to come up here and say since we've got seven assessors' districts and that they ought to be reapportioned on a single member basis. We have seven districts, and they are very well malapportioned. Now, I suggest to you that you do not vote on this section...to let me resubmit and then if you want to take a vote on it, and vote your conscience, okay. But, at the same time, I'm saying that I would have rather attempted to deal with this problem back home with our charter, with our city council. It seems to me we have set the precedent wherever there was multi-districts that we reapportion them on a population basis. So, I'd rather go that back home, but since that has not been the wishes of this convention,--particularly about a withdrawal of the Champagne amendment,--then I'm obligated as a delegate to introduce that. So, I ask that you do not vote that...Mr. Chairman, to save some time since everybody has a copy of that, it's just a matter of changing my name and adding...Mr. Champagne's name, then adding my name and Mr. Velazquez.

Mr. Henry Rather than retyping it and going through the delay of that because the amendment can be offered, we'll go ahead and allow you to offer the amendment in that respect.

Questions

Mr. Chatelain Johnny, you're a very practical fellow and you've been a very great delegate, but Mr. Champagne with my insistence, and a couple of other delegates withdrew his amendment in the spirit of time. We've already spent over an hour this morning, Mr. Jackson, and all was in mind there, there was a great resentment from a certain section of New Orleans. Why don't you reconsider it instead of running this by us again because we have...time is running out, sir?

Mr. J. Jackson In response to your question, Mr. Chatelain, I suggest that the best way that we could not only save time in this convention, but possibly save the time of voters throughout the state, is to let us in the city of New Orleans solve our problems. Now, I'm saying since we did not take that position, I'm just obligated and I feel the responsibility. I did bring that to the attention of Mr. Vesich, too.

Mr. Mire Mr. Jackson, in the spirit of time though, would you then maybe call for the previous question on your amendment and let us vote on it, and then we can go on to the section?

Mr. J. Jackson Yes. Unless I don't want to prevent any other delegate who may want to speak.

Further Discussion

Mr. Schmitt Certain people have alleged that the Orleans delegation wants this and the Orleans delegation wants that. I know myself, personally, I've

never been asked what I want. I know that Mrs. Warren has never been asked what she wants. Mrs. Warren opposed it, I opposed it, and at least two other delegates from Orleans opposed it. I think that we're fairly evenly split so I don't think this is anything that the Orleans delegation wants one way or the other. I do feel however, that Orleans should be given the opportunity to be brought back into the State of Louisiana. I feel that Orleans should be given the right to change the number of assessors to either expand or to contract this number and to meet the problems of our city in the future. I do not feel that we should lock this in to seven assessors because what was good fifty years ago might be...not be good today. I feel that you should allow the people in our case, in the city of New Orleans to decide for themselves whether or not this magic number of "7" is a proper number of assessors, and that the rest of this state should not mandate to us that we have to accept it. I believe that the vote will show that there is no clear mandate from the Orleans delegation that it wants this opposition to this amendment. I am in favor of this amendment. Mr. Johnny Jackson, who's from the Orleans delegation is in favor of it. I would presume Mrs. Warren is in favor of it, and Mr. Velazquez is in favor of it. I don't know how the rest of the delegation feels, but this, a portion of the delegation at least that's in favor of it. So, I don't think there's any clear mandate from the Orleans delegation to defeat this amendment. I request your support for this amendment.

[Previous Question ordered.]

Closing

Mr. J. Jackson I'll be very brief, ladies and gentlemen of the convention. We talk about time-saving some time, and I want to save some time, but I suggest to you that I have an obligation as a delegate to try to represent the district from which I'm from in my city. I suggest to you that we ought to handle the problems that I'm raising back home. The Champagne amendment provides for that. I have no fear whether the city council is going to decrease it, they could very well increase it, but I can suggest to you that there is some serious questions about having seven assessors or having multiple assessors and they have not been apportioned. I suggest to you that to delay the time of this convention to let New Orleans take care of its problems back home that you support this amendment. I do not see any rational or any continuity in suggesting that somebody in Shreveport ought to tell us whether we should even have seven, five, four or three. But, if...as a result of the action by Mr. Champagne withdrawing, that means that if we...that I have an obligation, and this is the point where I hassle out among this delegation the problems concerning our assessors' districts and the problems concerning the city of New Orleans. Now, I'm attempting to provide you an alternative which we know is constitutionally logic. At the same time, if the voters back home say that they want to change them that the city council wants to issue a referendum then they can do it under the Champagne amendment. Now, this is nothing directly aimed at assessors, but I'm suggesting to you in terms of timesaving we can save some time. You know and I believe a majority of the delegates here know that that's the best way for us to do it. So, I ask your favorable adoption that we can get on about the business. I yield to questions.

Question

Mr. Schmitt Are you aware that a majority of the delegates from the Orleans delegation voted which would substantially support your position at the present time and voted against Mr. Vesich's position?

Mr. J. Jackson Yes, I do. I do know that provided that this amendment fails, that Reverend Landrum being...we talked about it is prepared to offer a substitute amendment--another amendment

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attempting to change somewhat to fight the big apportionment issue right here on the floor of the convention. I'm saying that we can take care of that kind of business back home.

[Record Vote ordered. Amendment rejected: 38-64. Motion to reconsider tabled. Motion to temporarily pass over Section 8. Substitute motion to pass over Section 8 and revert to Section 6.]

Further Discussion

Mr. J. Jackson Mr. Chairman and ladies and gentlemen of the convention, I don't understand and no one has come to me as to rationale as to why we ought to not resolve the problems in Section 8 prior to going back to Section 6. I suggest that as much consideration as we've given to Section 6--and I sit here and I went through all of it--I think we ought to give the same kind of consideration for Section 8. So, therefore, I object to reverting back to Section 6.

Further Discussion

Mr. Roy Mr. Chairman and ladies and gentlemen of the convention, the reason that I want to go back to Section 6 specifically is because I think there's been a compromise worked out. Some people are interested in leaving for the Ole Miss-L.S.U. ball game and I think now is the time to get 6 out of the way, get it passed, and then we can argue and fight all we want about Section 8. I just think that's the best thing to do, if there are no further speakers, I move the previous question on the motion.

Further Discussion

Mrs. Warren Mr. Chairman and delegates, we have talked about ball games and all of these being important. I don't think any delegate should put a ball game and attending to the head of this convention. We have taken time out to have all the amendments prepared. I'm not one of the authors on it, but I do think we should finish this up and then go back. I don't think we should go back to anything else other than finishing up what we have right now. We have lost a lot of time for ball games on Saturday which is not important. I think that the people of this state should expect that their delegates would put this convention business ahead of any ball game that is going on. I think this is completely out of order, and I do not wish, and I don't think anybody else should want to go back to Section 6 before they finish Section 8. Thank you.

Question

Mr. Nunez Mrs. Warren, don't you agree that we had worked on 6 for two days and the reason why we passed over 6 and 7 this morning to get to 8 was to give this convention something to do while the proponents and the opponents were working out the problems on 6 and 7. They now have them worked out and its...B is as equally as important and everybody is going to stay--I don't know of anybody going to a ball game--I'll be here. But, we just thought it in natural order of events we'd go back and take care of 6 and 7 because we think we've worked out the important business of revenue sharing, and would like to get it out of the way of the convention. That's simply the only reason why.

Mrs. Warren That's right, I think we have our amendments prepared for this section and I think we ought to vote it up or vote it down, and then go back to the next section. I don't think we should go back or worry about ball games.

[Previous Question ordered. Record vote ordered. Substitute Motion adopted: 64-36.]

Amendments

Mr. Poynter Amendments sent up by Delegates Rayburn, Nunez, Tapper, Chehardy, et al.

Amendment No. 1. On page 8, delete lines 7 through 18, both inclusive, including the floor amendment proposed by Delegate Gravel, et al., and adopted by the Convention on November 2, and all floor amendments adopted to said floor amendment by Delegate Gravel, et al., and insert in lieu thereof the following:

"Section 6. Revenue Sharing Fund; Distribution; Pledge of Proceeds

Section 6. (A) A special fund is created in the state treasury to be known as the Revenue Sharing Fund

(B) There is hereby allocated annually from the State General Fund to the Revenue Sharing Fund the sum of ninety million dollars. The legislature may appropriate additional sums to the Revenue Sharing Fund.

(C) The Revenue Sharing Fund shall be distributed annually as provided by the legislature solely on the basis of population and number of homesteads in each parish in proportion to population and the number of homesteads throughout the state. Unless the legislature provides otherwise, population statistics of the last federal decennial census shall be utilized for this purpose.

(D) The funds distributed to each parish as provided in Paragraph (C) shall be distributed in Orleans Parish by the city treasurer of the city of New Orleans and in all other parishes by the parish tax collector. The funds allocated to the Monroe City School Board, or its successor, shall be distributed to and by the city treasurer of the city of Monroe. After deductions, in each parish, for retirement systems and commissions as authorized by law, the remaining funds, to the extent available, by first priority shall be distributed to the tax recipient bodies, as defined by law, within the parish to offset current losses because of homestead exemptions granted in this Article. Any balance thereafter remaining in any parish distribution shall be allocated to the municipalities and tax recipient bodies within each parish in accordance with law.

(E) Any political subdivision, as defined by Article VI of this constitution, may incur debt by the issuance of negotiable bonds, and may pledge for the payment of all or part of the principal and interest of such bonds the proceeds derived or to be derived from that portion of the funds received by it from the Revenue Sharing Fund, as provided in Paragraph (D) of this Section, to offset current losses caused by homestead exemptions granted by this Article. Unless otherwise provided by the legislature, no portion of any moneys allocated within any parish out of any balance remaining in any parish distribution, as provided in Paragraph (D) hereof, may be pledged to the payment of the principal or interest of any bonds. These bonds shall be issued and sold as provided by law, and shall require the approval of the State Bond Commission, or its successor, prior to issuance and sale."

Mr. Roy I'd like for the Clerk to open the machine for coauthors on the amendment.

[Coauthors added to the amendment.]

Explanation

Mr. Rayburn Mr. Chairman and fellow delegates, this amendment makes some changes in the present section under the proposal. It increases the amount from eighty million dollars, as in the present proposal, to ninety million. It includes a technical amendment that I believe was adopted yesterday that was offered by Mrs. Zervigon. It also includes an amendment for the city of Monroe. It further provides for the retention of the withholds as now provided by the present law. The only other addition it makes is it does allow the bonding of the revenue sharing funds. However, it prohibits the bonding of any surplus unless otherwise provided by the legislature. That's about the only changes that this amendment makes. There are a lot of us that burned a little midnight oil trying to come up with

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something that we could agree on. To the best of my knowledge, this amendment satisfies most of the objections that I have been told about, or that I have heard about. We did establish priorities, and we stated in here "as defined by law." The reason of that language is to try to clarify the recent court ruling. This language was placed to get that in the record and also to clarify it. I'll be happy to answer any questions I can. I now move the adoption of the amendment.

Questions

Mr. Roemer Senator, as I understand it, you prohibit the bonding of the excess revenue. Is that correct?

Mr. Rayburn That's true--unless otherwise provided by law later on, years from now. We didn't tie it down completely, Mr. Roemer, but we did prohibit it unless the legislature authorized it at a later date.

Mr. Roemer In other words, the legislature is going to have to specifically grant that. It's not granted in here, in other words?

Mr. Rayburn That's right. It's not granted in this amendment, Mr. Roemer.

Mr. Roemer All right. Number 2, under the present law, do these subdivisions have to pass their bonds by the State Bond Commission for their approval?

Mr. Rayburn Now, all local municipalities and all parishes, the...State Bond Commission approves those before the bonds are authorized. The reason we put it in here, we're dealing with money that's sent back from the state, and we want to make it uniform for all bond issues if they get the approval.

Mr. Roemer All right. I support that. I just wanted to see if that was a change in the current law--the last sentence--in any respect. Is it, Senator?

Mr. Rayburn It will be...it'll be a change in the revenue sharing monies because that's...now they're not bondable. But it will be a change. They will be bondable, but they will have to have the prior approval of the State Bond Commission like all other bond issues.

Mr. Roemer Well, one final thing: you know, I support this even though we fought hard for our fifty-fifty yesterday, which I think is the most reasonable way to do it. I think we can all support taking these particular percentages out of the constitution.

Mr. Rayburn It does take the percentages out and leave it, Mr. Roemer, up to the legislature.

Mr. Weiss Delegate Rayburn, I'm sure your committee spent many hours on this study. I'd like to know why the change that you've now accepted. Since revenue sharing funds were not bondable--are not bondable--at the present time, why do you recommend at this time that they be so?

Mr. Rayburn Dr. Weiss, the school people and the police jury associations had requested this. They wanted it. Finally...in the beginning, as you know, I was opposed to it, but I just finally agreed to bow to their will. We did allow them to bond it. They requested it, and we granted it, in other words.

Mr. Abraham Senator Rayburn, I have three questions. First of all, under the old property tax relief fund, the amount of monies that the parishes received as reimbursement for homestead exemption, was that bondable?

Mr. Rayburn No, sir. Not to my knowledge, it was not.

Mr. Abraham So, we have...we are adding something

new here from the old constitution; we are allowing bonding of this money?

Mr. Rayburn Let me see...let me ask...Mr...would that...that money, I believe was bondable, Mr. Abraham. Yes, sir, it was bondable; what they had received, yes, sir--not the surplus, but what they had been receiving was bondable.

Mr. Abraham That's what I mean. Under the old property tax relief fund, the money was bondable--the money that the state reimbursed the parish for was bondable...

Mr. Rayburn That's right.

Mr. Abraham ...for the amount of the homestead exemption. So, we are getting back to that particular position now with your amendment here with this last sentence.

Mr. Rayburn That's right.

Mr. Abraham All right.

Now, under the ninety million, we are saying they can bond up to the amount of the loss incurred by homestead exemption. Now, suppose that they receive--within the ninety million dollars--they receive a share which is in excess of the amount incurred...lost by homestead exemption. They cannot bond that excess.

Mr. Rayburn That will not be bondable, no, sir, under the language of this amendment.

Mr. Abraham All right. Now the...

Mr. Rayburn It does provide, however, that later the legislature would have to grant them the authority to bond it.

Mr. Abraham All right. Now the converse of that is this. Suppose that the legislature allocates to the revenue sharing fund money in addition, or in excess, of ninety million dollars, and suppose that this still does not cover the amount lost by homestead exemption by a parish. They will then be able to bond the excess over and above the ninety million dollars, which may be a fluctuating thing: they may get one year, but they may not get it the next year.

Mr. Rayburn They...Mr. Abraham, they will be able to bond any amount up to what they would have been receiving under the old property tax relief fund.

Mr. Abraham I realize that. But what I'm trying to say is we only...we are only guaranteeing ninety million dollars to this fund. The thing I am concerned about is that if you put an additional ten million dollars into the fund, and that ten million dollars still does not cover the amount lost by homestead exemption, they are going to be bonding that excess of the ninety million dollars. They may not have it the following year. The point I'm trying to make is that they can only bond their share of the ninety million dollars. Should it not be that way?

Mr. Rayburn That's right. But, the, I don't think they could sell any bonds where they didn't get what they'd got before. I don't believe those bonds would be salable, Mr. Abraham.

Mr. Abraham That's the point I wanted to make. They are only guaranteed ninety million dollars. I think it would be irresponsible...fiscal irresponsibility for a governing body to try to sell any share in excess of the ninety million dollars they may receive in one year. I think that it would be up to the State Bond Commission to watch this type of thing.

Mr. Rayburn That's right. I concur with those thoughts.

Mr. Chatelain Senator Rayburn, do you realize

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that I was with you all day yesterday?

Mr. Rayburn Yes, sir. I hope you are today.

Mr. Chatelain I'll probably be again today. I have a couple of questions, however.

One, we discussed yesterday the retirement systems and commissions. For retirement systems, you mean in the local parishes--not statewide?

Mr. Rayburn Yes, sir. Local parishes. Strictly local, Mr. Chatelain.

Mr. Chatelain Thank you.

Two, in the closing...sentence, rather of (D) "Any balance thereafter remaining in any parish distribution shall be allocated to the municipalities and tax recipient bodies." now, do you mean that the municipalities would get the first share of the leftovers? Or...

Mr. Rayburn Where are you reading that from, Mr. Chatelain?

Mr. Chatelain On (D), the last sentence of (D)-- "Any balances thereafter remaining in any parish distribution shall be allocated to the municipalities and tax recipient bodies within each parish and in accordance with law."

You have municipalities first with the leftovers. Do you mean that a city would have the first shot at it?

Mr. Rayburn I don't think so, no, sir. I mean you just...you have to name the cities and the other governing authorities to include them.

Mr. Chatelain Because that's one of the problems a lot of people had yesterday with where would the cities come in with...at least with the leftovers you know.

Mr. Rayburn Well, that's why we spelled it out. It will be allocated to the cities and to the other tax recipient bodies within each parish in accordance with law. That'd be in accordance to how the legislature provided for it to be distributed, Mr. Chatelain.

Mr. Chatelain It would be your appreciation, however, that certainly the municipalities would participate in the leftovers?

Mr. Rayburn Certainly. They are now, yes, sir.

Mr. Chatelain Thank you. I have one other question, Senator; then I'm ready to vote for your amendment.

In Section (E) where the change was made, "unless otherwise provided for by the legislature, no portion of the monies may be," etc., do you mean in each effected political subdivision? In other words, if I wanted to...bond the surplus, only that political subdivision involved would have to come to the legislature. It would not be a statewide legislative act.

Mr. Rayburn Well, I think the legislature could pass a general law, Mr. Chatelain, if they so desired; it would allow them to bond the surplus. I doubt that happening because I doubt if you could sell--really sell--any bonds on a surplus that wasn't stable.

Mr. Chatelain Let me re...restate it to you?

If my school board, for instance, wanted to bond additional to the monies they got for the first part of the revenue sharing--if they wanted to bond the surpluses, it would take a legislative act.

Mr. Rayburn That's ture. The legislature would have to grant them that power before they could bond any surpluses.

Mr. Stinson Mr. Rayburn, just to be plain, the only compromise is that Orleans said they'd go along with this if we took out the fifty-fifty--they know-

ing that they can control the legislature and the governor--and put it back at eighty-twenty or even, maybe, ninety-ten or ninety-five-five. Isn't that correct?

Mr. Rayburn Mr. Stinson, I don't want to engage into various sections of this state, but I can truthfully tell you that I don't think under the fifty-fifty deal, Orleans would have ever supported it. I don't think under the eighty-twenty, the rural people probably wouldn't have supported. So, we had to reach a compromise and leave it to the legislature in the way it's being distributed today.

Mr. Stinson Last time they spoke, in their wisdom, it was eighty-twenty, wasn't it?

Mr. Rayburn This year it's eighty-twenty, yes, sir.

Mr. Stinson In other words, those forty-seven parishes were named yesterday, because through this compromise we will ultimately lose--my parish twenty-seven thousand--and those other forty-seven will lost what they would have gotten on a fifty-fifty basis. Isn't that right?

Mr. Rayburn Mr. Stinson, I share your views. Both of my parishes will lose, but we never did have it. We tried to get it. We fell short of enough votes to get it. We thought we had it; but when the machine was counted, we didn't have it. So, all I can say, Mr. Stinson, is that I tried.

Mr. Stinson Now, under this last prohibition, seemingly, against the state coming in, putting full faith and credit behind it, is there any loophole, in your opinion, where they can slip in the full faith and credit behind these bond issues like they did in the domed stadium?

Mr. Rayburn If I thought that, I wouldn't be at this microphone. I hope it never happens.

Mr. Stinson You hope, but we still have our doubts, don't we?

Mr. Rayburn Yes, sir, that we don't put the full faith and credit of the state behind it.

Mr. Lanier Senator Rayburn, you and I previously discussed this point in Section (D), the second... third sentence dealing with the deductions and the distribution by first priority. This thing says that "it shall be by...first priority shall be distributed to the tax recipient bodies as defined by law." Would you agree that this gives the legislature flexibility to determine the first priority distribution formula?

Mr. Rayburn Yes, sir.

Mr. Lanier Is it intended to grant that type of flexibility to the legislature?

Mr. Rayburn That's true, Mr. Lanier.

Mr. Lanier Specifically, if the legislature determined that it was not in the best interest of the state to make a hundred percent distribution to make up the monies that were not received as a result of the homestead exemption, that the legislature could devise another formula other than a hundred percent formula to do this.

Mr. Rayburn You are correct. They could use a ninety percent, ninety-five or eight-five, or some other percentage factor, Mr. Lanier. You are correct.

Mr. Lanier Senator, let me further ask you this. Don't you feel that since all of the people who have gotten together to work out this compromise have done so in good faith and in what they think is in the best interest of our state, that this reflects great credit on the membership of this convention?

Mr. Rayburn I feel that way, Mr. Lanier. I hope

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that we've done the best thing--right thing. We've done the best thing, I think, that we could agree to do; I hope it's the right thing.

Mr. Schmitt Does this amendment take care of the problem with reference to multi-parish districts that they had before--with reference to adding more and more districts subject to the homestead exemption that was brought up yesterday?

Mr. Rayburn Well, I think it does, Mr. Schmitt. It did delete Mr. Kean's language. But, it does say it refers back to the amount of monies they had been receiving prior to the repeal of the five... under the original homestead exemption act.

Mr. Schmitt So, in other words, that, if they add multi-parish districts in the future, this would not be able to increase...

Mr. Rayburn If they were entitled to receive reimbursement at that time, they would continue to do so.

Mr. Schmitt This would be subject to statute... statutory control?

Mr. Rayburn Yes, sir.

Mr. Fontenot Mr. Rayburn, at the present time, it is eighty-twenty.

But, couldn't the legislature, year to year, change that ratio?

Mr. Rayburn That's true, yes, sir. They have...

Mr. Fontenot Now, under this constitutional... I mean if this section is adopted, year after year, the legislature could possibly be faced with a fight over what percentages to use every year. Is that correct?

Mr. Rayburn That's true. I mean it will be left up to the legislature to adopt the percentage to comply with the distribution, Mr. Fontenot.

Mr. Fontenot Now, wouldn't that cause problems with the local governing authorities--not knowing from year to year what they're going to be receiving? If the formula is changed drastically, they could lose a severe amount, or they could gain a huge amount. Don't you think that's going to cause problems to the local governing authorities--not being able to know from year to year what they are going to get?

Mr. Rayburn It could cause some problems, Mr. Fontenot. On the other hand, if you've nailed down a given percentage factor in this particular constitution, you likewise could cause some problems. You might have a more severe problem with your schools this year than you have with your police juries and municipalities. It might reverse two or three years later. Your schools might be in pretty good shape, and your municipalities might need more help. So, I'd have to agree to you that it could cause problems either way you do it. But I do think leaving it to the legislature, you will have a better chance to solve those problems, or they will at least have a better chance to solve them.

Mrs. Miller Senator Rayburn, I believe you and I share the same kind of fears that under such provisions as (E) that the Supreme Court could come out with some fancy decisions that would permit the same type of situation to develop as we had with the domed stadium, by putting the full faith and credit of the state behind some of this dedicated revenue under the guise of leases. I'm sure the smart bonding attorneys can come up with some other things that you and I have never thought about. I'm not sure that this is the section where we should put the prohibition, because we need some kind of prohibition to keep the legislature from being able, through leases or other devices, to do what was done in the domed stadium case. Would you be agreeable to helping work on an amendment, or

perhaps a new section, so that we can prohibit that type of thing in the whole Revenue and Taxation Article?

Mr. Rayburn I certainly will, Mrs. Miller. That's one of the reasons that I wanted to take the full faith and the credit out of the original amendment: to prevent something like that from happening anymore when we really didn't know it was going to happen.

Mrs. Miller Are you willing to help, maybe, write it into a general section so it will take care of all the situations that might arise?

Mr. Rayburn Yes, ma'am. We have a Proposal No. 15 that I hope will be up for action by this body in the near future. I think we could also place some safeguard in that proposal. It does deal with bonds and exemptions, etc.

Mrs. Miller Thank you very much.

Mr. Kean Senator, as I read this, you have deleted the amendment that I had yesterday with respect to special districts. You would anticipate it, as I read the proposal, that the language "tax recipient bodies as defined by law" would enable the legislature to declare that special tax districts, for example, created after a certain date, would not be tax recipient bodies for purposes of revenue sharing.

Mr. Rayburn That's what we are attempting to do, Mr. Kean.

Mr. Kean Now, with respect to the bond issue, Section (E), I am concerned that--well, I've got two concerns--first of all that we have never had any procedure in this state up to now by which you could fund monies which would come from the old property tax relief fund. In other words, you simply got it back, and you calculated that in connection with the millage you levy for bond issue purposes. Now this is a new concept where we are going to actually fund these monies from revenue sharing: is it not?

Mr. Rayburn That's true, of course, under the old set-up, Mr. Kean, as you are aware of; the amount of money you received from homestead exemption was included in your bond base of your various districts.

Mr. Kean That's correct. But, if you didn't get ...

Mr. Rayburn This spells it out.

Mr. Kean ...All right. But, this way, you can directly fund these particular monies.

Mr. Rayburn That's true.

Mr. Kean Now suppose in the first year in which this program goes into effect, you set the ratio of eighty-twenty for purposes of distribution. A parish then takes that money and funds it into bonds for a period of ten years. Would that not, then, lock in the eighty-twenty percentage because you couldn't thereafter impair the obligation of the contract?

Mr. Rayburn Well, it would...lock it in, Mr. Kean, to the extent of the bonded indebtedness--I'm sure you are correct. However, I don't believe, under the provisions of this language, that these monies are going to be bondable too easy. I don't think the bond people--and I do happen to be a member of the State Bond Commission--I don't think that the people who are really so eager to get this provision, it's going to do for them what they hope it will do because those bond people are pretty secure, and they pretty well know what they are doing. I can see, just like you're talking, where I don't believe they are going to buy up a lot of bonds if they think that formula could be changed from year to year.

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Mr. Kean In other words, what...what you are saying is that in light of the right of the legislature to change the formula, the possibility of being able to sell any long-term bonds under (E) is not very probably.

Mr. Rayburn I don't think so. Of course, the school people and the police juries wanted it. I'm of the opinion that they could bond some of the existing millages and supplement it with revenue sharing. But they wanted this. I just finally agreed: well, let them have it.

Mr. Dennis Senator, your amendment, I believe, incorporates an amendment which I offered and was adopted on yesterday...

Mr. Rayburn That's correct, Judge.

Mr. Dennis However, the language necessarily has been condensed somewhat. In order to make sure of my interpretation of it, I'd like to ask you a question. I believe it means the same thing.

Does the second sentence in Paragraph (D) mean that that portion of the fund for the parish of Ouachita which is to be allocated to the Monroe City School Board shall be distributed directly by the state to the city treasurer of the city of Monroe?

Mr. Rayburn That's the intent of the language, Judge Dennis; it sure is.

Mr. Dennis Thank you, sir.

Mr. Anzalone Mr. Sixty, in the distribution of this excess, if there happens to be any, would the legislature be prevented from saying, for instance, that the Tangipahoa Parish School Board would get sixty percent this year, and maybe the St. Helena Parish Police Jury would get sixty percent? In other words, you wouldn't be stuck with a formula for the distribution of the excess statewide.

Mr. Rayburn Ho, Joe, it changed from year to year, and the legislature in the last two years-- I believe this past session--there was thirty-seven different changes over the prior year. It does leave it to the legislature to distribute the excess monies at their discretion percentage-wise--so much for the police jury, municipality, or school boards--any way they decide to do.

Mr. Anzalone All right, sir, well, for instance, in particular now, you represent several parishes. Suppose that one parish in your Senatorial District wanted sixty percent...the police jury wanted sixty percent in one parish, and you felt that that was right; and the school board in the other parish wanted sixty percent, and you felt that that was right. You could do it under this provision.

Mr. Rayburn That's correct. Yes, sir.

Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise in opposition to the amendment. I do so because what this amendment says that this convention cannot get together and decide upon a formula to put into the constitution to allow the school boards and police juries, and those tax recipient bodies that receive funds under the revenue sharing and allow them to bond that money. Regardless of what's contained in (C)...(D) and (E), when you allow the legislature to set the formula, let me tell you what's going to happen. As long as it's in this constitution that the legislature can set the formula--and I have no quarrel with the legislature--what you are going to do is, every year that the legislature meets, is have a constant battle between the city of New Orleans and the rest of the state as to what is going to be the formula for revenue sharing. Now I defy any person to stand up and tell me what percentage of the revenues received by a tax recipient body under this amendment can be bondable. The only way that that can be

bondable under this amendment is from 99.1...99.9 percent population to 1/10th of one percent homestead, or 99.9 percent homestead versus 1/10th of one percent population. You strike the minimum in there, and that's the only amount of money bondable under this amendment. Now, I'm told that the school people, etc., are for this amendment because it's better than nothing. Well, I suggest to you that I don't buy that philosophy. I suggest to this convention that we ought to defeat this amendment and then come forward until we can arrive at an equitable formula to put into the constitution to let these tax recipient bodies know beforehand what they can bond and operate as prudent business communities ought to be able to operate, and not under something that is between two extremes, as a minimum, allow them to bond that. Now, I ask anybody in support of this amendment to tell me what percentage of the funds recipient...received by these recipient agencies is bondable. You tell me what's bondable. I suggest to you that if the amendment should be adopted, that we ought to defeat this section until we can come forward on a concrete businesslike proposal to put into this constitution to allow these revenues to be bonded. I have no ax to grind--none whatsoever--other than to see that an equitable formula for bondable revenues is put into the constitution for the local governing bodies. That's my sole objective in this whole proposal. I would ask you to give strong consideration to defeating this amendment and then to defeating this section until we can come forward and agree upon a formula--whatever the formula might be. But, put a formula in the constitution so that these bodies will know what they can bond.

I'll yield to any questions.

Questions

Mr. Stinson In other words, Mr. Flory, you feel the same that I do: one hundred percent for New Orleans when they are right and what they are entitled to, but not one percent when they are wrong and greedy. Is that right?

Mr. Flory Well, I just say, Mr. Stinson, that you're going to have the continual war of New Orleans versus the rest of the state so long as this provision remains in the constitution.

Mr. Stinson Can't you see in the future in the legislative sessions, when something comes up that's not important, even pertaining to this, that New Orleans can say, "Well, we'll vote for this measure provided that you give us this eighty-twenty." Can't you foresee that?

Mr. Flory I can say that that possibility exists, yes, sir.

Mr. Stinson Only if they're greedy, though. That's right, isn't it?

Also, the main question I want to bring out is the fact it will be impossible for any local people to bond anything under this provision.

Mr. Flory I don't know how they'd know what they could bond under this amendment. I don't know whether the bonding attorney could tell them what they could bond under this amendment, because I don't think anybody knows.

Mr. Stagg Mr. Flory, you pose a predicament because, it seems to me from my point of view, that yesterday when the vote on the final passage of Section 6 occurred, there was such a difference between the fifty-fifty folks and the eighty-twenty votes...folks, that they could not get sixty-seven votes to pass the section. Are you not just setting up the same battle again today with the same obvious results that a compromise was sought that would allow the section to be passed? You pose, now, a problem that has no solution.

Mr. Flory Mr. Stagg, if I can read signs correctly--and I can read this amendment--you may as well defeat the whole section, and you wind up and let

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the legislature take care of the whole problem because, basically, that's where you've turned the whole thing to...because what this does, doesn't guarantee local governing bodies that they're going to be able to bond that revenue. Without that, there's no need for the revenue sharing fund to be in the constitution, period.

Mr. Weiss Delegate Flory, you point out very well the dynamic situation here. Is there any reason to believe that we prophets in this Convention of 1973 are any better than the seers of the legislature that will be elected in '74, '75, '76, and right on through the years, to put the percentages on?

Mr. Flory Dr. Weiss, all I can tell you that during the...every time that the legislature has met--I believe I'm correct in this--and revenue sharing has been in existence, the percentages have changed. I have no doubt whatsoever in my mind that eventually you are going to wind up, if it's left to the legislature, with a hundred percent population distribution, or 99.9 versus 1/10th of one percent.

Mr. Weiss Well, there are now twenty percent less children in the zero to four year age group. There are going to be a lot less children to be educated in this state in the future. So there has to be a dynamic formula. I don't see why your opposition is so great for something that allows the legislature to move in a position where it can move best.

Mr. Flory I just see no reason, Dr. Weiss, to have constant controversy in the legislature over something that this convention could determine as a constitutional matter that would allow local school boards, police juries, municipalities to bond revenue when they--before they did away with the property tax relief fund--they could bond one hundred percent of the revenues received from the property tax relief fund.

Mr. Weiss Wasn't there a recent court suit in that regard, however?

Mr. Flory Over the bondable amount? Not to my knowledge, no.

Further Discussion

Mr. Abraham Ladies and gentlemen, Mr. Flory has voiced some of the reservations I have. I have no real objections to the revenue sharing fund; I have no objections to the ability of local government bodies to be able to bond the proceeds from the revenue sharing fund, provided that they know exactly how much that is going to be and that it is going to be a fixed sum and a reliable sum.

The only problem I have with this is the fear that a political subdivision will go out and sell bonds on the basis of receiving its share of the ninety million dollars on an eighty-twenty basis this year. Five years from now, the ratio may be changed to fifty-fifty, or whatever it may be. I think we are being inconsistent here. We either have to delete Paragraph (E) in its entirety, if we are going to leave Paragraph (C) open, or we're going to have to go back into Paragraph (C) and fix the ratio. I'm concerned about being able to bond in excess of the ninety million dollars.

As I said, I don't have any real objections to the revenue sharing fund. I don't think it's necessary to even have it in the constitution, but I'll go along with it. When I think about, in my parish, that the State Board of Education returns seventeen million dollars to the parish each year for the operation of the schools, I can't see the logic of having to argue over the one million dollars that it receives from the revenue sharing fund. This is what it received last year. It just doesn't make sense. But, I'll go along with that. I'll fix ninety million dollars in the constitution. But, I think it's fraught with danger here by leaving it a little bit too wide open. I have no objection to this particular amendment as it stands, other

than Paragraph (E). If the amendment passes, I think we ought to delete Paragraph (E). Senator Rayburn himself has admitted that he doesn't think that many bonding companies are going to be willing to buy these bonds, not knowing from one year to the next whether the money is going to be there. It's going to be hard to sell these type of bonds. Well, if so, then there's no real need to have this thing into the constitution. If Paragraph (E) is deleted, there is nothing to prevent a local governing body from selling bonds based on the revenue it might receive here, but it's doing so at its own risk. I think that's as it should be. I just don't like the idea of leaving this thing opened from both ends. We either should fix the amount that they are going to get and let them bond up to their proportionate share of the ninety million dollars and no more, or we should do something with Paragraph (E).

Questions

Mr. Duval Mack, as I understand your statement, you don't think we ought to put a formula in the constitution, do you?

Mr. Abraham If we are going to allow the bonding, then we are going to have to have a formula in order to protect that phase of it.

Mr. Duval Are you aware, Mack, that this provision is stronger than what's in the present constitution now? Have you looked at the present constitution?

Mr. Abraham Yes.

Mr. Duval Are you aware that there's no formula in the present constitution?

Mr. Abraham Yes, but I am also told that there is no provision that they are able to bond the monies received from the old property tax relief fund.

Mr. Duval But, you're aware this is stronger than the present constitution, are you not?

Mr. Abraham If you say so, I'll agree with it.

Mr. Duval You also...do you have a formula you think that right now would be equitable for all the people in Louisiana for all time? Do you have one you'd like to give us?

Mr. Abraham No, I have no formula, and whatever we would fix would strictly be arbitrary. But, at least, we would have something definite.

Mr. A. Landry Mack, as I read this article--this Section (D)--it says, "by first priority shall be distributed to the tax recipient bodies, as defined by law, within the parish to offset current losses because of homestead exemptions granted in this article." Don't you feel that this is strictly the first priority will go to make up the losses of taxes collected from homestead exemptions?

Mr. Abraham Yes, Ambrose, but the problem there is, is that one year they may get more than what they need to offset the current losses, but the next year they may not get as much.

Mr. A. Landry All right. We're not talking about surplus.

Further Discussion

Mr. D'Neill Yesterday, I voted against the original Gravel amendment as it was proposed. I had several serious reservations at that time, especially that the full faith and credit of the state could be put behind these bonds. Well, I listened through the day, and by and by, I was convinced that all these different things that we had put into here were good. All of these people from New Orleans voted to have the formula in the constitution when they had it

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their way. When they didn't have it their way, they voted against having the formula. Today they want no formula at all. I really wish they could make up their mind. The fifty-fifty formula is going to cost my parish money; it's going to cost other parishes money, if in the legislature the formula is put back to eighty-twenty. We have no assurances that the formula will remain the same from year to year, and I expect that it's going to probably change, which means it's going to be very difficult to know how much money you can depend upon to have bonded in municipalities in each year. I think that's a very simple way of expressing it.

Mr. Henry Would you yield to a question...

Mr. O'Neill Not yet, Mr. Chairman, I just had a couple of other things to say.

There's nothing in this provision which prohibits the full faith and credit from being placed behind these bonds and, as Mr. Stinson pointed out, nothing to prevent the domed stadiums of the past. I think that the compromises that we make should probably be made here on the floor instead of in New Orleans or instead of in the mansion. I think we would probably all do better to compromise here on the floor. I wasn't convinced that the formula should be put in the constitution yesterday. But, by and by, I became convinced that it should be put in the constitution; and when we had it at fifty-fifty, I think I was satisfied, and I think that most of the delegates in here were satisfied--most of them. So, I oppose the amendment basically because, when it does get to the legislature, it's going to be a very unstable situation. It's going to probably cost East Baton Rouge Parish some money. I think that it's probably the worst compromise that we could have come up with.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, yesterday, the proposal as advanced by Mr. Gravel contained about ninety percent legislation. This proposal today is a lot of improvement over that, but it still contains about fifty percent legislation--in other words, matters that should be treated by the legislature in its entirety. I would like for you to take this particular amendment and compare it to the proposal that was brought forth by the committee. Take the two sections--Section 6 and Section 7. I don't believe that there is anything hardly in Section 6 and Section 7 of the proposal that's very much different than what this says here. Now, there's only one provision which, I think, it might be worthwhile adding to those particular sections, if you'll take them and compare them--that is with reference to the bonding. I'd like to just add, Senator Rayburn and Mrs. Miller, because I know they are particularly interested in this, if you just simply add the words "the fact that no bond...bonds shall not...no funds shall be bonded from the revenue sharing funds received in excess of the losses caused by homestead exemptions," I think that would cover the situation. I think that would be about all you would need to add to Section 6 and Section 7, and then it will let the legislature take care of the situation just as it possibly will have to do with most of this amendment, but yet, you wouldn't have all this verbiage. You'd have something which we could understand. For that particular reason, I still think this amendment can be improved on, and I'm going to vote against it.

[Previous Question ordered.]

Closing

Mr. Nunez Mr. Chairman and gentlemen of the convention, certainly I'll be brief. I think that this convention after due deliberation has come up with a good compromise. We've taken the committee proposal, and we've adopted generally what we said, and we added these several provisions that this convention has adopted. I think we've got something that everyone can live with, and we've taken out

the formula. So, certainly I think we've done our job here, and we've done it in these halls, and after deliberating, and after due deliberation we've come up with a good compromise, so I would ask you to go along and vote with Proposal No. 6. Without further ado, I'll close on that and ask you to vote for it, please.

[Quorum Call: 103 delegates present and a quorum. Record vote ordered.]

Point of Order

Mr. Anzalone Mr. Chairman, a point of order. If a gentleman requests a record vote, is it absolutely necessary that you give it to him if twenty-six people join him?

Mr. Henry Yes, sir.

Mr. Anzalone Is there any way that this convention could override these twenty-six people?

Mr. Henry Well, you could suspend the rules.

Mr. Anzalone I so move.

[Motion to suspend the rule by which a record vote was ordered.]

Point of Information

Mr. De Blieux The motion to suspend the rules may not be debatable, but if he's coupling with something else, isn't that matter debatable? You mean we've got to take his motion and not debate that?

Mr. Henry The first thing you're going to do is move to suspend the rules for that purpose.

Mr. De Blieux Then, after we suspend the rules, we can debate the motion, huh?

Mr. Henry He suspended the rules for a specific purpose, and that's the purpose. Now, you've got to get sixty-seven votes or two-thirds of those present and voting, whichever is lesser. Now, gentlemen...

Point of Order

Mr. Tapper I understand that anytime a member can move to suspend the rules, but the rules had not been suspended. The motion was made under the old rules and carried--by twenty-six people join. I ask for a ruling whether or not that motion was in order because under the rules that were standing in the committee, your decision was made on the basis of twenty-six people joining the man who made the motion for the record vote.

Mr. Henry All right. Mr. Tapper, Mr. Flory had requested a record vote, and the rules provide that any delegate can request a record vote on a proposal; that if twenty-six delegates join the one requesting the record vote, the rules provide that a record vote will be had. All right.

Mr. Flory moved or requested a record vote. The Chair asked would twenty-six people join him. Twenty-six people did join him, and the Chair announced that a record vote is ordered. Mr. Anzalone rose and I asked him why he rose, and he said, "I move for a suspension of the rules to, in effect, provide that twenty-six or twenty-seven delegates cannot require a record vote in this instance." If his motion is adopted, we would be suspending the rule that provides, Mr. Tapper, for the record vote.

Mr. Tapper A further point of order, Mr. Chairman. His procedure--is it not for this convention to vote...for him to object to the record vote and for this convention to vote against the record vote, and then move for the suspension?

Mr. Henry The rules that you adopted say that a

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member can request a record vote. Now, this is just getting ludicrous.

All right. Why do you rise, Mr. Guarisco?

Mr. Guarisco To carry this to its ultimate conclusion, I request a record vote on the vote to suspend the rules.

[Record vote ordered on the motion to suspend the rules.]

Point of Order

Mr. Fontenot Mr. Chairman, after a previous question is ordered and a record vote is ordered, is not his motion out of order?

Mr. Henry No, sir, because it's a suspension of the rules, Mr. Fontenot.

Mr. Fontenot Nobody should have been recognized after the previous question was ordered. Is that correct?

Mr. Henry Well, Mr. Fontenot, then I shouldn't even be recognizing you right now. I made another mistake, and I apologize, sir.

Mr. Fontenot It's a point of order. I had a point of order; I didn't have a motion.

[Motion to suspend the rule by which a record vote was ordered rejected: 10-89. Amendment adopted: 90-14. Motion to reconsider tabled. Motion for the previous question on the entire subject matter.]

Mr. Henry There are amendments--one set of amendments. There are no speakers on the list.

Point of Information

Mr. Bollinger Mr. Chairman, is it in order to ask that the Clerk read that amendment before the vote on the previous question is taken; you could see the substance of it?

Mr. Henry Read it, Mr. Clerk.

Amendment

Mr. Poynter Amendments offered by Delegates Abraham and Kean would read as follows:

On page 8, between lines 7 and 18, in Floor Amendment No. 1 proposed by Delegate Rayburn and just adopted, delete lines 33 through 49, both inclusive, in their entirety, of said floor amendment--and unless I'm mistaken, Mr. Abraham, that's all of Paragraph (E). Is that correct, sir?

[Previous question on the entire subject matter ordered: 70-29. Previous question ordered on the section. Section passed: 87-16. Motion to reconsider tabled: 82-16. Motion to waive reading of Section 7 adopted without objection.]

Amendment

Mr. Poynter Amendment No. 1 *[by Mr. Abraham]*. On page 8, delete lines 19 through 25, both inclusive, in their entirety.

Mr. Henry The gentleman offers an amendment to delete Section 7.

[Amendment adopted without objection. Motion to suspend the rules to limit debate on Section 8 to two proponents and two opponents speaking for five minutes each rejected: 52-58.]

Amendment

Mr. Poynter This amendment sent up by Delegate Fontenot, passed out by Delegate Fontenot, coauthored, I understand, by Mrs. Miller, now; is that right, Mrs. Miller?

Amendment No. 1. On page 8, delete lines 27 through 32, both inclusive, in their entirety and on page 9, delete lines 1 through 12, both inclusive, in their entirety and insert in lieu thereof the following: "Section 8. (A) There shall be a tax assessor elected by the qualified electors of each parish in the state. His term of office shall be four years and the legislature shall define his duties, fix his compensation, and provide for his election. (B) When a vacancy occurs in the office of tax assessor the duties of the office, until it is filled by election as provided by law, shall be assumed by the chief deputy assessor."

Explanation

Mr. Fontenot Fellow delegates, whenever Mr. Champagne brought up his amendment yesterday, I was back home--I had to go back home last night--but, I was in favor of his amendment, and I didn't want him to withdraw it. As far as I'm concerned, I was thinking along the same lines as Mr. Arnette, why should my people in my rural area have to vote for anything that has to go on in New Orleans concerning its Board of Assessors? For this reason, New Orleans got up and said, "Well, why do you all want to make us different than the rest of the state?" O.K., I said, "Well, that's fine; you all want uniformity; let's have uniformity." The general rule, as you all know is that there's one assessor in each parish of the state, elected by the people in that parish, except for New Orleans. Now, if New Orleans wants to be uniform, let's have one assessor elected out of New Orleans. I've never been convinced that New Orleans needed seven assessors; in the past they've had seven assessors, and I've never asked why. But, I've never been convinced that they need seven. Jefferson Parish has one assessor; East Baton Rouge has one assessor; Caddo has one assessor. Why should New Orleans have more than one assessor? I think we're just trying to perpetuate the system as it is in New Orleans. Now, they want uniformity; let's give them uniformity. If one assessor can't handle it, I would suggest that he appoint a number of assistants or go to the legislature and get the appropriation to appoint assistants. I think this would provide the necessary tools to carry out the assessment practices in Orleans Parish. This would make the people in my area not have to vote on constitutional amendments because we're freezing in seven assessors in Orleans Parish. Now, if something happens where they want to redistrict the area in New Orleans and let the assessors have new boundaries, my people in Ville Platte are going to have to vote on it. I don't think that's right. I think this is a good amendment, and I urge your adoption of it.

Questions

Mr. Shannon Mr. Fontenot, when you came to this convention, wasn't it one thing you heard that New Orleans wanted to become a part of Louisiana?

Mr. Fontenot That's right.

Mr. Shannon Would this not make them in line with the rest of the state?

Mr. Fontenot It sure would.

Mr. Shannon They would be a complete part of the State of Louisiana now, would they not?

Mr. Fontenot That's right, Mr. Shannon.

Like I said, I don't think we ought to perpetuate the mistakes that were made in the past into our new constitution. I'm not saying that the seven assessors is a mistake in New Orleans, but why should we perpetuate it by locking in seven assessors? Mr. Champagne tried to allow New Orleans to redistrict itself, and not have to have everybody in the

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state vote on it, and I agreed with Mr. Champagne. But, apparently, overnight somebody did a lot of work, and we undid the work that Mr. Champagne did. So, if New Orleans is going to call for uniformity, let's give it to them.

Mr. Bergeron Clyde, in effect, this amendment would have the effect of deleting seven assessors--let me say that--and establishing one assessor in the parish of Orleans, right?

We're trying to create one assessor in the parish of Orleans.

Mr. Fontenot The effect would be that one...there would be an election, and one assessor would be elected in the parish of Orleans. Now, as far as his assistants, he could name anybody he wanted for assistants.

Mr. Bergeron O.K. Now, I don't...Clyde, I don't really think we're locking them in because don't you know that our seven assessors are in our home rule charter. Any time the people would want to change that, they can simply amend the charter. So, we're not locking it in. I'm not trying to back our assessors. I'm just saying that maybe we're doing a little legislating here, instead of writing a constitution for the whole state. Fine, if the people want to change it, they can always change it by an amendment.

Mr. Fontenot Well, I'm not going to be able to answer that question because I don't know what home rule charter you're talking about, and I don't know the contents of it.

Mr. Champagne In line with that home rule charter, do you know that they said that the legislature could change the number of assessors?

Mr. Fontenot Well...

Mr. Champagne That's what they said this morning. That was the point.

Mr. O'Neill Mr. Fontenot, when have you ever heard the people from New Orleans say they wanted to be treated the same?

Mr. Fontenot This morning, Mr. Tony Vesich said that why are you going to treat New Orleans different from the rest of the state? He said, "Let's have the same procedures apply to them as the rest of the state." That's what I'm trying to do.

Mr. O'Neill Well, I agree with you, but I've never heard them say it.

Mr. Fontenot I heard him this morning. If you'd have been paying attention...

Mr. Velazquez Did you know that there's no mention of the word "assessor" in the New Orleans City Charter? So, the people in New Orleans can't vote on how many assessors they want at this time. However, I have an amendment coming along a little later which will allow the number of assessors to be mentioned in the charter and, perhaps, at that time the people in New Orleans would be able to make the decision, and not the people of the entire state.

Mr. Fontenot Well, right. I would agree with that, and like I said, I cannot answer any questions concerning the charter of New Orleans because, as far as I'm concerned, I could care less.

[Previous question ordered. Record vote ordered. Amendment rejected: 17-74. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1--this is sent up by Delegates Landrum, Velazquez, Johnny Jackson, and Schmitt.

Amendment No. 1. On page 9, line 3, after the

words and punctuation "New Orleans," and before the word "and" insert the words "which districts shall be drawn as equally as practicable on the basis of the total population of the parish of Orleans as shown by the last decennial federal census,".

Explanation

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, it was very obvious that when Mr. Fontenot introduced his amendment that he pointed up a problem. He pointed up contradictions that exist. Now, as you recall, if you noticed the vote, I voted against that because I'm for one, and I've said it to the assessors; I've said it to Mr. Vesich. I don't want to decrease or take away nobody's job, but at the same time, our city charter doesn't provide for seven assessors, as they have said; the constitution provides for it. Our people didn't vote for seven assessors. The constitution has said "seven assessors." I'm saying that if we want to be fair about this whole proposition, that what this amendment says, that although you've got sixty-three other assessors representing the total population of one individual parish, that if you're going to have seven in the city of New Orleans, then, at least, they ought to represent areas that are as practical equally apportioned. Let me give you some history, and maybe the assessors or somebody from New Orleans can come up here and explain otherwise. But, let me give you a history. Our city charter--and I have it right here--in our city charter, there is some mention that they must correspond to municipal districts. Even at present, they do not correspond to municipal districts. You have assessors' districts that are twice as large as other districts. It's been suggested that this is going to affect the assessment rolls in the parish of New Orleans. I suggest to you, how can that very well be when we, under Section 1, have said "within a parish, you have uniform assessments." You say, "Well, this is in violation of the city charter because, you know, you can't amend it for the city charter." I suggest to you that our city charter doesn't say that there must be seven assessors, so, we've amended our charter already by constitutionalizing seven assessors. I believe and I understand the politics of the convention, and I know that there have been some commitments made to retain the seven assessors for the parish of Orleans. I say to you, for those who have committed themselves to that, that you've fulfilled your commitment. You have provided Orleans with seven assessors. Now, I'm saying that since we have...and we have retained our seven assessors, then it's no more than right since one assessor in the parish, let's say the parish of Jefferson, represents an apportioned district because it represents the parish total population. Then, within the parish of Orleans, it shall be justly so. I think it's very obvious down there. We see the merits at present of the Champagne amendment because presently right now what we're doing is having people throughout the state vote upon the affairs of the city of New Orleans. I suggest to you, and I give you this book here, I respect the kinds of associations that are gotten, but, I say to you, there's no reason, there's no reason why, as it appears to a percentage of the delegates here, why New Orleans should have seven. But, in that we do have seven, I ask the convention to allow those seven assessors to represent, as much as practical, equal districts. I don't see any problem with that. In fact, our city charter calls for it now, but they aren't even complying with that. So, I'd ask for those in other parts of the state, if you want to be fair in this issue, like I attempted to be fair on Mr. Fontenot's amendment, to say that let us in the parish of Orleans--since you won't let our city council do it--at least, let these assessors represent districts that are practically equally apportioned. It's just as simple as that, in terms of this amendment. I'll yield to any questions.

Let me make on final remark before I answer your question, Mr. Rachal.

I ask you, just weigh it on the merits of what

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I presented to you. I ask for the same sort of consideration for our city. I ask for the same sort of consideration that we've given to the assessors, because we've retained them.

Questions

Mr. Arnette Johnny, did you know that your amendment is one of the reasons that I didn't want to lock in the number of assessors and the number of municipal districts, and worry about New Orleans's internal affairs in this Constitution Convention or in an amendment?

Mr. J. Jackson Well, my amendment is...

Mr. Arnette I'm in sympathy with your amendment. But, did you know that that's what I wanted to prevent was this kind of thing?

Mr. J. Jackson That's right, and see, we had the amendment to do it. But, since we have gone this far, and since we have said that we're going to have seven assessors, let us, in a manner be able to provide for the districts.

Mr. Rachal Yes, Mr. Jackson, I don't know if anyone's going to speak against this amendment, but I'd like to ask you, what are the arguments against your amendment that you've heard?

Mr. J. Jackson I would appreciate--because if I present an amendment here that has any erroneous connotation--I wish someone would come up here and let you as delegates, in terms of making rational, logical decisions about this amendment, give their position in opposition for this amendment; rather than say that, "I got a commitment." I'm saying to you that you've filled your commitment because we have retained our seven assessors. But, how can you go back to the state, and say, in the parish of Jefferson this man represents equally the parish of Jefferson? But, here in New Orleans, not only do we have more, but they are malapportioned. I don't understand.

Mr. Rayburn Johnny, let me ask you this: if once this procedure is established, what do you think would happen to parishes like East and West Feliciana, and St. Helena Parish? Could they later come back and say then, that according to population, those three parishes should be combined to equal, maybe, the population of Lafayette?

Mr. J. Jackson No, Senator, in light that the provision applies to the seven assessors for the parish of Orleans--and the parish of East Feliciana, West Feliciana, as such, that one assessor represents the total population of that parish. So, there is no problem right there.

Mr. Shannon Johnny, I've been thinking about seven assessors in New Orleans and one in each other parish in the state. Can you tell me what the budget of the seven assessors' offices are in the city of New Orleans, or in Orleans Parish?

Mr. J. Jackson I don't have that information for you right now, Mr. Shannon, but Mr. Schmitt informs me that it's around about a half a million dollars. But, if you're concerned about what kind of effect that that's going to have on the respective offices, you've got to recognize that presently right now, if you look at Section 1, that we've said that all the assessments...if any percentage comes from that in terms of the operation of the office,...all assessments got to be uniform in the parish, so we have no problems in terms of offsetting the effects of what one assessor is presently doing if he's reapportioned into a as much as practically equal district. We don't...we do not in my estimation in this amendment, offset financially or otherwise.

Mr. Shannon But, you have no idea what the cost of assessments are in the parish of New Orleans.

Mr. J. Jackson I've been informed...I don't have

it for the individual assessors, but I've been informed, and Mr. Schmitt...I have to take his opinion, but I don't think that's the issue because if you're suggesting that by this amendment, it affects their budget, I think one of the concerns that was mentioned prior to this convention was about assessors when they came up to the legislature was the fact that each of them had different assessment rates. I think that's an easy matter to...if it creates any problem. But, that's no major problem.

Mr. Shannon But, you didn't answer my question. You do not have any idea what the cost of the seven assessors' offices are in New Orleans?

Mr. J. Jackson No, I have to give you what Mr. Schmitt said, and I would not venture to give you a figure, but he said around half a million dollars, for all the assessors. What does that have to do... you know, I don't know the budget of the assessors of Jefferson, nor East Feliciana Parish.

Mr. Champagne Mr. Jackson, your amendment is simply a further statement of the law as it is now. Right?

Mr. J. Jackson That's my appreciation, because the city charter says that they must correspond to it.

Further Discussion

Mr. Mire Mr. Chairman, fellow delegates, I rise in opposition of the amendment. We in committee had not heard of any of these problems whatsoever, and we checked with the Orleans Parish assessor, and we've had representatives from New Orleans presently, or present, at every committee hearing practically that we had. This is satisfactory to all of the assessors of New Orleans. We heard no opposition to it whatsoever from anybody representing the city of New Orleans or the city government of New Orleans in any way. Therefore, I would urge the defeat of this amendment.

[*Motion for the Previous Question on the amendment rejected: 20-60.*]

Further Discussion

Mr. Vesich Mr. Chairman and delegates of the convention, I would just like to clear up some matters that have been said here at the stand. I hope they weren't attributed to me because I made it very plain this morning that the only thing that we were locking into the constitution was seven assessors, and that we would have to vote on that naturally by constitutional amendment. I didn't think I said anything different than that. I said you could change to municipal districts, you could reapportion the assessors, under our present city charter. I'd just like to read one section of the present city charter to you. It says, "This charter may be amended or replaced only by an affirmative vote of the majority of the qualified electors of the city voting upon such amendments or proposed charters. Proposals to amend or replace this charter may originate only in the following manner: by ordinance of the council of by petition of not less than ten thousand duly qualified registered voters." So, the procedure is there to change the municipal districts, the assessment districts, if our city council or ten thousand people see fit to go ahead and call an election. Then, if it's adopted by the people, we can equalize the assessment districts. That was all I said this morning; I didn't say anything different than that this morning. I made it very plain that the only thing we were locking into the constitution was the seven assessors. I, therefore, ask you to defeat the amendment.

Questions

Mr. J. Jackson Mr. Vesich, you remember the Champagne amendment allowed our city council to do that. I mean, if you have those kinds of strong feelings about going to the city charter to amend

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it--and I would like to point to the case of East Baton Rouge Parish--does the same argument hold for the city council having, and the people of Orleans having, the ability to determine whether they want to maintain seven assessors, decrease them, or increase them?

Mr. Vesich I made no argument along that line. I said we had seven assessors. The committee proposed that we maintain seven assessors. I am sure the seven assessors in New Orleans want to be maintained, and I would like to have seen that in the constitution. This committee...I mean, this delegation voted for it. I said there is a method of changing the districts. That's all I said this morning.

Mr. J. Jackson I'm not going to belabor the point, but I guess I want you to at least attempt to understand my position, that if you say that you can use the amendment process, and the city government, and the voters of Orleans, and talk about apportionment districts, couldn't you very well, as implied by the Champagne amendment, let us determine rather than the rest of the state? If in the future we want to change the number of assessors, decrease them or cut back our budget, shouldn't the people of Orleans Parish along, should have that prerogative?

Mr. Vesich Except that the assessor is a constitutional office, and we want it to remain the same, John. We don't do that for any other parochial office.

Mr. Hayes Mr. Vesich, as defined here in the committee proposal you have, what is a municipal district in Orleans?

Mr. Vesich The municipal districts were defined in the '21 Constitution. They were maintained in our charter. They do divide the city into these particular districts; I could name them. I admit that at the time, they are not equally apportioned, but nobody has ever seen to change that on the local level, Mr. Hayes.

Mr. Hayes But, I still didn't get the definition. What is a "municipal district"?

Mr. Vesich A municipal district is that is as defined by the '21 Constitution, and maintained in our present city charter. That's what it says a municipal district is.

Yes, Ma'am, Mrs. Warren.

Mrs. Warren I just want to know what is wrong with this amendment? I just want to know what's wrong with it?

Mr. Vesich The amendment locks into the constitution the fact that all of the districts in New Orleans would be equal; that's what's wrong with it, and at present time it isn't, so you are changing the districts in New Orleans by this constitution, aren't you?

Mrs. Warren So, you are saying you don't want it equal.

Mr. Vesich I didn't say that; I said you have a procedure to make it equal, Mrs. Warren. I haven't said that at all.

Mrs. Warren You have the procedure to make it equal, and yet, nothing is wrong with it, but you don't want to make it equal now. Now, this is what's puzzling me.

Mr. Vesich Mrs. Warren, all you have to do is get ten thousand signatures, or get your city council to vote on it, and it'll be done.

Mrs. Warren The point about it is: we don't want to try to put that on them to do it. We would like to do it here. It might be easier probably to do it here if you think it's the right thing to do.

Mr. Vesich All I can do is tell you to vote your conscience on it, Mrs. Warren.

Mr. Willis Do you know, Mr. Vesich, that the rest of us delegates outside of Orleans have the same disgust that the people have with respect to voting on local matters?

Mr. Vesich I didn't hear you, Burt, I'm sorry.

Mr. Willis I, for one, and I think many others outside of Orleans Parish, who have given you more chiefs than Indians--seven assessors for one parish--have the same disgust--that's the trouble with your local government, maybe you've got too many chiefs--have the same disgust with respect to what you want in Orleans Parish as the people have as a whole to vote on amendments with respect to local matters.

Mr. Vesich I understand what you're saying, but what this particular amendment deals with is one that could be solved on a local level, and does not have to be sent to you. Now, we're not talking about the seven assessors. The way I understand that now, that has been closed unless there's a further amendment.

Mr. Willis I very much agree with you, but I don't want to teach papa how to raise his kids. But, I think if you sit down and let us vote, the handwriting is on the wall.

Mr. Vesich Thank you, sir.

Further Discussion

Mr. Velazquez Mr. Chairman, fellow delegates, the assessor of every other district of Louisiana represents the total number of people in that district. This merely applies the same rule of equity to New Orleans. This particular thing only applies to Orleans Parish. It doesn't apply to any other parish. I'm not going to stand up here and tell you that I know what the cost figures for this are. I don't know, and in this instance, I don't really care because the issue isn't really the cost. The issue is one of justice. In 1775 when they started the American Revolution, it would have been cheaper to remain part of Great Britain. But, duty and self-respect required that we start a new country over here, no matter what the actual financial expense was. It was very expensive in terms of money and in terms of blood. Now, Mr. Mire has pointed out that his committee checked with all of the assessors in Orleans Parish and all of the assessors agreed. But what about the rest of the people? We have an election in Orleans Parish November 10. Do you think any political figure in Orleans Parish who has got any sense at all would pick this time to come out against the assessors with an election coming up Saturday a week? They just took their time. The New Orleans charter isn't a parish charter, it's a city charter. Mr. Vesich knows an assessor is a parish officer. He quoted a very nice little piece of the city charter, but he didn't tell you the word "assessor" doesn't appear in the city charter. What's wrong with having equal districts? I think these...why let these poor hard working assessors be overworked? It really, I mean, it brings me to tears to think of some poor assessor having a district two or three times the size of another, and staying up all night defending the people. It really worries me, you know. I hate to think of these poor assessors. They're all elderly gentlemen. I wouldn't want one of them to die of a heart attack because we've overworked them. What we want to do, is we want to equalize these districts so these assessors can live a long, long time. Now, I'm not a member of the National Association for the Advancement of the New Orleans Assessors. I was sent here to try to help the people. To help the people, we ought to have equal districts. I don't see how anybody could be against one man, one vote. That was supposed to be the basis of the country. This is why we rebelled against England and tried to start a new country

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over here. Now, you all want to turn the country over to the seven assessors in Orleans Parish.

Questions

Mr. Alario Mr. Velazquez, what you basically are saying is that you are in favor of the concept of one man, one vote for each district. Is that right?

Sir. Velazquez I'm talking about the districts in Orleans Parish, yes. You all have an equitable system in Jefferson Parish, and you should be congratulated for having a man of the caliber of Mr. Chehardy as your assessor.

Mr. Alario Well, I didn't mean for you to praise Mr. Chehardy. That's not the basis of my question.

Mr. Velazquez Well, I think...

Mr. Alario The question is that if you believe in the one vote...if you believe in the one vote, one man concept, why then did you oppose when we proposed that the Supreme Court districts would be apportioned the same way? Why not then, if that would be good for the whole state? But what you probably did was to say that "Well, that wouldn't be good for New Orleans, so to heck with the rest of the state." Is that right?

Mr. Velazquez No, I was told that that was illegal by Supreme Court decision, whereas...whereas I think that there are judgments on record now that assessor districts are supposed to be apportioned--can be apportioned one man, one vote.

Mr. Dennery Mr. Velazquez, one thing that puzzles me about this amendment, maybe you can explain it to me. Who is to draw the districts?

Mr. Velazquez Well, you know as soon as we finish in this Louisiana State Constitutional Convention, some of us in New Orleans plan to begin a program to rewrite the Orleans Parish city charter. When we start rewriting that, I'm quite sure we'll find somebody who will be more than willing to set these districts up. If worse gets to worse, we can always go to court and let Mr. Steimel or some other master handle it.

Mr. Dennery Mr. Velazquez, I call to your attention that our present home rule charter was written under a constitutional amendment--and I don't believe that this document we're working on now will change that to any extent--which provides that the city of New Orleans, locally, has absolutely no control over any constitutional or parochial offices. Now, I think it has been suggested that you could amend the charter or that you could have the council redraw the districts. It seems to me, though, that you have to worry about the legislature, now, in redoing the districts. I suggest to you that you should put some language in here if you want other than the legislature to draw it.

Mr. Velazquez Thank you very much. You are quite right. The Orleans Parish charter and the city council have no right to set these districts up. We can't do this at the present time in Orleans Parish. It's got to be done either by the legislature or by constitutional amendment.

Further Discussion

Mr. Arnette Ladies and gentlemen, I think Mr. Velazquez has got a fine idea here, and I think it's something New Orleans ought to have, is single member districts, and I think they ought to have them apportioned that way. But, what I don't like is putting it in our constitution. This is for the State of Louisiana. This isn't a city charter or the parish charter of Orleans. That's what I object to; that's why I objected to putting the municipal districts in the constitution. I urge you to defeat this amendment and any others like it. I move the previous question on this one and any other that treats New Orleans in any particular special way.

[Motion for the Previous Question on the amendment. Substitute motion for the Previous Question on the entire subject matter.]

Point of Information

Mr. Arnette Mr. Chairman, this is not debatable?

Mr. Henry No, sir, it's not debatable.

Mr. Arnette Well, I'd like to have some of the amendments read because I think there is one that does have some merit.

Reading of Pending Amendments

Mr. Poynter Reverend Landrum has a set of amendments. It reads:

On page 8, delete line 32 and on page 9, line 1, delete the word and punctuation "Orleans," insert in lieu thereof:

"(B) The city of New Orleans shall elect not less than seven nor more than eleven assessors."

Mr. Velazquez has an amendment.

On page 9, line 3, after the words and punctuation "New Orleans," delete the remainder of the line and delete line 4, and insert in lieu thereof:

"which municipal districts will be fixed by the city charter. Each assessor shall be a resident of the district from which he is elected."

Velazquez and Landrum, together, have an amendment that reads:

On page 9, between lines 3 and 4 add the following:

"No municipal district may be more than twice the size of any other district based upon the total population within the district."

Velazquez and Landrum have another amendment inserting between lines 4 and 5, "no municipal district may be more than twice the size of any district based upon the total assessments in the district."

They have a further amendment adding: "Between 4 and 5, no municipal district may be more than one and one-half times the size of any district based on total assessments within each district."

A further amendment, similarly, "more than one and one-half times the size of any other district based upon total population within each district."

Mr. Singletary has an amendment.

On page 9, line 7, after the word and punctuation "Orleans," insert "the legislature shall define their duties and fix their compensation."

Mr. Abraham has an amendment.

On page 9, at the end of line 10 after the word "assessor," change the comma "," to a period "." and delete lines 11 and 12 in their entirety.

[Substitute motion adopted: 45-43.]

Closing

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, now this aggrieves me that there were a set of about eight amendments that this convention took the position not only against my amendment, but against the amendments of other delegates who have not necessarily gotten on this platform to have the opportunity to introduce their proposal. It particularly aggrieves me to the point that we all recognize the inequity that exists in this city. We all recognize that. When I talked to somebody about the seven assessors, they say, "Yes, I know you are right, but however, you know, I...I made my commitment." It just seems to me that you have kept your commitment; you have kept seven assessors for the parish of Orleans. Now, all we're saying is that since we've got them, since we've had them, then within the parish we ought to have them represent at least as best as practical, equal districts. Someone got up and very avidly and said, "I don't want to vote on the city of Orleans." Yet and still, we made our commitment, and we took that injustice, and we carried it further. Yet and still, when we try to make on a local level amenable, and you know we did it without the vote of the people, without

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a charter or amendment, without a city council ordinance--this convention did it. I think that we have the responsibility to at least correct, as best we possibly can, the situation that presently exists. As most of you know--and particularly the people from Baton Rouge--your charter says it's prohibited very clearly, that there should not be any incorporation. But, this convention went on, on record because it was an unfair situation. Now, I haven't heard, Mr. Rachal got up here and said "I want to hear the arguments against it." There have been more arguments pro for this amendment--even by delegates in other parts of the state--yet and still, because we've cut a deal, that's the way it's got to go. I'm saying, "Keep your deal." You've done that; you've given us the seven assessors, but there's no reason in the world why some assessor's districts ought to be two times as large as another one. Now, I have nothing against the assessors, but our delegation was split down the middle. So, if you've given half of our delegation the seven assessors, it just seems no more than right and fair and just, in the concept of this convention, that we afford the other half of the delegation some even...the same sort of even consideration. I have said very clearly that our charter--and Mr. Vesich has said--it doesn't point to where there's mention of the assessors. It doesn't even point to say that there must be seven. Yet and still, we weren't concerned about the voters of New Orleans or the charter members of the city council, or using the process. I suggest to Mr. Vesich that he could have used the same process by city council resolution to the legislature to do it, rather than let this convention lock in seven assessors. I voted against Mr. Fontenot's amendment. I told him regretfully, but since this convention has said that we're going to have seven, then I say that we ought to have seven assessors, and they ought to at least--if you want to be fair about this whole thing--ought to at least represent equal districts. I can...all I can ask you at this point is to give me your favorable adoption of this amendment, and suggest to you that if you've got any major problems with this particular amendment in terms of implementation of it, that we can correct that. I am not that much in a hurry to vote on an article because we've got revenue sharing in it, and at the same time allow an inequity that exists. Now, I stuck with my city on the revenue sharing, so I just candidly from this podium say that you give us the other half of your consideration. I would appreciate your favorable adoption.

Question

Mr. Velazquez Delegate Jackson, don't you believe that if we don't give the people of New Orleans equity at this time, we'll be coming back to the whole state time after time with constitutional amendments to try to remedy this problem?

Mr. J. Jackson Mr. Velazquez, I got to kind of say I'm kind of blue in the face. But, I think everybody recognized that. I think everybody in other parishes. It's just...I don't understand the politics of it. Now, I don't want Shreveport to be voting on our assessors, but I'm suggesting to you that evidently the cake has been cut. I just want our slice of it.

[Amendment rejected: 37-55. Motion to reconsider tabled.]

Closing

Mr. Rayburn Mr. Chairman and fellow delegates, there was an amendment that would attempt to more or less clarify some language in this section where in the beginning of the section it said, "There shall be an assessor elected by the qualified electors of each parish in the state." The parish of Orleans executed, and then it goes on to say "his term shall be four years and the legislature shall define his duties, fix his compensation." Now, Mr. Singletary, I believe, felt like that we should put that same language on over where we have the...

we're dealing strictly with the assessors of Orleans. However, it does state on line 5 on page 9 that their "term shall be four years, and they shall be elected at the same time as the municipal officers of the city of New Orleans." However, it does not have the language that the salary shall be fixed or the duties shall be defined, and they...by the legislature, and the compensation fixed. However, where the subject is solid and where it does not prohibit the legislature from doing it, they certainly have the right to do it. But, just for the record, I wanted to get it clear and get it in the record for the benefit of Style and Drafting, it certainly was the intent of the committee that this language be covered for all assessors, whether Orleans or otherwise. I just wanted to state that for the record. I think it's fairly clear like it is, but if it's not, Style and Drafting can certainly...Style and Drafting can certainly shape it up when they get to it because I think it was the intent of Mr. Singletary, and I think his point is well taken. I now move, Mr. Chairman, the adoption of Section 8.

Questions

Mr. Abraham Senator, I just want to...I don't want to quarrel over the issue, but I question whether or not Style and Drafting actually can do this type of think because I think it would be changing the substance of the paragraph.

Mr. Rayburn Well, Mr. Abraham, even if they don't, this particular section of the constitution does not prohibit the legislature from doing it, so they will have the right to do it. There's no...it will be no problem, in my opinion, and in the staff's opinion. I did discuss it with them.

Mr. Singletary Senator, the reason I had the amendment was because I thought there might be a clash between the authority of the home rule charter and the authority of the legislature. That's...that was the purpose of my amendment, to clear that up.

Mr. Rayburn I think your point is well taken, Mr. Singletary, and that's the reason I made the statement I did. I wanted to get the intent of the committee on record.

Mr. Willis Senator Rayburn, what you said, there, the comment you mentioned, you know, that while Style and Drafting may not, under our rules, change the substance, they can offer a caveat to this convention, and call what you said to their attention, and we can then preempt the question that you pose.

Mr. Rayburn That is correct, Mr. Willis, and that's why I brought it out. I now move the adoption of Section 8.

[Section passed: 82-12. Motion to reconsider tabled.]

Personal Privilege

Mr. Landrum Mr. Chairman and fellow delegates, I would like for you to know that when I leave home to come here, it's for a purpose, and that is to try to do a job for the State of Louisiana. I sit here now and read through materials that I don't particularly care to read through--amendments that I don't particularly like. But, I bear it anyway. Now, when you get to the place to just cut off amendments--eight or nine amendments--because you don't particularly like it, I think it's wrong. Especially some of you, you don't like for me to mention the idea about black, but I'm going to mention black whatever days I'm here left, whether you like it or not. I'm going to tell you about it, and if you...if you listen well, you would understand what I'm saying to you. But, you don't hear well. When I speak of blackness, I'm talking about trying to do something in this constitution that in years to come, my children and your children won't have to use the word "black" and "white."

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But, every time you get a black and white issue, you're ready to choke it off. "I don't like it, so I'm going to cut it off." Well, I want you to know I don't like it either.

Amendment

Mr. Poynter The first amendment offered by Delegate Schmitt, unless he wants otherwise, is a proposed section dealing with multi-parish districts. Mr. Schmitt, we need to make this 9, if you want it, sir.

Amendment No. 1. On page 9, line 13, add the following:

"Section 9. Multi-parish Districts

Section 9. All ad valorem taxes levied by a multi-parish taxing district shall be equal and uniform upon the same class of property."

Explanation

Mr. Schmitt This is a very simple amendment, and all it does is clarify and require that the ad valorem taxes be equal, and that each person get the same treatment under the law provided that they're within the same class of property. I don't believe that we have any statement at the present time with reference to that particular problem.

Questions

Mrs. Zervigon Mr. Schmitt, since we said in Section 1 of our article that assessments had to be uniform throughout the state, why do we have to reiterate that they are also going to be uniform throughout a multi-parish district? If they are uniform throughout the state, are they not uniform throughout each district of the state as well?

Mr. Schmitt This applies to the taxes levied by the multi-parish taxing districts. If that's taken care of and if you're satisfied that's taken care of, I will...

Mrs. Zervigon So, you're not addressing us but you're addressing millages?

Mr. Schmitt No, I'm addressing taxes which is the millage times your assessment.

Mrs. Zervigon Well, if the assessments are uniform, is it conceivable to you that a multi-parish district would levy a different millage upon that assessment from parish to parish within that multi-parish district?

Mr. Schmitt This is just to clarify and to prevent the inequities which existed in the past, but...

Mrs. Zervigon Do you think we can do that with words, Mr. Schmitt?

Mr. Schmitt I hope we can, otherwise, we have been wasting a lot of time up here.

Vice Chairman Casey in the Chair

Mr. Rayburn Mr. Schmitt, don't you believe this is pretty well covered in our proposal and then what you're actually saying here that all ad valorem taxes levied by multi-parish taxing districts shall be equal and uniform on the same class of property? Does that mean statewide, that all ad valorem taxes shall be the same in multi-parish districts?

Mr. Schmitt Throughout the district they have to be the same.

Mr. Rayburn I think you're really creating a problem there, Mr. Schmitt. Why should it be the same, maybe the taxes should be more in one district than they should another?

Mr. Schmitt It's one multi-parish district, in any one multi-parish district the tax should be equal and uniformly applied throughout the same class of property.

[2136]

Mr. Rayburn Well, don't you think our proposal takes care of that in Section 1?

Mr. Schmitt I don't know. I thought we were more concerned with the local governing authorities and statewide, and we didn't have anything with particular reference to the multi-parish districts.

Mr. Juneau Mr. Schmitt, don't you think it's possible you may be creating a bigger problem than maybe what you're attempting to do? We say we have it uniform in Section 1, then you come back and say in a multi-parish district that it has to be equal and uniform. If we don't have a similar provision throughout each of these sections, the inference may be that it won't be uniform in other types of districts.

Mr. Schmitt My only fear was that it did not apply to multi-parish districts.

Mr. Juneau Don't you see the problem that I'm talking about by putting that kind of amendment when we have the general language in Section 1?

Mr. Chehardy Mr. Schmitt, I think if you read what you've said carefully, you're going to find our taxes are the end result of millage times assessment. So, when you say that all ad valorem taxes, you're talking about the end result of millage times assessment in a district. Now, number one, in a multi-parish taxing district that would be one uniform millage to start with, right?

Mr. Schmitt Correct.

Mr. Chehardy Sure, you would only have one millage in that district. In other words, if it's a levy district tax--a levy board district tax--it's going to be one millage, two mills, one mill, or three mills. So, that feature is uniform, am I right?

Mr. Schmitt I think I see your point. I would like to withdraw the amendment at this time.

[Amendment withdrawn.]

Amendment

Mr. Poynter Next amendment is the amendment proposed by Mr. Schmitt concerning assessment ratio studies.

On page 9, line 13, add the following new section:

"Section 9. Assessment Ratio Studies

Section 9. The Louisiana Tax Commission shall conduct an assessment ratio study annually in each parish to determine the ratio of assessed value to fair market value. The results of the study shall be the basis used for valuing public service property, for equitably applying the millages as provided in Section ___ and ___ hereof, and for determining the homestead exemption level in the various assessing districts."

Explanation

Mr. Schmitt This will be the last one which I would like to be considered; I have the others withdrawn. This would require that the Louisiana Tax Commission conduct an assessment ratio study each year in each parish to determine the ratio of assessed value to fair market value. The result of the study would be the basis used for valuing certain types of property, particularly public service property and in also applying the millages provided in the section, and for determining the homestead exemption level.

Questions

Mr. Rayburn Mr. Schmitt, are you...it is my understanding you are going to withdraw this amendment?

Mr. Schmitt I would like to keep this amendment.

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Mr. Rayburn You would like to keep it? I would like to be recognized for the floor then when you...

Mr. Casey You shall be, Senator.

Mr. Poynter Mr. Schmitt, is this just Section 1 now in your fill in the blank proposition down there? The blank, I believe, is just supposed to be "1"--"as provided in Section 1 hereof,"

Mr. Schmitt The main thing that this would require--that this amendment would require--would be the annual checking up by the Louisiana Tax Commission upon the job which is being performed by the assessors throughout the State of Louisiana. Although I have great confidence in our assessors, I feel that this one little extra protection would greatly alleviate the many fears which have been expressed with reference to the assessors following whatever type of law that we adopt in this new constitution.

Questions

Mr. Weiss Delegate Schmitt, I think the idea here is an excellent one; but, I'm concerned about the cost. Do you have any idea as to what this would cost the state to make this study annually and what type of staff would be necessary?

Mr. Schmitt I don't believe that it would cost a large amount of money insofar as each year the assessors would be required to have available the records upon which they make their basis for their assessments and by making a selective sample of these, they could determine whether or not they were fairly established.

Mr. Weiss Is this your opinion, or do you have the opinion...

Mr. Schmitt This is what we have done in the Bussie decision in order to determine whether or not that was fair and equitable. They just took recent sale values on property and made a comparison type study to what the assessment values were and saw whether or not it was in the ball park. When some were determined to be four or five hundred percent off, they figured that wasn't the same ball park.

Further Discussion

Mr. Rayburn Mr. Acting Chairman, fellow delegates, I rise in opposition to this amendment. I have no way of knowing what the overall cost would be to implement the provisions of this. Certainly if it's necessary, I think the legislature could handle it. I see no need of having it in this constitution.

Question

Mr. O'Neill Senator, would you do me a favor and move the previous question?

Mr. Rayburn You can get recognized, Mr. O'Neill.

[Previous Question ordered. Amendment rejected: 15-70. Motion to reconsider tabled.]

Chairman Henry in the Chair

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Lanier]. On page 7, between lines 2D and 2I, add the following new Section: "Section 4.1. Acreage Taxes

Section 4.1. Acreage taxes, assessments and contributions for the benefit of the land may be levied and collected within political subdivisions as heretofore or hereafter authorized by law, and these taxes, assessments, and contributions shall not be subject to the provisions of Section 1 of this Article. However, property occupied as a homestead, as defined in Section 1 of this Article,

shall be exempt from acreage taxes, assessments and contributions levied for forestry purposes."

Explanation

Mr. Lanier Mr. Chairman and fellow delegates, we've got a problem here with our article as presently drawn. If you will look at article...at Section 1 of the article, it will show that we have granted a homestead exemption on all ad valorem taxes. Now, keep this in mind in understanding this amendment. An acreage tax is not an ad valorem tax; it is a property tax, but it is not an ad valorem property tax; it's what's called a specific property tax. There is a very definite distinction between these two things. Now, if you will look at Section 3 of our article, as adopted, you will see that we have provided for other exemptions besides the homestead exemption and have provided that there shall be no others as provided in this constitution. Well, unless you adopt this proposal here, you have, in effect, killed the present forestry acreage homestead exemption which applies in thirty-five parishes throughout our state. So, and I would like to go over some of these points for you so that you can understand exactly what I'm getting at. In Black's Law Dictionary an ad valorem tax is defined as follows: "ad valorem--according to value. Duties are either ad valorem or specific; the former when the duty is laid in the form of a percentage on the value of the property; the latter where it is imposed as a fixed sum on each article of a class without regard to its value. The term ad valorem tax means a tax or duty upon the value of the article or the thing subject to taxation." Now, there has been some jurisprudence in other states that indicates that at least some courts consider that an ad valorem tax could be interpreted, under particular circumstances, as referring to the value of benefits to property rather than of the property itself. I would...just for the sake of the record, cite two corpus juris secundum...Article 29 for my good friend, Tom Casey, out there who's an expert on corpus juris secundum. But in any event, we need to show the clear distinction--and that's what this amendment is designed to do--that the ad valorem tax provisions of Section 1 do not apply to acreage taxes. You do not list the acreage tax by assessed value; it is listed by so much per acre. We even have certain taxes in some districts of our state that are levied as so much per mile of levee, or so much per mile of pipeline. We...besides the forestry acreage tax, we have twelve other parishes that have levee and drainage acreage taxes: Assumption Parish has five districts; Avoyelles Parish has one; DeSoto Parish, Jefferson Parish, Lafourche Parish, Natchitoches Parish, Rapides Parish, Red River Parish, St. Bernard Parish, St. Landry Parish, St. Mary Parish, and Vermilion Parish. As I've said before, there are thirty-five parishes that have the forestry acreage tax at the present time. Now, there was a legal problem several years ago with reference to whether or not the homestead exemption that applies to the ad valorem tax was applicable to the forestry acreage tax. There was an attorney general's opinion rendered on April 11, 1945 that indicated that the ad valorem homestead exemption tax did not cover the forestry acreage tax. As a result of this, a constitutional amendment was passed in 1946 to provide the homestead exemption coverage to the forestry acreage taxes. I would refer you to Article VI, Section 2 of our present constitution which provides for the forestry acreage tax homestead exemption. Now, I have been told by Senator Rayburn that the committee has no opposition to this amendment. Further, for the sake of the record, I would like to point out that acreage taxes are presently authorized by many provisions of our present constitution and also by statutory law; in particular, I would refer you to Article XV, Section 1, Article XIV, Section 14, Louisiana Revised Statute 38:1957, Louisiana Revised Statute 38:1998, Louisiana Revised Statute 38:2028. For these reasons, I would urge the adoption of this amendment to clearly define in our constitution the fact that there is a difference between the ad valorem property tax and the acreage property tax,

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and to preserve the homestead exemption on the forestry acreage tax that is presently levied in thirty-five of our sixty-four parishes. If there are any questions, Mr. Chairman, I would be pleased to try and answer them.

Questions

Mr. Tobias Walter, then an acreage tax is a property tax?

Mr. Lanier Yes.

Mr. Tobias Specifically.

Mr. Lanier Is a specific property tax as distinguished from an ad valorem property tax.

Mr. Tobias The only reason I asked the question, is because I was wondering whether this particular section would be in order. I am in favor of it. But, I was wondering whether it would be in order in this proposal if it's not a property tax.

Mr. Lanier I think we made a mistake, it should 3.1 instead of 4.1, but that can be taken care of by your Committee on Style and Drafting, Mr. Tobias.

Mr. Kean Mr. Lanier, if I read the last sentence of the Proposal correctly, it seems to me that you end up completely exempting homesteads from the acreage tax, do you not? Is that the intention of this proposal?

Mr. Lanier No, sir, it certainly was not. The language of the present provision was what was intended to be continued and it says "The provisions of Paragraph 9 of Section 4 of Article X of this constitution relative to the exemption of homesteads from taxation are hereby extended and made applicable to the tax hereby authorized."

Mr. Kean That's talking about the exemption portion...the exempt portion of the homestead.

Mr. Lanier That's correct.

Mr. Kean As I read your last sentence, you would end up completely exempting the homestead as defined in Section 1 from acreage taxes. I think...

Mr. Lanier I think your point is well taken, Mr. Kean. It was certainly not my intention to phrase it that way. Mr. Chairman, could I have the leave of the convention to withdraw the amendment to put in the proper language and resubmit it?

[Amendment withdrawn and resubmitted with correction.]

Mr. Poynter All right. The change is strictly in the last sentence. I'll pick it up--"However, property occupied as a homestead, as defined in Section 1 of this Article, shall be"--now, here add the words--"subject to the homestead exemption"--then strike out the word "exempt" at the beginning of the next line--"shall be subject to the homestead exemption from acreage taxes, assessments and contributions levied for forestry purposes."

Questions

Mr. Avant Mr. Lanier, I haven't had a lot of time to be looking this up, but the only thing that I find...it's been pointed out to me in the present constitution on any kind of acreage taxes is in Article VI, Section 2.

Mr. Lanier That's correct.

Mr. Avant That's the only thing?

Mr. Lanier That's the only thing I'm aware of
Mr. Avant.

Mr. Avant All right. Well, I would like for you to listen to that: "Forestry shall be practiced

in the state and the legislature is authorized to make provisions therefor. The legislature may authorize the governing authorities of the parishes to levy acreage taxes not to exceed two cents per acre for the purpose of this section." Then, they talk about the homestead exemption. Now, it seems to me under your amendment you're just throwing the whole thing wide open and any kind of acreage taxes, or assessments, or contributions that the local governing authorities may deem to be for the benefit of the land, they can levy it.

Mr. Lanier That's the law right now, Mr. Avant. As a matter of fact, there is no necessity for this provision because it says "the legislature may." As you know, unless there is a prohibition against the legislature levying a certain type of tax, it certainly can. As I previously indicated to you, there are many, many statutes as well as other constitutional provisions that authorize the imposition of acreage taxes, unless there is a full...it is my understanding of the law, that unless there is a prohibition against the legislature authorizing an acreage tax or any other type of tax, then the legislature certainly may do so within its wisdom.

Mr. Avant Now, we're not talking...we are talking about local political subdivisions in this thing that you've got here "when authorized by the legislature." But, now give me an example of some of those acreage taxes that you say are...the law is replete with.

Mr. Lanier Yes, the one that I'm the most familiar with is an act of the legislature of the State of Louisiana in 1971 for Lafourche Drainage District No. 12, which authorizes the imposition of a two dollar and fifty cents per acre acreage tax for maintenance purposes in Lafourche Drainage District No. 12. However, specifically the other parishes...Assumption Parish has Gravity Drainage District No. 2, the Marais Gravity Drainage District, the Gravity Drainage District No. 4 the Hard Times Gravity Drainage District, Gravity Drainage District No. 5. In Avoyelles Parish: the Red River, Atchafalaya and Bayou Boeuf Levee District assesses five cents an acre and sixty cents per mile. In DeSoto Parish they have a levee district that levies five cents per acre. In Jefferson Davis Parish they have a Drainage District No. 1 that levies ten cents an acre. In Lafourche Parish we have Lafourche Drainage District No. 12, two dollars and fifty cents an acre plus, there is an additional dollar an acre. We are securing a bonded indebtedness on some refunding bonds also by an acreage tax.

Mr. Avant Now, these are all statutorily created districts?

Mr. Lanier Or, constitutionally created, they're both, they're both ways. For example, I've got some statutes here, if you would like to look at them...

Mr. Avant No, now, you've answered my question.

Mr. Burns Walter, I said I was for this amendment in principle. But, I notice there is no restriction or ceiling on this tax; they could put fifty cents an acre or dollar an acre. In the present tax in our parish it's two cents an acre.

Mr. Lanier Oh, the first part...this amendment is not designed to put any ceilings, quite frankly, because as I understand it none of these specific authorizations...

Mr. Burns Well, I mean...

Mr. Lanier No, wait a minute, wait a minute. The first sentence here merely says that these taxes are not designed to be covered by Section 1. Section 1 provides that ad valorem taxes are listed on the tax rolls by assessed value. These are not listed on the tax roll by assessed value. Now, if you wanted to put a complicated provision in

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the constitution relative to the ceiling on acreage taxes, this thing would be about five pages long, because you have all of these different taxes that are authorized by the legislature.

Mr. Burns Well, can't you put two cents an acre or three cents an acre in you...

Mr. Lanier That's only for the forestry acreage tax, Mr. Burns. We have a lot of other drainage district acreage taxes, levee acreage taxes. We have specific authorizations for drainage districts in... I think it's somewhere up around Mr. Fowler's area where they have so much per mile of pipelines, sixty dollars per mile of pipeline or...

I think what you're getting at would be covered by the transitional matters of Revenue, Finance and Taxation. When you take all of these complicated provisions in the constitution that provide these acreage taxes, when they are transposed as a statute, the statute would be the limitation. I think that's the way it would be handled, Mr. Burns, because all of these taxes I really believe are statutory--many of them presently are statutory--and contain the limitation in the statute. So, myself personally, I don't feel that you need all of these limitations in the constitution because if you started putting them in, then we would have to start worrying about places like the Campti-Clarence Levee District and places like that and have to put all of these limitations in the constitution, which I do not think is necessary and can be handled by the transitional procedure. Thank you, Mr. Chairman, I'll be glad to answer Mr. Planchard's question.

Mr. Planchard Mr. Lanier, are you saying, in effect, that you do not consider the acreage tax as an ad valorem property tax?

Mr. Lanier It is not an ad valorem property tax; it is a property tax, but it is not an ad valorem property tax; it is what's called a specific property tax.

Mr. Planchard All right. Didn't we inform you that we have been discussing this in Revenue and Taxation in our other proposal? The proposal that we were supposed to be considering here in the Local Government provisions is the ad valorem property tax question, not the other acreage tax. This is another tax, which we have considered in our other proposal. Don't you think it would be a better place to discuss it before the committee and have your views known before the committee, before this other section comes up?

Mr. Lanier Have you made provision in either of your proposals to preserve the homestead exemption on the forestry acreage tax?

Mr. Planchard We have adopted it in the other section as far as the forestry tax is concerned. We haven't changed a thing.

Mr. Lanier You have the homestead exemption in it?

Mr. Planchard The same thing that you are referring to. We have considered it not in the ad valorem property section, but in the other section.

Mr. Lanier Well, since we were dealing with homestead exemption, it was my feeling that it properly should be listed here in connection with exemptions and in connection with the homestead exemption because there was a specific constitutional amendment to provide the homestead exemption for the forestry acreage tax, even though it was not an ad valorem tax. Now, where we take care of this--of course, as long as it's taken care of is what counts. But to me, if we are dealing with homestead exemption and dealing with the exemptions, and we have a proposal in Section 3 that says "there shall be no others except as provided herein," it seems to me this would be the place to tack it in. Now, I think we have a problem here because we are applying a tax that ordinarily applies...an exemption that

ordinarily applies to an ad valorem tax that has also been applied to a specific tax, so therein lies our problem.

Mr. Planchard Mr. Lanier, is it not true that in the present constitution we refer to these exemptions and no others?

Mr. Lanier Yes.

Mr. Planchard Isn't it true that they have the homestead exemption as to the forestry industry in the present constitution?

Mr. Lanier Yes.

Mr. Planchard Has it made any difference?

Mr. Lanier Well, you have a specific provision, Article VI, Section 2, covering that. What I'm saying is unless you put this in, the forestry homestead exemption is directly hooked into the homestead exemption on the ad valorem tax.

Mr. Planchard We can't have a special section on it?

Mr. Lanier Yes, we can; that's what we're doing right now. Now, it was my understanding that your committee had no objection to putting this in at this time; that's what I was told by Senator Rayburn.

Mr. Planchard I'm on the committee. I object.

Mr. Lanier O.K.

Mr. Rayburn Mr. Lanier, it's true that I've told you I've certainly had no objection, and at that time I didn't think the committee had, for the forestry tax and to see that the homestead exemption did apply. However, some members of the committee says under this language--and I hadn't read your language at that time--they say under this language this could be far more reaching than just what we had discussed you wanted to do, which I certainly have no opposition. Since we do have Proposal No. 15 in our committee, would you mind deferring action on this at this time and see if we can work it out and place it in Proposal No. 15?

Mr. Lanier If your committee feels that it is more properly and orderly placed in another proposal, I certainly have no objection to that, Senator, and accordingly, would so move.

[Amendment withdrawn. Motion to take up other orders adopted without objection. Motion to adjourn to 1:00 o'clock p.m., Tuesday, November 6, 1973. Substitute motion to adjourn to 9:00 o'clock a.m., Wednesday, November 7, 1973 rejected: 9-69. Motion adopted without objection. Adjournment to 1:00 o'clock p.m., Tuesday, November 6, 1973.]

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Tuesday, November 6, 1973

ROLL CALL

[75 delegates present and a quorum.]

PRAYER

Mr. Chatelain Oh, Lord, we thank You for another chance to draft the constitution for Louisiana. We ask that you pray, and help that all of us will have the wisdom, the respect for each other, and to do the job that You want us to do. We pray in Thy name.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 26 introduced by Delegate Rayburn, Chairman on behalf of the Committee on Revenue, Finance and Taxation, other delegates and members of that committee.
A proposal making provisions for property taxation.

The convention has adopted, as amended, the first six sections of the proposal, has voted to delete Section 7, adopted Section 8, presently has under its consideration a number of amendments pending at the desk which involve various proposals to add new sections to the proposal.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Avant]. On page 9, line 13, add the following:

"Section 9. Tax Sales; Redemption of Property
Section 9. There shall be no forfeiture of property for the nonpayment of taxes. But at the expiration of the year in which said taxes are due, the collector shall, without suit, and after giving notice to the delinquent in the manner provided by law, advertise for sale in the official journal of the parish or municipality, provided there be an official journal in such parish or municipality, or, if not, then as is now or may be provided by law, for sheriffs' sales, the property on which the taxes are due in the manner provided for judicial sales and on the day of the sale, he shall see such portion of the property as the debtor shall point out. And, in case the debtor shall not point out sufficient property, the collector shall, at once and without further delay, sell the least quantity of property which the bidder will buy for the amount of taxes, interest, and cost. The sale shall be without appraisal and the property sold shall be redeemable at any time during three years from the date of recordation of the tax sale by paying the price given, including cost and five percent penalty thereon, with interest at the rate of one percent per month until redeemed. No judgment annulling a tax sale shall have effect until the price, and all taxes and costs are paid with ten percent per annum interest on the amount of the price and taxes are paid from the date of respective payments be previously paid to the purchaser. Provided, this shall not apply to sales annulled on account of taxes having been paid prior to the date of sale. All deeds of sale made, or that may be made by the collectors of taxes, shall be received by courts in evidence as prima facie valid sales. No sale of property for taxes shall be set aside for any cause except on proof of payment of the taxes for which the property was sold prior to the date of the sale unless the proceeding to annul is instituted within six months from service of notice of sale, which notice shall not be served until the time of redemption shall have been expired within five years from the date of the recordation of the tax deed if no notice is given. The fact that taxes were paid on a part of the property sold prior to the sale thereof, or that part thereof was not subject to taxation, shall not be cause for annulling the sale as to any

part thereof on which the taxes for which it was sold were due and unpaid."

Explanation

Mr. Avant Mr. Chairman and fellow delegates, this is, in reality, a simple, and I would hope, a non-controversial amendment. It is the exact language that is in the present constitution except for a grandfather clause which had to do with tax sales which took place before a certain date. It was brought to my attention several weeks ago that the provision...that no provision was made in the article that we have under consideration for tax sales and for the constitutional guarantee that we have in the present constitution, that there is no forfeiture of property for nonpayment of taxes. But, that the property...a sufficient amount of the property--will be sold to pay the taxes after which, for a period of three years from the tax sale, the taxpayer has the right to redeem the property upon paying the amount of taxes that were paid, plus a one percent a month interest charge, plus any penalties and costs that may be involved.

Now, you know there are many reasons why people might not pay their taxes. It might be oversight; it might be temporary economic distress; there may be some error; there are many reasons why people may not pay their taxes within the period of time allowed by law for paying it. I, for one, feel, and I think most people would feel, that you should not for that reason, just lose your property. The property should be sold to satisfy the claim for taxes, but you should have the right for a limited period of time to redeem that property. Now what I did, when that was brought to my attention, I first went to the staff and I asked them to take the language in the present constitution and to edit it--to boil it down--simplify it, but incorporate in an amendment the same basic law. Well, they did that in a good-faith effort. I read it, and I thought it was the same law, but certain delegates, in considering it, said "Oh, we think you've changed this, and we think you may have changed that." So, I said, in effect, "Just to heck with it. Would you please take it; take the exact language word for word as it now stands in the present constitution, and draw me an amendment to put it in this article." I was just told that they did exactly that except for one sentence which was a grandfather clause that had to do with some tax sale that took place years ago, and which no longer has any application. So, I'm not here trying to sell anything. I just think that in view of the fact that many, many of the land titles in the state involve tax sales, that we do need to have a constitutional provision providing for procedure, and also providing that there would be no forfeiture of property for the failure to pay taxes, but, that within a stated period of time, you would have the right to redeem that property if it had been sold for taxes. That's all this does. It makes no change in the law. I ask the favorable vote of the delegates on this, and remind you that it does take sixty-seven votes to pass. So, I would ask for a quorum call sometime before the time we vote for the amendment.

Questions

Mr. Burns Jack, I just have one question. This won't help any tax sale sharks that hang around country courthouses every year?

Mr. Avant No, it won't. As a matter of fact, it's my intention to keep the law as it is, to kind of head those people off at the pass, so that these people who hawk these tax sales, when they buy property for a very fraction of its value, that the taxpayer does have the three year period provided by law to redeem his property, because he may have been sick; he may have been temporarily financially embarrassed; there's a hundred reasons why a man would not pay his taxes, as you know. You know that there are people who hawk tax sales, and who have accumulated quite a fortune by taking advantage of the situation where people haven't paid their

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taxes. But, still in all, that fellow's got to go to sleep for three years under the present constitution and I want to put that back in the constitution that we are proposing.

Mr. Champagne Mr. Avant, the Taxation Committee had another proposal. It's not in that other proposal this...?

Mr. Avant To my knowledge, Mr. Champagne, the only proposal that has been sent to the floor of this convention by the Committee on Revenue, Finance and Taxation is the one we are now considering. Now, I may be wrong, I'm not...

Mr. Champagne It hasn't arrived yet. But, there is another proposal.

Mr. Avant Well, I was told that there was another...there was something covering this in another proposal that was going to come out. But, I don't...I think it's a matter of such importance that I don't want to just rely on that assumption. I want it to go in the provision dealing with ad valorem property taxes, which is what it really applies to, because that's the only kind of property that you sell...ninety-nine and ninety-nine one hundredths percent of the cases for taxes. I mean that's the tax involved--the ad valorem property tax.

Mr. Juneau Jack, can you tell us whether or not this provision or a similar provision is in the existing constitution?

Mr. Avant Yes, sir. This was brought word for word from the present constitution except for one sentence, which I was told by the staff was a grandfather clause that had to do with some old tax sale...no longer has any validity or life.

Mr. Juneau I just wanted to make that point--that it is in the present constitution.

Mr. Avant That's right.

Mr. Rayburn Mr. Avant, it's true that the committee did omit this, or leave it out. But, I'm wondering while you are trying to take care of immovable property, will this take care of movable property? Are we covering it all?

Mr. Avant Mr. Rayburn, this is...

Mr. Rayburn That's what I wanted to make clear we're doing.

Mr. Avant Senator Rayburn, this is word for word the provisions of Article X, Section 11 of the Constitution of 1921, except for one sentence or provision, which is a grandfather clause.

Mr. Rayburn What you are speaking of, though, is immovable property only.

Mr. Avant Immovable property...

Mr. Rayburn Now, there is also a provision for movable property, and I'm just wondering if we might ought to take care of both of them in one amendment?

Mr. Avant Perhaps we might if somebody wants to offer an amendment after this one is adopted--if it's adopted--I would...I would have no objection to it. I'm primarily concerned with the sale of immovable property--at tax sale--to have a provision in the constitution that that does not operate as a forfeiture of that property, and that you have the right to redeem it for a limited period of time.

Mr. Rayburn I concur with your amendment. I told you before, I don't know why we did, but we didn't do it intentionally; we just overlooked it. But I would like to make sure that we take care...

Mr. Avant I want to say to you, and to all of the delegates, that I'm not in a position to write a law review article on this subject. It was...I

haven't done that much research. I did exactly what I said I did. It was not in here; I felt it should be here; I asked the staff to draw an amendment to put it in, just like I told you before.

Mrs. Warren Mr. Avant, about two weeks ago--and someone brought it up this week--concerning the sale of property and how you redeem it for the sale...for taxes. I was coming in to ask about this today so I'm glad you have it.

Now, in this, would one go back to the assessor to see about redeeming his property, or would he have to get an attorney?

Mr. Avant Mrs. Warren, I think that you don't have to have an attorney under the present law. You go...when the property has been adjudicated, you can go to the sheriff's office, as I understand the law--I'll be glad to be corrected by anybody--but you go to the tax collector's office, he's the sheriff, and you pay the taxes, plus the penalty, plus the interest, and the costs, and then you get a deed reconveying the property back to you. It has been redeemed.

Mrs. Warren Right. Thank you.

Mr. Avant Then the sheriff settles up, as I understand the law, with the individual who happened to have bought it at the tax sale.

Mrs. Warren Thank you.

Mr. Avant I stand to be corrected by anybody that's more expert in this particular field than I am. The only point that I had, as I've said, ad nauseam before, is that I think this is very important and that the law ought not to be changed, and what's in the present constitution ought to be kept. That's what I'm trying to do.

Mr. Singletary Mr. Avant, if you're concerned about forfeiture, couldn't you just say there shall be no forfeiture of property for nonpayment of taxes, period?

Mr. Avant Yes, sir, you could. Then the legislature could give you thirty days in which to redeem it; ninety-nine years in which to redeem it; or out this condition on it, that condition on it. I think that it is a matter of sufficient importance that it should be in the constitution, and that the procedure should be established in the constitution.

I would respect the opinion of anybody that thinks it's unimportant, or that we don't have to say anything about it.

Mr. Singletary How about a second sentence that would say "The taxpayer shall have three years to redeem any property sold at a tax sale?"

Mr. Avant Well, we could do that.

Mr. Hernandez Mr. Avant, you referred to your grandfather clause. Which clause is that?

Mr. Avant I'm giving you hearsay. Now, let me find it...

Let me ask Mike here.

Senator Rayburn informs me that the committee has a provision ready which includes both movable and immovable property and retains the law as it exists in the present constitution. In view of that statement, I will withdraw...ask leave of the convention to withdraw the amendment at this time.

[Amendment withdrawn without objection.]

Amendment

Mr. Poynter Amendments sent up by Delegates Lanier and Planchard.

On page 7, between lines 20 and 21, add the following new Section:

"Section 4.1. Specific Property Taxes
Section 4.1. Acreage taxes, assessments and con-

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tributions for the benefit of land and other specific property taxes shall be listed on the assessment rolls, but shall not be subject to the other provisions of Section 1 of this article. However, the exemption of homesteads from taxation therein provided, is hereby extended and made applicable to forestry acreage taxes."

Explanation

Mr. Lanier Mr. Chairman and fellow delegates, I went back to the drawing board on the amendment that I submitted to you late Saturday to try to satisfy the objections that were raised to the language previously used; I believe that I have accomplished this in what I'm submitting to you now.

This section is designed to recognize the distinction between the ad valorem property tax and the specific property tax. We have primarily dealt in this article with the ad valorem property tax. Now there was some question raised about whether or not this provision dealing with the specific property tax should be in this particular article dealing with revenue and finance, or whether it should be in Committee Proposal 15. If you will look at line 7 on the first page of Committee Proposal No. 26, you will see that it says "this is to make provisions for property taxation." Specific property taxes are a form of property taxation, so I believe that this properly belongs here rather than in Committee Proposal No. 15.

Now the second question was at what point in the article should it be placed? I've got it located between Sections 4 and 5. The reason I did that is because, in Section 4 we ratify all existing taxes, of which there are many of these specific property taxes in our state. As I pointed out to you Saturday, we have thirty-five parishes that have the forestry acreage tax or the acreage tax for forest fire protection. We also have twelve parishes that have some form of levee or drainage acreage tax across the state. So, I believe that this should be put at...between Sections 4 and 5. Now, the first sentence is to specifically show the distinction between the ad valorem property tax and the specific property tax, and to also specifically show that even though the specific property tax is listed on the assessment roll--which it is--it is not subject to the other provisions of Section 1. Now you say, "Well, of course, what are the other provisions of Section 1?" For example, the specific property tax, or the acreage tax, is not listed at a percentage of market value. It's listed at so much per acre. The assessor does not have to determine fair market value with reference to a specific property tax because this is set at so much per acre. The Public Service Commission does not set the property...the specific property tax on public service property because this is done by the statute that authorizes the tax. There is no review of this tax by the police jury or by the tax commission because it's so much per acre, and not a percentage of value. This tax does not have anything to do with use value because it doesn't make any difference what the use of the property is. It's so much per acre.

Now, a further feature is, of course, the homestead exemption. The homestead exemption does not apply to specific taxes except the forestry acreage tax. That is the reason for the second sentence, is to specifically recognize the present law which is Article VI, Section 2, that the homestead exemption, as provided for the ad valorem tax, also applies to the forestry acreage tax. Now it's absolutely necessary that we have this language here because if you read Section 1 and Section 3 together, you will see that we have precluded any other exemptions from property taxation therein. Since we have not included the language that's in the present Article VI, Section 2, on the forestry acreage tax homestead exemption, unless we put this language in, then we will, in effect, have withdrawn the homestead exemption for forestry acreage tax purposes. I believe, as rewritten, this amendment clarifies the objections that were raised Saturday. I believe that it's absolute...an absolute necessity

to be placed at this particular part of this article to show the distinction between the specific property taxes and the ad valorem taxes. We have a great many of these specific type taxes in existence right now. I think in order to retain the homestead exemption for the forestry acreage tax, we need to have this.

If there are any questions, I will be happy to try and answer them, Mr. Chairman.

Questions

Mr. Jenkins Mr. Lanier, in your second sentence, you say "however the exemption of homesteads from taxation shall be made applicable to forestry acreage taxes. I'm really having difficulty understanding that, and I hope you can explain it. Isn't the homestead exemption an exemption of value from ad valorem taxes? Whereas the acreage tax is not a tax on value at all, but a tax on a quantum of land. Aren't you really trying to subtract here apples from oranges, and how is it possible?"

Mr. Lanier I don't believe so. I think under the homestead exemption, you are exempt up to a hundred and sixty acres around the homestead. The forestry acreage tax as presently set up in Article VI, Section 2, is an amount not to exceed two cents per acre. The exact language of the present provision which has been administered in thirty some odd parishes in the state is the provisions of Paragraph 9, of Section 4, of Article X of this constitution relative to the exemption of homesteads from taxation are hereby extended and made applicable to the tax hereby authorized." So, I paraphrased almost identically the language that presently exists. Apparently the people...I don't have this particular tax in my parish...but apparently those that do have it, have not had a great deal of difficulty with it. I believe that the way, and I could be corrected on this because quite frankly, I don't know, Mr. Jenkins, but I think what...the way it's administered is you get so many acres up to a hundred and sixty around your homestead that is exempt from the two cents an acre forestry acreage tax.

Mr. Jenkins Well, under the homestead exemption concept, isn't it true that the one hundred and sixty acres are not exempt from taxes? Only the two thousand dollars of value, which can be on a tract of up to a hundred and sixty acres?

Mr. Lanier That is correct.

Mr. Jenkins So, thus, it is the value of property that is exempt, not the hundred and sixty acres. So I don't understand how you could exempt a certain acreage from the acreage tax under the homestead exemption concept.

Mr. Lanier Apparently, it's being done right now under this almost identical language. I have not heard of any difficulty. I discussed this with Mr. Mire, and he advised me that this...that these taxes were handled by assessors across the state and were listed on the rolls. I have a copy of the state rolls for 1971, and these taxes are listed on the rolls for 1971. So, exactly the administration of it, I'm unable to say, Mr. Jenkins, but this is almost the identical language that's in the present constitution.

Mr. Conino Mr. Lanier, would you give us some examples of your definition of contributions?

Mr. Lanier ...let me get my laws out here. In Article XV, Section 1, if you'll look in your books on your desk, Article XV, Section 1, I think they used the word "acreage taxes and forced contributions on land benefitted by such drainage." This is for your drainage acreage taxes. These words are almost used interchangeably in some of the statutes about acreage taxes, assessments, and contributions for the benefit of land. I think this is the basic principle behind the tax that, rather than do it by value, since you have people

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who are being drained, or protected by a levee, that it's more equitable to tax them by the acre rather than the value of the property that they have within the district.

Mr. Conino Well, one more question. The only exclusion that you're making here is for forestry acreage taxes. Is that correct?

Mr. Lanier That is correct. The other acreage taxes are not subject to a homestead exemption. As a matter of fact, in Lafourche Drainage District No. 12 that I have in my parish, if it was subject to the homestead exemption, we'd have almost nothing to tax because most of the people there live on their land. Most of them don't have over a hundred and sixty acres.

Mr. Mire Mr. Chairman, fellow delegates, I just want to check something with Delegate Lanier. I just want to make sure that we are in the right area. I find in Section 15, rather Proposal 15 of the Revenue, Finance and Taxation Committee that we mentioned forestry and we leave it to the legislature to set up how forestry and allied properties will be taxed. I'm just wondering if maybe we shouldn't wait to that proposal for your amendment, and that's the only question I had.

Mr. Lanier I believe what we are doing is sort of a reverse of what we just did. But, if you look at Section 26, which is what we're on right now it says "making provisions for property taxation." Of course, these specific property taxes are property taxes just like ad valorem taxes are property taxes...

Mr. Mire They are on the tax rolls, just like as I told you.

Mr. Lanier Right. We provide that they are listed on the rolls, the ad valorem taxes. We provide for the homestead exemption which the homestead exemption is applicable to the forestry acreage tax. I think all we have in Proposal 15, is that "forestry shall be practiced in the State of Louisiana." Really, I don't even know if we need to put that in there, because I'm sure it will be whether we put it there or not. As I understand it from Mr. Planchard, the remainder of that will be transposed as a statute dealing with the forestry acreage tax. My feeling was that since we are dealing specifically with property taxes which are: land, immovable taxes. Since we do have two types: the ad valorem, which is by value, and the specific, which is by quantity, that we should put them both together for several reasons: (1) to show the distinction between the two, which I think is the most important reason. Also, to show that the ad valorems are treated one way and the specifics are treated another way and then to put in our exemptions--all of the other exemptions are in this provision--we might as well put the exemption on the forestry acreage tax here too. It doesn't make any difference where in the constitution it's placed, really, as long as we have something like this. But, in my own opinion, I felt logically it fit better here than it would have been isolated in Committee Proposal 15.

Mr. Mire All right. Well, let me just ask you one more question, then I'll have no opposition to it. If I understand it this way, that in your proposal we can still...or the local governing authority will still have to go to the people to incur a new acreage, or drainage, or any other tax.

Mr. Lanier I think they would have to go to the legislature. Then, when they go to the legislature, the legislature would set up the method in which the tax would be imposed. Now, some of these taxes if you will look at the existing law authorized the Board of Commissioners of the district to impose the tax without a vote of the people. Now, I'm not

going to tell you that does not exist today because it does. The last one that I know of that was drawn was the one for Lafourche Drainage District No. 12 in 1971--that's Act 64 of 1971 and in that one we specifically provided, it took a vote of the Board of Commissioners and a vote of the people in order to impose it. But, I believe that limitation would have to be placed by the legislature, unless we included a specific limitation to that effect in the constitution and, at the present time, there is no such limitation.

Mr. Mire I see. O.K. Thank you very much.

Mr. Bergeron Peg, I'm just seeking some information here. Walter had touched on it, but is this provision similar to the present provision concerning acreage taxes in the existing constitution?

Mr. Mire I'm looking at only the forestry part of it. I haven't looked at the acreage taxing. But, I assume if he said it was, then it is.

Mr. Bergeron I just like to find out how the two provisions differ, or is the present provision as concise as this provision would make it?

Mr. Mire No, I think it's larger than this one.

Mr. Bergeron Thank you, Peg.

Mr. Rayburn Mr. Mire, if I understand the present law, your gravity districts and your drainage districts are now not subject to homestead exemption. Am I correct?

Mr. Mire If they are districts of less than parish-wide, they are not subject to the homestead exemption. But, if they are of a nature that it includes the entire parish, yes they are.

Mr. Rayburn Now, your forestry acreage tax is subject to homestead exemption?

Mr. Mire Yes, sir.

Mr. Rayburn Well, now what change does this amendment make in your opinion? Does it make any change over the existing legislation?

Mr. Mire No, I was more concerned if we had to go to the legislature or not to get permission, or did this allow the local governing authorities to, in fact, impose this tax without getting a referendum...or rather having a referendum vote of the people, that's the only thing I was really concerned about; I thought it might have been a little too broad.

Mr. Rayburn Of course, I believe now that the present law is that the legislature can levy up to two cents per acre--forestry tax.

Mr. Mire That's a...that's...I know that the Forestry Commission has a special act concerning them. I don't have any forestry land in my parish, and I'm not as familiar with it as I should be, Senator.

Mr. Rayburn It does say that they can provide for levying up to two cents per acre, but it does tie it down--the governing authorities. The legislature provides for the governing authorities to levy up to two cents per acre. Now, on the gravity districts, I believe it might be tied down at thirty or thirty-five cents an acre, I think. Then, on the drainage there is no limitation.

Mr. Mire I think that's left up to the people and so long as the people, you know, can vote on it, this is all I was really interested in.

Mr. Rayburn Well, in your opinion, does this amendment prohibit the people from voting on it?

Mr. Mire Well, no it doesn't.

Further Discussion

Mr. Pugh Mr. Chairman, fellow delegates, I rise in opposition to this amendment and the manner in which it is written. I have no objection to the phraseology in the first sentence starting with the word "acreage" and ending with the word "article." I think that is fine and would be a great deal of assistance and benefit to the assessors. What disturbs me, however, and it disturbs me greatly is that in the last sentence we placed this constitution again in potential jeopardy as to whether or not the courts may determine that our taxes are not being equally applied. I call your attention to the fact that there is no great burden to pay forestry taxes of two cents an acre. If a farmer has his full hundred and sixty acres of allocated homestead lands, he can't possibly pay more than three dollars and twenty cents. The most it can cost him is three dollars and twenty cents. Today the forestry acreage taxes pays less than ten percent of the money due for the Forestry Commission itself. We are not talking about any money if we strike the last paragraph, because we're only talking about three dollars and twenty cents. But, to leave the last paragraph in gives the federal courts or the state courts, as the case may be, one additional shot at this constitution from the standpoint of the Fourteenth Amendment. Gentlemen, I don't think it's worth three dollars and twenty cents to the person who may have to pay it with the consideration that we may find ourselves, by just such language as this, in the same position we are as a result of the Levy case and the Bussie case. I, therefore, recommend the defeat of this amendment for that purpose.

[Previous Question ordered.]

Closing

Mr. Lanier Mr. Chairman and fellow delegates, Mr. Liire just came to me a minute ago and posed the question about why you refer to these taxes as specific property taxes. The reason for that is, this is as they are defined in law. I had the staff make me a copy of the definition of ad valorem taxes in Black's Law Dictionary. This is the distinction that was drawn there between the ad valorem property tax and the specific property tax. It says this: duties are either ad valorem or specific. The former when the duty is laid in the form of a percentage on the value of the property, the latter where it is imposed as a fixed sum on each article of a class without regard to its value. The term ad valorem tax means a tax or duty upon the value of the article or the thing subject to taxation. So, there is a very definite distinction here between an ad valorem property tax and a specific property tax. Now, specific as used in this context does not mean this special tax, or that special tax, or the other; it is used in its broad context to mean those property taxes which are imposed without regard to the value of the thing. In an acreage tax it is imposed based on the number of acres or the quantity involved. Throughout the laws that we have on the books, these things are referred to as either acreage taxes, assessments, or contributions for the benefit of land, that's why we extended this terminology in the body of the amendment. Now, with reference to Mr. Pugh's remarks all I can say to that is this is the present law dealing with the homestead exemption on the forestry acreage tax. I read the provisions to you a little while ago. If, in your wisdom, you choose not to have a forestry acreage tax, well, that's certainly up to the convention. However, as best I can tell from the 1971 rolls, there were some up to thirty-five parishes that had forestry acreage taxes. I think the primary thrust of Mr. Pugh's argument would be the same type of an argument that could be made to all the detailed exemptions that we placed in Section 3, where we exempt gasoline boats from taxation; but, we do not exempt diesel boats or sail boats. From that point of view, then either these are rational distinctions or they are not rational distinctions, there is no

way of telling unless you litigate each and every one of them. I think this is a necessary amendment. I think it's in its proper place. I would urge your adoption of it. I'll be happy to yield to any additional questions.

Questions

Mr. Dennery Mr. Lanier, you called the title of this section, Specific Property Taxes. Then, you refer to assessments and contributions for the benefit of land. Isn't it correct that the income tax people, both federal and state, have held that special assessments and contributions for the benefit of land are not taxes and are not deductible as such?

Mr. Lanier I have no idea what they've held, Mr. Dennery.

Mr. Dennery Would you disagree if I told you that they have so held?

Mr. Lanier I would not be in a position to either agree or disagree, because I am not knowledgeable on that point.

Mr. Dennery Well, the second question I have, sir, is do you know if all assessors throughout the state uniformly include on the assessment rolls the acreage taxes, assessments, and contributions for the benefit of land?

Mr. Lanier To the best of my knowledge, they do. I know that they are on the rolls in Lafourche Parish.

Mr. Dennery In Lafourche Parish, even paving assessments are on the assessment tax rolls?

Mr. Lanier Now, paving assessments, I can't say.

Mr. Dennery Well, this is what I had in mind, it seems to me...

Mr. Lanier But, I am talking about...the things that I am...I think paving assessments come under a different category. I can't think of the name of what they are called right now. But, the types of taxes that I am referring to, I would direct your attention to the present Article XV, Section 1, which caused this type of a tax, an acreage tax and forced contribution on land benefited by such drainage in Article XIV, Section 14, Subparagraph (P), they are called acreage tax or forced contribution; Article XIV, Section 14, (G), they are referred to as acreage tax or forced contribution.

Mr. Dennery Are they ever referred to as assessments?

Mr. Lanier Yes, sir. In revised statute 38:1957 it says "Specifically the board may additionally levy annually a local assessment or force contribution not exceeding five cents on each and every acre of land within the district." This is dealing with the Cane River Levee and Drainage District. Some of the other statutes have similar language; so, they use all three of these terms together at different...or not together but at different times to describe the same type of a tax which, as I understand it, is defined as a specific property tax.

Mr. Kelly Walter, all you're trying to do here is to provide for the continued taxation as we now have it in some of our respective districts concerning mileage taxes. I think in Red River Parish they even have a mileage tax on railway companies and so forth, that's the purpose of this amendment, is it not, is to spell this out so there will be no problems after and supposing this constitution is adopted.

Mr. Lanier That's exactly my point, Mr. Kelly, as you and I discussed. There is present constitutional authority for all of these various taxes,

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and just for the interest of the convention in your particular parish, they have a Bayou Pierre Levee and Drainage District of sixty dollars per mile of railway. In the Nineteenth Levee and Drainage District, they've got a hundred dollars per mile of railway and fifty dollars per mile of pipeline.

Mr. Kelly And all we are doing here, is we are trying to just provide the constitutional authority for the continuation of these taxes. Is that not correct?

Mr. Lanier Well, I think the taxes are ratified in Section 4, that we have already adopted. But, we need to specifically show the distinction between these types of taxes and the ad valorem taxes. They are listed on the rolls, but they are not by assessed value. We must recognize the distinction on the homestead with reference to the forestry acreage tax, which is presently on the books.

[Amendment adopted: 72-20. Motion to reconsider tabled.]

Recess

[Quorum Call: 78 delegates present and a quorum.]

Amendment

Mr. Poynter Amendment sent up by Delegate Pugh as follows:

Amendment No. 1. On page 7, between line 20 and 21, in Floor Amendment No. 1 proposed by Delegates Lanier and Plancharde, and just adopted, on line 6 of the amendment after the word and punctuation "Article." delete the remainder of the line and delete lines 7 and 8 in their entirety.

Explanation

Mr. Pugh Mr. Chairman, fellow delegates, in accordance with my conversation a minute ago at the microphone, I have prepared for your consideration an amendment to delete the last sentence from the Lanier amendment, if you will follow me closely in these calculations. As I appreciate the last sentence of the Lanier amendment, its purpose is to apply the homestead to the two cents an acre forestry acreage taxes. Therefore, under no circumstances if we delete this section will anybody be called on to pay more than three dollars and twenty cents. A farmer that's got a hundred and sixty acres under a homestead would only be called on to pay three dollars and twenty cents towards the forestry acreage taxes. I reiterate that the forestry acreage taxes whether it's assessed against a big owner or a small owner only accounts for ten percent of the total funds paid for the forestry commission. We are not charging anybody any money by three dollars and twenty cents. Sure, anyone that can afford a hundred and sixty acres can afford a two cents per acre contribution. But, if we leave it in there, we find ourselves again confronted with the Fourteenth Amendment to the United States Constitution question on the validity of our ad valorem or our forestry taxes. It's just not worth raising another flag for three dollars and twenty cents. I implore that you give serious consideration to the deletion of that last sentence by the adoption of this amendment. If it were a question of charging the farmers a lot of money, then let's run the risk. But, we're not costing any money. We are costing them three dollars and twenty cents and that's all, and for that I say it's not worth another tax suit to determine whether or not what we put in this constitution will pass the muster or the Fourteenth Amendment to the U. S. Constitution. I thank you for your attention.

Questions

Mr. Kelly Mr. Pugh, am I to understand that what your amendment is going to do is remove the extension of the homestead exemption from this area of

taxation, is that correct?

Mr. Pugh That is correct.

Mr. Kelly Well, really, we're not talking about that much money then involved, are we?

Mr. Pugh No, sir. We are talking about a maximum of three dollars and twenty cents. A maximum to any one person of three dollars and twenty cents, no more per year.

Mr. Kelly But, in essence, you're removing the homestead exemption, is that correct?

Mr. Pugh From three dollars and ten...twenty cents worth of taxes for the forestry acreage taxes. I say that's a cheap price to pay to stay out of the federal courts.

Mr. Kelly Well, don't you think, also, that in order to send out those tax notices for three dollars and twenty cents, or eighty cents here, or forty-five cents there that that's going to end up costing the taxing and governing body more money than what they would collect if you just go on and extend the homestead exemption and forget the whole thing?

Mr. Pugh Sir, I'm not worried about the cost of sending the notices out. I assume they will be reasonable; surely, you consented after three dollars and twenty cents. What I am worried about is a federal court telling us we can't collect another dime's worth of taxes until we straighten out the constitutional problem, that's all. In addition to that, the farmer is going to get him a slip anyway saying he's got a homestead exemption, you've got to mail it out.

Mr. Plancharde Mr. Pugh, in your computation of the taxes, and you're speaking of the three dollars and twenty cents now, this tax would be subject to change in the future, would it not?

Mr. Pugh Yes, I assume that it's conceivable that it might be changed.

Mr. Plancharde So, we're not just talking about maybe three dollars and twenty cents forever?

Mr. Pugh They might charge them a thousand dollars an acre. But, I seriously doubt that it will ever get over two cents because it hasn't for many, many years. Again, I reiterate now, the two cents goes to pay for ten percent of the total amount of money that's spent for the Forestry Commission to protect the acreage we want to protect in the first place; it is absolutely correct, it might be four cents some day and it might cost that fellow six dollars and forty cents instead of three dollars and twenty cents.

Mr. Rayburn Mr. Pugh, in your opinion if the constitution was silent on this subject, would not the present law which is a legislative act that the constitution give the legislature the right to authorize local authorize local governing authorities to place a forestry tax on the landowners of this state?

Mr. Pugh All right.

Mr. Rayburn The legislature so provided not to exceed two cents an acre.

Mr. Pugh All right.

Mr. Rayburn That law is in effect today.

Mr. Pugh It is?

Mr. Rayburn If this subject would remain silent in this constitution, would not that law be valid and would not that law exist, since it's existing today and the constitution does not prohibit us from doing it? Couldn't the legislature continue

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just like they are today?

Mr. Pugh Absolutely they could, subject to the possibility of a constitutional challenge.

Mr. Rayburn Well, then what is really the purpose of having any of this language in the constitution?

Mr. Pugh Quite frankly, there is no reason for it. But, once this body, in its wisdom, decided to vote this section in, I'm asking for an amendment to take the last sentence out. It doesn't need to be here, and I'll agree with you but it's here as of the last vote. Since it's here, I'm merely saying "Let's make it more constitutionally acceptable." I ain't against the farmers for three dollars and twenty cents, in fact, I'll pay it myself.

[Previous Question ordered. Record vote ordered. Amendment rejected: 30-66. Motion to reconsider tabled.]

Further Discussion

Mr. Rayburn Mr. Chairman and fellow delegates, I would like to address my few remarks to the attorneys. I could be wrong. I was in the legislature when we passed an act that gave the local governing authority the right to levy an acreage tax, forestry tax. We tied that down and said "not to exceed two cents per acre," and that's the tax that's in effect in this state today. Now, I'm of the opinion that if we don't prohibit the local governing authority in language in this constitution from doing that, that that law will remain valid--where this constitution does not prohibit the legislature from giving the local authority that right. I could be wrong, Mr. Lanier, but I see no valid reason for placing this language in the constitution, unless we had some language that was saying that the legislature could not give that right to the local governing authority. We had to pass a bill to give the legislature the right of...a constitutional amendment to give the legislature the right for the legislature to be able to give the local governing authority the right to levy a acreage tax to start with. That was one of the many things that helped put some additions in our constitution, but the present law provides...the present constitution provides that the legislature can pass a law, which the legislature did, allowing the local governing authority to pass that tax. Now, if we do not prohibit the legislature from doing that in this constitution, which we have not in this section. I'm of the opinion that if the constitution is silent on the matter, that those laws will remain valid and will remain in force, if the constitution does not take that right away from the legislature. Maybe I'm wrong; I could be. It's a legal question, and I'm not a lawyer, but I would like just to offer that for the opinion of the attorneys in this body and see how they feel about it. If we could eliminate some language in the constitution, that's what I'm here to do.

[Previous Question ordered on the Section.]

Closing

Mr. Lanier A couple of points and observations with reference to what Senator Rayburn said: I believe Senator Rayburn is correct on some of his observations and, in my opinion, not correct on others. Right now, under the present law, it says that with reference to the forestry acreage tax "the legislature may authorize the governing authorities of a parish to levy acreage taxes not to exceed two cents per acre." This, of course, is a limitation on the amount of forestry acreage tax that could be imposed. There was no such limitation placed in the committee proposal, and there was no such limitation placed in my amendment because my amendment was primarily aimed at ratifying the existing homestead exemption that applies to the forestry acreage tax. Now, with reference to other limitations on acreage taxes, generally speaking, these

are not contained in the existing law on drainage districts. If you will review Article XV, Section 1, there is no limitation on the acreage taxes that can be imposed. In some of the statutes, there are limitations imposed, but this is done by the legislature itself on the local authorities that are being authorized to put these acreage taxes. For example, in some places, it's thirty-five cents per acre; another place it's fifty cents per acre; some places it's sixty dollars per mile of railroad track; other places it's a hundred dollars per mile of railroad track; some places it's so much per mile of levee. But, these are all limitations that are placed by the legislature on this type of an acreage tax. If it is your wish to put limitations in the constitution on specific taxes, I think you would need another section to do that. It would be a very complicated affair because you have all different types of specific taxes. I think it would be more appropriate to leave this as it is. The legislature can put the limitation when it grants the authority to do this, which has been pretty much of our history, although there are some constitutional limitations on gravity drainage districts and on refunding bonds that are presently constitutional. However, if these are transposed as statutes, then these limitations would then be statutory. If the legislature wanted to, it could pass a law, a comprehensive law, dealing with all of the different types of limitations on acreage taxes. So, I think that the amendment is proper as drafted. It ratifies the existing forestry homestead exemption on acreage taxes. Further, if you put these limitations in the constitution...for example, suppose you need to raise the two cent forestry acreage tax to three cents. We have a limitation built in right now, I believe, that says for any new tax you have to have a two-thirds vote of the legislature. So, I would assume that would apply to this type of a tax, and there would be a limitation right there. If you wanted to require that there was a vote of the people in order to put the acreage tax, you could put that in the law. For example, Act 64 of 1971, which I'm personally familiar with, which dealt with the Lafourche Drainage District Number Twelve, we put in a requirement that it had to be approved by the local governing authority and by the people before it became valid. So, I think that we have two different questions here, and I think the amendment is proper, and I would urge your adoption.

Questions

Mr. Pugh Mr. Lanier, Caddo Parish last year had a total taxes--nine hundred and seventy-one dollars...and sixty-four cents. All of the portion of the two cents that went to the homesteads out of over--well, right at twenty-four million dollars--was nine hundred and seventy-one dollars and sixty-four cents. Do you really think that's worth the constitutional problem?

Mr. Lanier I don't see any more of a constitutional problem here, Mr. Pugh, than the problem that we have in Section 3 with reference to all of the different exemptions that are created there: i.e., you exempt gasoline powered vessels, and not diesel or sail vessels. We have all kind of exemptions that we've drawn along those lines. As I understand it, there has been no attack on the forestry acreage homestead exemption. I haven't researched that point, but I'm not aware of any. We've had this in our law since 1946; apparently, in the thirty-five parishes or so that have this, they feel it's worthwhile. A constitutional amendment was passed by the people of the State of Louisiana in '46 to provide for this protection. Personally, in Lafourche Parish, we don't have a forestry acreage tax, but if this is what the people in those parishes want, that's fine with me, quite frankly.

Mr. Pugh You and I, I believe last Thursday, discussed at some length the problems around the homestead aspect. Did we not?

Mr. Lanier That is correct.

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Mr. Pugh Is this not one more homestead aspect, at least, that we could do without, without costing the people any money?

Mr. Lanier Not while we have the uniform assessment ratio.

[Section failed to pass: 64-32.
Motion to reconsider pending.
Motion to revert to Morning Hour
5 adopted without objection.]

PETITIONS, MEMORIALS, AND COMMUNICATIONS [I Journal 730]

Amendment

Mr. Poynter The next set of amendments offered by Delegates Avant and Rayburn--Amending the reprint as engrossed proposal:

Amendment No. 1. On page 9, line 13, add the following: "Section 9. Tax Sales; Redemption of Property

Section 9. There shall be no forfeiture of property for the nonpayment of taxes, but at the expiration of the year in which said taxes are due, the collector shall, without suit,..."

[Motion to waive reading the amendment adopted without objection.]

Explanation

Mr. Avant Mr. Chairman and fellow delegates, I want to apologize for a little confusion that existed awhile ago. It was simply...as I told you, I had requested the staff last Saturday to recast the amendment I had previously offered, and which we'd never considered, to put the identical language back in. It was handed to me as I walked into the convention hall, and I didn't have an opportunity to read it, and it did not contain a substantial portion of what was Article X, Section 11, of the present constitution, dealing with movable property and certain other aspects of the present constitutional provisions. I didn't realize that when I was up here talking awhile ago, which is why I probably sounded like a fool--more than usual. But, in any event, this amendment, which I have proof-read against the present constitution, is word for word the identical language in the present Article X, Section 11, except for two parts of sentences. One is the proviso in the present constitution dealing with these redemptions, and that...which reads "provided that the provisions hereof shall not affect any pending suit, nor any suit which may be brought within a period of twelve months from the date of the adoption of this constitution"--referring to the constitution of 1921--"in which any tax sale is sought to be annulled for any of said causes." That was removed because it had no further applications, since 1921 was many, many years ago. Then the last sentence in the present constitutional provision, which deals with loans that may be made by the state to local government in those instances where the legislature may have postponed the payment of local taxes. It had a provision in the present constitution: "no loan shall be made to the governing authority of any parish without the approval of the State Board of Liquidation." Then, this is what we deleted: "consisting of the governor, lieutenant governor, attorney general, secretary of state, auditor," and so forth. I don't know what the present composition of the State Board of Liquidation is, but I know it doesn't include the state auditor because there's no state auditor. So, with those two changes, this amendment incorporates into the proposed constitution the exact same provisions that were contained in the Constitution of 1921, which, to just simply sum up, is that there is no forfeiture of property for failure to pay taxes, but that the property will be sold subject to a right to redeem within a three year period. It sets up a time limitation on bringing a suit to annul a tax sale; it contains provisions for the selling of movable property in order

to satisfy taxes which have been levied against movable property; and it does contain provisions for the legislature, in cases of public calamity, to postpone the payment of local taxes and authorize the state in those instances to make loans to a particular local government that may be affected by such a postponement, in order to carry them through a period of what would be otherwise financial distress. I'll be happy to answer any questions that anyone may ask to the best of my ability. As I said before, I feel that this is something which is very important and which should be in the constitution.

Questions

Mr. Derbes Mr. Avant, I'm in sympathy with you in purpose. I wonder, would the following language suffice from...

Mr. Avant Mr. Derbes, I don't want to head you off at the pass, but if...are you talking about just making it short and sweet?

Mr. Derbes Yes.

Mr. Avant That could be done. I tried to make it a little shorter and a little sweeter, and I ran into opposition. People said, "well, you're changing the law; if you change this word, you're changing the law."

Mr. Derbes May I just interrogate you or question you with...

Mr. Avant Go ahead.

Mr. Derbes ...one suggestion. Suppose the section merely stated that "there shall be no forfeiture of property for nonpayment of taxes, but said property may be sold and redeemed in accordance with law"?

Mr. Avant Well, then you would be met with the argument that the legislature, as I said before, could say "but you can redeem it for thirty days, or you can redeem it for thirty years, or you can redeem it if you pay a five hundred percent penalty." Certain people, apparently, want to have some restrictions on how it shall be handled. The present constitution, I think, has worked in a very excellent fashion. I see no particular reason to change it, although I wouldn't just, you know, get all excited if you wanted to say that "no property shall be forfeited for nonpayment of taxes, but shall be sold for the purpose of paying the taxes, and shall be redeemable on such conditions as the legislature may fix." I wouldn't get all mad about that, no.

Mr. Derbes May I just ask you then, further: as a spokesman for those who propose the inclusion of all this language in the new Louisiana Constitution, can you refer me to any...can you cite any reasons why I should distrust the legislature with respect to procedures for redemption and sale?

Mr. Avant Mr. Derbes, I can't suggest any reason why we should distrust the legislature in this. No, I'll be honest; I can't, but I realize that this... it takes sixty-seven votes to get this section added. I want it added because I think it's very important, and I didn't think that I could get the sixty-seven votes to put it in if we made it that short and that sweet, and I still don't think we're going to get them if we make it that short and that sweet. So, I want to do it this way. After we've done it this way, if somebody wants to come back and amend it and make it about two lines long, we'll pass that bridge when we get to it.

Mr. Winchester Mr. Avant, towards the end of the first paragraph, it says "previously paid to the purchaser"...

Mr. Avant The end of the first paragraph.

Mr. Winchester Towards the end--about the fourth

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or fifth line from the bottom of the first paragraph.

Mr. Avant "No judgment"...you're talking about "no judgment annulling the tax sale"?

Mr. Winchester "Paid to the purchaser." Now, I understand, these redemption costs can be paid to the sheriff. Would that stop that from being done?

Mr. Avant Well, you're talking about two different things, Mr. Winchester. One, we're talking about redemption within the period allowed by law for redemption, but, the language you're reading doesn't refer to that. It refers to the annulling of a tax sale after the period for redemption has expired, and you will file a suit to annul it; you can't redeem it any longer, so you file a suit to have the sale declared a nullity--and this language is in the present constitution--before you do that, you've got to tender the money to whoever bought it up at the tax sale.

Mr. Winchester I understand now. Thank you, sir. I'm sorry.

Mr. Pugh Mr. Avant, are you aware of the fact that this present constitutional provision that you are recommending will not line up with the Fuentes decision as was handed down by the United States Supreme Court on June 12 of 1972?

Mr. Avant I certainly am not aware of that fact, Mr. Pugh; I've got to confess. I didn't even know there was any such decision.

Mr. Bergeron Jack, I just want some clarification. You said this more or less tracks the present language we have in our constitution?

Mr. Avant It doesn't more or less do it; it does it word for word with the exception that I told you about.

Mr. Bergeron In your first...I'm looking at your first amendment. You said you contained a "grandfather clause" in your first amendment. Am I correct?

Mr. Avant When I said that, I didn't know what I was talking about. I thought that the first amendment was what I had asked to be prepared. It turned out that, because I didn't read it, it wasn't what I asked for.

Mr. Bergeron O.K., Jack. Thank you.

Mrs. Warren I was just trying to find out what was the difference in the two amendments--why, you know, there was a conflict; some didn't want the first one. What's the difference in it?

Mr. Avant Well, now, wait a minute, Mrs. Warren; let's back up. I'm not talking about the amendment that was offered up here by me a little while ago. I didn't even want that one, if I'd read it, because it wasn't what I had set out to do. That was just a breakdown in communication between me and the staff. I had an amendment that was up here Saturday that I had prepared weeks ago and had read it. I had asked staff to take the present constitutional language and edit it and make it shorter, but don't make any change in the law. In other words, leave the law like it is; just dress it up, so to speak. Certain delegates who read that amendment felt that we were, perhaps, changing the law, that we were doing more than just editing and rearranging, that we were making some substantive changes in the law. At that point, I said, rather than get into all of that battle, I'd just as soon put it in word for word like it is. See? You follow me?

Mr. Jenkins Mr. Avant, isn't the purpose of your amendment to protect our citizens in case of depression and in case of widespread situations, and also in the case of individual calamity--when someone may not be able to pay his property taxes--to allow that he will be able to keep his property?

Mr. Avant That's exactly the purpose of it, Mr. Jenkins. As I said before, there can be many reasons why a person may fail to pay his taxes. He may be temporarily broke; he may have illness in his family; he may be ill himself; he may be out of the state; he may simply forget it. I do not feel that under those circumstances that these people, who are kind of like buzzards hanging around a carcass, should be permitted to buy that property up at tax sale and then keep it forever. I think that man should have a right to redeem that property when he pays what he owes.

Further Discussion

Mr. Perez Mr. Chairman, and ladies and gentlemen of the convention, this is probably the most important provision contained in this particular article. It is for this reason: if there are no provisions for the enforcement of collection of taxes, then all of your ad valorem tax base erodes away because of the fact that unless you can enforce the provisions for the collection of taxes, then you really are not in a position to be able to collect taxes when they are due. On the other hand, it protects--this provision fully protects the landowner who fails to pay his taxes. This is the very heart and soul of the ad valorem tax concept, and I therefore suggest to you that this provision should be adopted. It is verbatim with the provision in the present constitution, and we must have a provision like this in our constitution or your ad valorem tax base has been destroyed.

[Previous Question ordered. Amendment adopted: 88-10. Motion to reconsider tabled.]

Recess

[Quorum Call: 84 delegates present and a quorum.]

Amendments

Mr. Poynter Amendments sent up by Delegates Derbes, Singletary, Pugh, and Tobias.

Amendment No. 1. On page 9, line 13, delete Convention, Floor Amendment No. 1 proposed By Delegate Avant and others and adopted by the convention on today.

Amendment No. 2. On page 9, line 13, add the following--there is one change in the text--"Section 9. Tax Sales; Redemption of Property

Section 9. There shall be no forfeiture of property for nonpayment of taxes. However, the legislature--and the word should be "shall" not "may"; change the word "may" to "shall" on the end of the third line of the text of the amendment--"However, the legislature shall provide for the sale and redemption of such property. The period during which redemption may occur shall be not less than three years from date of adjudication."

Explanation

Mr. Derbes Ladies and gentlemen, I recall from time to time my commitment to the people of Louisiana--at least to the voters in my district--to try to abbreviate the constitution. I have complete sympathy with Mr. Avant's efforts in this regard. I'm merely trying to create enough latitude that this area could be developed by the legislature from time to time as needs may arise, and not bind in a great deal of what I regard as statutory material in the new Louisiana Constitution. I have simply said that property shall not be forfeited for nonpayment of taxes. I have required the legislature to establish a method of sale and redemption of property on which taxes have not been paid. I have insured by way of constitutional provision in the third sentence, that the period of redemption shall be not less than three years to accord everybody the same reasonable period now for redemption without summary loss of property. If any of you have any substantial criticism of this, I'd be glad to listen to it; but essentially

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what I'm trying to do is abbreviate the section, build in a basic provision for protecting the property owner, and leave the rest to the legislature. Thank you, and I urge your adoption of the amendment. I'll yield to any questions.

Questions

Mr. Stagg Jim, at the end of line four, the words "such property," to what does that clause apply?

Mr. Derbes That refers, in my opinion--and my grammar may be defective--that refers to property on which taxes have not been paid when they have been required.

Mr. Stagg Wouldn't it have been better to have said so, rather than to use that abbreviated...I mean, it has no antecedent.

Mr. Derbes I would tend to agree with you. As a matter of grammar, I think it's something that Style and Drafting could clear up, but I would be glad to accept any change that you might suggest in that regard.

Mr. Stagg Mr. Abraham and I believe you ought to change it.

Mr. Derbes That's awfully compelling criticism, Mr. Stagg.

Mr. Avant Mr. Derbes, when you say the legislature may provide for the sale and redemption of such property, you don't require that it be a public sale. They could provide for some type of private sale, could they not, sir?

Mr. Derbes Mr. Avant, I'm sure that you could criticize my amendment in many particulars, and that criticism, I think, is certainly a...well, it's certainly available to you. It's true, the legislature could provide for private sale; the legislature could provide for the interest rates and so forth. I just, frankly, have more trust in the legislature...I have trust in the legislature in this particular area, and I don't see the necessity of incorporating all this in the constitution. I guess we just basically have a philosophical disagreement. Your criticism is well taken. I just don't happen to think that it's significant.

Mr. Avant Mr. Derbes, I don't believe you were around during the 1930's...

Mr. Derbes I can tell you that I wasn't.

Mr. Avant When people lost their property or had it sold for taxes in wholesale lots because they just couldn't pay the taxes. You don't remember those days firsthand, do you?

Mr. Derbes No, sir. At least, not in this incarnation.

Mr. Avant Alright. But, do you agree that in that eventuality that we should have some pretty specific provisions about how you lose your property because of your inability to pay the taxes thereon?

Mr. Derbes Mr. Avant, I believe that we should have very specific provisions about under what circumstances you should lose your property and under what circumstances you should be entitled to redeem your property. I just happen to think that the legislature can make that provision quite adequately, and it doesn't belong in detail in the constitution. Again, we just have a philosophical difference of opinion.

Mr. Casey Mr. Derbes, I understand that you have now changed the word "may" to "shall." Is that correct?

Mr. Derbes Yes, I have, Mr. Casey.

Mr. Casey You may have explained it already. What was the reason for the change?

Mr. Derbes Well, the reason for the change, apropos Mr. Avant's question, was to require the legislature to adopt statutory guidelines for sale of property on which taxes are delinquent and, thereafter, the redemption of property by the owners of such...by the owners of such property.

Mr. Casey Now, by using the word "shall" rather than "may," would this eliminate the possibility of the legislature providing other methods or means of enforcing the collection of ad valorem taxes rather than resorting to the tax sale system of collection, or do you feel it would be open to the legislature to require other means of collection rather than the tax sale system?

Mr. Derbes The provision is silent with respect to other enforcement means that do not amount to forfeiture. The key to the section is that property shall not be forfeited for nonpayment of taxes, and then the exception to that provision is built in. I would say that any methods by which the legislature compelled payment of taxes that did not amount to forfeiture would not be prohibited by this section, but the only methods by which the legislature could compel payment of taxes by forfeiture of property would be by sale and, thereafter, redemption as authorized by this section. Am I making myself clear?

Mr. Casey So, in other words, the final method--the last resort method--would have to be a tax sale. The legislature would have to provide that if some other means made available by the legislature did not work.

Mr. Derbes That's my appreciation of the provision, and that's also my appreciation of the Avant amendment as it stands. The Avant amendment says basically the same thing in that area: namely, there shall be no forfeiture of property, but then the legislature may provide for sale and redemption. It just spells out all the details. I'm merely authorizing the legislature in requiring them to adopt statutory law with this detail in it. I'm not incorporating the detail in the constitution.

Mr. Casey But, with your amendment then, it may offer more flexibility for the legislature to provide some other method of collection or enforcement of collection, and then after X number of years, have a tax sale then; is that correct?

Mr. Derbes I believe, essentially, my amendment--and I think that's one of the strong points of it--provides for a great deal of flexibility without destroying the basic premise that property should not be forfeited for reason of nonpayment of taxes. Thank you. Adopt the amendment.

Further Discussion

Mr. Burns Mr. Chairman, fellow delegates, I happen to live in a parish seat where the courthouse is located and where the tax sales are held every year. I would address my short remarks to those delegates who do not live in parish seats and who have never had the opportunity of witnessing an annual tax sale for delinquent taxes. If it's like it is in my parish where there's a lot of subdivisions and property divided into small tracts of land, it would really pay you to go and see a tax sale conducted like they are in St. Tammany Parish. The only thing I think that's comparable; if you've ever been to a zoo, and when they're feeding a lion and they throw meat over into the cage, and see the fight and the scrambling and the noise that accompanies the tearing apart and devouring of that meat. It's gotten so bad that people have organized themselves into corporations. These tax sale sharks buying up people's property--who through adversity, or not having the proper information or knowing that their property was going to be advertised and sold--they go in and buy up that property. Now, that has

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been going on for years and years and years; and as a result, over a period of years, people's descendants--their heirs--are now suffering in one way or another through title defects of property that was bought up by these land sharks, or tax sale sharks, years and years ago, and for some reason or the other that particular tax sale had never been detected in prior title examination. So, I say to you I know a short form of amendment in many instances is preferable to a long form, but, I don't know of one amendment for the protection of the underprivileged, you might say, or the poor people, or the poor homeowners or landowners or lot owners, that is more important than to spell it out and to put it in the constitution just exactly like Mr. Avant's amendment proposes to do, and not let...I don't distrust the legislature by any stretch of the imagination, but, I think that this is so all important for the protection of the people that cannot protect themselves and who, for one reason or another, do not read the tax sales in the paper, or nobody tells them about it, and they lose their property. If they find out about it within three years, of course, they can redeem it by paying a high monthly interest penalty I'm thinking of those who don't know about it or find out about it within the three years, and lose their property forever. So, what I would say, let's not pass up this present amendment for a shorter or briefer one that might not give us protection that we know this one does.

Further Discussion

Mr. Perez Mr. Chairman, and ladies and gentlemen of the convention, as I said when I was up here earlier that this is the very heart and soul of the property tax system. That is, it provides a method whereby taxes will be collected, but at the same time it provides a safeguard for the property owner to be able to redeem his property. Let me call to your attention this brief amendment and the dangers we could fall into under a legislative act. This amendment says "However, the legislature shall provide for the sale." It doesn't even require a public sale. The legislature could conceivably provide for the private sale of property for the nonpayment of taxes. The second sentence also does not say that the sale has to be for the nonpayment of taxes. It just says "However, the legislature may" or "shall"--if it's been changed that way--provide for the sale and redemption of such property," but it does not tie it in for the nonpayment of taxes. What I'm saying to you, ladies and gentlemen, is that we have a system which has existed for many, many years. The lawyers throughout the state and the people throughout the state are accustomed to the fact that they must pay their taxes, or it will be put up at a tax sale, but they have so many years within which to redeem it. There are also many, many decisions on the subject matter that if improper notices have not been sent and you're in possession of the property, that you don't lose your property, and on and on and on. There are many, many decisions which have been... many cases which have been decided on the existing provisions in the constitution. Please don't tamper and play with one of the most important provisions we have in this constitution. I suggest to you that this amendment would be possibly disastrous to our property tax system and to the privileges and rights afforded to a property owner to redeem his property. So, I say to you folks, please, this is a bad, bad, bad amendment.

Further Discussion

Mr. Pugh Mr. Chairman, fellow delegates, the amendment by Derbes, et al. gives the protection relating to the forfeiture or nonforfeiture of property as desired by Mr. Avant. In addition to that, it provides for the method of the sale and the redemption of the property to be provided for by the legislature. The last speaker expressed some concern about the legislature taking action relating to the sale of property at tax sales. If you glance through the Avant amendment, you'll

find at least four places where reference is made to the fact that it shall occur as provided by law. This amendment does the same thing. It says that the legislature shall provide by law the method and the manner of sale and redemption. We are in a changing period of time, when it relates to the rights of people insofar as property is concerned. On a month to month basis, property questions are being resolved by the appellate courts. We are in a position of fluid as to the type and manner of notices, and I suggest to you that we should not lock into this constitution the method of sale and the method of redemption. But, rather, we should let the legislature provide from time to time such adjustments as be necessary to comply with the then existent constitutional interpretations relative to property. Tax sales are not simple matters. For instance, if there is a vendor's lien, the tax sale will not wipe out the vendor's lien. If there's a problem as to notice--insofar as notice is concerned--the law says, as in the Avant amendment, that this notice shall be on the delinquent. However, the courts have interpreted that it is the responsibility of the sheriff to check the title and to give the notice to the last record owner reflected by the title examination. I suggest to you that from time to time adjustments are made relative to interpretations of the procedures to be followed. This is one instance where we ought to rely on the legislature to adjust the law from time to time to make it comply with the existing understanding of the Federal Constitutional requirements. I ask you adoption of this amendment.

Questions

Mr. Casey Mr. Pugh, I think you're making a very important point, which I hope no one is missing because of lack of attention. That is the fact that through this amendment--your amendment and the Derbes amendment--the legislature can better provide for procedural due process and the type of notice that might be required under whatever U. S. Constitutional requirements. Due process constitutional requirements might be necessary so that these tax sales would be valid in the future, whereas, under the present law or under the Avant amendment, they might not meet the required procedural due process. Is that correct?

Mr. Pugh That's absolutely correct. In my opinion, this amendment of Avant's will not meet the current existing due process requirements, much less what it may be many years hence. The legislature can take up the slack or expand it to comply with those constitutional provisions, and I appreciate your ability to express in words, better than I can, for the benefit of this convention to understand the due process requirements involved.

Mr. Casey In the Fuentes decision that this has developed from recent jurisprudence, particularly the Fuentes decision which has borne this out, that there must be procedural due process for a person to lose his property. Is that not correct?

Mr. Pugh That's correct. The United States Supreme Court...

Further Discussion

Mr. Avant Mr. Chairman, and fellow delegates, I just want to correct one thing that I think was in error that was stated in the little exchange between Mr. Pugh and Mr. Casey. The question of due process tax sales relates primarily to the notice. This section which you have already adopted says, "such notice as may be provided by law." If there is anything in the present statutes that is constitutionally infirm, insofar as the notice is concerned, it can be corrected by the legislature. So, the statement that--if you just throw the whole thing to the legislature, as the Pugh amendment would do--that they can better provide for the question or problems of due process is inaccurate. I respectfully submit; and I ask you to defeat the amendment.

[Previous Question ordered.]

Closing

Mr. Derbes I'd just like to answer a couple of criticisms. The first is with the grammar of the amendment. I realize it is not grammatically perfect. I think it attempts to do what we can all agree is required under the circumstances. In response to Mr. Perez's criticism, I would have no objection to adding the adjective "public" to the word "sale"--no objection at all. I think that would require that the sale be public. Essentially, I feel, as Mr. Pugh has pointed out, that the legislature can be trusted to provide adequate means for sale and redemption subject to the limitations provided in this brief article. I see no necessity to encumber the legislature and the state with the verbiage in the original Avant amendment. So, I respectfully urge you to adopt my amendment. Thank you.

Questions

Mr. Champagne Mr. Derbes, your amendment, I think, is a good one, but what I wanted to point out is the length of the other amendment does not necessarily help the poor man who is losing his property, because a lot of it tells you how they go about getting it; and how they go about it--if they can't find enough there, looking somewhere else for some more. So, I think your amendment actually gives the poor man losing his property more rights than this original deal does.

Mr. Derbes Yes, Mr. Champagne, in fact, I think that essentially what the old verbiage is, although it is at once a constitutional protection to those whose property is being adjudicated, it is also a constitutional protection for those tax purchasers of such property. In the future we may wish to change the terms of purchase in order to benefit the owner more than the purchaser. So, what I suggest to you is, this is a proper matter for the legislature and should not be constitutionalized in all of its detail.

Mr. Conino Delegate Derbes, the last sentence states, "the period during which redemption may occur shall be not less than three years from the date of adjudication." Now, are you stating to us that this shall be redeemed...or property shall be redeemed within three years or after three years?

Mr. Derbes No, I'm saying that the legislature may not authorize a period of...that the legislature may, first of all, authorize...shall authorize redemption of tax delinquent property, number one. Number two, that when the legislature does authorize that redemption, the legislature shall provide that the redemption period shall be not less than three years--in other words, to give the owner an opportunity of not less than three years to redeem the property.

Mr. Conino In other words, you're talking about "within" three years the redemption period is; is that correct?

Mr. Derbes I'm saying that the redemption period shall be not less than three...the redemption may take place within three years, but the redemption period...the allowable redemption period shall not be less than three years.

Mr. Conino Not less than three years, right.

Mr. Derbes In other words, the owner doesn't have to wait three years to redeem his property, but the legislature must accord him three years in which to redeem his property.

Mr. Conino Alright, basically what we have now; is that correct?

Mr. Derbes Yes, sir.

Mr. Conino Alright, now, are you familiar with the Fuentes decision?

Mr. Derbes Mr. Pugh is the expert in that area, and I would suggest that your question would be more properly addressed to him.

Mr. Conino If I remember correctly, the Fuentes decision dealt with executory process rather than tax sales.

[Record vote ordered. Amendment rejected: 48-58. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 92-15. Motion to reconsider tabled.]

Motion

Mr. Lanier Mr. Chairman, rather than impede the adoption of this article, I would like at this time--Mr. Planchard and I--would like to withdraw the amendment that's presently pending for reconsideration tomorrow. If there are no other amendments, I would move the adoption of the article.

[Motion to table the motion to reconsider Section 4.1 adopted without objection. Previous Question ordered on the Proposal. Committee Proposal passed: 83-25.]

Recess

[Quorum Call: 86 delegates present and a quorum.]

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 17 introduced by Delegate Perez, Chairman on behalf of the Committee on Local and Parochial Government, and other delegates, members of that committee:

A proposal making general provisions for local and parochial government, levee districts and ports, financing thereof, and necessary provisions with respect thereto.

The status of the proposal, succinctly put, is the convention has adopted the proposal as amended, or enacted on it in one fashion or another, save for part 2 dealing with finance, constituting Sections 31 through 43 of the proposal.

Reading of the Section

Mr. Poynter "Section 31. Parish Tax Limits; Increase: Withdrawal of Municipality from Parish Taxing Authority

Section 31. (A) The governing authority of each parish may levy an ad valorem tax for general purposes, in an amount not to exceed in any one year, four mills on the dollar of assessed valuation. However, in Orleans Parish the limitation shall be seven mills and in Jackson Parish the limitation shall be five mills. Millage rates may be increased in any parish when approved by a majority of the electors who vote in an election held for that purpose.

(B) When the millage increase is for other than general purposes, the proposition shall state the specific purpose or purposes for which the tax is to be levied, the length of time the tax is to remain in effect, and all proceeds of the tax shall be dedicated to the purpose or purposes set forth in the proposition.

(C) The amount of the parish tax for general purposes which any parish, except the parish of Orleans, may levy...

[Motion to waive reading of the Section adopted without objection.]

Explanation

Mr. Perez Mr. Chairman, I had hoped to have had an opportunity to generally describe the finance

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section, and then turn over to Mr. Toomy the discussion of this particular provision. Will I be afforded the opportunity of a general description of the finance portion of the Local Government Article? Mr. Chairman and ladies and gentlemen, I'll be as brief as possible. I only wanted to call to your attention, so that hopefully we get off on the right foot with regard to the financing of local government, that basically the provisions which deal with the millages, the four mills, the seven mills--alimony tax as it's called--the limitations on bonding of ten percent for any purposes except for school purposes, and generally the provisions in this finance section are virtually or basically the same as the provisions in the present constitution.

The Local Government Committee took the position that it did not want to either automatically increase or decrease any authorized taxes which now are in existence. For that reason, you are going to see certain special provisions for certain special parishes because those existing...those provisions exist in the present constitution. So, basically, the Local Government Article on finance, particularly with respect to the automatic or the four mill and seven mill taxes, and the bond limitations are essentially those which are now contained in the present constitution.

I'd like now to ask if Mr. Toomy can be recognized to explain Section 31.

Further Discussion

Mr. Toomy Mr. Chairman and fellow delegates, as Mr. Perez just mentioned, Section 1 for the most part, and in particular Subsection (A), simply ratifies the existing millages as far as alimony tax is concerned. The four mill limitation on parish alimony tax, except in Orleans, it should be seven mills and in Jackson Parish, five mills. These are the present authorizations in the constitution today. We just proposed to maintain them as they presently are, subject to increase by a vote of the people of the area concerned.

The second subsection, Subsection (B), gives the parishes the authority to levy special taxes other than for general purposes and for a specified period of time, subject to voter approval.

Subsection (C) limits the amount of parish alimony tax which a parish, except Orleans, may levy on property located wholly within a municipality which has a population in excess of one thousand people and maintains a system of street paving to one-half the parish tax rate. This again is a restatement of the present constitutional provision.

Subsection (D) provides that no provision of the constitution shall be construed to affect or repeal the authority of the legislative charter municipality to withdraw from the taxing jurisdiction of the parish. This again is a restatement of the present constitutional provision.

Questions

Mr. Roemer Joe, for the information of the other delegates, what have we done up to this point in Revenue, Finance and Taxation that's going to affect these...this four and seven and five mill limits. I'm talking about in terms of the rollback and the rollforward. Do you want to explain that to us?

Mr. Toomy Well, Buddy the provision that you referred to says that the taxing authorities shall increase or decrease the millages without regard to millage limitation contained in this constitution, which would be this four and seven mills. I would say that it's necessary to include these sections as we have them here, until the provisions of your sections take effect. We have to maintain the present authorizations, after which time it would be a moot question: the four and seven mills. It would simply maintain the absolute amount of revenues, not necessarily the four and seven mills.

Mr. Roemer Well, yes, right. But don't you think it's important to retain the four mills and the seven mills and the five mills because that's the

yardstick by which we will measure the rollforward and the rollback?

Mr. Toomy Right. And it...this is the...present figures, and as the committee proposal that we just finished with says, that it may be up to three years as to which time that these rollbacks and rollforwards take effect.

Mr. Jenkins Joe, on page 15, lines 25 through 28, you provide that millage rates may be increased in any parish when approved by a majority of the electors. Now at present, all votes get to participate in tax elections, not just property owners.

Don't you think that there should be some maximum that even a vote of the people could not go beyond?

Mr. Toomy Well, that question had been brought to our attention. The committee, almost unanimously, thought that it wasn't necessary to put a limitation in there--that as a lot of people argue, a economic limit would be reached. From that would come into being, Woody, is with the Revenue and Finance proposal with the rollback and rollforward, I think that again would be a moot question to put a limit in here--If you know what I mean--that whatever limit we put in here may just be a moot question after the provisions take effect from Revenue and Taxation Committee.

Mr. Jenkins Well, as I appreciate it, the rollback and rollforward is not expected to make substantial changes in the millage rates in the vast majority of cases, as I appreciate it. What I'm concerned about is the fact that under this provision as written, couldn't we someday have a situation like they have in the Northeast with people paying a hundred, two hundred dollars a month on homes, and even more on business and industrial property, because there would really be no ceiling on property taxes?

Mr. Toomy Well, Woody, it was just a feeling of the committee that these outrageous taxes wouldn't be levied upon the people because it would be the people themselves who would be voting upon these taxes.

Amendment

Mr. Poynter Amendment No. 1. On page 16, line 1, immediately after the words "shall be" and before the words "the purpose" delete the words "dedicated to" and insert in lieu thereof the words "used solely for".

[Amendment reread.]

Explanation

Mr. Conroy This amendment deals with that part of the proposal that says that in certain cases you can submit to the voters a specific purpose for which a tax is to be levied; and then--including the length of time that the tax is to remain in effect--then it says, "all proceeds of the tax shall be dedicated to the purpose or purposes set forth in the proposition."

It seems to me that there was some danger of ambiguity in the...in what "dedicated" meant--that it could mean committed to, but not solely committed to--or it could mean used solely for the purpose of. I thought that the intent of the committee here was that it would be used solely for...I've discussed it with the two representatives of the committee that have explained this section. They have both indicated that they have no objection to this--that this change in language does conform to the committee's intent and that they have no objection to the amendment.

I would urge the adoption of the amendment.

Questions

Mr. Alario Mr. Conroy, as your amendment would read now, it would say, "the proceeds of the tax shall be used solely for the purpose as set forth

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in the proposition." Would that now prevent local government, if they collected these taxes--and what they're doing now is investing these idle funds when they don't need them to pay off the bond--would that prevent them from investing these idle funds?

Mr. Conroy No, that wouldn't be a use of it. That would be an investment of it. It could be spent solely for, is what is meant here.

Mrs. Warren Mr. Conroy, in case this money is not used solely for what it is said it did, then what do they do--give it back to the people?

Mr. Conroy They wouldn't collect it--is what they do. They have to make projections of what it would be at the time they are assessing the millage or levying the millage. The same thing is true of certain general bond millages that they simply don't collect. In other words, they know what the assessments will be at the time they get ready to collect the tax and if they don't need it that much, they just don't collect that amount--that's right. This is to make sure they don't collect more than they actually need for the specific purpose that is submitted to the voters. This is to tie it down to the fact that that is what this proposal says--is that for these purposes you're going to collect only as much as you need. In a property tax you have the advantage of knowing how much it's going to produce, unlike other types of taxes. When you assess a sales tax or an income tax, you assess it in advance, and you don't know how much it's going to produce. But, with a property tax, you do know how much it's going to produce by the time you collect it, because you have the assessment rolls, and you know how much that you're assessing against that property in the millage.

Mrs. Warren Did you know I think you've got a good amendment?

Mr. Conroy Thank you, Mrs. Warren.

Mr. Duval Mr. Conroy, did you explain...does this change the present law?

Mr. Conroy I don't think so.

Mr. Duval I was wondering isn't it merely a clarification of the present law?

Mr. Conroy It's just a clarification in language. I don't think the present law uses...I can't recall which phrase it uses, but it doesn't use "dedicated." I really can't recall, Mr. Duval.

Further Discussion

Mr. Toomy Mr. Chairman, fellow delegates, I don't believe the committee has any objection to this amendment. It simply restates in a number...different manner the same intention that we had had by the proposal.

[Previous Question ordered. Amendments adopted without objection.]

Amendments

Mr. Poynter Two amendments *[by Mr. Gravel.]*

Amendment No. 1. On page 16, line 7, after the word "last" and before the word "census", insert the words "federal decennial".

Amendment No. 2. On page 16, at the end of line 7, after the word "census" insert a comma "," and add the following: "or such other census as may be provided for by law,"

Explanation

Mr. Gravel Mr. Chairman, ladies and gentlemen of the convention, the purpose of this amendment is to clarify the meaning of the word "census" used on page 16 at line 7 to make sure that we have a definite determination as to the census that we are

talking about, either the last federal decennial census or "such other census as may be provided for by law." We do have provisions in the present laws of the State of Louisiana that authorize the use of a different population measure...determination than by the federal decennial census, and this is just to make sure that we do have some certainty in determination of what we mean by the word "census." I put this in two separate amendments. The first amendment would make line 7 read "of one thousand inhabitants according to the last federal decennial census." The second amendment would put a comma after the word "census" on that same line, and then would add the words "or such other census as may be provided for by law." I think these are really in the nature of clarifying or technical amendments, and I move their adoption.

Questions

Mr. Pugh Are you talking about another federal-type census or state-type census, or what?

Mr. Gravel Whatever other census would be provided for by the legislature. I think that for the purpose of distributing the cigarette tax, for example, they use census figures that are developed at Louisiana Tech, and those are the population or census figures that are used for the present distribution of the revenue sharing fund. It's just to permit the legislature to have some discretion if it decides not to use the last federal decennial census.

Mr. Pugh Is it conceivable that there could be two types of censuses at the same time in Louisiana?

Mr. Gravel I think it would provide a...the constitution would be providing that the last federal decennial census would be used...

Mr. Pugh I understand that.

Mr. Gravel Or such other census as would be required by legislative act. I think it's an alternative proposal, Mr. Pugh. What troubles you?

Mr. Pugh What troubles me?

Well, "provided by law" here, as to whether you have reference--in this instance--to federal law as well as state law. Also, if it's the alternative, who's going to decide the alternative?

Mr. Gravel The legislature would.

Further Discussion

Mr. Perez I see there's no "subject to and not inconsistent with" here, so I believe that we can agree with Mr. Gravel. The committee has no objections.

[Amendments adopted without objection. Motion for the Previous Question on the Section.]

Mr. Dennyery Mr. Perez, I'm a little dense on Mondays, and particularly on Tuesdays which follow Mondays on which I'm dense. I do not understand what Subsection C is intended to mean. Would you be good enough to explain that to us?

Mr. Perez I have to read the section first.

That's the alimony tax within the cities which do not comprise the entire parish. For instance, the parish of Orleans--you have your entire seven mill tax, and that's considered as a parish tax and not a city tax.

Mr. Dennyery In other words, the parish is only permitted to levy half the tax in a municipality. Is that correct?

Mr. Perez That's correct. That's the present provision.

Mr. Dennyery Thank you.

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[Previous Question ordered on the Section. Section passed: 102-3. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter "Section 32. Municipal Tax Limits; Increase

Section 32. (A) The governing authority of each municipality may levy an ad valorem tax for general purposes in an amount not to exceed in any one year, seven mills on the dollar of assessed valuation; provided that where any municipality is, by its charter or by law, exempt from payment of parish taxes or, under legislative authority, maintains its own public schools, it may levy an annual tax not to exceed ten mills of the dollar of assessed valuation. Millage rates may be increased in any municipality when approved by a majority of the electors who vote in an election held for that purpose.

(B) When the millage increase is for other than general purposes, the proposition shall state the specific purpose or purposes for which the tax is to be levied, the length of time the tax is to remain in effect, and all proceeds of the tax shall be dedicated to the purpose or purposes set forth in the proposition.

(C) This section shall not apply to the city of New Orleans."

Explanation

Mr. Toomy Mr. Chairman, fellow delegates, this section is similar to Section 31. It ratifies the existing authorizations, in this case for the seven mill municipal ad valorem tax, and also provides, as Section 31, that this can be increased subject to a vote of the people in the area. The Subsection B, similar to what we had also done in Section 31, authorized the municipalities to levy special millage taxes for a specific purpose and for a specific period of time subject to voter approval.

I yield to any questions, Mr. Chairman.

Questions

Mr. O'Neill Joe, why is New Orleans excepted completely out of this section?

Mr. Toomy It was necessary. If you notice, New Orleans is included in Section 31, and they are under the seven mills as provided in Section 1, parish ad valorem taxes. We didn't want to construe it that they could levy seven mills under Section 31 in addition to four mills under Section 32.

Mr. O'Neill Okay, I just wanted you to make that point because--I understood it, but I just wanted to make sure...

Mr. Toomy There's an additional reason that it's included in Section 31 under the parish ad valorem taxes: that the homestead exemption would apply.

Mr. Roemer Joseph, you might tell the folks if this is a change in the law as it now presently exists, or is the same in terms of millages.

Mr. Toomy It's a restatement of the law, unless you mean a change as to the increase by voter approval.

Mr. Roemer No, I mean a change as to the millage rate.

Mr. Toomy No, it's the present provision in the constitution.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Conroy]. On page 16, line 32, immediately after the word "be" and before the words "the purpose" delete the words "dedicated to" and insert in lieu thereof the words

"used solely for".

Explanation

Mr. Conroy This proposed amendment parallels precisely the same amendment that we adopted in the previous section. I assume, again, that the committee has no objection because it does exactly the same thing here for municipal special issues as it did for the parish in the last paragraph.

Further Discussion

Mr. Toomy Mr. Chairman, again, the committee has no objection to this amendment.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 105-2. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter "Section 33. Local Governmental Subdivision; Occupational license Tax; Limitations

[Motion to waive reading of the Section adopted without objection.]

Explanation

Mr. Perez Mr. Chairman, ladies and gentlemen of the convention, this is substantially the same provision which is in the present constitution, with one exception. There will be an amendment offered by me and others, in a moment, in order to make it the same as in the present constitution. When the Local Government Committee met with the Finance Committee, it was called to our attention the fact that when there is a municipal occupational license tax--that the amount paid for that purpose--then you would not have to pay the parish occupational license tax. So, there will be amendment offered which will make it the same as is in the present constitution.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Perez]. (Now, this may be identical or very similar to Mr. Champagne's amendment.)

Amendment No. 1. On page 17, line 8, after the word and punctuation "state." and before the word "Local" insert the following:

"However, those who pay municipal occupational license taxes shall be exempt from parish occupational license taxes to the extent of the municipal tax."

Explanation

Mr. Perez Ladies and gentlemen of the convention, the purpose of this amendment is to exempt from the payment of the parish tax those who pay the municipal taxes, and it's the same provision as we now have in the present constitution. I move the adoption of the amendment.

Questions

Mr. Bergeron Mr. Perez, just to clarify, the amendment would let this section track, more or less, the present language in our constitution now?

Mr. Perez That's correct.

Mr. Dennery I have a technical question, Mr. Perez. The word "those" is a pronoun. To what does it refer?

Mr. Perez "Those" would apply to the taxpayers--those who pay the municipal tax.

Mr. Dennery No taxpayer has appeared so far in this section. It's only the taxing authority.

Mr. Perez Well, if you have a technical amendment,

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I'll be glad to see it. This was to satisfy the Revenue and Finance Committee, and I'm reasonably satisfied that the interpretation of "those"--that means those taxpayers...

Mr. O'Neill Mr. Perez, is this thing about two-thirds vote of the elected membership in each House, is that the law right now?

Mr. Perez No, sir, that is not the law now. That would be an addition for the additional tax. The present provision only calls for an amount equal to the amount of the state tax.

Mr. O'Neill So, this too isn't...

Mr. Perez The last sentence would be; yes, the last sentence would be--and I should have explained that--the last sentence would be an addition which would provide that if two-thirds of the elected membership of each House provide for an additional occupational license tax, it could be so provided.

Mr. O'Neill Why did you feel like that was necessary, sir?

Mr. Perez Because of the fact that the legislature, in its wisdom, at a future time when local government is looking for additional sources of revenue, they may, in their wisdom, decide that by two-thirds of the legislature they would allow the imposition of additional occupational license taxes. But, it would only be by a vote of two-thirds of both Houses of the legislature.

*[Amendment adopted without objection.
Motion for the Previous Question on
the Section.]*

Questions

Mr. Flory Mr. Perez, I believe I understand what you mean on line 11 by "at least a two-thirds vote of the elected membership." That could be interpreted, in my judgment, to just mean two-thirds of those voting. I know an act requires a simple majority, but you don't...

Mr. Perez No, sir, it says...

Mr. Flory You let me finish just a second.

Mr. Perez Excuse me.

Mr. Flory "The favorable vote of two-thirds of the elected membership" is the way we've been stating it, and I believe it's technical, but important at least. What do you, in your judgment, consider that to be?

Mr. Perez I have no objection, again, if you want to do it in Style and Drafting. I think it's clear enough now. It says, "by at least a two-thirds vote of the elected membership of each House." So, it...in my judgment, it's clear; but I'd have no objection to a Style and Drafting change or--so that we can move ahead--to make it clear that it's two-thirds of the elected membership.

Mr. Roemer I'm sorry, Chalin; I didn't hear what your answer was as to the disposition of what I thought might be an important point. Are we going to leave that up to Style and Drafting?

Mr. Perez Well, in my judgment, it's sufficiently clear. If you read the words, it says, "by an act passed by at least a two-thirds vote of the elected membership of each House." The elected membership...in my judgment, it's clear that it means two-thirds of the elected membership.

*[Previous Question ordered on the
Section. Section passed: 103-3.
Motion to reconsider tabled.]*

Reading of the Section

Mr. Poynter "Section 34. Local Governmental Subdivisions; Sales Tax Authorized Section...

*[Motion to waive reading of the Section
adopted without objection.]*

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, the purpose of Section 34 would be to afford the opportunity directly from the constitution to local governmental subdivisions and school districts to levy a tax up to a...three cents. The feeling of the committee was that there should be some other direct avenue of raising local revenues other than ad valorem tax. This, the reason the three cents or three percent sales tax is included, is because that is what we understand is generally the maximum rate being authorized or being imposed in any area of the state today, and it would give other areas of the state the same right by a vote of the people to increase the rate of taxation up to the three percent. In addition to that, it would give the legislature the right, if it so saw fit at a later time, to provide for additional sales taxes beyond the three percent.

I'll yield to questions.

Questions

Mr. Abraham Is it possible under this that suppose that a municipality levied a three percent sales tax, that would preclude, then, the parish from levying it? Is that right?

Mr. Perez We...one of the shortcomings that we realize that we have involved in this particular provision is that the one who gets there first and gets the authorization from the people first are the ones who are going to impose the tax. But, we know as a practical matter that when there are requests for the...rather, when...even when the legislature authorizes these increases in tax, ordinarily the school board will get together with the local government or the municipality, etc., and work their problems out. I would envision that the same thing would happen here. I might say to you that Mr. Lanier will have an amendment to this section which, I believe, will put...will redraft and rephrase the provision so that it will be a more workable section than what we have proposed in the committee proposal.

Mr. Jenkins Mr. Perez, under this section as written, then, if a home rule charter has no limit on sales taxes, then taxes could be increased without limitation. Is that correct?

Mr. Perez Well, this strictly provides for a three mill...three percent sales tax, and I don't believe it has any reference. Would you point out to me what part you're talking about, because I don't believe it refers to anything other than this direct authorization, and the further authorization by the legislature.

Mr. Jenkins Well, as I appreciate this section, it is both an authorization and a limitation of three percent.

Mr. Perez That's correct.

Mr. Jenkins But, there is an exception at the beginning of Subparagraph (A) there, "except as otherwise authorized," so that apparently a home rule charter could authorize more than three percent in sales taxes to be levied. Is that correct?

Mr. Perez Well, it could be more or it could be less, but what we did not want to do was to impose the will of this convention upon the people back home who may have voted for a different percentage. That's the reason that this "except" was placed in there because the position the committee took was that if the people, through a home rule charter, have determined that they want to impose a sales

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tax--either lesser or greater, or by a different method--we didn't feel that we should tell the... that local government how it should be done because, after all, the people had decided, in that case, the way that that tax should be imposed.

Mr. Jenkins But, just to further clarify, in other words, if the home rule charter is silent and does not specifically limit sales taxes to three percent, then really there could be...there would be no limitation, and it would not require a vote of the people to set a limit. Is that correct?

Mr. Perez It...first of all, this would apply only to the existing home rule charters in Section 7. It would depend upon what is in that particular charter; and, again, I don't believe that we, the members of the convention, should impose our will upon a charter form of government which was adopted by the people back home.

Mr. O'Neill Mr. Perez, Baton Rouge is one of those home rule charter parishes that has no vote of the people required for a sales tax; and, of course, you have excepted them in Paragraph (A) of this section. My first question is: In Paragraph (A), how far does this exception go? Does it include the whole entire Section of 34?

Mr. Perez I would say to you it applies only to Section (A), in the reading of it, because it says it would be limited to the provisions of Paragraph (A).

Mr. O'Neill Well, I'm not real sure about that...

Mr. Perez Unless, of course, you...when you begin to read in Paragraph (B), "no tax authorized in Paragraph (A) of this section shall become effective," etc.--has been submitted to the electors.

Mr. O'Neill Well, that's not authorized, then, under Section (A). So, I think there's a real question here if you haven't excepted home rule parishes from, you know, just everything here. The next question is...

Mr. Perez Well, if I may answer that, my suggestion to you is that if you are dissatisfied with the provision which you have in your home rule charter, you have the methods by which you can adopt...where you can amend your own home rule charter. I would think that that should address itself to the people of East Baton Rouge, and not to this convention.

Mr. O'Neill Well, my next question is: Do you know if the Revenue, Finance and Taxation Committee has put any limits on the state sales tax--whether they have a percentage ceiling on the state sales tax?

Mr. Perez No, I do not, but I'm sure they don't.

Mr. Roemer Chalin, isn't...in Section 34 (A), isn't the key word in the second sentence "however"--that's line 21? You know, in line 15 it says, "except as otherwise authorized," etc., etc. Then, in line 21 it says, "however, the rate thereof," and it does limit it to three percent.

Mr. Perez The reason for that, yes, is there is a definite limitation of the three percent, except for home rule charters if they have some other provision.

Mr. Roemer But...in the way I read it, the "however" applies to that whole Paragraph (A), and would even apply to home rule charters as provided for.

Mr. Perez Yes, I'd agree with that, yes.

Mr. Roemer Well, okay. So, then we do have a three percent limitation?

Mr. Perez Yes.

[2156]

Mr. Tate Mr. Perez, the apparent intent is that the total amount--the combined amount of local sales taxes by parish municipalities, and school districts--shall not exceed three percent. How do you visualize the priority being worked out? The first one that levies has the right to do it, or how do you visualize them...

Mr. Perez I'd say that's up to the people back home. I did acknowledge, when I first began my remarks, that this...that there is that deficiency in it. We discussed it before the committee, but at least this does give the local school boards and the local government the opportunity, without further legislation and directly from the constitution, to find some other method of financing either schools or local government. I do realize that what it basically says is the first one who gets there and gets the authorization from the people is the one who's going to impose the tax.

Mr. Winchester Mr. Perez, the three percent sales tax--if two or three parishes wanted to get together and have a mosquito abatement district, and they all had up to the limit, would that prevent them from having a sales tax?

Mr. Perez It would prevent it under this section--that is, under the outright grant--but you do have the further authorization where you can go to the legislature and get the legislature to pass on act. All this does is to provide an automatic method whereby a certain amount of sales tax can be raised. It would still leave the law as it is now with regard to anything over three percent, where you could go to the legislature and get that authority.

Mr. Pugh Why do we not also to refer to Section 8? Section 8 is the new home rule charter.

Mr. Perez Because this can only apply to what's in existence now. The future authorization would be the three percent sales tax.

Mr. Pugh The future what?

Mr. Perez This...I say that the "Except as otherwise authorized in a home rule charter provided for in Section 7 of this article" can only apply to the existing home rule charters. Any new home rule charters would be limited by the provisions of this section. All we did...all we wanted to avoid was doing violence to any existing home rule charter.

Mr. Pugh And you think the new ones would be automatically covered, is that it?

Mr. Perez Yes.

Mr. Duval Mr. Perez, you said something--I may have misunderstood you, but according to your interpretation of this section, do you think that the legislature could come back and authorize a sales tax over the three percent under this proposal, or would you be limited to three percent under this proposal?

Mr. Perez If you look at Section (B), it says, the legislature, by general or special law, may authorize the imposition of additional sales and use taxes by local governmental subdivisions in excess of that provided in Paragraph (A) of this section, provided that the taxes are approved by the electors of the local governmental subdivision, etc.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Lanier]. On page 17, delete lines 13 through 32, both inclusive, in their entirety and on page 18, delete lines 1 through 18, both inclusive, in their entirety and insert in lieu thereof the following:
"Section 34. Local Governmental Subdivisions

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and School Boards; Sales Tax Authorized; Limitations; Exemptions; Protection of Existing Sales Tax Authorizations and the Security of Outstanding Bonds.

(A) Except as otherwise provided in a home rule charter provided for in Section 7 of this Article, any local governmental subdivision or school board is authorized to levy and...

[Motion to waive reading of the Amendment adopted without objection.]

Explanation

Mr. Lanier Mr. Chairman and fellow delegates, after we approved the draft that you have in the committee proposal, in committee, on the sales tax, we received some correspondence from some bond attorneys to whom we sent copies of this, and also from some people representing the Louisiana Sales Tax Collection Association. They raised several technical problems about the manner in which the proposal was drawn and, in particular, the separation of the various paragraphs. They suggested a consolidation and certain changes which results in the amendment that you see before you now. The present amendment is designed to protect existing sales tax authorizations in excess of three percent. For example, right now in St. Mary Parish, they have a one percent sales tax authorized under Revised Statute 33:2721 for the police jury. The school board has a one cent authorized under 33:2737. Each of the five municipalities have authority for one cent under 33:2711; and by Act 155 of 1973, the police jury was given authority for an additional one percent. This amendment is drawn up to ratify the existing authority so that this would not be impeded by the committee proposal. The second change is to change the requirement of a majority vote of the legislature to increase the taxes over three percent to a two-thirds vote, which is the present law for increasing taxes. The third change--which really isn't a change; it's more of a consolidation--but the issue was raised that since the ratification of authorized issues was not included in the paragraph that provided for the limitation and the tax, that some question could be raised about the validity of the ratification. We combined the authorization for the tax and the ratification of existing taxes in the same paragraph. The third thing was the requirement that the existing exemptions had to be the same, state and locally, and that no future exemption could impair the tax base upon which bonds were issued. If this were done, quite frankly, it would be in violation of the United States Constitution because you cannot divest anyone of a vested right. To make sure that that is absolutely clear with reference to the exemptions and the base that supports the bonds and the tax, we put in Paragraph (B). We feel...now, this proposal has been suggested, in particular, by the sales tax bond attorneys for the city of Lafayette and the city of Thibodaux because there are existing outstanding unissued sales tax bonds in those two municipalities. There may be others that have this situation, but these are two that we are aware of. Mr. Chatelain has been in communication with these people and is aware of the situation with reference to Lafayette. We feel that this amendment is a distillation of the provisions in the committee proposal. It clarifies several points about which there was some possible unclearness, and we would move your adoption. This applies to the local governmental subdivisions and the school boards, the school board part of it being the part that Delegate Burson had his amendments controlling.

If there are any questions concerning this, Mr. Chairman, I'd be happy to try and answer them.

Questions

Mr. Avant Mr. Lanier, in the last sentence in your amendment, (B), "However, such exemptions or exclusions shall not be enacted in such a manner as to impair the security for any bonds outstanding at the time such exemptions or exclusions are enacted, or to reduce the tax base by which said bonds

are secured"--now, what I'm trying to figure out is how this would work in the event the legislature should decide, just for example, to exempt, say, all medicines from all sales taxes, both state and local. How would you effectuate this? In other words, how would you know whether you could do that or whether you couldn't do that under the language of this amendment? What would you do?

Mr. Lanier I believe--and this is the specific language that was suggested to us to cover this problem--you cannot retroactively remove from the tax base which...upon which a bonded indebtedness is based, the security for that indebtedness. This language is designed to prohibit that type of conduct.

Mr. Avant Well, that's what I wanted to find out. In other words, any sales taxes that are outstanding...

Mr. Lanier That secure bonded indebtedness.

Mr. Avant And are pledged to secure a bonded indebtedness at the time this constitution may become effective, they're just frozen, then...

Mr. Lanier Would not be affected by the new exemption, until the bonds are paid on that particular thing.

Mr. Avant And you couldn't substitute an increase in the rate, say, for an exemption.

Mr. Lanier Oh, definitely not. You can't change the base, Jack. I mean, that's clear.

Mr. Avant Even if you're producing the same amount of money and paying the bonds off as per schedule, you can't change the tax in any way.

Mr. Lanier I do believe that's the existing law.

Mr. O'Neill Mr. Lanier, in the first sentence of your new section as proposed, "except as otherwise authorized in Section 7"--which continues the existing home rule charters--now, if a home rule charter has no ceiling on the sales tax, and it does not require a vote of the people, then you continue that. Correct?

Mr. Lanier That is correct.

Mr. O'Neill Okay, now let me ask you...

Mr. Lanier Those people voted on that when they voted for their home rule charter.

Mr. O'Neill Well, that's another story, but I... you know, I agree with you.

Mr. Lanier Well, I mean it's true. They had to.

Mr. O'Neill Now, let me ask you, in any future time when a parish or a municipality adopts a home rule charter, will they be...will this three percent ceiling be imposed in that home rule charter?

Mr. Lanier Yes. That is the...

Mr. O'Neill And a vote of the people?

Mr. Lanier The intention...the intention of this provision--I thought it was brought out with Mr. Perez, but to nail it down for the record--by not including Section 8--in other words, you read 7 and 8 in pari materia with this provision--by not including 8 in here, it is intended that this limitation will apply to all future home rule charters. It does not apply to home rule charters that presently exist, the theory there being that the people themselves already voted whatever limitations, if any, they wanted when they adopted their home rule charter.

Mr. O'Neill Am I correct that most home rule charters--if I'm not mistaken--have a three percent

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ceiling?

Mr. Lanier I really don't know. I'm not familiar with all of them.

Mr. Flory Mr. Lanier, my question has reference to the last sentence of the first paragraph: "Nothing contained in this Subsection," etc. What's the situation there where by authority of the legislature, for example, given to the school boards to levy a one cent sales tax for the purpose of paying teachers' salaries--it's been voted on by the people--aren't you, in effect, giving to that governmental unit an additional one cent sales tax so that it would have a four cent maximum by this language?

Mr. Lanier If it is presently authorized, they would, in effect, have a four cent maximum. I use again the example I gave to you about St. Mary Parish. We have been in contact with the bond attorneys for the St. Mary Parish and their sales tax collector. This is designed to not impair that which has already been authorized. In St. Mary Parish, the police jury has one cent authorized by general law. The school board has the same authority for the thing that you're talking about. Each municipality has authorized one percent. St. Mary Parish just got an additional one cent authorization for sewers and sewerage disposal, solid waste and disposal, and general pollution abatement. So, it is our intention here not, not, to affect that which has already been authorized.

Mr. Flory So, you are saying that in St. Mary Parish the local tax rate there on sales is four percent?

Mr. Lanier Well, if you would be in one of the municipalities, it would be. If you are outside the municipality, they are at their three percent limit right now in authority. But, in these municipalities that are authorized the additional one percent, it could be four percent in each of the five municipalities in St. Mary Parish.

Mr. Flory All right. In that situation, what would be the maximum under the constitutional provision--your language here--in St. Mary Parish?

Mr. Lanier It would be four percent in the cities in St. Mary Parish; in the nonincorporated area, it would be three percent.

Mr. Flory Now, one final question: In the last sentence that Mr. Avant referred to, isn't it true that when the election is called on a local level for sales tax, that in that call it stipulates the exemptions in that call as then provided in the statutes for the state sales tax exemption?

Mr. Lanier That could well be. I won't swear to that, because I don't have it at the tip of my fingers, but it could well be true.

Mr. Flory Well, if that be the case, then there would be no necessity for that language at all, would it?

Mr. Lanier Oh, yes. If a future exemption was put in, that exemption could not be made retroactive to affect the vested rights in the bonds that were issued pursuant to the prior authority.

Mr. Flory Well, are you saying then that the legislature could not grant an exemption to the state sales tax?

Mr. Lanier Not retroactively on bonded indebtedness.

Mr. Flory No, I'm talking about "doesn't affect the bonds of a local community," but...I know the exemptions parallel each other, and they are based upon exemptions of the state granted on an item that the state collects from. But, you're prohibiting the state from granting an exemption on state

sales tax in order to secure local bonds.

Mr. Lanier No, no.

Mr. Flory ...by this language, you are.

Mr. Lanier No, no, sir. I disagree with you. What this does is that it says that that exemption shall not be applicable to that particular issue which is secured by that tax. That does not prohibit the passage of the exemption.

Mr. Sutherland Walter, in line 15 of your Subsection (A) you say the..."shall not exceed three percent; however, the legislature, upon a two-thirds vote of both houses thereof." Is that two-thirds of the elected membership of each House, or is that two-thirds of those present and voting?

Mr. Lanier It's intended to track the present two-thirds requirement for raising taxes and quite frankly, on my finger tips, I can't remember which way it goes; but, it's intended to be the same as the present general two-thirds limitation.

Mr. Sutherland But, in addition to the two-thirds of the legislature, you do require the approval of the electors?

Mr. Lanier Yes. If you look further down in the same line it says...

Mr. Sutherland I see that, but there's a question there: "upon approval by the qualified electors thereof," and "thereof" refers to local subdivisions, and you have "school boards." Now, you mean school districts, don't you. The electors of a school district, not the electors of the school board.

Mr. Lanier Well...Well, it would be the school board area or the school district, I guess, yes. That's what it's intended to include: the people who are under the jurisdiction of the particular school governing body in question--so that it will be clear for the record. Are there any other questions, Mr. Chairman?

Mr. Denney Mr. Lanier, the second sentence in Paragraph (A)--would that be affected by the "Except as otherwise authorized"? In other words, if a home rule charter permits an increase in sales taxes without a vote of the people, would it still be permitted under your...the language of your second sentence?

Mr. Lanier Yes.

Mr. Avant Mr. Lanier, I'm comparing the language at the end of Section (A) in your amendment with the language contained in Section (E) of the committee proposal. The committee proposal says "Nothing in this Section shall be construed to repeal or affect any sales or use tax authorized or imposed by any municipality," etc., etc. Your amendment says, "Nothing contained in this Subsection shall be construed to amend, repeal, or affect any special laws relative to the taxing powers of particular local government subdivisions or school boards, any sales or use tax authorized or imposed." So, you have added some language dealing with the taxing powers of particular local government as granted by special laws. Now, would you explain that to me? What was your purpose in making that change in language?

Mr. Lanier I believe that the purpose of this is to ratify the existence of existing sales taxes and to protect the bonds that have been issued by...in pusuant to the sales tax.

Mr. Avant Well, now, you've already said that, haven't you, when you speak of any sales or use tax authorized or imposed? Then, insofar as the bonds are concerned, you cover that in Section (B). What I'm trying to figure out is what this language means about "any special laws relative to the taxing powers of particular municipalities," not limited apparently

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to the sales or use tax; it's just their taxing powers generally. That's what I'm trying to figure out: what that is intended to mean.

Mr. Lanier This is intended to be a ratification of the existing authority to tax that's either statutory...that is statutory and to not affect the bonds that have been issued pursuant to those taxes--in other words, to protect the St. Mary Parish situation.

Mr. Avant Well, in effect then, you have doubly ratified that situation because it's also ratified by the language "any sales or use tax authorized or imposed on the effective date of this constitution." So, you just put the double stamp of ratification on it; is that what you're telling me?

Mr. Lanier I guess that's what it is. This is the language that was suggested to us by these bond people...or primarily the language that was suggested to us.

Mr. Nunez Mr. Lanier, it's been gone over several times, but I'm not quite sure, and let me just give you a specific example so you can tell me if I will be covered under here in the three parishes I represent in my senatorial district...already have...two of them already have a three-cent local sales tax, either by the school board or the police jury. We have authority for another cent. Now, how would that affect those parishes that already have levied three cents and would like authority or...you would have to get two-thirds of the legislature, the way I read it.

Mr. Lanier If you already have your authority--in other words, you had certain statutes that authorize taxes that have not yet been either approved by the voters or by the governing authority, or something like that--this amendment is designed to protect that situation for all authorized as well as those that are imposed, or a combination of the two.

Mr. Nunez But, those that are not authorized or imposed, if they now have three cents, would have to have a two-thirds vote of the legislature to levy it or to even call an election. Isn't that correct?

Mr. Lanier No, no, that's a new tax for two-thirds. In other words, you have certain statutes already in existence. O.K.? In those statutes you are authorized, say, four percent like St. Mary Parish is. I don't think they had used all of that four percent in each place, but it is authorized. This is intended to ratify the authorization so that if you choose in the future to exercise this authority, you may do so. But, if you seek to put a new tax over that which is presently authorized, then you've got to get a new act of the legislature and pass it by a two-thirds vote.

Further Discussion

Mr. Avant Mr. Chairman, fellow delegates, I rise in opposition to this amendment because what it does is if there is a local governing authority--and there are a number of them, to my knowledge--which have the right to levy sales or use taxes without limit and without a vote of the people, that then that situation will continue irrespective of anything that is contained in this constitution. Now, that's what this language, in my opinion, means. It's in my opinion that's what it intended to mean. Whether that power has been exercised or now, whether or not any bonds have been issued and any such tax pledged to the payment of those bonds, it perpetuates that situation in spite of any language that you put in this constitution; and, for that reason, I ask you to reject this amendment.

Vice Chairman Casey in the Chair

Further Discussion

Mr. Perez Mr. Chairman, ladies and gentlemen of the convention, I submit to you that this is a good concept and, whether you adopt the Lanier proposal or the committee proposal, that some such authorization should be granted. It's been called to my attention the fact that in the Lanier proposal it would require the vote of two-thirds of both Houses of the legislature, plus a vote of the people. I know that a lot of delegates are opposed to that and I, too, would want to stick with the committee proposal, which would only require a majority of the members of the legislature, because of the fact that it would require a vote of the people back home before any such sales tax could be imposed. I'll yield to questions.

Questions

Mr. Tapper Mr. Perez, am I reading this correctly? In the third paragraph of Section (A) which says "Nothing contained in this Subsection shall be construed to amend, repeal, or affect any special laws relative to taxing powers of particular local governmental subdivisions, or school boards," etc., am I correct in concluding that if, let's assume that a parish now has three cents levied, that according to this amendment they could levy another three cents if the people voted by majority vote to do that?

Mr. Perez No, I wouldn't construe the words that way. I think the main thing that you should be concerned about is the last part of the sentence, when if you read it with the first part, says "Nothing contained in this Subsection shall be construed to amend any sales and use tax authorized or imposed on the effective date of this constitution." So, that would protect, for instance, the parish of St. Bernard which has the right for the four cents. But, I'm sure no reasonable interpretation would give any additional authorization over that which is now presently authorized.

Mr. Nunez My question is in the same vein, as I asked Mr. Lanier, in the same vein as Mr. Tapper. My concern is where an injustice would be created if a parish has already levied the three cents and it has no authority to levy any more. Then, they would have to come to the legislature and...to get a two-thirds vote, whereby, if a parish has no sales taxes at all--and isn't this correct--has none, they would only by simple majority, or they would be allowed to levy up to three percent, right... three cents?

Mr. Perez No, I don't think you understand the... either one of the proposals, Senator Nunez, in the...again, as I stated when I first appeared before this microphone, that if the Lanier proposal is adopted, I would move to delete the requirement two-thirds of both Houses of the legislature to make it consistent with the provisions of the committee proposal. The committee proposal only requires a regular act of the legislature, a majority.

Mr. Nunez Well, that's what I was concerned about --the two-thirds vote--and that's why I was trying to...

[Previous Question ordered.]

Closing

Mr. Chatelain Mr. Chairman, fellow delegates, on the Local and Parochial Government Committee for a period of about six months, we listened to all types of bonding attorneys and bonding companies. We had people fly in even from New York to talk to us about the bonding problems in Louisiana. After Committee Proposal No. 17 was finally approved by the committee and given to you, I appeared before the city council in the city of Lafayette and also to the police jury. We discussed this thing at length; and, at that time, one of Louisiana's most renowned taxing attorneys happened to be in the city hall of Lafayette, and he brought to our attention--to

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my attention--some of the problems with the committee proposal. That's the reason why Mr. Lanier and myself and Mr. Kean offer this amendment, because we feel after all these months of delving into the many, many problems of financing that this was needed. To give you an example: right now in the city of Lafayette we have authorized seventeen million dollars worth of bonds. We have outstanding twenty-five million dollars worth. As most of you know, the city of Lafayette has a one-cent sales tax, and this is mostly bonded from the sales tax. The parish police jury has a situation similar. The school board has a one-cent sales tax. This is the area we have problems with, and that's the reason we feel that this amendment would solve the problems of Lafayette which is a typical situation that exists with many other parishes. So, that's the reason why that Mr. Lanier and Mr. Kean and myself offer this amendment. We feel that it is well thoughtout. It seems that some of you have problems with two-thirds of the legislature giving authority beyond three percent. If so, then we would accept an amendment to reduce this amendment to one half. But, I feel in the main it's a good amendment. I would urge that you support us and adopt this amendment because it does help a lot of the parishes in this state who have problems in the area of selling bonds. Thank you very much.

[Record vote ordered. Amendment rejected: 47-53. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendment No. 1 [by Mr. Burson]. On page 17, line 13, after the word "Subdivision" and before the semicolon ";" insert the following: "and school boards".

Amendment No. 2. On page 17, at the end of line 17, delete the word "districts" and insert in lieu thereof the word "boards".

You have a similar amendment adding "or school district" or "board", as the case may be--page 17, line 30; 18, line 4; 18, line 9.

Explanation

Mr. Burson Mr. Vice-Chairman, fellow delegates, you will recall that when we adopted the general provisions of this article, including the definitions, that we included school boards in the term "political subdivision." However, the term "political subdivision" is not used in this section. The term "local governmental subdivision" is used, and that term, under the definitions we have adopted, means only parish or municipality. Of course, it is well established in this state at this time that school boards have been given sales tax authority, and in fact almost all of the parish and city school boards in this state right now are levying a sales tax. It is to clarify this matter that I have proposed these amendments, which simply add "school boards" or "school districts" where appropriate in the section proposed by the Local Government Committee, to make it plain that we are not precluding those sales taxes which are presently in effect or which could be adopted by those school boards which do not have sales taxes in effect at the present time.

Questions

Mr. Flory Mr. Burson, didn't we amend that definition of "political subdivision" to include school boards?

Mr. Burson Yes, sir, we did, but the term "local governmental subdivisions" is used in this section, and that is limited under the definition only to parishes and cities. I think the reason it was used here is you didn't want to imply that any special districts would have the power to levy a sales tax; so we limited it to cities, parishes--and I would add here and school boards.

Mr. Velazquez Delegate Burson, with the decrease

in the number of homesteads that will be paying property taxes, don't you believe that the schools need this extra margin to keep up the quality of education that we want for all the citizens of Louisiana?

Mr. Burson I think that in many localities that would be true; yes, sir.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, if you'd look at line 17 on page 17, we specifically referred to school districts. We did not, however, throughout the remainder of the section. It was the intent of the committee to include school districts or school boards and to give them that authority; so I see no objection to the adoption of the amendment.

Question

Mr. Dernery Chalin, if we add school districts and school boards, would we be required to add it also on line 25, this is..."within any local governmental subdivision?" Would that...the geographical limitations comprise the school district as well?

Mr. Perez Well, in many areas you have the same geographical extent for both school boards and for parishes or municipalities, but there is a...you have certain city school districts, but still the total tax could not exceed three percent within the local governmental subdivision. So I don't really believe we need it in this case.

[Previous Question ordered. Amendment adopted without objection.]

Amendments

Mr. Poynter Amendment No. 1 [by Mr. O'Neill]. On page 17, line 15, after "Section 34. (A)" delete the remainder of the line and delete line 16 in its entirety and at the beginning of line 17, delete the portion of the word "cle, local" and insert in lieu thereof the word "Local".

Amendment No. 2. Page 17, line 26, after the word "percent" delete the period "." and add the following: "or such other lesser percentage as may be provided in the home rule charter."

Explanation

Mr. O'Neill Ladies and gentlemen of the convention, discussing this section with several members of the committee, I find that none of them are quite sure of the intent of this section. Some of them interpret the section, and the way that I would interpret the section with the word "however" is that the three percent ceiling on income...sales taxes and the vote of the local people would be included in the existing home rule charters. Now, the first Section, (A), "except as otherwise provided...a home rule charter provided for in Section 7"...now, remember back to Section 7. That ratified all existing home rule charters. Those were the charters of East Baton Rouge, Orleans, and what have you. Now, it says "except", which would mean that unless it's provided in the home rule charter, they can have any amount of sales taxes that they want, and they can also provide that a vote of the people does not have to occur on the sales taxes. I believe this is the case in East Baton Rouge Parish, where the parish council has raised the sales tax without a vote of the people. My amendments...the first amendment would delete "except as otherwise authorized in a home rule charter provided for in Section 7." It would delete that and make the existing home rule charters conform with the three percent ceiling and with the vote of the people. My other amendment, which would be merely a technical amendment if the first one were adopted, would provide that "or other such lesser percentage as may be provided in the home rule charter." Now, several members of the committee have told me that this was

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the intent--to make these home rule charters conform. Several other members have told me that it was not their intent, but it is definitely my intent to make sure that these home rule charters do conform to the three percent limit on taxation and to having to have a vote of the people to raise a sales tax. I remind you that here in East Baton Rouge Parish we have not had a vote of the people on this. I ask you for the adoption of this amendment.

Questions

Mr. Cannon Mr. O'Neill, maybe I better say this in a way of "did you know" that the parish of East Baton Rouge does not have unlimited taxing authority? It only has the power of any other parish. The city of Baton Rouge, by its charter incorporating by reference features of their 1898 legislative charter, had the power to levy a tax without a vote of the people. The legislature granted to the parish, that area lying outside of the city, the right to levy additional taxes--an additional one cent sales tax. I just wanted to clarify that point for the members of the convention. It's not a situation where the parish has this authority. The total local governmental subdivision's jurisdiction, the entire parish, is still under the same blanket coverage that all the other parishes in the State of Louisiana are. Only the city of Baton Rouge had that particular favored treatment, and I think that ought to be clarified.

Mr. O'Neill All right. Thank you, Mr. Cannon, but I think the point is essentially the same.

Mr. Dennery Mr. O'Neill, the city of New Orleans presently has a three percent sales tax.

Mr. O'Neill Yes, sir.

Mr. Dennery Would your amendment require the city of New Orleans upon the effective date of this constitution to call an election in order to continue the authorization of that?

Mr. O'Neill No, Mr. Dennery. I asked that question of the people who helped me draw the amendment, and they said not.

Mr. Dennery Suppose that the city of New Orleans subsequently reduces its sales tax to two percent, and subsequently...obviously no vote of the people would be required for that, I assume, even under your amendment?

Mr. O'Neill Yes, sir. That's correct.

Mr. Dennery You commit the reduction without the vote of the people.

Mr. O'Neill Very definitely.

Mr. Dennery Now, suppose that subsequent to the reduction, the city fathers determine that an additional one percent is required. Under the city charter in New Orleans, no vote of the people is required. Would your amendment, then, require it?

Mr. O'Neill Yes, Mr. Dennery, it would; and that's the intent of it, sir.

Mr. Dennery Why would you want to do that for any community other than the one in which you live, sir?

Mr. O'Neill Because, Mr. Dennery, I feel that a sales tax above three percent levied by a parish or municipality is exorbitant enough in itself, and I would not want it to exceed three percent.

Mr. Dennery Well, I'm not talking about exceeding three percent. I'm talking about getting back to three percent. Suppose the present three percent tax in New Orleans is reduced to two percent and subsequently it is determined that the city needs more revenue, you would not permit the city to levy an additional one percent at that point to get back to

three percent without a vote of the people, would you?

Mr. O'Neill Well, Mr. Dennery, my understanding of this proposal is that you can't raise a tax under this situation, say, from two to three percent, even within a home rule, without a vote of the people; so I'm saying that it would be a vote of the people to go from two to three percent even if you have reduced it.

Mr. Dennery Well, not under the way the committee proposal is drafted, it doesn't require a vote of the people.

Mr. O'Neill No, sir, because it ratifies as it is the existing home rule charter, which I don't know if it has a three percent limitation or not.

Mr. Dennery Well, would you then answer my previous question? Let us assume that there are five communities which have similar provisions to the one in New Orleans. Why would you want this convention to tell the citizens of those communities, who have already voted to do this, that they can no longer do it?

Mr. O'Neill Well, Mr. Dennery, I'm not quite so sure I follow you. My intention in this amendment is to put a three percent ceiling on the sales tax that can be levied by any municipality or home rule parish or home rule charter.

Mr. Dennery I'm not worried about the three percent limit, Mr. O'Neill. I'll agree to the three percent limit because that's what we have now. What I'm asking you is if we reduce our own taxes to two percent, why do you insist upon requiring a vote of the people to go back to the three percent limit?

Mr. O'Neill Because it's a raise in the sales tax, Mr. Dennery.

Mr. Dennery In other words, any raise in any sales tax, you believe, should be voted on by all of the people, whether you live in that community or not, Mr. O'Neill?

Mr. O'Neill I don't think I'm requiring a vote of all of the people, Mr. Dennery, not statewide; in that municipality, it should be.

Mr. Dennery Well, what I'm driving at is that you are requiring, by your amendment, the vote of all the people in an area which is not directly involved in your area. I can understand why you might want this in Baton Rouge, but I don't know why you should force this down the throats of other communities which already have adopted home rule charters which authorize their taxing authorities to raise these taxes; and I haven't gotten an answer to that yet.

Mr. O'Neill Well, that's just my belief, Mr. Dennery, that the people should be able to vote upon any tax increase.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, if we were to pass this amendment, I think we'd be going to meddling. By that I mean that if the people back home in any particular area have voted to give to their local government certain authorities, why should we here in this convention, in a snap judgment, change that which the local people back home have agreed to. Now, the statement was made that he believed that before there should be any tax, there should be a vote of the people. If, in fact, the charter authorizes the imposition of a sales tax, they--the people--have voted to authorize that to be done so that there would have been a vote of the people by virtue of the fact that they adopted that charter form of government. I, therefore, suggest that you stick with the committee proposal and reject the amendment.

Further Discussion

Mr. Jenkins Mr. Chairman, it's nothing more than playing on a legal fiction to say that because the voters have once voted for a home rule charter, that from then on they should never vote on a sales tax increase. Now, if you like legal fictions, that's a good point to make--perfect point. One time back in 1948, the people of East Baton Rouge Parish with a turnout of about twelve percent of the voters, voted for a home rule charter. Thus, I suppose they should never vote on any tax increases for or against. Well, I just don't believe that because a home rule charter passed at one time in the past, that that is thereby an endorsement of that community...total community, thence and forever more, of what's in that charter. Now, I know when the East Baton Rouge Parish City-Parish Council raised the tax in East Baton Rouge Parish by one cent without a vote of the people, the people of this parish were very upset. At the next election eleven out of twelve councilmen were defeated; we got almost a whole new council. Then four years later, the old council still had not changed things and we got a whole new council again. But, the thing is, we still have that one percent sales tax increase that was put on us without a vote of the people. Now, I think people across this state don't want legal fictions to stand in their way. They don't want a home rule charter that may have passed by a narrow vote years ago to stand in their way of voting on these sales tax increases. So, I urge you to go along with Mr. O'Neill's amendment to provide that in the future, before any new tax can be imposed on us, that the people get to vote on it. I don't think that's unreasonable.

Questions

Mr. Heine Representative Jenkins, isn't it also true that Mayor Dumas endorsed the one percent additional sales tax in East Baton Rouge Parish, and he was elected by eighty-two percent of the people?

Mr. Jenkins I think that's true, Mr. Heine. I don't think that's why he was reelected; I think it might have been in spite of it.

Mr. Heine Also, aren't there provisions made in the East Baton Rouge Parish City-Parish Charter to amend the charter to do what we're trying to do here: to change the charter where you...the council would not be allowed to increase this sales tax by a vote of the council?

Mr. Jenkins Well, no, I think that's doubtful. You may recall that a local petition was circulated here in East Baton Rouge Parish and got many thousands of signatures, but the courts refused to accept it. I don't know why; I'm not familiar with the legality of it, but I know that the people tried a vast number--many thousands of people--tried to overturn that tax and were unsuccessful on every single vote.

Mr. Heine But, nobody...Woody, to my knowledge no one tried to amend the charter, and I believe provisions are made to do this.

Mr. Jenkins Well, you may recall that, and I'll be glad to discuss the details with you, if it was attempted.

[Previous Question ordered.]

Closing

Mr. O'Neill I really don't think it's an unreasonable thing to ask that the people who live within an existing home rule charter parish or future home rule charter parish would have the right to vote for a sales tax increase. In my mind I just can't see where anyone, except those who would want to raise taxes beyond the limits of those who could pay, would object to having a vote of the people--a vote of the majority of those people voting in an election for that purpose--to

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pass a sales tax. I really can't think that--the legislature has to vote for it, you know, and what have you,--and I just can't see where they would object to the people having to vote. I know that in East Baton Rouge Parish the people here wish they had been able to vote, because had they been able to vote, the sales tax wouldn't have been increased. Even though we did turn out a whole council, and we turned them out again, we're still paying the sales tax. So, I really don't think it's unreasonable to ask that these home rule charters require that the people be able to vote in an election to raise the sales tax. That's the question that we're asking here. I don't think that you think that's unreasonable either. I think the only people who feel that this provision would in any way restrict them are those people who in the future want to raise the sales tax and see that as a potential source of income. Home rule charters adopted in the future under this section, if I interpret it right, are going to have that requirement: that people be able to vote in an election to raise the sales tax. So, it really makes it absurd to say that except for those existing ones--which include Baton Rouge, New Orleans, and what have you,--the people aren't going to have to vote. I don't think that we're meddling when we take this question into consideration. I know the people in Baton Rouge would be happy to have the chance to vote on a sales tax increase, as would the people of any other area who have a home rule charter. I ask you for the adoption of this amendment.

[Record vote ordered. Amendments rejected: 38-65. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. O'Neill]. On page 18, line 7, after the word "legislature" delete the remainder of the line and insert in lieu thereof the following: "upon a two-thirds vote of the members of both houses thereof, may by general or special law au--"

Explanation

Mr. O'Neill Ladies and gentlemen, I'm sorry to have to reappear so soon, but this is a change which Mr. Lanier saw fit to incorporate in his amendment. Simply provides that the legislature by a two-thirds vote, as opposed to a majority vote, may give permission for a municipality to raise their sales tax above the level in this constitution. You know, all other taxes that they raise are by a two-thirds vote, or I hope that they will be as a committee proposal from Revenue, Finance, and Taxation does provide. I think it's only fair that if they are going to give authorization for a municipality to raise a sales tax above the limit, that it should be by a two-thirds vote of both houses. Then, I think that it'll be a sure thing that the sales tax in that area is needed. So, I ask you to adopt this amendment.

Question

Mr. Tobias Mr. O'Neill, in effect, what you're trying to do is require a two-thirds vote of the legislature to raise a tax, a sales tax in a local area, plus a vote of the electors? In other words, that's what you're trying to do. Instead of a majority of the legislature and a majority vote of the electors, you want a two-thirds vote of the...

Mr. O'Neill Yes, Mr. Tobias.

Further Discussion

Mr. Perez I'm sorry for the delay, Mr. Chairman. I'm trying to find out where this goes, but I'm sure what it does is...would be to attempt to require two-thirds vote of both houses of the legislature, when we also have a vote of the peo-

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ple, to increase the taxes. What it would do again--says "the legislature, by general or special law"--it would require two-thirds vote of both houses in spite of the fact that in addition to that it requires the vote of the people back home. I'm sure that that is too stringent a provision, and the present law authorizes the...the legislature is authorized to authorize the imposition of taxes...of sales taxes back home. So, I see no need for the two-thirds provision. I think we ought to reject the amendment.

Questions

Mr. Jenkins Mr. Perez, of course, a theory of our old constitution--and I suppose of our new one is going to be, that it takes a two-thirds vote of the legislature to raise a tax...to enact a statute that would have the effect of raising a tax. Don't you think that it's a...merely sort of a circuitous argument to say that maybe this is not a tax increase because it goes to the people and, thus, you don't need a two-thirds vote? Shouldn't we require a two-thirds vote, since this is the only real legal action that would bring about this tax other than the public referendum?

Mr. Perez No, Mr. Jenkins, I don't agree with you. I think there are two methods by which taxes can be raised: one is by two-thirds vote of the legislature with no vote of the people; the other is by an ordinary act of the legislature with a majority of those voting in the election. It seems to me that the truest sense as to whether people want an increase in taxes is whether you can get a majority of the votes at the polls. I think that's a lot more difficult to get than it would be for the authorization by two-thirds of the legislature. I don't believe that you should have to have that additional burden of having to have two-thirds of the legislature plus a majority of those voting in an election.

Mr. Jenkins One other question I have. In order to amend this constitution it would take a two-thirds vote of the legislature and a vote of the people. Now, since such a tax increase would go beyond the limits set in this constitution--beyond the three percent limit--isn't it reasonable that we have a similar provision to the provision it would take to amend the constitution: namely, a two-thirds vote of the legislature and a vote of the people?

Mr. Perez No, I don't think it's reasonable.

[Previous question ordered. Record vote ordered. Amendment rejected: 10-95. Motion to reconsider tabled. Motion to take up other orders of the day adopted without objection.]

Report of the Secretary
[I Journal 739-742]

*[Adjournment to 9:00 o'clock a.m.,
Wednesday, November 7, 1973.]*

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Wednesday, November 7, 1973

ROLL CALL

[83 delegates present and a quorum.]

PRAYER

Mr. Heine Let us pray. Our dear heavenly Father, we thank Thee for this another day and for giving us life this morning. Be with us now as we go into the business of the constitution, and we pray that the decisions that are made here will be for the best interest of the people. Be with us in everything that we do, and lead, guide, and direct us, and forgive us of our many sins. For Christ's sake. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 17, introduced by Delegate Perez, Chairman on behalf of the Committee on Local and Parochial Government and other delegates, members of that committee.

A proposal making general provisions for local and parochial government, levee districts and ports, the financing thereof, and necessary provisions with respect thereto.

The status of the proposal: the convention has adopted sections, other than the financial provisions... began to take those up in Part 2 on yesterday... adopted Sections 31, 32, and 33 as amended. Presently, has under its consideration still, Section 34.

Amendment

Mr. Poynter Mr. Lanier sends up the following amendment:

Amendment No. 1. On page 17, delete lines 13 through 32, both inclusive, in their entirety and on page 18, delete lines 1 through 18, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 34. Local Governmental Subdivisions and School Boards; Sales Tax Authorized; Limitations; Exemptions; Protection of Existing Sales Tax Authorizations and the Security of Outstanding Bonds

(A) Except as otherwise authorized in a home rule charter as provided for in Section 7 of this Article, any local governmental subdivision or school board may levy and collect a tax upon the sale at retail, the use, the lease or rental, the consumption and storage for use or consumption of tangible personal property and on sales of services as defined by law, if approved by a majority of the electors who vote in an election held for that purpose.

[Motion to waive reading of the amendment adopted without objection.]

Explanation

Mr. Lanier Mr. Chairman, and fellow delegates, last night Mr. Chatelain, Mr. Pugh and myself went back to the drawing board to try and solve some of the problems that were pointed out, with our previous amendment, by you yesterday. The...of course, to remind you on this point, the cities of Thibodaux and Lafayette, we have received advice from the bond attorney that the committee proposal would need to be redrafted in several respects in order to cure certain problems affecting bonds which have been authorized but have not been issued. The primary requirements of the bond attorneys are: One, that nothing in this section could be construed as affecting outstanding bonds. Two, that exemptions could not be made to retroactively apply to bonds already issued. We tried to streamline our language, but the primary change here--there were many people who expressed objection to the requirement of a two-

thirds vote of the legislature and a vote of the people. Many of you felt that a majority of the legislature and a majority vote of the people was adequate protection in this regard. So, we have made that change; we've taken out the two-thirds requirement and made it just a majority of the legislature coupled with a vote of the people. We've tried to streamline the language to make it clearer. The protections that we were asked to provide by the bonding attorneys are contained in the last sentence of Paragraph (A), and in Paragraph (B). We feel that this amendment will do the job and furnish the protection for these authorized but unissued bonds, as well as contain the basic proposition of the original committee proposal. Accordingly, myself and my coauthors would urge your adoption of this amendment, and I'll be glad to yield to any questions, Mr. Chairman.

Questions

Mr. Flory Mr. Lanier, could you tell me the necessity of this when the legislature has historically had the authority to exempt certain...or any items from the sales and use taxes in this state, and bonds have consistently, over the years, been authorized and sold and guaranteed by the collection of a sales tax? This issue has never come up before. Why just now?

Mr. Lanier Well, I'm going to quote specifically--this is a letter that was sent to Delegate E. J. Chatelain from the law firm of Cox, Huppenbauer, Michaelis and Osborne, dated September 25, 1973--says, "Paragraph (C) of Section 35"--I think, it's really Section 34 "of the report would confer constitutional authority upon the legislature to exempt or exclude sales of tangible personal property from local sales and use taxes. This provision would make the future revenues of the sales tax uncertain, and possibly nonexistent, and, of course, no bond purchaser would accept such questionable security for a bond issue." He then goes on, in other respects, to point out problems with this, unless you guarantee the tax base. Additionally, he's furnished us with a proposed language which we submitted yesterday to try and cure this problem which apparently, in some respects, was objected to by this convention and we've tried to streamline it. In order to cure this objection, we're putting in this language. This is going on the advice of the bond attorneys.

Mr. Flory I understand that's one man's opinion. But, my question is, why is it necessary now when it's never been necessary before? The same situation...the legislature's always had the authority to grant exemption and the statutes provide that a local governing body cannot collect the sales tax on those items exempt by the state. I don't see the problem.

Mr. Lanier Well, I think the objection is--and I'd like to read again to you from the letter--is that Mr. Cox feels like this language, unless qualified, might tend to invalidate Revised Statute 33: 2717.8, and I'd like to read the following language to you: "As you know, the voters of the city of Lafayette earlier this year approved the issuance of seventeen million dollars of sales tax bonds. R.S. 33:2717.8 (a portion of the bond statute under which these bonds would be issued) provides as follows:

"Discontinuance or Decreases of Tax Prohibited
When any bonds shall have been issued hereunder, neither the Legislature of Louisiana or the municipality may discontinue or decrease the tax or permit same to be discontinued or decreased in anticipation of the collection of which such bonds have been issued, or in any way make any change in the allocation of the proceeds of such tax which would diminish the amount of the sales tax revenues to be received by the governing authority, until all of such bonds shall have been retired as to principal and interest, and there is hereby vested in the holders from time to time of such bonds and the coupons representing interest thereon a contract right in the provisions of this Section and of R.S. 33: 2717.1 through 33:2717.18."

This legislative authority which is essential to protect the security for sales tax bonds would be in direct conflict with the above mentioned Section 35 and would become an unconstitutional enactment by the legislature if the proposed Section 35 is included in the new constitution." In other words, the legislature at the present time has put this limitation on itself. If we put this in the constitution then to authorize this type of thing, then that would be in conflict with this legislative act, and would invalidate that protection. This is the rationale that has been given to us to put this in the constitution.

Mr. Avant Mr. Lanier, I have read this opinion of Mr. Cox and the statute that he refers to, Revised Statute 33:2717.8, and isn't it a fact that the only thing that is prohibited by that statute--and that statute says that it's contractual in nature--is that the total sales tax revenues not be decreased?

Mr. Lanier Well, I think it's pretty obvious, Mr. Avant, if you add additional exemptions to that which is taxed, you're going to be reducing the revenues.

Mr. Avant Not if you increase the rate on nonexempt items. Isn't that what this is all about? They don't want to shift the burden of the sales tax from the poor people to the people who are better able to afford it, by exemptions on food and prescription drugs. Isn't that what it's all about?

Mr. Lanier I think you're thinking of the single issue of the exemption of drugs. I think you've got to look at this in the overall picture. I think if you will read that statute, you will note that it prohibits the reduction of the sales tax revenues which secure the bond. If you add an exemption retroactively, you will be doing that, and it would be in violation of that statute. If you put in this constitutional provision, in Mr. Cox's opinion, it would render that statute unconstitutional and would imperil the ability to bond sales taxes in the future.

Mr. Avant That is not true if you increase the rate on nonexempt items at the same time, is it, Mr. Lanier? You can produce the same revenue by granting exemptions and increasing the rate, can't you?

Mr. Lanier I do not understand why you do not understand, Mr. Avant, that if you authorize a one percent sales tax, and you use the whole amount of the one cent, how in the world can you increase it when you're at the maximum limit of your authority?

Mr. Avant Well, the legislature can increase it.

Mr. Lanier Well, without the legislative act, then you're not able to do so. How in the world are you going to get a legislative act after you've already issued the bonds?

Mr. Avant The legislature is the one that grants the exemptions, aren't they?

Mr. Lanier They can grant them as long as they're not retroactive.

Mr. Avant I disagree.

Mr. Conroy Mr. Lanier, I share Mr. Avants concern about Paragraph (B), particularly as it's worded. It seems to me to be much broader than the statute you referred to, but how would it operate? The provision that says "except where bonds in connection therewith have been authorized, the legislature may uniformly exempt or exclude any goods." If the legislature enacted a uniform law exempting certain goods from the operation of the sales tax would that have application, except in that particular area?

Mr. Lanier Yes.

Mr. Conroy Until those bonds have been paid?

Mr. Lanier That is correct.

Mr. Conroy Well, this doesn't say that, I don't think. It just says except where bonds...

Mr. Lanier Excuse me.

Mr. Conroy Go ahead with your explanation.

Mr. Lanier Well, my explanation is: This is intended to follow the requirement of the present statutory provision that with reference to this bond, you cannot affect the security until such time as those bonds are retired. If you pass an exemption it would have effect for all such goods that are not subject to the particular tax that is bonding a sales tax bond, and really, I don't see any problem with that...

Mr. Conroy But, here where you say "except where they have been authorized," those bonds could never be...would not ever have to be issued and the exemption would never be available.

Mr. Lanier No, no. Where they are authorized... in other words, this gives protection from the moment they are authorized forward.

Mr. Conroy But, suppose they are never issued?

Mr. Lanier Well, then if it is a new tax--and if you'll notice there is a difference between authorized and issued--authorized is when the legislature...

Mr. Conroy That's my problem. If the bonds are authorized and never issued, the exemption never applies even though there is nothing to impair.

Mr. Lanier Well, if they're never issued, it doesn't make any difference anyway.

Mr. Conroy But, the exemption wouldn't apply.

Mr. Lanier That is correct. That's absolutely correct, and that's what it is designed to protect. The way the committee proposal is prepared, you have an hiatus between the date of the adoption of the new constitution and the possible date when authorized bonds are issued. For example...

Further Discussion

Mr. Flory Mr. Chairman, and delegates, I rise in opposition to the amendment. Let me say this: At the present time, under the law today--supposing that this constitution remains silent on this issue--the legislature today has the authority to grant whatever exemptions it wants to grant on the collection of sales tax on items, etc. So, if the bonds that have been issued up to this point...why was not this issue raised at the time those bonds were issued, by the bonding attorneys? I suggest to you that the bonding attorneys have an ax to grind, and I guess it's rightfully so. They're interested in the protection of those bonds; well, so am I. I don't want to do anything to jeopardize those bonds, but I have heard consistently from this microphone that the state ought not tell the local governments what they can do. But, here's what we've got in this amendment, is the local government telling the state what they can't do, and that is that they cannot grant exemptions on whatever the legislature deems in its wisdom, exemptions ought to be granted on. Now, let's take for the sake of argument, that the legislature wants to grant an exemption on food or medicine. Local bonds have been issued under a local sales tax, and those revenues are dedicated to the retirement of those bonds. They are now collecting on food and medicine. I suggest to you that this language says that the state then cannot grant an exemption on food and medicine because the bonds on a local level are guaranteed by the revenues collected on food and medicine in that local area. Now, I don't think that we ought to put something in this constitution that would prohibit the legislature from

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doing whatever they deem wise for the people of this state. I don't want to affect the bonds on a local level, but at the same time, I don't want the local government telling the state what they can do as it regards state issues, and that's exactly what we are doing here. If we get right down to the nitty-gritty, I don't believe we need this section, period! You tell me what it means? We say we put a three cent maximum on, and yet we turn around and say that the legislature can increase that maximum so long as the people vote on it. That's the way the law is if we remain silent, so why have it at all? Then the bonds on a local level are protected, and the rights of the state are protected. So, I ask you to vote against this amendment, and then vote against the section.

Further Discussion

Mr. Avant Mr. Chairman, I'm going to try to be brief and not be repetitious. But, I can't help but get up here and read to you the statute that these learned bond attorneys say is going to be rendered unconstitutional by this section and produce all these dire consequences. The one that they cite says "when any bonds shall have been issued hereunder, neither the legislature of Louisiana nor the municipality may discontinue or decrease the tax or permit same to be discontinued or decreased in anticipation of the collection of which such bonds have been issued, or in any way make any change in the allocation of the proceeds of such tax which would diminish the amount of sales tax revenues to be received by the governing authority." Now, there is nothing in there that says that you can't grant exemptions, but change the rate and produce the same amount of revenue. But, I submit that this is a red herring; that's exactly what they don't want you to do. They don't want you to be able to grant exemptions, to make the tax less regressive in nature, and then increase the rate on the non-exempt item. I see no point in locking any such provision in this constitution, and there is nothing in the section as it now stands that would in any way, render this statute in jeopardy. So, I ask that you vote down the proposed amendment.

[*Previous Question ordered.*]

Closing

Mr. Pugh Mr. Chairman, fellow delegates, I suggest to you the advisability of the adoption of this amendment. Yesterday, I joined with many of you and voted against the amendment as then proposed, basically because it had a two-thirds provision instead of a majority provision insofar as the legislature is concerned. Mr. Lanier was kind enough to ask my assistance in drafting what is now before you. In that connection, since there seems to be some quarrel with Section...Subparagraph (B), and apparently no quarrel with (A) because no mention has been made of (A) from this microphone, I'll address myself to the matters related to in (B). First of all, obviously any bonds which have been issued based on a particular basis where no exemptions for drugs or other items existed that the people who hold those bonds are entitled to look to that entire base until those bonds are paid off. In good faith they bought those bonds on the premise that there would be a specific base for those bonds, and they have the right for that base not to change, and that's both a contractual and a constitutional right that they have. However, where there are no authorized bonds outstanding, there is nothing to prevent the exemption for drugs or other items on future bond issues. Now, it's been suggested that if Caddo has a bond issue and drugs are not exempted that the legislature cannot exempt drugs on other bond issues until those are paid off, and that is not correct. The legislature cannot affect what one local subdivision or school board has done, but that has no bearing on the remainder. Again, I say, those who have bought bonds have the right to continue to look to that basis. A question was raised as to the use of the word "authorize". Their provision yesterday related to the fact that those

bonds were outstanding. Obviously they can't be outstanding unless they have been authorized. This takes it back to the original thinking of the local political subdivision at the time they issued the bond. It is true that they might have authorized certain bonds; they may sell half of them and hold the rest. I assure you that that would be an unusual situation. Generally, when bonds are authorized by the electorate, they are authorized because the school board wants to build five million dollars worth of buildings, and five million dollars worth of bonds are authorized, and five million are sold, and they build the building. The electorate generally does not say "O.K. you need five million dollars worth of buildings, so we'll vote ten million dollars and you hold half of them." That just doesn't occur. Rarely will bonds be authorized that are not sold because the electorate is not stupid. When you want to ask the electorate to approve some bonds, you want it on the basis of what you're going to use the money for, and they look to find out whether or not you use the money for it, and the money wouldn't be available unless you sold them. I suggest to you that only in the rarest of instances would you have outstanding bonds that have not been sold. Again, I reiterate that what this does, this allows the legislature...in my opinion, the legislature may decide that people should not have to pay sales taxes on drugs. If they make that decision it would affect the whole state insofar as drugs are concerned with the sole single exception, those places that already have outstanding bonds. I assure you, constitutionally you could do nothing about those anyway. We have had the bond attorneys tell us other things that have to be in the constitution. Mr. Lanier feels very strongly about the need for this. I am willing to look to the problems, where they have authorized but not yet sold these very small bonds they are concerned about, between now and the time that this constitution is adopted by the people, and I suggest a favorable vote, and I thank you for your time and patience.

[*Amendment adopted: 80-19. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 88-11. Motion to reconsider tabled.*]

Reading of the Section

Mr. Poynter "Section 35. Political Subdivisions; Taxing Power; Limitations

Section 35. Political subdivision may exercise the power of taxation, subject to such limitations as may be elsewhere provided in the constitution, under authority granted to them by the legislature for parish, municipal, and local purposes, strictly public in their nature. The provisions of this section shall not apply to, nor affect, similar grants to such political subdivision under other sections of this constitution which are self-operative."

Explanation

Mr. Toomy Mr. Chairman, fellow delegates, this section simply sets forth the general authority for political subdivisions to levy taxes subject to the constitutional limitations and under authority granted to them by the legislature for strictly public purposes. I think it's self-explanatory, and I'd yield to any questions, Mr. Chairman.

Questions

Mr. Jenkins Joe, I've been concerned about this section for some time, and I hope you can explain it to me. There are two aspects of it I'm concerned about. The first is whether or not this section grants to the legislature the authority to authorize any sort of tax whatsoever without limitation to local governing authorities, such as: an income tax, a value added tax, hotel, motel tax, etc., without a vote of the people. Now, is that true?

Mr. Toomy I think that the sections are...that the taxes that you are referring to would be...the

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limitations would be provided in the Revenue and Taxation Committee Proposal that has yet to come up.

Mr. Jenkins Well, I understand there is a prohibition against municipal income taxes, but what about like a value added tax which...

Mr. Toomy Well, I think those limitations...other limitations also have to be included in that section along with the prohibition on municipal income taxes.

Mr. Jenkins There is a prohibition in the Revenue and Taxation...

Mr. Toomy I'm not saying there is a prohibition. I'm saying that would be the place to have the prohibition.

Mr. Jenkins Well, here you say that this is...regards political subdivisions; taxing power; limitations. In other words, the subject of limitations of the taxing power of political subdivisions is the subject of this section.

Mr. Toomy When we say limitations, we refer to lines 22 and 23, "subject to limitations elsewhere provided in this constitution." Those limitations may not have all been set forth by the convention, yet.

Mr. Jenkins So, in other words, if there is not a limitation specifically set forward in this constitution, then the legislature could grant to the political subdivision the power to levy any sort of tax. Is that correct?

Mr. Toomy Any tax not contrary to the provisions of the constitution.

Mr. Jenkins So, even though we've had this lengthy discussion about limitations and votes of the people with regard to sales taxes and property taxes, that the legislature could allow a local tax to be imposed without limitation and without a vote of the people unless elsewhere in this constitution we specifically prohibit it.

Mr. Toomy Well, I know in elsewhere in the local government provisions we provide for a vote of the people on any such taxes.

Mr. Jenkins All right, another concern that I have --my second concern is whether or not that second sentence gives authority to certain local governmental subdivisions to raise taxes even without the authority of the legislature. Do you think that does that?

Mr. Toomy No, the second sentence is necessary from the viewpoint of some of the taxes already provided for. For instance, the alimony taxes, the four and seven mills, that they would not be restricted by the legislature, that they are self-operative.

Mr. Jenkins Well, you've already provided that the taxes...that they can levy taxes subject to the limitations in this constitution. When you say in that second sentence that "the provisions of this section shall not apply, nor affect similar grants to such political subdivisions," couldn't that be construed to refer to Sections 7, 8, and 9 that grant to certain political subdivisions all authority not specifically denied them, including the taxing authority?

Mr. Toomy It's just as you said. In those particular sections, anything could be denied them by the legislature. I think that's a sufficient enough restriction.

Mr. Jenkins But, in other words, like in the city of New Orleans, without a specific prohibition, they could impose an income tax, or a payroll tax, or a value added tax.

Mr. Toomy I think you know, Woody, that in all those provisions we have the "subject to and not inconsistent to the provisions of this constitution" applied to those home rule charters, also. If we have the prohibition against municipal income tax in the constitution, it would apply to the home rule charters just as well as anybody else.

Mr. Jenkins But, you don't have a prohibition against a value added tax, do you?

Mr. Toomy Well, we may not have it right now, but I would...again, I say, the place for that is not in this section, but along with the other limitations in the Revenue and Taxation Committee Proposal.

Mr. Duval Mr. Toomy, doesn't the committee proposal reflect the law that's in the present constitution in Article X, Section 5?

Mr. Toomy This is almost verbatim from the present provision, sir.

Mr. Duval If we're going to have prohibitions, I assume you kind of think that would be under the Revenue, Finance, and Taxation proposal. Is that right?

Mr. Toomy Yes, this is the present provision. It's simply needed because...to show that the legislature can grant these taxing authorities to local government, should it so desire.

[Previous question ordered. Section passed: 102-4. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter "Section 36. Special Taxes; Ratified Section 36. (A) Any special tax being levied by any political subdivision under prior laws or under the 1921 Louisiana Constitution, as amended, when this constitution is adopted is hereby confirmed and ratified.

(B) For the purpose of acquiring, constructing, improving, maintaining and operating any work of public improvement, any political subdivision may levy special taxes when authorized by a majority of the electors who vote in an election held for that purpose."

Explanation

Mr. Toomy Mr. Chairman and fellow delegates, the first section of this...Subsection (A) of Section 36 simply confirms and ratifies the existing special taxes now being levied. There are enumerable special taxes now being levied. There's various millages political subdivisions are levying for schools, roads, drainage, sewerage, just enumerable public works projects, and it would confirm and ratify such existing taxes. The Subsection (B) would simply authorize political subdivisions to levy similar special taxes in the future, subject to a vote of the people for such public works.

I'd yield to any questions, Mr. Chairman.

Questions

Mr. Tobias Mr. Toomy, are there any special taxes that are presently being levied pursuant to an ordinance of any city or a home rule charter of any city in this state, because when you say "prior laws or under the 1921 Constitution," law is not inclusive of the ordinances? I'm just asking; I don't know.

Mr. Toomy Well, the intention...the way Subsection (A) is written is to ratify existing laws under the present constitution.

Mr. Tobias Yes, but you see, an ordinance is not a law.

Mr. Toomy We're not dealing with the ordinances at all.

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Amendment

Mr. Poynter Mr. Toomy sends up the following amendment:

Amendment No. 1. On page 19, line 5, after the word "electors" and before the word "who" insert the words "in the political subdivision".

Explanation

Mr. Toomy Mr. Chairman, fellow delegates, this is in line with the technical amendment. I had appeared before the Revenue and Taxation Committee and, they had suggested the addition of this language to clarify it, that political subdivisions levying special taxes would be voted on by the electors in that particular political subdivision. Some of these political subdivisions take in special--for instance, a parish may take in special districts. We didn't want to imply that it would have to be a parishwide tax, but simply be voted on by the particular political subdivision that's levying this special tax.

I'd yield to any questions, Mr. Chairman.

Questions

Mr. De Blieux Mr. Toomy, I'm just a little bit concerned about the way that this amendment you have will change the language in that particular section, in line. Now, as I see it, there is a small possibility that it might require a majority of the electors in the political subdivision rather than the majority of those voting--the way that you are inserting this language in there. Have you read that carefully and...

Mr. Toomy Well, I didn't delete the following language which says, "who vote in an election held for that purpose."

Mr. De Blieux But, you say "a majority of the electors in the political subdivision," then you go on to say "who vote in the election held for that purpose." What...why is it needed to insert this language because I think the other, "majority of the electors who vote" is sufficient in itself?

Mr. Toomy Well, this is exactly what was suggested by your committee because of what I said before, we didn't want to imply that it would necessarily have to be a parishwide tax, for instance. A parish is a political subdivision in which there may be special districts. We meant to imply that if the special districts want to levy a tax, it would only have to be voted on within that district. We didn't want to infer that all these taxes might be construed to have to be voted on parishwide. I think it...it's just clarifying what we have here, and I think it still implies that just a majority of those who vote in the election in the district or parish, whichever it might be.

Mr. De Blieux Well, it's just a matter...it's just something that I just wanted to call the attention to the possibility of it that it could be construed, in my estimation, it might possibly be construed the other way.

[Amendment adopted without objection.
Previous Question ordered. Section
passed: 105-3. Motion to reconsider
tabled.]

Reading of the Section

Mr. Poynter "Section 37. Political Subdivisions; Exclusive Authority to Levy and Collect Ad Valorem Taxes.

Section 37. Notwithstanding any provision contained in this constitution to the contrary, the...

[Motion to waive reading of the Section
adopted without objection.]

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, Section 37 was the same subject matter which was argued before this convention, earlier, and we did limit the state to a five and three-quarter mill tax instead of prohibiting the imposition of an ad valorem tax. I understand that there is an amendment to delete these lines and in effect, to delete the section. Since we have already fought this battle, I see no reason for us to get into it again. So, I suggest we get to the amendment.

Amendment

Mr. Henry Who offers the amendment to delete the section?

Mr. Poynter I had a number of them, Mr. Chairman, but the most comprehensive in terms of coauthors is offered by Conroy, Mire, Roemer, et al.

Mr. Henry All right, the gentleman now offers an amendment to delete this section which was taken care of, Mr. Perez, in Revenue and Taxation.

[Previous Question ordered. Amendment
adopted: 98-9. Motion to reconsider
tabled.]

Reading of the Section

Mr. Poynter "Section 38. Bonds of Political Subdivisions; General Obligations.

Section 38. The full faith and credit of every political subdivision is hereby pledged to the payment of general obligation bonds issued by it under this constitution or the terms of the statute or proceedings pursuant to which they are issued. The governing authority of the issuing political subdivision shall levy and collect or cause to be levied and collected on all taxable property in the political subdivision ad valorem taxes fully sufficient to pay principal and interest and redemption premiums, if any, on such bonds as they mature."

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, this is just a definition of what a full faith and credit...rather what a general obligation bond is. That all general obligation bonds are secured by the full faith and credit of the political subdivision. That you must impose the taxes needed to pay off those bonds. That's a stock provision recommended to us by the bond attorneys, and one which is similar to the present constitutional provisions. I move the adoption.

I understand Mrs. Warren has a question.

Questions

Mrs. Warren Mr. Perez, you realize I'm green, huh? Okay, well here it goes.

Mr. Perez Well, Mrs. Warren, I believe you've got a lot more intelligence than sometimes you make believe.

Mrs. Warren In this section where you're putting the full credit and you're going to levy these taxes, will this be without a vote of the people?

Mr. Perez No, all this means is that when...and if you'll look at the next section, Section 39, it requires an election of the people. All this section does is to say what a general obligation bond is, that you must impose whatever taxes are necessary. But, before those bonds can be issued, it must...it does require a vote of the people in--if you'll look at the next section--Section 39.

Mr. Abraham I'm going to take a page from Mr. Gravel's book. Don't you need to say something in here, "notwithstanding any other provisions"? What happens if, in order to retire these bonds, they exceed...would have to levy ad valorem taxes which

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might exceed the limitations?

Mr. Perez There is no limitation on a general obligation bond and you cannot sell a general obligation bond if there is a limitation. In other words, no limitation upon the millage. When you issue a general obligation bond, you must impose the millage needed to pay off to service those bonds and principal and interest, and you would impose only as much as is needed, but you must impose as much as is needed. That's the reason for this provision to make it clear that that's just what a general obligation bond is.

Mrs. Zervigon Mr. Perez, isn't this the customary rollback, rollforward millage provision that is used by local governments to make sure that they can service their bonds with the exact same amount of money and no more and no less than they had before?

Mr. Perez Yes, that's the...we've always done that in local government, and we're required to do it with regard to a general obligation bond; that we impose only those taxes that are needed to service the principal and interest on the bonds, so that if in one year you need five mills; the next year, six mills; the next year, four mills to service a particular bond issue, that's what you impose.

Mrs. Zervigon Isn't it very similar in concept and in mechanics to the rollback and rollforward provisions that we put in the property tax article we just passed?

Mr. Perez Yes.

[Previous question ordered on the Section. Section passed: 166-0. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter The next section is: "Section 39. Taxpayer Authorization of Political Subdivision Bonds.

Section 39. Subject to the approval of the State Bond Commission or any successor thereto, general obligation bonds may be issued only after authorization by a vote of a majority of the electors who vote on the proposition at an election in the political subdivision issuing such bonds. Refunding bonds, even though payable solely from ad valorem taxes, need not be so authorized at an election if the indebtedness refunded is paid or cancelled at the time of the delivery of the refunding bonds, or if money, or securities made eligible for such purpose by law, are deposited in escrow in an adequate amount, with interest, to be utilized solely for the purpose of retiring the refunded indebtedness or bonds and paying interest thereon and redemption premiums, if any, to the time of retirement."

Explanation

Mr. Perez This provision has the two basic elements before bonds can be issued. First, it requires the approval of the State Bond Commission or any successor thereto, and it must also have a majority of the electors who vote on the proposition. One exception to that is where you have a refunding bond that it is not necessary to have a vote of the people because all you're doing is renegotiating the same bonds which were previously authorized. Therefore, no election would be necessary where you have a refunding bond. Again, this is a stock provision, and...which we need in this constitution. I...any questions; I'll be glad to answer them.

Questions

Mr. Brown Mr. Perez, in Section 39, I'm looking at the Digest, and the Digest says that this provision removes the property taxpayer voter requirement. Do you concur in that...the Section...

Mr. Perez No, sir. It specifically says, "may be issued only after authorization by a voter majority

of the electors who vote on the proposition at an election of the political subdivision issuing such bonds." So,...

Mr. Brown I mean the property tax. In other words, I think...

Mr. Perez Sir?

Mr. Brown I'm referring to the property owner.

Mr. Perez Oh, yes. That's correct under the United States Supreme Court Decision, property owners are not the only ones who will now vote. All electors vote on the issuance of bonds.

Mr. Brown Well, what would happen if the Supreme Court a few years from now would change that decision? It would go five to four the other way, and property owners could vote specifically on...only property holders would be allowed to vote. Have we prohibited ourselves from ever going back to allowing the property holders, themselves, only to vote by the section?

Mr. Perez Well, of course...

Mr. Brown In other words, I'm worried...there seemed to be a general feeling that we like the idea of the property holder being able to vote as such, and only as such; that was the feeling of a lot of people, but the Supreme Court ruled otherwise. Now, are we prohibiting ourselves from ever changing and going back to the way we used to do it if the Supreme Court changes their position?

Mr. Perez We'd have to amend the constitution to do it, I believe, and, of course, we could do it I'm sure at that time, but I'd think that as of the present time, the committee felt that what it should do was to follow up the present constitutional...rather, decision by the United States Supreme Court, and to require only the electors to vote.

Mr. Roemer Chalin, I don't see that it's a problem really because it says "the electors who vote at that election," and we can set a certain definition on who's eligible to vote at a particular election ...

Mr. Perez Well, I think the legislature--it's been called to my attention--I think the legislature, if the time ever came when it would authorize property owners, I think the legislature could supplement this provision by saying who's entitled to vote at such an election. So, I don't believe that that is exclusive. I stand corrected.

Mr. Dennerv Chalin, on line number 7, is it necessary to amend that or correct the spelling of the word "interest," or can Style and Drafting correct that? Page 20, line 7.

Mr. Perez The word "interest" is misspelled; is that what you're calling to my attention? I think we can take care of that in Style and Drafting, rather than worry about an amendment at this time.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Conroy]. On page 20, at the end of line 1, delete the partial word "Re-" and at the beginning of line 2, delete the words "funding bonds" and insert in lieu thereof the following: "Bonds to refund outstanding indebtedness at a lower effective rate of interest".

Explanation

Mr. Conroy My concern in Section 39 is with the sentence which begins on page 20, regarding refunding bonds. The first part of Section 39 requires voter approval on general obligation bonds, which I think is a sound and desirable approach. But, actually, the reference, as presently provided here

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for refunding bonds, could successfully undo the voter approval requirement of the first sentence because refunding bonds need not be authorized at an election. Refunding bonds without some limitation as to what you're doing on refunding, could result in bonds being issued at a higher rate of interest, or a different term or totally changing the debt structure or debt requirements that would be involved in the refunding. The present constitution does provide a limitation, Section...Article XIV, Section 14 of the constitution provides that...has a number of restrictions, and says, "no refunding bonds issued under this paragraph shall run for a longer period than forty years, or shall bear a greater rate of interest than six percent," and it further says, "the maturities of such refunding bonds shall be so fixed that the annual payments thereof in principal and interest, shall be of an amount less than the amount required for the annual payment of principal and interest to the bonds, or indebtedness refunded." The suggested amendment here is simply to say that the refunding bonds will be bonds issued at a lower effective rate of interest. This corresponds to what the Revenue, Finance, and Taxation Committee has proposed in its Proposal No. 15, regarding state indebtedness and dealing with the refunding of state indebtedness. In other words, to authorize a liberal approach to the issuance of refunding bonds, provided that the refunding bonds be issued at a lower effective rate of interest, so as to preclude the possibility that a taxing authority, once having gotten voter approval, could come back behind it, reissue the bonds at a higher effective rate of interest, and increase the debt. I'll yield to any questions.

Questions

Mr. Roemer David, all you're trying to do, then, is to insure that once we have voter approval for a particular bond issue, that it not be refunded without an additional vote of the people, only if it has an effective lower rate of interest. In other words, you're making sure that they don't try to tack on higher cost to us without a vote of the people. Isn't that right?

Mr. Conroy That's right. In other words, if you're going to increase the amount the people are going to have to pay, go back to the people. But, if you're going to effectively lower the amount that the people are ultimately going to have to pay, you don't have to go back to the people with your refunding bonds. That's the essence.

Mr. Roemer The second question is: haven't we done the same thing in Revenue, Finance and Taxation, as far as state bonds?

Mr. Conroy This is exactly the approach we took with state bonds in our committee.

Mrs. Warren Mr. Conroy, really, really I am asking this for information. Why do we have to have refunding?

Mr. Conroy Well, normally, I would think you would want refunding only if the interest market changed to such an extent that you could now sell your bonds at a lower rate of interest. Right now, interest rates are fairly high. A local governmental unit may have to issue its bonds at a high rate of interest. Then, a few years later, the interest structure may change so that it could issue the same amount of debt at a much lower rate of interest, and it may want to reissue those bonds at a lower effective rate of interest to save money.

Mrs. Warren It wouldn't mean that because the project that the people voted on for...the proposition they voted for went up?

Mr. Conroy No, no. This would not be involved in that. That concept is not involved in refunding bonds.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I have no serious objection to this particular amendment except that I think that it should read, "Bonds to refund outstanding indebtedness at the same or at a lower effective rate of interest". I might explain to you that sometimes, these refunding bonds are not only to secure a lower rate of interest, but also, to extend the period of time for the payment of these bonds so that the amount of money that the local government would have to pay each year might be reduced if they happened to run into some financial difficulty. So that I do believe, at least, it should be at the same or at a lower effective rate of interest. With that correction, I could see no objection to the amendment.

[Amendment withdrawn and resubmitted with correction. Amendment reread.]

Further Discussion

Mr. Conroy As I would understand it, the committee would now, with this change, have no objection to the adoption of this amendment, and I move the adoption of the amendment.

[Amendment adopted without objection. Previous question ordered on the Section. Section passed: 106-5. Motion to reconsider tabled.]

Reading of the Section

Mr. Puynter Next section:

"Section 40. Limitations on Bonded Indebtedness of Political Subdivisions

Section 40 (A) General obligation bonds may be issued by any political subdivision for any single purpose which, including the existing bonds of such political subdivision incurred for the same purpose and payable solely from ad valorem taxes levied without limitation as to rate or amount, shall not exceed in the aggregate ten percent of the total value of all property within such subdivision valued for assessment purposes, including property exempt as homesteads, to be ascertained...."

[Motion to waive reading of the Section adopted without objection.]

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, this section has particularly concerned me and a lot of other people because of the fact that this is the section which places a debt limitation with respect to the issuance of bonds for any particular purpose at ten percent of the total value of all property within such subdivision valued for assessment purposes, including property exempt as a homestead. Now, there are two exceptions to this: with regard to parishwide school districts, the limitation is twenty-five percent, and with regard to general obligation industrial bonds, the limitation is twenty percent. Now, this is ten percent of assessed value, not of fair market value. The problem which we have facing us is the problem that in many areas where you may have a reduction in the assessments as a result of the ten and fifteen percent, it could effectively reduce the bonding capacity of certain areas. On the other hand, if you have an increase in assessments, it would likewise increase the capacity of the various districts to issue bonds up to ten percent of the total value of all property within such subdivision valued for assessment purposes. However, in Subsection (C), we do have the provision that the legislature may increase these debt limitations by general law or by local or special law passed by two-thirds vote of the elected membership of each house, so that if we find, and I don't think any of us know what effect this revaluation on a ten and fifteen percent is going to do in many areas of the state. But, if we find that it does violence to some areas

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by restricting their bonding capacity too much, then we do have a relief valve where, by two-thirds vote of the elected membership of both houses, we would be in a position to increase those debt limitations. I'll yield to questions.

Questions

Mr. Abraham Chalin, you made the statement that this applies...ten percent limitation applies to assessed value. Well, as I read it, it says, "ten percent of the total value of all property which is valued for assessment purposes," and to me that says, "fair market value."

Mr. Perez ...If you read it...we wrestled with this language because of the fact that we had to also include with respect to the determination of how much bonds could be issued--not only those properties which were on the tax rolls and paying taxes, but also those exempt as homesteads. That's the reason the wordage was adopted, and if you read it carefully, I think it does what we intended to do. It says "ten percent of the total value of all property within such subdivision, valued for assessment purposes," valued for assessment purposes.

Mr. Abraham But, what does the present constitution provide now on this limitation? Is it ten percent of the assessed value or ten percent of the actual cash value?

Mr. Perez Well, of course, the present constitution, we talk about cash value throughout. But, of course, we know what our assessment practices have been.

Mr. Abraham Well, that's the point I'm trying to make here that you made the statement awhile ago that this ten percent applied to the assessed values. I interpret it, it applies to the value of the property--the fair market value of the property.

Mr. Perez Well, no, that's not correct because of the practices of the...the assessment practices throughout the state. The bond attorneys have told us from time to time that they feel that the total effective...or the saturation point, generally speaking, for the issuance of bonds is about ten percent of fair market value for all purposes, for all purposes, so that, if you would have sewerage and water and school and so forth, all of these several bonds, that the total of all of these bonds together should not exceed ten percent of the fair market value or the cash value of the property, so that, when we say "ten percent of assessed value for any single purpose," you may have several different single purposes together with twenty-five percent for schools which would come up probably to around ten percent, if the various areas utilized all of their sources for bonding.

Mr. Abraham Well, then, in a very short answer, then, the intent of line 18, where you talk about the aggregate..."shall not exceed in the aggregate ten percent of the total value." Now, you're talking about ten percent of the total fair market value, or ten percent of the assessed value? I still don't understand.

Mr. Perez We're talking about ten percent of the assessed value for any single purpose. That is, ten percent of the assessed value for sewerage; ten percent of the assessed value for water; ten percent of the assessed value for courthouse purposes and like. If you're concerned about the language, I'll be happy to consider an amendment which you think might clarify it.

Mr. Singletary Mr. Perez, under the exception No. 1, it says, "twenty-five percent of the total value of all property;" does that refer to assessed valuation?

Mr. Perez Yes, throughout we're referring to assessed valuation. That was the intent of the committee to refer to assessed valuation.

Mr. Singletary O.K., and does that include property exempt as homesteads?

Mr. Perez Yes, it does include the property exempt from homestead because it says "valued for assessment purposes as aforesaid;" and as aforesaid includes the property...the homestead-exempt property.

Mr. Singletary Thank you.

Mr. Flory Mr. Perez, could explain to me what Section (D) means?

Mr. Perez Well, that's just to make it clear that these types of taxes such as acreage taxes, sales and use taxes, excess revenues and so forth, or other special revenues shall not be considered to be bonds payable solely from ad valorem taxes, so that when you talk about the ten percent debt limitation, you do not take into account any bonds which are issued which have secured...as secured for the payment of those bonds any acreage taxes, sales and use taxes, and so forth.

Mr. Flory All right. Then, my second question is in light of what we did in Revenue, Finance, and Taxation, in prohibiting the bonding of excess revenues, isn't this then, on line 10, by use of the words "excess revenue" an authority to bond excess revenues?

Mr. Perez It's the authority to bond excess revenues of the local government, but not of the revenue sharing fund because that was taken care of in the revenue sharing fund provision.

Mr. Flory So, you don't see any conflict?

Mr. Perez No, sir. I don't see any conflict at all.

Mr. Jenkins Mr. Perez, with regard to including homestead exemptions as part of the value that can be bonded, doesn't this amount to allowing bonding of this property twice because you're going to allow bonding of this and then you're going to allow bonding of revenue sharing funds which are really supposed to, in theory, be for this?

Mr. Perez No, we're not really allowing the bonding of revenue funds, as I understand the provision the way it's adopted, you could use those revenue funds for the payment of these bonds which would be issued under these limitations. The ten percent limitation would still apply.

Mr. Jenkins No, but you remember the whole purpose of including "revenue sharing" in the constitution supposedly was to allow local governmental subdivisions to bond that money.

Mr. Perez Not directly to bond the money itself. If you'll go back to when we had the property tax relief fund, in figuring the monies that were available for the payment of bonds, the bond buyers would always figure the amount that would be paid back to the local governments by the state under the property tax relief fund, and what was attempted to be done, as I understand it in the Revenue Committee was to put these revenue sharing funds in the same position that the property tax relief fund was with respect to the payment of bonds; that is, that they could utilize, and that those revenues could be pledged in connection with the issuance of these bonds which we're talking about now with the ten percent limitation, so that, I don't think there's any question, it does not give any additional bonding authority. It gives only the authority for the issuance of the bonds under this ten percent limitation.

Mrs. Warren Mr. Perez, Mr. Jenkins hit on some of the things that I wanted to ask you about...what I have circled here, homestead...where you say, "including property exempt as homesteads," do you mean under this provision that the homesteads would be subject to tax...or a certain portion of it?

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Mr. Perez No, what it means is this, Mrs. Warren: that suppose in a parish you had a hundred million dollars worth of assessments...worth of assessments if the homesteads were on the rolls, as they were on the rolls before the Acts of '72, I think it is, in the constitutional amendment. What happened when a total tax exemption was granted, it reduced the bonding capacity of an area because the...instead of saying...having a hundred million dollars of bonding capacity, and at ten percent of that, that'd be ten million dollars when the absolute homestead exemption was granted, it might have reduced, say, a hundred million dollars down to eighty million dollars so that the parish or the governing authority could issue only eight million dollars of bonds instead of ten million dollars of bonds. All that we're saying here is that in figuring the total amount of bonds that can be issued, you take into account the assessed value of homesteads, if those homesteads were actually on the rolls paying taxes. All it does is to give a greater bonding capacity to the local government so that it's not only ten percent of what's on the rolls, but it's also ten percent of the exempt homesteads in figuring the total amount of bonds that can be issued. But, as far as who pays for those bonds, of course, they're paid for through the ad valorem taxes. Those ad valorem taxes, of course, the homestead's exempt up to thirty thousand dollars.

Mrs. Warren Doesn't...but I mean...that...just putting them on there doesn't mean you can get anything for them, but how does that assure them of their bonding capacity if they can't get anything out of it?

Mr. Perez Well, all it does is to say that when you're figuring your debt limitation--that is, the total amount of bonds that you can issue for any single purpose--that you can take into account the value of those homesteads, even though those homesteads are not paying taxes. What that does is to increase the bond base as it's called, to increase the...instead of saying, maybe, eighty million dollars for property which is paying taxes, and if you have ten million dollars worth of exempt homesteads, instead of being able to issue only ten percent of eighty million or eight million, you could issue bonds up to, say, ten percent of a hundred million, or ten million dollars in bonds. It only has to do with the amount of bonds that can be issued, not who pays the taxes for the payment of those bonds.

Mrs. Warren In other words, really what I'm confused about is: that you put "homesteads" in there and the bonding people are looking forward to what they can collect taxes on. Am I right?

Mr. Perez No, that's not correct because we have the provision which absolutely exempt homesteads up to thirty thousand dollars or a three thousand exemption on a ten percent base, and those are absolutely exempt from the payment of taxes. All this does is to give a larger bonding base.

Mr. Morris Mr. Perez, you stated a while ago that the bonding capacity for some school boards and some subdivisions will be reduced, and you provided a method in Section (C) to get relief by going to the legislature with two-thirds vote of both houses. Do you think that you all would consider making that just a simple majority? There are some school boards that I know right now, that this will affect adversely their bonding capacity.

Mr. Perez I think it could be a very dangerous situation because of the fact that we tried to limit the bonding capacity in any particular area in order that the local governments and the school boards in those particular areas can end up imposing such a heavy burden of taxation on the people of an area, so as to make the taxes prohibitive. I would think that if you have a real inequity, and where you have the authorization for the imposition of a special tax, I would not think it would be difficult to get the two-thirds vote. On the other hand it might do a great deal of violence if we required

only a majority vote, and the legislature might be convinced sometime to increase general bonding capacity to twenty percent or thirty percent or forty percent for any single purpose, which could, in effect, create real serious problems for the property owners. That's the reason we have the two-thirds provision.

Mr. Morris Mr. Perez, did you know further that the parishes that this is going to affect adversely are the ones that are making the greatest effort now, and I think that you should give some consideration to that.

Mr. Perez Well, I know, for instance, it's going to affect very seriously my parish because we're on a high assessment, low millage basis, and I realize the problems that we probably are going to have. On the other hand, I wrestled, and I'm sure a lot of other people did, with another solution to the problem, and no matter which way we turned, we felt that there had to be a limitation on the...on bonded indebtedness; we felt that we needed to put it in the constitution in order to have that strict limitation, and I would say that if we had not changed our assessment practices, we wouldn't do violence to anyone. But, we don't know what the result is going to be of this change in assessment practices, and I just feel that it would be a very dangerous thing to have a simple majority of the legislature to increase these bond limitations because if it were a simple majority, I don't think we'd need the provision in the constitution to begin with.

Mr. Lowe Mr. Perez, I'm worried a little bit about the differences in the tax base between one taxing authority and another. We corrected this with the Roemer amendment of making adjustments to the amount of millage that could be assessed against that base. Isn't that correct?

Mr. Perez Yes, that's correct.

Mr. Lowe All right. Now, let's take a tax base in a taxing authority where you have to roll up the millages to where the constitutional millage is now ten mills instead of five mills. Now, we are comparing the bonding limitations in that taxing authority at ten percent of that low base to maybe ten percent of a base where you have to roll down the millages to where maybe the constitutional millage is two and a half now by virtue of the roll down. Now what we've done here, I'm afraid, is that in those areas where the taxpayers are accustomed to high millages to produce larger amounts of taxes, that we are making a comparison between the assessment and the amount of bonds to be paid off. You don't pay off bonds with the assessment that's on the tax roll. You pay it off with the taxes that are produced. So, it seems to me that we should tie the Roemer amendment in to this ten percent to make some proportionate adjustment for rolling up the ten percent or rolling back the ten percent. Don't you agree?

Mr. Perez Well, I thought about that quite a bit. I just couldn't figure out how that would work or how you'd ever know what your bonding capacity would end up being. I don't believe that we're doing any violence with regard to a situation where you will have an increase in assessments, because the present constitution says ten percent. It's ten percent of actual cash value. Now, the explanation that was given to us and an awful lot of these bond lawyers believed that there should be no limitation, because they say that the market will control; that is that if you are not...that is if you are issuing too many bonds that will not be salable, and therefore, the maximum really means nothing to some people; however, the thing that concerns me...

Mr. Lowe Could I interrupt you right there and ask you another question, because I think it's important to ask you a question at this point? I'll agree, I was discussin this with Mr. Roemer. I'm not afraid of where the roll down, where you have such a high

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base, and you have to roll your taxes down. I think the market's controlled whether those bonds are going to sell or not. But, what I'm afraid of, is where you have a low tax base and you have to roll up, well then, you automatically place a limitation on a taxing authority to maybe provide the needs that they have to provide for that particular area. I don't think that I could go with this amendment unless we corrected it some kind of way. I think we have a serious problem.

Mr. Perez Well, there's no question. Again, my parish is in that position where we are on a high assessment, low millage base. It is going to present a problem. But, I couldn't find the answer to it. That's the reason I figured that two-thirds of the legislature would, if the parishes got in that much of a bind, they would be in a position to be able to go back and go to the legislature and say, "Well, now as a result of this readjustment, we lost so much tax base, and we ask you to pass a special law to authorize the parish of such and such to increase his debt limitations.

Mr. Lowe Do you have a provision in here to, by a vote of the legislature, you can up the ten percent?

Mr. Perez Yes, the Paragraph (C) says "the legislature may increase the debt limitations established in this section by general or by local or special, or passed by a two-thirds vote of the elected membership of each house."

Mr. Lowe That takes care of my objection.

Mr. Roemer Chalin, what...philosophically, is behind Section 40? I mean, really, what are we trying to do in Section 40 that needs to be done in our constitution?

Mr. Perez What we're trying to do is to say that we should not allow local governments--this is a limitation on local government and on school districts--not to go wild with the issuance of bonds. Again, there were some who thought that the market should control it. What we did was to take the more conservative approach as we presently have in our constitution now, and say we should have certain fixed limitations upon the bonding capacity. A lot of people thought that was particularly important at this time because of the fact that all electors vote and not just property owners.

Mr. Roemer I see.

Well, are these percentage limitations exactly the same as were in the 1921 Constitution?

Mr. Perez Yes.

Mr. Roemer You don't see any need to have changed those overtime at all? Was that discussion brought out in your committee?

Mr. Perez Yes. We didn't attempt again, in the general approach, as I explained before, we didn't attempt to change anything. We tried to rewrite what was in the present constitution both with regard to the alimony taxes, the debt limitations, but we did provide the escape valve where the legislature could increase it by a two-thirds vote.

Mr. Roemer Well, in regards to your parish, and mine, also, don't you think that we would have more viable, a more meaningful government, if we would do away with this kind of limitation and let the bond market itself, and the wisdom of the people decide, what the capital outlay ought to be in terms of bonded indebtedness? My problem, Chalin, is, that we are going to penalize those parishes that have a reduction in bond base as a result of the exemptions, willy-nilly, that we've granted in this constitution, and are going to suffer at ten percent of that month's lower rate. We are going to freeze them into a noncapital outlay situation wherein you know, as well as I do, it's the millage against that base that's the important thing, and not the base itself.

Mr. Perez Well, it's a combination of millage, plus the base, that gives you a total tax. Again, I agree with you that it is going to penalize parishes that have been on a high assessment base. Again, if you have any real solution to how we can take care of that problem, it's fine. But I do believe that we need a limitation in the constitution. I do believe that we should not have the...have the possibility of an unlimited taxation, particularly where all electors now vote instead of just the property owners.

Mr. Roemer O.K. Well, one more thing.

Did you know that for the last few minutes, and I hope that for the next few minutes, we were trying to work toward a solution that would give an inverse ratio percentage to those parishes that lose their bonding base?

Mr. Perez If you would like, I'd move at this time to pass over this section and go to the next section and give you an opportunity to work out an amendment. If we can get together on it--and something which is meaningful--I'd be happy to do it because I do realize the problem. I tried to work out several different solutions, but none of them seemed to work too well. That's the reason we didn't attempt to make any change.

Mr. Roemer I think it would be to the benefit of this convention to pass over it at this time, Chalin ...

Motion

Mr. Perez I now move that we pass over Section 40 temporarily and go to Section 41.

[Motion adopted without objection.]

Reading of the Section

Mr. Poynter Section 41. Limited Time for Contesting Bonds of Political Subdivisions

"Section 41. (A) For a period of sixty days from the promulgation of the result of any election held for the purpose of incurring or assuming debt, issuing bonds, or levying a tax, any person in interest shall have the right to contest the legality of such election, the bond issue provided for, or the tax authorized, for any cause after which time no one shall have any cause or right of action to contest the regularity, formality, or legality of said election, tax provisions, or bond authorization, for any cause whatsoever. If the validity of any election, tax, debt assumption, or bond issue authorized or provided for, held under the provisions of this Section, is not raised within the sixty days herein prescribed, the authority to incur or assume debt, levy the tax, or issue the bonds, the legality thereof, and the taxes and other revenues necessary to pay the same shall be conclusively presumed to be valid, and no court shall have authority to inquire into such matters.

(B) Every ordinance or resolution authorizing the issuance of bonds or other debt obligation by a political subdivision shall be published at least once in the official journal of the political subdivision, or if there is none, then in a newspaper having general circulation therein. For a period of thirty days from the date of the publication any person in interest may contest the legality of the ordinance or resolution, the bonds or other debt obligation authorized thereby, and of any provision therein made for the security and payment of the bonds. After this time, no one shall have any cause of action to test the regularity, formality, legality, or effectiveness of the ordinance or resolution, bonds, or other debt obligation, and provisions thereof for any cause whatever; and after this time it shall be conclusively presumed that every legal requirement for the issuance of the bonds or other debt obligation, including all things pertaining to the election, if any, at which the bonds or other debt obligation were authorized, has been complied with, and no court shall have authority to inquire into any such matters after the lapse of this thirty

days.

Explanation

Mr. Perez The purpose of this section is to provide a limited period of time for suits to be filed to contest bonds. These are the requirements, primarily, the bond people and the bond buyers who want to be sure that when they buy these bonds that they are marketable bonds and enforceable bonds. This is a provision worked out as one general provision instead of the several provisions which we now have in our constitution with respect to certain types of bonds that are issued. This would be one general provision to apply to the issuance of all bonds.

I'll yield to questions.

Questions

Mr. Pugh Sir, if we can leave to the election code the question of validity of a governor's election, and all the other officials, don't you think we can leave this to the election code?

Mr. Perez No, Mr. Pugh. The reason I say that, if you will look into the local government article, Article XIV of the present constitution, one of the shortcomings of Article XIV originally was the fact that we did not have such provisions in here. We had Article IV, Section 12 which prohibits the giving away or pledging of property of the state. It was the feeling of all people concerned that by putting this provision in, we will avoid a multiplicity of amendments to the constitution in the future. That's the reason that this provision is in here.

Mr. Pugh Are you telling me that the legislature can't provide this same language by statute...and let's not worry about the amendments in the future to the constitution?

Mr. Perez The legislature could do it. But the bond people feel, and of course, again, remember, Mr. Pugh, that we're talking now about salability of bonds. What we did in our committee was to go along with a consensus with a group of bond lawyers whom we asked to help in the preparation of this document, because I didn't want us to go to the people with their document which would be defective from a standpoint of the sale of bonds, because that's been one of the biggest problems we've had in Article XIV is the numerous amendments to the constitution to authorize the issuance of certain bonds. We felt that it was a better part of judgment to go ahead and to put these provisions in which would avoid the necessity of having to have numerous constitutional amendments in the future. That's the reason we went along with this provision. I agree with you, it could be put in the statutes; anything could be put in the statutes. But, with respect to the issuance of bonds, it was the position of all these bond attorneys who appeared before us, that this is what they felt should be in the constitution to avoid the necessity of numerous amendments to the constitution in the future.

Mr. Leigh Mr. Perez, as I understand it, the purpose of this section, Section (A) is to put a prescriptive limit on the time during which the legality of the election can be contested.

Mr. Perez Yes, sir.

Mr. Leigh The purpose of Section (B) is to put a prescriptive period on the time during which the calling of the election, or the ordinance may be contested.

Mr. Perez That's correct.

Mr. Leigh Well, in line 8, on page 22, I notice you say, "For a period of thirty days from the date of the publication of this"--we're talking about the ordinance now--

Mr. Perez Will you restate the line and the page,

[2174]

please?

Mr. Leigh Eight.

Mr. Perez Line 8 of page 22?

Mr. Leigh Twenty-two.

You start on line 5 "for a period of thirty days from the date of the publication, any person and interest may contest the legality of the ordinance or resolution." Then you say that "bonds", so I take that he can contest the legality of the bonds or other debt obligations. Again that is repeated in line 13. "No one shall have right or cause of action to test the regularity, formality, legality, effectiveness of the ordinance, bonds or other debt obligations. The use of the words "bonds or other debt obligations" in this section, doesn't that put a prescriptive limit on the bonds as well as Section (A) does? In other words, isn't that in conflict with Section (A)?

Mr. Perez I would again say to you, sir, Mr. Leigh, that this provision was gone over very carefully by these bond attorneys, and by a group of them. I really can't answer your question without really sitting down and thoroughly reading the entire provision. But, it's my understanding that these were all approved by these bond attorneys, and this follows the language that they wanted.

Mr. Leigh Well, it still seems to me, and I suggest to you, I'll ask you, do you put a thirty day prescriptive period on the bonds or other debt obligations from the date of publication of the ordinance in Section (B); whereas in Section (A), you put a sixty day limitation on the bonds from the date of the election. With all respect, it seems to me and I suggest and ask, if that isn't putting a thirty day limitation...isn't a thirty day limitation in conflict with the sixty day limitation?...insofar as the bonds or other debt obligations are concerned?

I understand, but the attack on the ordinance provides for attack on the bonds in Section (B).

Mr. Perez I agree with you, it does appear as with a quick reading, that we have a conflict between the sixty and the thirty days with regard to the bonds.

Mr. Leigh Would the committee be amenable to a provision, or an amendment, which would delete the words "the bonds or other debt obligations in lines 8 and 13?"

Mr. Perez I just want to be sure we are not doing violence to this provision. I'd like...what I'd suggest again...I don't like to keep passing over sections, but I do feel that this is of such importance, I would like to sit down and to digest this a little bit more before I would give you an answer on that.

Mr. Leigh Well, would you be willing to pass over THIS section, also, until we can...

Motion

Mr. Perez I now move that we pass over Section 42 ...41 temporarily and move to 42 and see if we can't straighten that detail out.

[Motion adopted without objection.]

Reading of the Section

Mr. Poynter The next section is Section 42. Local Improvement Assessments

Section 42. Paragraph (A) The legislature shall provide by general law or by local or special law the procedures by which political subdivisions levy and collect local or special assessments on real property, for the purpose of acquiring, constructing, or improving works of public improvement.

(B) Certificates of indebtedness may be issued to cover the cost of any such public improvement which shall be secured by the pledge of the local

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or special assessments levied therefor, and may be further secured by the pledge of the full faith and credit of the political subdivision.

(C) The governing authority of the political subdivision issuing certificates of indebtedness payable from sources other than ad valorem taxes, and pledging its full faith and credit to the prompt payment of the principal and interest thereof, shall levy or cause to be levied on all taxable property in the political subdivision ad valorem taxes, without limitation as to rate or amount, fully sufficient to make up any deficit in the other sources of revenue pledged to the payment of the certificates.

Explanation

Mr. Perez Mr. Chairman, ladies and gentlemen of the convention, Paragraphs (A) and (B) are essentially what is now in the present constitution. We discussed Paragraph (C) with the Revenue Committee, and they had some reservations with respect to it. I understand Mr. Conroy has an amendment which the Local Government Committee is agreeable to. The purpose of Section 42 is to provide that the legislature shall adopt laws by which political subdivisions may levy and collect local or special assessments on real property for the purpose of acquiring, constructing, or approving works of public improvement such as paving of streets, etc., and the payment in this manner, of the...for the cost of those improvements, and the authorization for certificates of indebtedness. That's the same... essentially the same provision which we presently have.

I think Mr. Avant has a question.

Questions

Mr. Bollinger Mr. Perez, with regards to Paragraph (C) of this section, I would assume, for instance, if a local government subdivision would levy or issue bonds on, say, the royalty road fund, and this fund diminished to the point where funds were not available to retire these bonds, the local government subdivision would have authority to tax property in order to retire these bonds?

Mr. Perez No, this has nothing to do with the particular problem you raise. This provision is utilized, primarily, for paving...of street paving within an area where the abutting property owners pay for the cost of that paving. It has nothing to do with royalty road funds. That's handled in a different manner.

Vice Chairman Casey in the Chair

Mr. Avant Chalin, I have two or three questions. But you state that this is limited to assessments for streets and things like that. But if you read Section (A), it's really not limited to that. It would be any public work...public improvement. Right?

Mr. Perez It depends upon what the legislature would provide. All this does is to make it clear that the legislature has the authority to make such provisions if, in their wisdom, they decided to do it.

Mr. Avant All right. Now. Now let me just ask you this, then. Suppose that a parish decided that they needed a new jailhouse. So they got an act of the legislature authorizing them to levy a tax for the purpose of constructing that jailhouse and then issue certificates of indebtedness which are not bonds, they're slightly different from bonds, I'm not generally familiar with it. But then that tax doesn't produce the anticipated revenues, then the effect of this section is that the property owners got to bail it out. Isn't that right?

Mr. Perez Well, of course, generally speaking, if you decide you want to build a courthouse, you would generally issue general obligation bonds where you would have no limit on the payment on the amount of millages. So I don't see why this should concern

you with respect to it because of the fact that I don't believe that its the...any courthouse would ever be built under this section. It would be built under the previous sections which would authorize the general obligation bonds.

Mr. Avant Well, I'll tell you why it concerns me. I mean I just took that as an example--any public improvement--this thing says any public improvement which is to be funded by a tax. If that tax doesn't produce enough revenue to pay off those certificates of indebtedness, then the property owners have got to bail it out. Isn't that what this means?

Mr. Perez Which property owners are you referring to?

Mr. Avant The ad valorem property taxpayers. This makes it mandatory for the local...

Mr. Perez You talking about Paragraph (C)?

Mr. Avant Yes, sir.

Mr. Perez Well, Paragraph (C) will be deleted, as I explained earlier, that Mr. Conroy suggested the deletion of Paragraph (C) and Paragraph (C) will be deleted.

Mr. Burson Mr. Perez, isn't it true that once you take Section (C) out that what you have left will be substantially what the present law is insofar as it authorizes the legislature to do what, in fact, is being done now to permit cities to assess abutting property for street improvement...things of that nature?

Mr. Perez That's correct.

Mrs. Warren Did you know that I think Section 42, Section (C), is a bad, bad, bad section?

Mr. Perez It really is not, Mrs. Warren. The purpose of it was to be able to get a better interest rate for the issuance of bonds because of the fact that local government cannot afford not to pay the...pay off their obligations. So it is really not that bad a provision. But in order to satisfy the Revenue Committee, we agreed to go along with it.

Mr. E. J. Landry Mr. Perez, look at line 1 on page 23...

Mr. Perez If I can cut you short, sir, that's a provision which will be deleted under Mr. Conroy's amendment.

Mr. E. J. Landry Oh...that's out. That's going out now?

Mr. Perez Yes, sir. If the committee adopts Mr. Conroy's amendment which the Revenue Committees agreed to, and which the Local Government Committees agreed to.

Mr. E. J. Landry And line 7, also?

Mr. Perez All of lines 1 through 8 on page 23, together with line 32 on page 22 would be deleted.

Mr. E. J. Landry You think that will all go out?

Mr. Perez That's my understanding of the Conroy amendment.

Mr. E. J. Landry In case it doesn't, would you answer this question?

Mr. Perez Yes, sir.

Mr. E. J. Landry What would be the funds--what would be the sources--other than ad valorem taxes? Could you give an example just for my own information?

Mr. Perez Well, the problem involved is that a local government, just like the state, cannot afford

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to default on its bonds. Whether you'd have the full faith and credit of the local government behind a particular bond or not, they cannot afford to see those bonds defaulted upon. So whether you have this provision in here or not, some kind of way they're going to find the money to pay off these bonds.

Now the only reason this provision was in here, was to afford a better interest rate for these bonds. That's the reason that the provision was in there.

Mr. E. J. Landry That's not...

Mr. Perez But it would...

Well, I can't answer where the money would come from because I would have to look at the finances of your particular parish to tell you where it's going to come from.

Mr. E. J. Landry Could you give me an example of any parish where funds would be available?

Mr. Perez Well, again, I'd have to look at the finances of that particular parish and see where the funds might...how they might be available. But they would basically be from taxation.

Mr. De Blieux Mr. Perez, I'm a little bit, also, concerned about this Paragraph (C) that Mrs. Warren referred to. I'd just like to ask you this question.

Mr. Perez Can I suggest that we delay the consideration of (C) because we have said that both the Revenue Committee and Local Government have agreed to delete (C). I'd suggest that we wait until we get on that deletion. I'd be glad to answer questions of other kinds in order to save the Convention time, is what I'm saying.

Mr. De Blieux If you're going to delete it, there's no need to ask the question.

Mr. Perez Yes, sir. I've said that at least five times now that we plan to delete that provision.

Amendment

Mr. Poynter This is the Conroy amendment. Amendment No. 1. On page 22, delete line 32, and on page 23, delete lines 1 through 8, both inclusive, in their entirety.

Explanation

Mr. Conroy I think this amendment has been explained at great length in the explanation of the general section. It deletes Paragraph (C). This particular paragraph was discussed when the Local and Parochial Government Committee appeared with the Revenue, Finance and Taxation Committee. Certainly, it was the overwhelming feeling of the Revenue, Finance and Taxation Committee that this Paragraph (C) should be deleted because it totally shifts certain concepts which we think presently exist in tax procedures in the State of Louisiana right now. When you have a special improvement--say a street is paved--you have a...the bond holders are protected by a lien on the property which is served by that street. But, Paragraph (C) as written, would extend that well beyond just a lien on that property, effectively to place what would amount to a lien on all property in the parish, to pay off by way of ad valorem taxes if there's any default on such an improvement. I think from the discussion from the floor, I think it's the consensus of the convention that Paragraph (C) should be deleted. I gather that now the Committee on Local and Parochial Government also feels that (C) should be deleted. I urge the adoption of the amendment.

[Amendment adopted without objection.]

Amendment

Mr. Poynter Next amendment sent up by Delegate Burson as follows: (It needs to be altered in part

now). Make it on page 22, between lines 31 and 32 insert the following and change the (D) to a (C):

"(C) The provisions of this section shall not apply to school boards."

Explanation

Mr. Burson Mr. Chairman and fellow delegates, the purpose of this amendment is simply to exclude school boards from the local improvement assessment authority since they have never had this authority in Louisiana, and there is no justification that I know of for their enjoying this authority. This authority--the exercise of such authority--has been limited to local street improvement, sewerage improvement, things of that nature, mostly by municipalities and by parishes. I'm not aware of any incidence where this would be an appropriate authority to be exercised by school boards. Since we have included school boards in the definition of local political subdivision, it would be necessary to exclude them from this section.

Question

Mr. Winchester This doesn't prohibit the school boards from paying special assessments though, does it?

Mr. Burson No, sir. This is to prohibit them or exclude them from the authority to make special assessments.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 104-1. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter Next Section is "Section 43. Revenue Producing Property

Section 43. The legislature may authorize political subdivisions to issue bonds or other debt obligations for the purpose of constructing, acquiring, extending, or improving any revenue producing public utility. The bonds or other debt obligations may be secured by mortgage on the lands, buildings, machinery and equipment or by the pledge of the income and revenues of such public utility and shall not be a charge upon the other income and revenues of the political subdivision."

Explanation

Mr. Perez The purpose of this section, first, is to give the authority to the political subdivisions to issue the bond or other debt obligations for the purpose of building any revenue producing public utility and also to provide that these bonds shall not be a charge upon the other income and revenues of the political subdivision. In other words, the revenue producing public utility would have to stand on its own two feet with respect to the payment of any such debt obligations.

Questions

Mr. Duval Going over the Digest I'm trying to determine how this affects the present law. Could you explain to me how...does it make any change in the present law?

Mr. Perez It's my understanding it's a restatement of the present law.

Mr. Duval As I understand Section 11...1411, it authorizes the legislature to grant authority to political subdivisions to issue revenue bonds, to construct, acquire, or extend or improve a public utility; provides with respect to the issuance of such bonds including authority to the legislature to require a taxpayer election precedent to the issuance of such bonds. The only part I'm wondering about is the part limiting...limiting to the income and revenues from the public utility. Is that the present law? I can't find it anywhere, I was just

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wondering, is that the present law.

Mr. Perez I must plead ignorance; I don't know.

Mr. Stagg Mr. Perez, did the committee consider that the use of airport revenue bonds would fit within the definition of a public utility? It would seem to me that public utilities by definition have a particular interest in water, sewerage, and that kind of thing. What about airport revenue bonds?

Mr. Perez I would not think that an airport revenue bond would come under the provisions of this section. A public utility in my estimation is electricity, etc.

Mr. Stagg I wish I knew what the next question was going to be.

Mr. Perez Well, I can't answer your question really. I think it would require research. This, as I understand it, is a restatement of the present law and I would say that we need to do a little research to determine the answer to your question.

Mr. Stagg Thank you.

Amendments

Mr. Poynter Amendment No. 1 [by Mr. Burson]. On page 23, line 10, after "Section 43." and before the word "The" insert "(A)".

Amendment No. 2. On page 23, between lines 18 and 19, insert the following: "(B) The provisions of this Section shall not apply to school boards."

Explanation

Mr. Burson Mr. Chairman and fellow delegates, the rationale behind this amendment is the same as the one for the preceding section. The power involved in Section 43 is not appropriate to the function of a school board. School boards have never enjoyed such power and because we have otherwise included them in the definition of political subdivisions, it seems advisable or necessary in fact, to exclude them specifically. It may well be that Style and Drafting can do this simply by saying "except school boards" or otherwise change it around. But, I did want to specifically exclude them here since this is not a power appropriate to their function.

[Amendment adopted without objection.]

Point of Information

Mr. Stagg Would it be possible on passage of this section to withhold the clincher so that during the noon hour we can consider whether or not the words "airport facility" ought to be added for the ability of the cities whose revenues are produced from their airports and need to be bonded for revenue bonds.

Mr. Casey Mr. Stagg, that's certainly possible. However, that's up to the wishes of the convention. Mr. Perez says he has no objection to holding back on the clincher.

Mr. Stagg Well, then if you'll hold back on the clincher until after lunch I will appreciate it.

Questions

Mr. Stinson Mr. Perez, you said that this was a restatement of the present provisions of the constitution. Now, in the Digest it doesn't show that it is in the present constitution?

Mr. Perez All I can say to you, sir, that's what I was advised by Mr. Toomy, who was the chairman of the subcommittee.

Mr. Stinson Well, if the Digest was correct, it doesn't show it. If it isn't in the present constitution, why is it necessary to put it in this new one?

Mr. Perez Frankly, I'd hoped Mr. Gordon Kean was going to be here today, and he and Mr. Toomy were supposed to be our experts on this subject matter. I must admit, that I am not thoroughly familiar with this particular provision. Again, if you want to pass over--you want to adopt it--and lay it open for amendments...

Mr. Stinson Well, my only concern, we're supposed to be cutting down instead of adding to it. If it hasn't been needed in the past, I sure don't see how we would need it in the future. Do you?

Mr. Perez Well, again, all I can say is that we did have a committee of bond lawyers who sat with us and who went over the various bonding provisions and this is one of the provisions that they recommended. I cannot recollect or recall offhand why...let me finish answering the question, please.

Mr. Stinson Isn't it a fact that bonding attorneys want to put everything in the constitution? They have always in the past.

Mr. Perez Well, the position that we took was that we'd rather see a short provision in the constitution now than to be in a position where bonds would not be saleable, and we would have to try to get an amendment to the constitution at a later time. That's the reason that we went along to a large extent with the bond attorneys because of the fact that they're the ones who have to pass on the marketability of these bonds. If they say "No, these bonds are not marketable," the constitution has to be amended. Then, of course, a proposition would have to be submitted to the people.

Mr. Stinson We've issued bonds of this type in the past, haven't we?

Mr. Perez I assume we have. Again, I say this is a subject matter that I'm not familiar with.

Mr. Toomy Mr. Chairman and fellow delegates, in regards to the questions as to the last sentence of this section, it is the present provision of the constitution in Article XIV, Section 4 (M) where it reads "such bonds shall not be a charge upon the other income and revenues of a municipality and shall not be included in computing the indebtedness of the municipality for the purpose of any limitation therein." The summary which was prepared by the staff just didn't include all of the present provisions of the constitution. I'd move passage of the section, Mr. Chairman.

[Previous Question ordered on the Section. Section passed: 104-0. Motion to reconsider pending.]

Mr. Poynter Mr. Chairman, we're now in the status that there are three sections in Part III, Levee Districts, namely 45, 46 and 49 to be taken up. In addition, of course, the convention has passed over this morning Sections 40 and 41. It's my understanding Mr. Perez would now like to move to revert and take up Section 41 at this time.

[Motion to consider Section 41 previously passed over adopted without objection. Reading of the Section waived.]

Mr. Perez I've already explained the section. I understand Mr. Leigh has an amendment which I hope will clarify the problem which he raised.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Avant]. On page 21, delete...

[Motion to waive reading of the amendment adopted without objection.]

Explanation

Mr. Avant Mr. Chairman and fellow delegates, this

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section, as drawn, provides a cutoff date of sixty days from the promulgation of the results of any bond election in which a taxpayer or any person in interest may contest the invalidity of that election for any cause. It also provides a thirty day period, after an ordinance or resolution authorizing the issuance of bonds, in which any interested person may attack the validity of that ordinance or resolution for any reason. Now, I can understand why bond attorneys would recommend and like to have such a provision in the constitution, because it makes their job very simple. But, I'm not so much concerned with making their job simple as I am with the rights of the people that are going to have to pay the taxes to retire those bonds. Now, I recognize that there probably has to be some period where there will be a cutoff date. Now, what my amendment does is very simple. In the first place, it makes it sixty days in either instance insofar as either the election or the ordinance. It's sixty days, not thirty days and sixty days; it's sixty days in both cases. But, for a violation of rights guaranteed by this constitution, then my amendment would give you a one year period in which to attack the validity of the bond issue or the ordinance or the election, based upon that cause alone. Now, that is not just any little old technical error or any little old miniscule type of mistake, but it is for a fundamental and serious and grave violation of constitutional rights. I believe that when you're dealing with that type of violation, of which there could be several, the whole thing could be a denial of due process, it could be a denial of equal protection to certain taxpayers. I'm thinking particularly of a situation where there may have been a wholesale violation of the rights of voters to participate in the election. In those types of circumstances I think, and I would respectfully submit to you, that one year is not too long. Now, that is simply and in essence what the amendment does. I ask for your favorable support of the amendment. I might say this, while the section as written would greatly simplify the task of bond attorneys, you've got to remember that bond attorneys are a very select group of attorneys who by reason of their peculiar training and experience are supposed to have a very high degree of expertise in this field. It is based upon their opinions that underwriters underwrite these bond issues and guarantee the sale of these bonds. For this service, these attorneys are very handsomely paid, so, I don't think that it's asking too much of them to sit down and analyze what has happened in connection with any particular bond issue and make a determination before they issue their opinion as to whether or not it complies with constitutional guarantees. In the event that it does not, I certainly think that a taxpayer should have at least a year to come in and say, "This has violated my constitutional rights", and bring a suit contesting it. I'll answer any questions.

Questions

Mr. Goldman Mr. Avant, do you know that I think your reasoning is good, but wouldn't sixty days be enough on a violation of the constitutional right? Why would it need to take a year for somebody to file or a...against a violation of the constitutional rights?

Mr. Avant Because a man may not know that his rights have been violated, Mr. Goldman. He may be in the service, he may be out of the state, he may be temporarily ill. There may be a number of reasons why he would not be aware that his basic and fundamental constitutional rights had been violated. I don't think that you ought to be able to issue bonds in violation of a person's constitutional rights and say, "Well, after sixty days you can't do nothing about that".

Mr. Goldman Thank you, Mr. Avant. I have another question, it has nothing to do with your concept here, but it does have to do with a technical point that I'd like to get answered. In the interest of logic, don't you agree that these two sections... these two paragraphs are reversed. Shouldn't (B)

be (A) and (A) be (B) because of the fact that one deals with the thing before an election and the other deals with the thing after the election?

Mr. Avant Oh, I think as a matter of style it might be better, Mr. Goldman, but what I'm concerned about is the guts of the thing, not necessarily the style of it.

Mr. Burns Jack, I agree with everything you've said. The only thing that kind of worries me: do you think or do you not think that this one year in which to file suit to attack the legality of the bond issue perhaps would have the fact...the result of tying up the sale of the bonds for that period of time?

Mr. Avant Mr. Burns, I don't think so. You have these bond attorneys who issue opinions, and they would write opinions. Attorneys have to make decisions everyday and you have to write opinions and you have to live with your opinions and you have to stand on them. I'd see no particular reason to sacrifice the constitutional rights of the citizens of the State of Louisiana for the convenience of bond attorneys, which is what I think we're doing.

Mr. Burns Well, I'm like you, I have no particular concern for their welfare as against the citizens of the state, but I was just thinking maybe that would have that result, or effect.

Mr. Lanier Mr. Avant, the way this thing is written, don't you think that no bond attorney would authorize the sale of the bonds until one year after the election on it?

Mr. Avant What would he do, Mr. Lanier, if you operated as many states do, and didn't have any such provision as this in the constitution at all, which I'm told by the staff is the predominant situation and that those states that do have them, they are for longer periods of time than are in this.

Mr. Lanier Don't you agree that your amendment would severely retard capital improvement development in our state?

Mr. Avant Mr. Lanier, I don't agree with that because I know this, that you're an attorney and people build industrial plants and they write...they drill oil wells and they invest hundreds of millions of dollars in ventures on the opinion of an attorney as to the validity of a title, as to the validity of a contract, as to the validity of various and sundry other things. No, I don't agree with you.

Mr. Lanier Do you seriously contend that anybody would buy these bonds until this one year prescriptive period has run?

Mr. Avant Well, I understand that they buy them in other states where they don't have this in their constitution, Mr. Lanier.

Ms. Zervigon Mr. Avant, the effect of your amendment is to change the thirty day period for contesting bonds to sixty days, except in the case where a violation of rights is alleged, in which case it would be a year?

Mr. Avant No, ma'am, that's not it. The provision itself says that if you are contesting the election, you have sixty days. If you are contesting the ordinance authorizing the issuance of the bonds, you have thirty days. That's the proposal. I make both of those periods sixty days with the further proviso that if there's a violation of rights guaranteed by this constitution, then the period will be one year. The proposal as it now reads, you have thirty days and sixty days respectively for any recall, no matter what the cause.

Ms. Zervigon Mr. Avant, is it possible in the future that you could just have your amendments drawn to the changes you wanted to make without writing the paragraphs? I find it very confusing

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to have to read them side by side--a lot of similar language--to find out where the changes are; is that possible?

Mr. Avant To recast the amendment--is that what you're asking?

Ms. Zervigon No. I'm just saying in the future when you draw amendments to draw only those things that you are changing rather than to write a lot of the similar language out again; is that possible?

Mr. Avant I'm sorry, I'm not hearing you...I mean ...I'm just sorry.

Ms. Zervigon Well, let me ask you one more question: In the case where a person alleges his rights have been violated, he has a year to begin proceedings?

Mr. Avant That's right.

Ms. Zervigon He only has to allege--you're asking a bond attorney to write down on paper an opinion that no citizen within the jurisdiction will come in and allege a violation of his rights within that one year period, is that not so?

Mr. Avant No, ma'am, Ms. Zervigon. I think that's the fallacy in Mr. Lanier's argument. The day after the bond election any citizen can go down and file a suit claiming that his rights have been violated--his constitutional rights have been violated--some technical procedure in the issuance of the bonds or the calling of the election has been violated. At that point, even within this thirty or sixty day period, the bond attorney's got to make a decision. I don't think that he's going to sit up and just hold back until maybe two years go by, and that suit is finally disposed of, if he knows that it's a frivolous suit--if that's his opinion. He has to exercise a professional judgment and render an opinion based upon that judgment. All this is doing is just making his job easier for him at the expense of the taxpayers and citizens of this state. That's exactly what it does.

Ms. Zervigon Isn't it so that within...with regard to the first day after an election our proposal and your proposal are identical, that anyone may go into the courthouse to contest for any point?

Mr. Avant Why, certainly.

Ms. Zervigon But, where ours differ is that your alleged violation of rights may be raised on the final day of the first year, not disposed of, perhaps, for years after that; and what you're asking an attorney to do is to take a guess and write down on paper whether or not anyone will make that allegation. In the meantime, even if someone's rights have not been violated, and he makes that allegation, by the time it wends its way through the courts, the prices of materials will have risen, and it may be difficult to pay for the project; isn't that so?

Mr. Avant Suppose he made that allegation the first day?

Ms. Zervigon If he made that allegation the first day, we don't need your amendment because your amendment as you just said is exactly the same as the committee proposal with regard to the first day.

Mr. Avant But, what's the bond attorney going to do if he made it the first day?

Mr. Casey Now, just a minute, Ms. Zervigon and Mr. Avant, I think the purpose is for Ms. Zervigon to ask the questions and to get information.

Mr. Chatelain Mr. Avant, I have a little problem--I guess you think I got many more than one--but "tax authorized for any cause"...we're talking about "rights of people" and "delay of one year." Don't we have other rights besides the Bill of Rights?

Don't we have a right to elect those people who call these bond issues? Why should we delay one year to impede progress in our state? I can't put these things together, Mr. Avant.

Mr. Avant Well, Mr. Chatelain, I can't make progress at the expense of the constitutional rights of my neighbors. That to me is not progress; that is retrogression.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, as a public official who's been involved in the issuance of bonds for many, many years, I would hope that I could have your undivided attention because of the seriousness of this proposed amendment. I tell you that no one--no one--will buy a bond until after the prescriptive period has ended. Now, if the Avant amendment were adopted, what it would mean is that you would have to wait one year plus the length of time it took to litigate the matter before the bonds would be saleable. In which event, your public improvements, the construction of your public improvements, would be held up for that period of a year plus the time it took to litigate the matter. So, what we are saying here is that if we want to delay the construction of all public improvements one year after the election, then adopt the Avant amendment. If you want to be able to proceed expeditiously with the construction of your public improvements, then the Avant amendment should be rejected. I might say to you in passing, also, that it has been the experience of the highway department and everyone else in construction that the cost of construction increases at a rate of approximately one percent per month, which means that it would cost an additional twelve percent under the Avant amendment to construct any public facility. I want to impress upon you as strongly as I can the bond buyers will not, will not, will not buy the bonds until such time as the prescriptive period has elapsed and no suit has been filed, or if a suit has been filed, that that suit has been finally disposed of. So, I have said before that there have been bad, bad, bad amendments; this is a bad, bad, bad, bad, worse, and worst amendment I think we've had with regard to local government provisions before this constitutional convention.

Questions

Mrs. Warren Mr. Perez, my question is entirely different. It has to do with the original proposal and Mr. Avant's proposal. It says "every ordinance or resolution authorizing insurance or bonds or other debt obligation by a political subdivision shall be published at least once..." Now, how many strikes does a baseball player get before he's out?

Mr. Perez Three, Mrs. Warren.

Mrs. Warren Three?

Mr. Perez Yes.

Mrs. Warren Why couldn't we as citizens have the same chance before we're out? Shouldn't we have a chance to read at least three times in our Journal what's happening on such an important resolution?

Mr. Perez Well, one of the reasons, I believe, that the "at least once" provision is in there is that the advertisement is a very, very lengthy advertisement, which costs a very significant amount of money. I believe that that's the reason that the "at least once" provision is included within there so that it would hold down the unnecessary cost of issuing bonds.

Mrs. Warren It's two sides to that coin, though, too; isn't it? It's expensive, maybe, to print this, but is it not expensive when the people have to pay for it--I mean the information?

Mr. Perez Well, there's no question about that, and the people are going to pay for whatever the cost involved in the issuance of bonds and also in

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the cost of the advertisement, which all goes in the cost of the issuance of the bonds.

Mr. Bergeron Mr. Perez, I'm just seeking some information. You said this was a bad, bad, bad, bad, worse amendment.

Mr. Perez More worsen than the worst.

Mr. Bergeron Are you for or against this amendment, sir?

Mr. Perez I think it's quite obvious that I oppose the amendment.

Mr. Goldman Mr. Perez, in the advertisement of these things the print is so small I don't know how many people can read it. I go through it because I think I need to in my job as being more or less of a public servant, even though I'm not an elected one. But, how many people can read that small print? I really can't I have to put a big glass on it, you know, before I can read it. There ought to be some method devised by which these things can be read, and I know it's going to cost more money to have it larger, but there ought to be some method provided.

Mr. Perez It would depend upon the newspaper involved and would depend upon the issuing body, and I would say that if the legislature in its wisdom wanted to require a certain type of a size print, why that would be fine, but I don't think it's something with which we should address ourselves to here in this convention.

Further Discussion

Mr. Womack Mr. Acting Chairman and fellow delegates, there's one other item that I hold in deep concern, in addition to what Mr. Perez has said, and that's the fact that today we are living in a time where federal matching funds is a very important part of our total economy. If we're going to have to go between twelve and eighteen months in order to be able to sell a bond, then the expiration of the federal funds in many instances is going to come about. I just think it would play total havoc, and I would like for you to consider the position it would put local governing agencies in, or any agency that's going to issue bonds in, with relationship to the possibility of federal funds that would be made available. So, I urge you to defeat this amendment, and let's go ahead with the business.

[Previous Question ordered.]

Closing

Mr. Avant Mr. Chairman and fellow delegates, I just want to bring out one thing that is fallacious reasoning on the part of Mr. Perez and some of the other people who've spoken against this amendment. Now, Mr. Perez told you from this podium that if a suit is filed, then they're not going to sell the bonds until the suit has been disposed of. Now, you ask any lawyer, if what I'm telling you right now is not true, the shorter a prescriptive period is the more groundless suits are filed because you've got to move in a hurry. You've got to run in; you've got to file your suit in thirty days, or you've got to file it in sixty days. So, the shorter the prescriptive period is the more suits you have filed that are ultimately thrown out of court. So, their logic just doesn't hold water. This is purely and simply an amendment designed to promote the convenience of bond attorneys at the expense of the constitutional rights of the taxpayers and citizens of this state.

[Amendment rejected: 10-98. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Leigh]. On page 22, line 8 after the word "resolution" delete

the comma "," and delete the remainder of the line in its entirety and on page 9, at the beginning of the line, delete the word and punctuation "thereby," Amendment No. 2. On page 22, line 13, at the beginning of the line, delete the words and punctuation "bonds, or other debt obligation,".

Explanation

Mr. Leigh Mr. Chairman, ladies and gentlemen of the convention, I think that this amendment is merely a technical amendment. The section as drawn provides two prescriptive periods: one in Section (A) it provides a prescriptive period of thirty days in which to attack the legality of the election authorizing the bonds; and in Section (B) it provides a period of thirty days, prescriptive period of thirty days, to attack the legality of the ordinance or resolution calling the election. Now, in the second section--second paragraph--in Paragraph (B), provision is made in the prescriptive period, in designating the prescriptive period of thirty days, it provides that "any person in interest may contest the legality of the ordinance or resolution," and then goes on "may also contest the legality of the bonds or other debt obligation authorized thereby." In the next sentence, "after this time, no one shall have any cause of action to test the regularity, formality, legality...of the resolution or of the bonds or other debt obligations." Now, bear in mind that at the time the resolution is adopted, no bonds have been issued. To say that there is a prescriptive period at that time for attacking the bonds or other debt obligations it seems to me is inconsistent with the earlier paragraph which provides a prescriptive period for attacking the election. So, what my amendment does is to delete the words in line 8 "the bonds or other debt obligation authorized thereby," and in line 13 it deletes the words "bonds, or other debt obligation," so as to restrict the attack on the resolution to an attack on the resolution and not to an attack on the bonds or other debt obligations. Mr. Perez, I understand that the committee has no particular objection to striking these words. I think Mr. Perez has so advised me. I ask the adoption of the resolution.

Further Discussion

Mr. Perez I'd just like to state at this time that I'm not sure whether we need these words "the bonds or other debt obligation" in this particular place on line 8. I would suggest that we adopt the amendment and that we adopt the section but not lay it on the table, and then during the lunch period, I will try to determine from the people more knowledgeable than I am with respect to this question, as to whether these words need to be in there. So, I would not at this time object to the adoption of the amendment, but I would request that we not lay the section on the table so that this matter could be reconsidered in the event it is necessary to put the words in.

[Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 104-4. Motion to reconsider pending.]

Recess

[Quorum Call: 97 delegates present and a quorum.]

Mr. Poynter Mr. Chairman, we still have at this juncture to be considered Section 40, 45, 46 and 49. The latter three, of course, are contained under the levee district provisions. My understanding is that Mr. Perez now moves to take up Section 40.

[Motion to consider Section 40 previously passed over adopted without objection. Reading of the Section waived.]

Amendment

Mr. Poynter First amendment is sent up by Delegates Roemer, Lanier, Kelly and Lowe.

Amendment No. 1. On page 20, delete lines 13 through 32, both inclusive, in their entirety and on page 21, delete lines 1 through 13, both inclusive in their entirety and insert in lieu thereof the following: "Section 40. (A) General Obligation bonds may be issued by any political subdivision for all purposes which, including the existing bonds of such political subdivision incurred for the same purpose and payable solely from ad valorem taxes levied without limitation as to rate or amount, shall not exceed in the aggregate ten percent of the fair market value or use value as applicable to property within the taxing district.

(B) The legislature may increase the debt limitations established in this section by general law or by local or special law passed by a two-thirds vote of the elected membership of each house."

Explanation

Mr. Roemer This amendment is to Section 40, and I wish you would refer to it as we proceed to explain what the section does now and what I would propose differently in our amendment. Section 40 deals with the limitations on bonded indebtedness of political subdivisions. As it's currently written, it calls for general obligation bonds to be limited to ten percent of the assessed valuation of property within a district. Now, you know that we've done some things differently with assessed valuation in this convention: that is, we have set standard, uniform statewide rates, not to exceed or be equal to, ten percent, ten percent and fifteen percent. In effect, what this means if Section 40 stays the same, that for a single purpose the general obligation bonds can not exceed ten percent of ten percent of the fair market value, or in other words, ten percent of ten percent is one percent of fair market value. So, the effect of Section 40 if we were to let it stay the same is to limit the bonded indebtedness and the aggregate thereon to one percent of the fair market value. Now, I think that's an exceedingly low figure--number one. Number two what we in effect do here is penalize those parishes--and I happen to come from one--who have in the past years been assessing at a higher rate than the ten, ten and fifteen. In my parishes, those figures might be ten percent on land; they're more like twenty percent on the residential improvements, and more like thirty percent on industrial property. Now, we've already forced a rollback in those percentages. If we keep the same constitutional limitation of ten percent on a rollback version of assessed value, we have sharply reduced the bonding capacity of our local and parochial governments. I don't think we want to do that. What our amendment would do would be to keep and maintain the ten percent limitation, but rather than put that on assessed valuation, we would put that on fair market valuation, which would mean that rather than ten percent of ten percent, or one percent of fair market value, we would have ten percent of fair market value which I think is ten times what Section 40 now reads. You may or may not have been exposed to a minority report written by one of our illustrious delegates, Walter I. Lanier. Walter was one of the few members of the committee--and perhaps the only member of the committee at the time--who opposed Section 40 in committee. He opposed this limitation on the assessed valuation and wanted it on the fair market valuation. I think he had two good points, and I'll read those two points.

"(1) This limitation is unrealistic and not consistent with actual practices of the bonding market, and accordingly impose unnecessary restrictions on local units of government in the area of public financing." And I agree with him. I don't think we need to tie the hands of our local government to the tune of just one percent of fair market value.

The second point that Mr. Lanier made and it's valid today, "This provision would have the effect of encouraging the present practice of multiplicity of subordinate districts and would not be in accord with the overall policy of this committee"--that is

the Local and Parochial Committee--"to strengthen and centralize home rule authority of local units of government." In other words, by allowing in Section 40 single purpose bond issues for single purpose districts, then we encourage, in order to get around the limitation, the proliferation or the multiplicity of these special districts. I think we ought to discourage that because Mr. Lanier makes the valid point that it cuts at the heart of our home rule concept in this constitution. Now, Mr. Perez has, I think in part, agreed with what we are trying to do in this amendment, but he has some reservations, and they are valid. Let me mention those reservations to you; I want to lay it out on the table. Number one is what happens to these special districts? Do the bonds they issue come out of the ten percent aggregate fair market valuation of the parish as a whole? If we allow the amendment to stand as presently written, I think they would, and I think Mr. Perez has a valid point and will probably follow up with an amendment to our amendment, if it's passed, to exclude special districts. I think I can support that. The second criticism was that we don't set aside a certain portion of this ten percent for the school board and a certain portion of this ten percent for the police jury. Well, even though they have this apportionment in the present constitution now, if you realize the actual practice in the bond market is to hold this ten percent limitation to the bond base as a whole, you can segregate these two or apportion these two percentages all you want; and if the bond base does not hold for those bonds in the opinion of the bonding attorneys, and the people who want to buy those bonds, they won't buy the bonds anyway. I think we've made a step forward here if we change the assessed valuation to fair market valuation, which is what my amendment does. I realize it's a complicated subject, but if you would put it in these terms, I think you can understand it: that is, we're trying to make sure that no parish is penalized for having had what I call adequate assessment practices in years past. We're trying to maintain the power of issuing these bonds. Don't also forget that the people are going to vote on these bonds; we haven't taken that right away from them. All we're trying to do is give the local and parochial governments a little more room in which to operate.

Questions

Mr. Duval Buddy, we've talked about this. I'm just a little bit--a lot confused. I mainly want some information perhaps you can help me with. Now, look, comparing the committee proposal to your amendment and then to the present constitution, and trying to juxtapose them all so I can understand them. Now I notice in the committee proposal that you had school districts in there with twenty-five percent. Then you had industrial development bonds at twenty percent. Now, that's been taken out.

Mr. Roemer Right. Now let me...let me tell you. That's twenty-five percent of the assessed valuation. The assessed valuation is ten percent. So, in effect, that's 2.5 percent of fair market value. I would raise the school boards to ten percent of fair market value. So under the amendment I have now, they would have four times the bonding capacity than under Section 40. Even though one figure is twenty-five and the other one is ten, it's what you take the percentage of, Stanwood...I mean, Stan.

Mr. Duval Another thing I wanted to ask you, Buddy, is that I don't understand in the present constitution they use the word "one purpose", and here they say "all purposes." Now what's the difference? What effect does that have? What effect does that have on different parishes? Does it affect the tax base presently of different parishes?

Mr. Roemer Yeah...O.K. I understand your question. If you look on line 14, it says "for any single purpose." O.K...in the Committee Report. Is that what you are referring to?

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Mr. Duval Yes.

Mr. Roemer D.K. But then if you go down to line 18, "shall not exceed in the aggregate ten percent." So you tie those single purposes together.

Mr. Duval Well, do you think that means the same thing as when you say "all purposes" in your amendment?

Mr. Roemer Yes. Yes.

Mr. Duval Well, I was wondering if you applied the aggregate to each single purpose, or the aggregate to all purposes?

Mr. Roemer Well, it didn't seem to be the intent of the committee. I'll put it that way.

Mr. Duval O.K.

Mr. Roemer As you know, Stanley, we've had much discussion about this and I think we are agreed this way.

Mr. Stagg Buddy, the present tax assessment base of Caddo Parish is six hundred million dollars, and this is made up in the main of houses at twenty-five percent, businesses at thirty percent, and inventories at fifty percent. Now, when this new assessment method comes in, we might have a raise in the total evaluations, but ten percent of that total will not equal ten percent of what we now have. What is...is this the purpose of your amendment to cause parishes like Caddo not to lose bond base and, therefore, jeopardize their bonds they've already issued?

Mr. Roemer Exactly, Mr. Stagg. If we were to allow the section to stand as it is, you could, as a result of revaluation, up your millage and your dollar revenue would stay the same in Caddo Parish. But, however, your assessed valuation on the books might go down, and that ten percent would be a lesser figure, so we're trying to make sure that it's ten percent of the fair market value and not some kind of trick or assessment valuation.

Mr. Burson Mr. Roemer, basically I believe in using fair market value as a guide, because I think otherwise you have to have a computer to figure out what you're starting from, but I do have a few questions here.

First of all, under the present constitution, isn't it true, although we know this hasn't, in fact, been done, but doesn't the language of the present constitution give the school board the power to bond up to a limit of twenty-five percent of value...meaning fair market value?

Mr. Roemer Right. Of course that's not followed, and you know that, Jack. If you take it a step forward, the committee report limits that to twenty-five percent of assessed valuation.

Mr. Burson Your criticism of the committee report in that respect certainly seems entirely valid. But, doesn't your proposal have a problem with the three-year period of time that will transpire before the new rates will go into effect? That is, if you cut it down to ten percent, wouldn't that create a problem during that interim?

Mr. Roemer Yes. Yes, and it's going to have to be cleaned up in that respect, Jack.

I think we need to make this provision go into effect at the timing of the other elements of the equation on which it's based, if that answers your question.

Mr. Burson Fine.

Now, the third thing would be, I notice that you all eliminated on page 21, Section D, which excused revenue bonds or funding...bonds funded by sales taxes and so on, from the computation in which you figured your limit. Did you all do that intentionally? If so, why?

Mr. Roemer No, we didn't...we didn't...we should keep (D) in...or some semblance of it. Yes.

Mr. Burson Fine. Thank you.

Mr. Roemer Really, Jack, to follow up, we were addressing ourselves at the problem of the ten percent valuation. Quite frankly, we probably need to take in another couple of steps here.

Mrs. Warren Mr. Roemer, we have just passed what we call that "assessed value." Now what is this particular amendment going to do to the homestead exemption?

Mr. Roemer Well, in the...two things. In the committee report, the homestead exemption is not exempt for assessed valuation purposes. It also won't be exempt in our equation for ten percent of fair market value. Let me explain that.

Fair market value is...will be determined without any recognition of homestead exemption. In other words, if you live in a twenty thousand dollar home at fair market value, it'll be valued that. Then the homestead exemption will be taken from that. O. K.? For the purposes of our amendment, we just keep that fair market value full value of that home. We don't worry about homestead exemption at all. That's exactly the same as the committee report. I haven't changed that.

Mrs. Warren But I mean, it wouldn't give you a chance to collect money on the exempt homes under the...

Mr. Roemer No. No.

Mrs. Warren I'm just...I'm not speaking for or against it. I mean I'm just trying to get some information.

Mr. Roemer No. They would not raise taxes, or they could not assess millage against that that's covered by your homestead exemption. However, the full fair market value of your home would go into the parish pot as to the valuation of property in your parish.

Mr. Champagne As I understand it, what we are talking about here is ten percent of the actual value for all purposes. Right?

Mr. Roemer Right. Yes, sir.

Which is, Mr. Champagne, Champagne, the practice today by the bonding people in this state. That's the yardstick they use regardless of what's in the constitution.

Mr. Rayburn Mr. Roemer, if I understand the present law, you can bond...a police jury can bond up to ten percent of the assessed...assessed, if you please, valuation in each parish, not the true value, the assessed value. The police...I mean the school board can go up not to exceed twenty-five percent of the assessed value. The assessed value today in St. Tammany Parish is seventy-one million dollars. Thirty million dollars of that is covered by homestead. Their bonding capacity today, if this amendment is adopted and becomes law, will be seventy-one million dollars because we have a provision in this particular proposal where homesteads will be included in the base for bonding capacity. Now, all the present constitution provides, and all the language I've ever read, refers to assessed valuation. O. K. If you use the true market value, you are going to increase the bond base of the parishes I live in by some ten or fifteen times, Mr. Roemer...well, I'd say at least eight times what it is today. Because the assessment...I live in a home that's assessed for seventeen hundred dollars. I could sell that home tonight for twenty thousand dollars. That's the true market value of it. My...I'm on the assessment roll-bonding capacity likewise for seventeen hundred dollars. If this amendment is adopted, my home will go on, as far as the bonds are concerned, true market value for a bonding capacity of twenty thousand dollars.

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Mr. Roemer No. It would go on...

Mr. Rayburn All right. Well, tell me, then, what you are trying to do?

Mr. Roemer O.K. You know a couple of things, Senator. You know Number 1, under the laws that we've already passed in this constitution, that all property is going to be reappraised. So your home's going to go on the book at its fair market value, or a percentage of it, whether you and I like it or not. Now, what I'm trying to do, is to put the percentage, and in this case ten percent, times the fair market value and not the assessed valuation. In terms of your home, those figures are going to be exactly the same, under the committee's proposal, and under my amendment--exactly the same. I'll tell you how it works. Under the committee's proposal, you are going to take ten percent of the assessed valuation. Under my proposal, you are going to take ten percent of the fair market value. Under both proposals, the property is going to have to be reappraised. And under both proposals, the homestead exemption is not counted. If you look closely in Section 40, they don't count the homestead exemption under the committee's proposal. They do not.

Mr. Rayburn Well, they are supposed to and I understood they would.

Mr. Roemer Well, it says right here they do not. It says "including property exempt as homesteads." Lines 20 and 21.

Mr. Rayburn Well, Mr. Roemer, answer this for me. Under the present law, if you're limited now by ten and twenty-five percent for school boards, or the assessed valuation, and we erase that and put true market value, what is that going to increase the bonding capacity of the various parishes of the state?

Mr. Roemer It depends on the parish whether it's going to be an increase, and if so, how much? What we don't know, Senator, is what's going to happen when, for the first time in this state, we apply uniform rates of assessment statewide. Now I don't know what they assess in your parish. In my parish, it just so happens that the rates presently employed are higher than the rates we're going to use in this constitution. If we didn't pass my amendment, my bonding base is going to be cut.

Mr. Rayburn I don't follow you because the present rate you are using today is on the present assessment. But when they put a true market value on that assessment, it's going to increase tremendously, Mr. Roemer, in my opinion.

Mr. Roemer Well, the point is, that if they take ten percent of fair market value as your assessed value, and we're presently assessing at twenty percent of my fair market value as the assessed value, then my assessed value is cut in half. If the bond limitation is based on the assessed value, then my bonded indebtedness capability is cut in half. I want to put the yardstick the same statewide--fair market value as to bonded indebtedness. And you know that the people have a right to vote these bonds or not vote them. They can still do that. I haven't changed that at all. All I'm trying to do is help my parish because my parish is going to be hurt, and hurt badly, under Section 40.

[Rules Suspended to allow additional time.]

Mr. Roemer Well, Senator, let me continue there. If you read this proposal closely, it's ten percent for a single purpose. It can have a proliferation of those. I'm trying to make it ten percent for all purposes--add them together. I don't think you are going to greatly increase your bonded base. Not at all.

Mr. Rayburn Well, if you make it for a ten percent for a single purpose, you are going to cut the hell

out of it.

Mr. Roemer That's right. And that's exactly what they have it now. Ten percent for a single purpose. You hit it right on the head.

Mr. Perez Buddy, I'm truly trying to find the answer to this problem and I'm not wedded to any particular approach. But I am very much concerned about the way that your amendment reads. I just don't...I don't understand the words.

It says "general obligation bonds may be issued by any political subdivision for all purposes which, including the existing bonds of such political subdivisions included for the same purpose, singular, and payable and so forth," and I just...I just really, I do not understand the meaning of the words.

Mr. Roemer Well, what don't you understand?

Mr. Perez Well, first you're talking in terms of all purposes. Then when you come back and you say "including the existing bonds of such political subdivisions incurred for the same purpose", and I just don't understand the meaning of it. Do you mean that each political subdivision would have a ten percent debt limitation? In other words the school district would have, and the...really, I don't understand it.

Mr. Roemer All right...that's the third question...I understand...that's the third question you've asked. Let me take them one at a time.

You said you don't understand the English language, I guess, with a comma after "which". You understand that it reads, "general obligation bonds may be issued by any political subdivision for all purposes which", then you have a conditional phrase there, including the existing bonds of such political subdivision incurred for the same purpose and payable solely from ad valorem taxes levied without limitation as to rate and amount, and the "which" refers to the "shall", "which shall not exceed in the aggregate ten percent of the fair market value". And so the "including" is a conditional phrase to make sure the bonds presently outstanding are included in the aggregate ten percent.

Mr. Perez I was trying to find out if you can answer me what the word "same" refers to. Does the "same" refer to all?

Mr. Roemer What line are you on now, Chalin?

Mr. Perez I'm on line one, two, three, four.

Mr. Roemer Yes. Sure.

Mr. Perez In one case you say "purposes", in the other singular "purpose"? I'm trying...I'm just trying to work this thing out in such a way that this will have meaning. And I'm just concerned with the words that we have here even if the convention decides it wants to follow this particular approach. But I am very much concerned with even the wording of it that maybe it doesn't mean what you think it means.

Mr. Roemer Well, what you are purposing is to change "same purpose" to "similar purposes"?

Mr. Perez Well, I really don't know. I don't know. I'm having a hard time trying to understand the words. Maybe I'm just...

Mr. Roemer Well, I'm having a hard time trying to understand your question. So I guess we're both on the same level.

Mr. Sutherland Buddy...over here Buddy. Buddy, I'm trying to seek some information, too, and it's not in connection with your proposal as opposed to the committee proposal, but your proposal as opposed to what it is now under the constitution. At the present time, and we'll use some figures here, in Orleans Parish, let's say we have an assessment

ratio of twenty-five percent of the fair market value. Now, and, as I understand the present constitution, that's limited to ten percent of the assessed valuation, so that would be ten percent of twenty-five percent. Right?

Mr. Roemer Right. Yes.

Mr. Sutherland Right. Now, under your proposal, as I understand it, we would have ten percent of fair market value which would be four times as much as we presently would have under our situation. Now, as I understand the situation, what we are doing, we are rolling back assessment values, we would for Orleans Parish. The figures I'm using would go down to ten percent. Right?

Mr. Roemer That's right.

Mr. Sutherland So, if we use ten percent of assessed valuation, we'd be cutting this thing in half.

Mr. Roemer That's right.

Mr. Sutherland But since we are one of the higher parishes, and Caddo may be a little higher, wouldn't you say that in all instances, if we use your formula, that taxing base would go up? The bonding base would go up?

Mr. Roemer Yes.

I'll just let me amplify that. I don't want to hide my position at all. I'm, for one...personally...for taking the limitation out of the constitution. To what...in a free society, and in an economically free society, what governs the rate and the saleability of bonds? Two things: the vote of the people, and the willingness for somebody to buy it. That's what should govern the market place. I think it borders on the ridiculous to freeze percentages in the constitution. What I'm trying to do, if you've got to freeze one in, let's at least tie it to fair market value which will escalate overtime and not tie it to some assessment percentage.

Mr. Sutherland Did I hear you to say earlier, Buddy, that the bonding attorneys, or the bonding people who sell these things, use this as a guideline--ten percent of fair market value?

Mr. Roemer Yes, this is the guideline they use today. So I'm just putting their guideline in the constitution. Rather than a guideline that might not hurt most parishes, but it's going to definitely hurt a few of us.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen. I'll make a very short observation of this. I rise in support of this amendment.

But you know, one of the things that goes into the calculations of the value of bonds when these bonding people up in New York; every place, they look at the value of the property you give them--the value of the property that's on the assessment rolls--is how much does that property have in proportion to the amount of bonds you are going to issue? Now at the present time our law, which says that's the only thing they have to go by, says that the property shall be listed on the assessment rolls at actual value. So they look at that. In the past years I feel like that we have been paying an excessive amount of money in interest because of the fact that our assessments have been so low into the valuation of property that when they make those comparisons, it looks as if we don't have much leeway insofar as our bond issues are concerned. If we leave this particular section of this constitution like it is now, we are going to be in as bad a position, if not worse than we already are right now. So, therefore, I think that Mr. Roemer has a very good amendment here that where that the valuation that is shown on the property insofar as those bonds are concerned would be actual fair value, or market value of the property rather than that

ten percent, because I certainly think that if you...a parish like East Baton Rouge, or Caddo or Bossier, or some of those parishes now to where the ratio is much, much higher than ten percent, it's going to hurt those parishes tremendously if you use the ten percent figure for the assessment value of the property. This way if they are looking at the actual market value of the property and taking ten percent of that, it's going to make a lot of difference.

Therefore, I support the amendment and I ask you to do likewise.

Questions

Mr. Hernandez Senator De Blieux, frankly, I wanted to ask Mr. Roemer this question here. On line number 6 of this amendment, well, going back a little further than that, about, just before that, "including the existing bonds of such political subdivision incurred for the same purpose and payable solely from ad valorem taxes levied without limitation as to rate or amount shall not exceed in the aggregate...in the aggregate mind you...ten percent of the fair market value or use value as applicable to this property." Suppose a subdivision had already approached their limit--for instance a parish or a ward--and they needed a school building. This says here, "shall not exceed in the aggregate ten percent." Suppose they had voted by a big bond issue and had approached that, and needed a school building? If these in the aggregate cannot exceed ten percent, what is a taxing district going to do in that case?

Mr. De Blieux Mr. Hernandez, if they are at ten percent of the fair market value, and that's the only way in this world that this amendment could limit them, if they're at ten percent of the fair market value at the present time, they've got a high bonded indebtedness. I don't believe you could sell any more bonds under those circumstances anyway, you see. But this amendment would help that situation. It certainly would not hurt it.

Mr. Hernandez How would it help it?

Mr. De Blieux It would help in this respect. You're using fair market value rather than ten percent of the assessed value. The assessed value is only ten percent so, therefore, you can't go but one percent of the fair market value of your property. It will help you rather than hurting you. It certainly would.

Mr. Hernandez It would help us by not letting us sell the bonds, wouldn't it?

Mr. Leigh Senator De Blieux, like Mr. Hernandez, I had wanted to ask Mr. Roemer this question. But let me ask you.

In the committee amendment, it was "the general obligation bonds may be issued by any political subdivision for any single purpose". Whereas in the proposed amendment, it's "issued by any political subdivision for all purposes". Now I am, it's not clear to me as to why it was given authority to issue it for all purposes instead of for any single purpose.

Mr. De Blieux Well, Mr. Leigh, in the proposal, I can't tell you because I was not on Local and Parochial Affairs Committee, as to why they used "any single purpose" in there. But they have limited it to ten percent which means that for any, as I read this, and taken into consideration that we have already approved the Revenue and Taxation Proposal which limits the valuation of the property to ten percent of the assessed--of the fair market value--that that means for any one single purpose you cannot have a bond issue in excess of one percent of the fair market value of property. That's the only way I can read it figuring it out mathematically. Now, what it would seem to be, the way that I could interpret this, you could have a dozen different bond issues so long as no one of them amounted to more than one percent of the fair market value

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of the property. Or you might say ten percent of the assessed valuation. Now, under this, under the Roemer amendment, it means that all general obligations bonds cannot exceed ten percent of their fair market value of the property.

Mr. Leigh: I understand that. But that's not what, as I understand it, the article says. The amendment says, "it may be issued"--it makes a flat statement, "it may be issued for all purposes." Let me ask you further than that. As I understand the present law...

Mr. De Blieux: Now, wait, let me take the words, "all purposes...that means regardless of what...how many bond issues you have, they cannot exceed ten percent of the fair market value of the property."

Mr. Leigh: Well, I'm not sure that's what it means. Now, let me ask you this.

Mr. De Blieux: Well, that's the way I read it. I think that's his intent.

Mr. Leigh: I think it's his intent, too. But under the present law, a bond issue cannot be voted except for a single purpose, or for...or for means reasonably related to that purpose. When you say "it may be issued for all purposes," aren't you permitting a watermelon bond issue which would include any number of purposes which would be voted on together? That's what this says.

Mr. De Blieux: No, the way I read the amendment, Mr. Leigh, maybe I'm wrong, the way I read the amendment, if you have...if you have...under this proposal that we have in the Revenue and...I mean in the Local and Parochial Affairs, you can have as many bond issues as you want, but not any one single one of them can exceed, you might say, ten percent of the assessed value would mean as the one percent of the fair market value. Do you get the idea?

Mr. Leigh: I have no quarrel with the...what you are saying is the intent. What I am quarrelling with is whether this amendment says it.

Mr. De Blieux: All right. Now as I take it from the Roemer amendment, that all the bond issues together, it's a somewhat of the...Roemer amendment is really a more of a limitation than the Local and Parochial Proposal is because the Roemer amendment says "all your bond issues together...general obligations bonds...cannot exceed ten percent of the fair market value of the property."

Mr. Leigh: Yes, but the Roemer amendment also says, does it not, that they may be issued for all purposes?

Mr. De Blieux: That's correct.

Mr. Leigh: That's correct.

Mr. De Blieux: But, now, the Local and Parochial doesn't limit the purpose. It just says on a single issue.

Mr. Leigh: On a single issue?

Mr. De Blieux: Yeah.

Mr. Leigh: I think it should be on a single issue.

Mr. De Blieux: But now, this is cumulative regardless of when they may have been issued under the Roemer amendment--regardless of when they may have been made.

Any other question, Mr. Chairman?

[A momentary pause.]

Motion

Mr. Perez: Mr. Chairman and ladies and gentlemen

the convention, we have in this subject Mr. Frank Benton, Jr., who is a bond attorney and who worked with our local government committee to vote, prepare some of these projects. I think that a lot of things got bagged down, apparently, on this particular resolution, and because I know all of you want to know it that this matter is worked out in such a way that we have a beautiful tax base for local government, I would now love that we resolve into the committee of the whole for a period not to exceed one hour in order that Mr. Benton may address the convention and answer questions on this subject matter.

Further Discussion

Mr. Rayburn: Mr. Acting Chairman and fellow delegates, if we are going to recess and go into a Committee of the whole to hear the bond attorneys, I want to have the like time for the people who are going to retire those bonds. I think I'm pretty familiar with bonding attorneys. They've got a job to do, and they do it real well. I don't think...I think the couple of times that we've been in the Committee of the whole, we had a hard time getting out of it. I don't think that we should resolve ourselves to go into a Committee of the whole to hear some bond attorneys of this state--and Mr. Benton is a personal friend of mine--but he also has got a personal interest. He represents bonds. He's going to give us his view on this thing. I'm concerned about the people that's going to have to pay those bonds and retire the bonded indebtedness. Those are the people that concerns me. Not the bonding attorneys, but the people who are going to have to pay the check and pay the bill. I ask you to vote against this motion to go into a Committee of a whole to hear a bonding attorney. If we're going to do that, let's have the attorney that represents the people of this state and give the like time. If I'm a bonding attorney, I'm going to tell you everything I want you to hear, and not tell you what I don't want you to hear. Let's tell it like it is. Let's be honest with the people of this state. I'm here to represent the people--not the bond attorneys--or no other special interest group. I like to have them with me. I want to treat them right. But I don't want to turn this convention over to them. I hope you don't.

Further Discussion

Mr. De Blieux: Mr. Chairman and ladies and gentlemen of the convention, Senator Rayburn said we ought to have some of the attorneys who represent the people. Well, I'm one of those attorneys, I think, that represents the people. I don't represent any bond attorneys or anything of that sort. But, there's one thing that I do think that we ought to do. We should not, you might say, legislate up here, or make a constitution in a vacuum. I want to get as much information as I think I possibly can and need, so that we can draft something that we ought to have and need. For that particular reason, I want to concur in Mr. Perez's motion that we resolve ourselves in the Committee of the whole, and just hear what Mr. Benton has to say. I think I have enough knowledge and intelligence to take what he has to say and separate the personal from the other objective, and get as much information as we need. I believe the rest of these delegates here have that same type of intelligence. They are going to look at it and let us not...if we don't like what he has to say, then we don't have to vote for it. We don't have to accept it, but at least let's hear what he has to say. Then we can decide whether or not it was worthwhile.

Question

Mr. Tapper: Senator, did you know that I'm an attorney who represents the people, too? We have a lot of attorneys here. But, did not Mr. Vesich say he did, too? But, all one hundred and thirty-two of us represent the people. Don't you think so?

Mr. De Blieux: I think you can do that, Mr. Tapper.

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I don't think we're going to be swayed too much about that situation.

Further Discussion

Mr. Roemer Mr. Chairman and fellow delegates, I rise to strenuously support Mr. Perez's motion, and that is that in an area where we need help, that we get some. Now, how many of you--after reading Section 40, and after reading my amendment--understand what the problem is? I'm not sure I do. I'm not sure anybody out there does. I cannot guarantee you that after this speaker speaks that we'll understand more. But, there's a hope. Now, I'm going to tell you something. In Section 40 we're fooling with the guts and the heart of local and parochial government. It's their money; it's our capital improvements, and if you think you know enough right now how to vote, then let's don't hear anybody else. Let's don't take thirty minutes of our most precious time and ignore the facts. Let's don't take thirty minutes and try to learn something. Let's don't take thirty minutes and try to represent the people--the people who sent us here to do this job and do it well. I hope we get some help--I'm ready.

Further Discussion

Mrs. Warren Mr. Chairman...Acting Chairman and fellow delegates, I would like to have some more information, but I tell you what...I'd like to hear it from some of our staff that has been provided for us by this Convention. I was not able to be in on Revenue, Finance, and Taxation, and they had that benefit. But, if I'm going to hear somebody for thirty minutes, I want it to be somebody that I can go back and say if I voted and I made a mistake, I was told by the staff--not a bonding attorney. I don't know the bonding attorneys, and I don't have anything against them, but when I get my information, and when I vote on it, I want to vote because the staff--C C /73--said it was okay. So, I'll go along with Mr. Rayburn.

Further Discussion

Mr. Hayes You may not believe this, but I rise in support of the Perez amendment. I think I would be in a whole lot better shape after listening, in spite of anything Mr. Rayburn or anyone else might say about this. I don't think I'm as intelligent as I should be on this subject, and I welcome--not only the thirty minutes--a little longer, if necessary.

Questions

Mr. Chatelain Delegate Hayes, you and I both sit on Local and Parochial Government, but hasn't this picture changed greatly since we came up with the homestead exemption and the ten percent and all this? Hasn't it changed greatly, sir?

Mr. Hayes I would assume.

Mr. Chatelain Well, I think we need to hear some more information. I agree with you.

Mr. Hayes I think we should.

[Previous Question ordered.]

Closing

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I'm sorry that I've got to disagree with my good friend, Senator Rayburn, but I'm here as a lawyer, also, who has the interests of the people of this state and of my local government at heart. I frankly have a lot of questions as to how this matter should be worked out. I think I have enough intelligence, and all of us delegates have enough intelligence to be able to listen to the opinions of a man and make up our own mind. We had on our staff certain people who also gave us a certain amount of advice, but I do believe that in this

particular field, that we should listen to a person who knows a whole lot more about this subject matter than I, as a head of a local government, or as the staff who are not particularly versed in this particular subject matter. Believe me, folks, I don't care one whit about the bond attorneys. All I want to do is do the right thing by the people of this state, and that's the only reason I made this motion. I think we should hear from Mr. Benton for the half hour period, and if there's anybody else who can really contribute, I'm sure we should hear from them, also. So, therefore, I ask that you adopt the proposal.

Questions

Mr. Blair Mr. Perez, all these months that we've been meeting in committees, did you hear Mr. Benton at that time?

Mr. Perez Yes, we did.

Mr. Blair Well, couldn't you just relate that to us in just a few minutes?

Mr. Perez No, the picture has changed greatly, Senator Blair, since your proposal which deals with absolute statewide assessments on a ten and fifteen percent basis. At the time we heard from Mr. Benton and these other bond attorneys, we did not know at that time that that was the way this matter would be resolved. For that reason, because we have this...this absolute ten and fifteen percent which could have a very serious effect on a lot of areas throughout the state, I do think it would be worth the while of this Convention to hear from him for a few minutes.

Mr. Blair He couldn't have given you a little capsule deal that we could just save a little time here and open it up thirty minutes? You know the other side is going to want at least thirty minutes.

Mr. Perez Senator, I think we have moved on this Local Government Article...on the finance provisions much faster than we have on any other articles that we've come to so far. I think we have made remarkable progress. I don't think that we'd be wasting a half hour if we listen to this gentlemen. I think it would do us a lot of good.

Mr. Lanier Mr. Perez, isn't it true that on our Local and Parochial Government Committee we got in bond attorneys from all over the United States to try and help us?

Mr. Perez Yes, we did, but the problem that we had is that we didn't know that the ultimate solution of the property tax problem would be on a statewide ten and fifteen percent basis. That's what creates the problem with our particular proposal today.

Mr. Lanier Isn't the reason that we did that because this is a very specialized field that requires special knowledge that these people who specialize in it have?

Mr. Perez It's an extremely specialized field, and the one thing that we have got to realize is that when you go to borrow money, you've got to satisfy the fellow that you're going to be borrowing that money from, and not just yourself. That's the reason I do believe that we should hear from Mr. Benton.

Mr. Lanier At the time that we questioned these people, we were not thinking in terms of a uniform assessment ratio or a three thousand dollar homestead; isn't that true?

Mr. Perez That's correct.

Mr. Rayburn Mr. Perez, did you know that Revenue, Finance, and Taxation had a meeting in New Orleans, Louisiana, and we had three bonding attorneys from the major bond people of the state and the south to

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appear before us. Did you know they almost fought on what we should and what we should not do?

Mr. Perez Yes, I know Mr. Gravel.

Mr. Rayburn Did you know that?

Mr. Perez Excuse me, Senator Rayburn, that you did hear from bond attorney, also, but I don't believe that the majority of the delegates have, and I still believe that it would do us a great deal of good if we would take this half hour. I think we're waiting, apparently, as much as a half hour talking about whether we ought to hear from him. I think if we'd have gone about our business, we'd have been halfway through this thing.

Mr. Rayburn Well, I believe you're about as mixed up on this, Mr. Perez, as you are calling me Mr. Gravel.

Mr. Nunez Mr. Perez, I agree with your suggestion that we have wasted as much time had you gone ahead and heard Mr. Benton, so why don't you move the previous question, and let's either get on with him or get back with...

Mr. Perez The previous question has been raised, and I think in the essence of saving time, I will not answer any more questions, so we can proceed.

[Motion to resolve into the Committee of the Whole adopted: 73-0.]

Committee of the Whole

Vice Chairman Roy in the Chair

Mr. Perez To invite Mr. Benton to speak before this body on the subject matter as included in the resolution.

Mr. Benton I haven't eaten lunch yet. Mr. Perez asked me to come down to answer some questions...

Mr. Roy Mr. Benton, just a second, Mr. Benton.

Mr. Shannon Mr. Acting Chairman, what is the gentleman going to speak to us on--the amendment or the committee proposal, or both?

Mr. Roy I was of the opinion that he would speak on bonds in general; I would take it. But...
Mr. Perez, why do you rise?

Mr. Perez No, the motion was on the subject matter of Section 47, which is the limitation of bonded indebtedness.

Mr. Roy All right, sir. Does that answer your question, Mr. Shannon?
Proceed, Mr. Benton

Mr. Benton I'm really here to answer questions and not to propound any point of view. So, I don't need thirty minutes. But, let me start off and say this: that debt limitations--what is the character of this animal that we're talking about? What is the goal that you're trying to achieve? We know that we need to have some limitation in order for the people of this state to approve this document. You've got to have something there that's reasonable. Now, you have a problem, but let's go back and look at the essential nature of what you're working with. This is an arbitrary limitation. It's arbitrary because...I'm talking about the existing law is arbitrary in that it isn't really related very well to anything. For example, we go into a little town like the village of Morse, and they needed a water system, so we stacked bonds on top of bonds in order to get that water system--ten percent for water, ten percent for fire, ten percent for a road to cover the...to put the roads back. By the time we finished, we had about forty percent because the people wanted to vote and get that water. Now, we're talking about, for example, we're going to include the homestead exemption within the computation of the debt limitation. That shows the arbitrary character of the limitation that we're dealing

with. Now, what I'm saying is that you're really not after something that is the assessed valuation or the true market value as much as you're trying to get something that is not really assessable. I like the idea that I've heard here today that leave it like it is--the percent of the assessed valuation with the right of the legislature to have changes on a simple majority vote. Now, then put it back in a democratic form where the limit, number one, will have to appear on the bond issue, and if the bond issue can't be voted because it exceeds the debt limitation, they're not to go down to the legislature and by a simple majority vote get the legislature to say that the debt limitation is increased, subject to a vote of the people. Now, why do I say, "Leave it like it is"? Because we know that that's not adequate. It's not adequate for East Baton Rouge. We need--in Caddo and other parishes--we're going to need more than ten percent because of this change in approach that you are making. All I'm saying is that if you go to the people with an increase of, let's say, twenty-five percent, then the people are not going to like that. They're not going to like a bond lawyer arguing twenty-five percent debt limitations. They're not going to like you increasing the debt. If you leave it at ten percent, the legislature can charge it. Now, Mr. Roemer's suggestion was very innovative and interesting, and I'm not sure that I understand him. The one thing that I did understand--I'm not sure I'm right--that if you put all of the issuing authorities into the debt limitation computation, then there's one lawyer--and there are a lot of lawyers practicing in the field. I don't particularly like the idea of bond lawyer 'cause there are a lot of public lawyers, and a lot of you are here today. We all think alike; and we want to know when somebody says that you can't do something beyond a certain limit, then we want to know what that limit is. If you have a lot of people put into this one bag, a lot of issuing authorities, and you've got to figure out what's in the bag--is a port commission there; is a regional airport there; is an industrial tax bond there--by the time you add it up, are we sure, are we really sure that we are not exceeding the debt limitation? So, there's one thing you do want to have about debt limitation, since it's arbitrary in the sense that I'm talking about, you want to make it clear, absolutely clear, and that's one good thing--reasonably good thing--about our present language, and that is that it's ten percent of the assessed valuation for that purpose. That's something that we know. The courts and the cases have described to us what that means. We know what it means, and that's always a benefit is to take our history and look back over the years and see what we've done in the past; we know what we're doing in the future. So, I like it; I like this approach of taking where we are. Now, if...I'm not saying to throw out Mr. Roemer's idea because that may be the ultimate solution. I just haven't had a chance to talk to him. I've just been invited down a few minutes ago to come down. I really haven't had a chance to read it. So, my objections to that plan are simply: is this under the--taking the ten percent of the market value--does that mean that you count all of the bond issues in the parish, or only the overlapping bonds--the bonds overlapping a specific geographic area? Does it include the port commission bonds? Some of these bonds are general obligations: like the Greater Baton Rouge Port cannot levy taxes, but the Supreme Court of Louisiana has held that's a general obligation bond. So, how does that affect the debt limitations? A lot of you have ports; you have other taxing authorities. Now, how does all of that add up? How do we figure out whether we are exceeding the limit or not? That's my problem right now with using the market value. Now, let me hush up. I don't want to take any more time. I know you are busy. If I can answer any questions, I'll do my very best.

Questions

Mr. Roemer Mr. Benton, what yardstick do you use now? Do you use the ten percent of assessed valuation, or do you look at the composite of the actual

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values in a district.

Mr. Benton Well, we look at ten percent of the assessed valuation for that purpose. Now, that year, for example, that if we want to build a public building, we'll go back in and look to see how many bonds we have issued for that type of public building, and that's ten percent.

Mr. Roemer So, as the purposes multiply, the ten percents add up; don't they?

Mr. Benton That's right, sir.

Mr. Roemer So, if you have fifteen purposes, you've got, in effect, a hundred and fifty percent of the assessed valuation; don't you?

Mr. Benton You can have those bonds stacked on top of each other that high, that's right.

Mr. Roemer Okay, well, that's the very thing that I'm trying to correct--perhaps incorrectly--but that's what I'm trying to do. The second question is: don't you also realize that the assessed valuation heretofore was different, parish to parish?

Mr. Benton That's right.

Mr. Roemer Now, don't you realize that if this new constitution passes, that the assessed valuation will be the same, from parish to parish?

Mr. Benton Yes.

Mr. Roemer Don't you also realize that in some parishes that have a history of high assessments, heretofore, and afterwards are...have to adhere to these relatively low assessments, then, in effect, that base is going to be cut; is it not?

Mr. Benton That's right.

Mr. Roemer Isn't that a problem?

Mr. Benton It's a very definite problem.

Mr. Roemer What's your solution for that problem?

Mr. Benton To take--in each instance where there is a bond issue--to take that back to the legislature and let the legislature, acting in a democratic fashion, grant an increase, where the local people ask for it.

Mr. Roemer So, what you are talking about, then, is putting local and parochial matters, once again, back on the legislature. Why would we need this section at all unless it's just political facade?

Mr. Benton I think that...in other words, there are certain things in the constitution that are cosmetic and are window-dressing, and I see this as substantially one of those things. I don't think the people today get any particular protection out of that debt limitation, because we can stack the bond issues. When the people want something, they are going to vote it and try to pay for it. When they don't...when they don't want it, that's their protection. When they get a chance to vote on it, there's the protection. The debt limitation doesn't protect anybody.

Mr. Roemer Well, would you agree with this summation of your position, and that is, that Section 40 is just make-up, you know, cosmetic, and that because you are allowed to stack them for any single purpose--ten percent at a time--if we had fifty such purposes proliferating in a taxing district, you would, in effect, have five hundred percent of the assessed valuation under bond?

Mr. Benton That's exactly...I can cite the village of Morse as a good example where that was done, and the people were delighted when it was done. They got fresh water; they stopped drinking out of the wells; it was in the public interest, and they had

a chance to vote on every one of those bonds.

Mr. Roemer Well, then you would furthermore see that Senator Rayburn's question to me that if my amendment passed we would, in effect, be raising this limit to the sky is just the reverse of that; isn't it? It would be...

Mr. Benton No, I listened to what he said, and I was just quickly scan...calculating down here. It sort of is guesswork as to how many...how many bonds locally do you...In other words, how much capacity do you need locally? Now, you know you need at least twenty-five percent for schools 'cause that's what it is now. Then in some growing communities you can think of airports and hospitals, and by the time you finish stacking all those up, you finally get to the question that under your approach, you put everybody into one--I used the word bag--let's say a box or some concept of a confinement--everybody is within this same box. Now, then you start looking around the box to see who is with you. Now, there's one of my objections. I have some problem identifying who is there and who isn't. The other question I have is: what about competition? Is the box too big or too small? If we have made it too big, the people are not going to vote it. If we have made it too small, then you have competition between the people in the box as to who is going to use up the rest of the air space.

Mr. Roemer Well, you didn't answer my question; perhaps you didn't understand it. I wanted you to address yourself to the remark made by one of the delegates that my amendment was, in effect, raising the ceiling to the sky. It has just the reverse effect to that, doesn't it? I mean, it's ten percent of the...

Mr. Benton It seems to me that it comes pretty close to what you said, assuming that...how many people are in the box--how many issuing authorities. It comes out fairly close to where it is now on many average situations. That's the way I see it. Now, there are people not on the average, above and below.

Mr. Chehardy Mr. Benton, did I understand you to say that you'd like to leave it as is and have ten percent of the assessed valuation?

Mr. Benton Yes, sir.

Mr. Chehardy Well, actually what the provision says--and I'm only doing this to clarify--what it says is ten percent of the total value. It doesn't say ten percent of assessed valuation. Now, there is an amendment I see that Abraham and Pugh are coming up with which does change it to ten percent of the total value of the property...total assessed...ten percent of the total assessed valuation of the particular subdivision or the particular taxing district, as the case may be.

Mr. Benton Yes.

Mr. Chehardy But, in other words, you're not...in other words, you're not advocating, really, what we have here, 'cause what we have...what they have offered us here is ten percent of actual value.

Mr. Benton Well, what...the point that I was making was ten percent of the assessed value. I just walked in and haven't looked at your papers, really thoroughly.

Mr. Chehardy Right, well, that's why I'm saying it because I think it is important. What you are saying is the position I agree with, for one, and there's many others. I see Mr. Abraham and Mr. Pugh have an amendment which says, "ten percent of assessed valuation." That would apply, you know, and it would also be twenty-five percent of the assessed valuation in the case of schools. Now, am I wrong in assuming that this figure is going to increase, when under the provisions of this constitution all of the property in this state is reassessed? Wouldn't you say that's going to increase

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the base total of everything--the total base.

Mr. Lanier: Well, this is something you are better qualified, but as a lawyer, I can see the legal effect of that ten percent limitation. In other words, if the assessments are going to be restricted to ten, ten, and twenty, then that could have the effect of bringing down the total assessed valuation in this parish, because I know, for example, in drawing prospectus in this parish and in others, we have an assessment for homes greater than ten percent, so we will lose some assessed valuations there. Therefore, the total assessed valuation would be reduced in that area.

Mr. Chardy: Well, of course there are going to be reassessments of industrial property, commercials and...at fifteen percent. Now, so, then all I wanted to clarify was you are talking about ten percent of assessed valuation--not ten percent of real value.

Mr. Benton: Yes, sir, I was talking about assessed value, but I feel like that you have the...one goal here is to get your document accepted by the people and if you start changing this assessed valuation to a complicated thing that the taxpayers and voters can't understand, they're going to vote it down. You get into market value, and there are going to be a lot of arguments raised by people who don't understand Mr. Roeber's proposal that argue that this will raise it to the sky, and other people argue that they don't know what it means. Certainly, it's an innovative approach. Frankly, I'm...I wish we had more time to look at it, but you just asked me to come in a minute ago, and right offhand it looks like it could create problems in a couple of areas. One is: of course, the question of whether you can pass the document, and secondly, what is actually involved.

Mr. Lanier: Mr. Benton, during the course of the committee hearings in Local and Parochial Government, we had testimony from yourself, as I recall, as well as some of...some gentlemen from some of the rating services.

Mr. Benton: Yes.

Mr. Lanier: These people indicated to us that there is a natural rule of thumb limitation in the bond market at roughly ten percent of actual value. Do you agree with that?

Mr. Benton: There are some rules of thumb. Yes, I would say that that's a figure; that's a milestone or benchmark that they watch.

Mr. Lanier: If the market itself observes, generally, this percentage of ten percent of the actual value of the property in the district, as a practical matter, if you start stacking your ten percents of assessed value, you still will not be able to sell more than ten percent of the actual value. Is that not true?

Mr. Benton: Oh, I think we could go more than ten percent of the actual value. It depends upon what's involved in the total indebtedness. For example, we are voting and about to issue a bond for Kellwood over in Tangipahoa Parish. Now, Kellwood sells to Sears and Roebuck. That's a tax bond; that would be counted in this box. There's no taxes levied because Kellwood is going to pay a sufficient lease-rental to where that would never...in other words, what I'm saying is the investment market is not going to go on a superficial review. They're going to look to the guts of this thing and see what the true tax burden is, and what the true market value is. They're going to cut right through our assessed valuations and try to see the true debt picture. Are these people incurring too much debt, and if they are, if it's going to have a market effect. Yes, that is true that there's a market effect when you get too much debt.

Mr. Lanier: Would you feel...or would it be your

opinion that if this limitation were applied to all valuations that it would be pretty accurately followed at ten percent of a true value, excluding your revenue bonds and the type of bonds?

Mr. Benton: Well, we do look that way, and I've always assumed that what you and I are talking about was limited to ad valorem tax bonds.

Mr. Lanier: That's correct. I'm one of the reasons that you prepared the program table to inform people who are prospective purchasers of what the debt, that have previously looked at, and how it would affect the tax base.

Mr. Benton: Yes, right.

Mr. Lanier: So that these people who are in the rating services can apply this rule line that we are discussing.

Mr. Benton: Yes, sir. But, what I urge to you is that I don't think you...the marketability of bonds...the question...that element of this total consideration, that what I'm concerned about is when can the lawyers tell whether you have legally surpassed that limitation or not? The market wants to know they have a legal bond, and you've got to get a lawyer to say that this has not exceeded the debt limitation, by the language of aggregating all debt within one limitation. Then the other word in there that says "for this purpose," that raises enough question in my mind to where I would be very much concerned about clarifying where is the line; when have we exceeded the line, when have we not?

Mr. Lanier: Well, the point I'm getting at, Mr. Benton, is, in a way, isn't that what we're doing now when we publish these prospectuses showing the ad valorem tax indebtedness existing at the time of issuance of new bonds, so that the rating services can review these things to see if the milestone has been met?

Mr. Benton: Yes. We are...that's right. The prospectus tries, and all of ours attempt, to show the percentage of the total tax indebtedness compared to the actual value. That's correct.

Mr. Tobias: Mr. Benton, in effect, does it really make any difference what percentage we set? In other words, would not the law of supply and demand govern the whole situation over a period of time? In other words, if a parish flooded the market with a certain type of bond, they would find at some point that they would be unable to market it. Is that not true? So, in that respect, would it make any difference what percentage we set?

Mr. Benton: I think that's right, but I'm viewing it from this standpoint: that the people have to approve the type of bond we are talking about.

Mr. Tobias: Even if they approve it, though. I mean, they have the knowledge that eventually it may not be sold; it may not be marketable.

Mr. Benton: Well, I wouldn't depend on the market, entirely, because there's enough of a fringe market to where if you pay enough interest, you can probably sell a bond.

Mr. Tobias: Well, let me ask you another question. Could not, even if we put a very limited percentage such as the--what would, in effect, be a one percent, as I presently understand under the committee proposal, Section 40--could you...could that not be gotten around by such concepts as the Public Trust Act that was enacted?

Mr. Benton: That's right. What you're saying is that there are other ways to get bonds issued, if you were blocked under the debt limitation. That's true; what you are saying is true. The history of these debt limitations is--and there's a book written on this; I'd like to make copies available to you. You don't have time to read it, but it shows that

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these debt limitations come up historically when states, such as Louisiana, after the Civil War, issued too many bonds, and there were a lot of bad debts around. The people tried to restrict this debt, and in adopting these laws, they imposed restrictions; and then as the civilization progressed and they needed more bonds, they got around the limitations. Remember the old limitation we had that the legislature could not issue any bonds? We issued millions of dollars of bonds in Louisiana by simply creating state agencies and issuing authorities to get around the constitutional limits. It's a good example of how debt limitations are really not effective because the people require that this ability to borrow serve the public, and they're going to get around the debt limitation. So, I personally see this as a liability for your work. If you can draw something the people are satisfied with, giving them the safeguards of their vote and the safeguard of coming back to the legislature, then I...and also you've made it available for them...make it possible for them to change the limitation by going to the legislature.

Mr. Stovall Mr. Benton, would you make a statement concerning the present constitutional and statutory provisions and as to whether or not the present provisions are adequate for different municipalities?

Mr. Benton Well, the present constitutional provision is not adequate for certain municipalities, particularly in parishes where, historically, the assessments have always had to be low. You come along, like in the village of Morse--as a classic example, in my opinion--where they needed a water system. There's nothing more fundamental than water. They had to stack several bonds in order to get around the constitutional debt limitation.

Mr. Champagne This limitation that you speak of is really only a limitation for one specific purpose; is that not right, sir?

Mr. Benton The present law is for one purpose such as, say, a purpose for public buildings. Now, if you come along for fire engines, that's another purpose.

Mr. Champagne I understand. Now, what...in other words, when we say that this somewhat of a limitation, if it is a limitation only that all of your eggs won't be in one basket, but it's not really any limitation at all, because it might be a number of baskets. It might be a hundred and fifty percent of what the amount is.

Mr. Benton Yes, sir. Right now, you could have a hundred and fifty percent of the assessed valuation represented by a bond issue.

Mr. Champagne So, really, anyone who thinks this is a limitation is just reading it wrong, because it's not much of a limitation. It isn't a limitation at all, except that one specific purpose.

Mr. Benton Well, let me say it like this. It's a limitation, but it doesn't really give protection.

Mr. Champagne No protection. Now, the real significant thing is whether the bonds will sell at all, or if they will sell, at what percentage they will sell. Is that the real limitation? In other words, when you know, for instance, that your bonds...you have them issued but nobody will buy them, for instance.

Mr. Benton Yes, sir. But, I think, today you can sell any kind of a bond if you'll push the interest rate up, there will be somebody around to gamble on it.

Mr. Champagne That's what I mean. But, the rates would be so high; that's the real limitation.

Mr. Benton Right. Also, remember you have the Intelligence of the State Bond Commission. You

can't issue a bond, you can't even call the election without Mr. "Sixty" Rayburn and other members watching these applications, and in the exercise of this state authority they can see when there is getting to be too much debt.

Mr. Burson Wouldn't you have a problem with the aggregate theory offered by Mr. Roemer in that, presumably, if someone miscalculated in assembling the information for the prospectus, and in fact, thought they had not exceeded the ten percent aggregate when in actuality they had, you might have a situation there of any legal issuance of bonds?

Mr. Benton Yes, sir. I think you'd have some test cases to try to define exactly what is included in the package and what is not included.

Mr. Burns Mr. Benton, following up Mr. Burson's question about the ten percent aggregate--and in line with your explanation about this village where you had to stack several individual projects on top of each other in order to get the waterworks system, I believe--wouldn't it be almost impossible for a parish in all its different requirements to operate under this ten percent aggregate for every bond issue for every purpose?

Mr. Benton It might very well be impossible. This is a subject that addresses itself to some research as to what are total public needs in an area, and see if that balances out against ten percent of the market value. Yes, I think that's a good...

Mr. Perez Mr. Benton, isn't it true that possibly one of the reasons that there should be debt limitation in the constitution today is the fact that no longer do only property owners vote, but all electors vote on bond issues and that property--that there is a possibility of the overloading of debt on property ownership as a result of the issuance of too many bonds?

Mr. Benton Yes, sir. I can illustrate that point in a recent election in Pointe Coupee where we haven't voted a school bond for seventeen years. We need more than the twenty-five percent, so we selected the twenty-five percent debt limitation as the amount of the bonds, and if it had been more than twenty-five percent, the proposal would have been more. So, it does serve a balancing of interest in that situation. The bonds were voted down, incidentally, and I think one of the factors was the very thing you mentioned about all people voting.

[Motion for the Committee to rise adopted without objection.]

Chairman Henry in the Chair

Personal Privilege

Mr. Womack Mr. Chairman, and fellow delegates, I wish you would listen to me just a minute--as Delegate Jack would say--and Mr. Roemer in particular. A few minutes ago in the discussion, Mr. Roemer was discussing the poor pitiful plight of his parish where they had this unusually high assessment. I've been running little figures down, I just want to show you about that unusual plight of that extremely high assessment in Bossier, how it compares to that poor little assessment that we have in Franklin. In the first place, it is true that they have a ninety some odd dollar an acre--ninety-four dollars and thirty-four cents an acre--on their class A farmland, whereas Franklin has thirty-five, ninety-eight on the class A farmland. The only difference is they don't have any class A farmland. We've got seven times as much as they have, in our parish. When you move into the B they have thirty-seven, thirty-four; we have twenty-four, thirty-one. The only difference, they have nineteen thousand acres of it and we've got seventy thousand acres. But, when you move over into the chief category of the pasture land, they've got forty thousand, we've got thirty-one thousand; they're eleven eighty-seven, we're fourteen-eighty. In the class C, they're

eighty-four thousand, we're seventy-six thousand, there're thirteen-thirty, we're eighteen something 50, when you break that thing down to the average price, and this is what you've got to go on in the end, is that Bossier Parish's average of all of their farmland that is assessed is eighteen seven, where Franklin Parish is twenty-two forty-two. You to come out and use these high figure--and this is going to be the case in a lot of the other place--when you use these high percentages and show what our good farmland is assessed at, it's one thing but, when you go look at the total acreage that's assessed, it takes a totally different picture, and Buddy, this is the reason I wanted to hear what was said a while ago, because to come out and start giving these... just the overall facts--whatever they might be--gives one slanted version of it. But, when you really get into it and look at what the total is and at the ultimate end, you get another picture altogether. Thank you.

A. end ent

Mr. Poynter: Delegates Morris and Gravel send up a end ents at this time, Mr. Chairman.

A. end ent No. 1. On page 21, line 7, immediately after the word "law" insert a period, delete the remainder of the line and delete line 8 in its entirety.

Explanation

Mr. Morris: Mr. Chairman, members of the Constitutional Convention, this just is a very simple amendment. It changes the percentage from two-thirds of the legislature to raise the bonding capacity for any parish to a simple majority of both houses. It's a technical amendment, as far as I'm concerned.

Question

Mr. Bollinger: Mr. Morris, in light of the discussion, do you really feel that Section 40 is needed in the constitution?

Mr. Morris: Well, I'm a school teacher, Mr. Bollinger, and I'm not an attorney. I'm told that it is needed, and I have to accept the word of people with more wisdom than myself.

Further Discussion

Mr. Perez: Mr. Chairman and ladies and gentlemen of the convention, as all of you know, all of these debt limitations are now in the constitution and cannot be changed except by an amendment to that constitution. I do think that what the committee proposed in going to the two-thirds of the legislature without the requirement of an actual constitutional amendment is a compromise between having it fixed in the constitution and allowing it, the increase in debt limitation to be... to come about as a result of an ordinary act of the legislature. So, therefore, I believe that we should retain the two-thirds provision. I think that it will provide some security to property owners that they will not be taxed out of existence. I think that in any situation where you have any real problem that has come about as a result of the reevaluation of property, I'm satisfied and I have the faith in the legislature that they will correct that situation. But, I do think it's dangerous to allow, generally speaking, just an ordinary act of the legislature to increase the percentage of bonded indebtedness for any purpose on property owners throughout the state. I think we're fooling with problems, and I do believe that we should retain the two-thirds provision. So, therefore, unfortunately I must oppose the amendment.

Further Discussion

Mr. Roemer: Mr. Chairman, and fellow delegates, I wish you'd give me your attention for just a few minutes, not that I know all about this subject because I know very little about it. But, I listened patiently for the last thirty or so minutes while

we heard some "expert" testimony... at the expense of that expert testimony that we're doing nothing more than creating... That is that the people will come and talk about a limitation and want to put it in the constitution, don't want to give it any teeth, because, you see, the way the law has been up until today, and the way it shall be hereafter if we pass the new limitation of that, you, there is a ten percent limit, but you can take so many bond issues as you can get paid. If you want to stack forty, you can stack forty at ten percent each. Now, what's ten percent taken forty times? It's four hundred percent times the assessed valuation. That is no limit whatsoever, so, when Mr. Perez gets up here and tells you that we need this limit to protect all these poor property owners, they won't have to pay increased ad valorem taxes, well, I agree with that. We need a limit to protect all these poor property owners who're going to be paying all these taxes. There's only one difference between Mr. Perez and me; he didn't put the limit in and I tried to. I think that's a big difference. It's obvious to me that when you try to put a limit in the constitution, you run the risk that at future needs increase, the limit becomes unbearable. It seems to me that good common economic sense--and I think good political sense when you take it to the people--is to take Section 40 out of the constitution, because to leave it in and tell the people that you have a limit is telling them a bald-faced, absolute, number one lie. You don't have a limit because you can stack them ad infinitum if two things happen: One, the people vote the... and two, the bond attorneys and the people that buy bonds, buy them. Then to me, that's the real dictate of the marketplace. What the people want and what the people that buy bonds will buy, so why can't we leave it to those two? I trust the people! I think they know when to vote and when not to vote bond issues, and those people that say, "Well, a majority of the people don't own property now and they can vote taxes on the other people," the facts don't bear them out. You look at bond elections in this nation and in this state. Consistently, the people with property vote for it. Consistently, the renters and the people without property vote against them. You know why they vote against the? Because their rent is raised by the proportional increase in expense; that the people that own the property have to pay in increased taxes. What I'm saying is that I support this amendment to change from a two-thirds to a majority vote in the legislature, because if we pass this, what, in effect, we've done is take Section 40 out of the constitution, and put it up to the legislature where it belongs; because understand me, and understand me well; we have no limit on bonded indebtedness in this state under Section 40 or under our present constitution.

Questions

Mr. Lanier: Mr. Roemer, didn't you get from Mr. Benton's testimony that the way this proposal is written and the way our present law is that you could stack all of these single purpose issues together, and that the only real limitation would be the keystone limitation in the market of the ten percent of the fair market value?

Mr. Roemer: That's exactly right, Walter Lanier. The real limitation on bonds in this state is what the bond people will buy. That's the only limitation there is.

Mr. Lanier: Were you as disturbed as I was about his remarks that you could even go beyond this limit if you paid enough interest?

Mr. Roemer: Exactly right.

Mr. Lanier: So, don't you think in order to have a meaningful limitation we'd have to tie it into the fair market value for all purposes?

Mr. Roemer: You and I have worked for hours and maybe months on trying to come up with a meaningful limitation. I still support that, but, if we can't

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Come up with me, then for goodness sake, let's take it out of the constitution, because surely, we're not fooling anybody.

Mr. Burns Buddy, this is not a hostile question, but didn't you get it from Mr. Benton's testimony that he didn't think too much of your amendment either?

Mr. Roeber No, there's no question of that. I agree with you. I didn't mean to just take one-half of it. He thought mine was innovative but no good.

[Transition. Question and Answer.]

Closing

Mr. Morris Mr. Chairman, my only interest in this is just to see that in the reevaluation of property that no entities in our state...in our local governments are hurt--their bonding capacity--and that's my only interest in the matter at all, and I certainly put my trust and reliance in the state legislature. Thank you.

[Amendment adopted: #2-39. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendment No. 1 [by Mr. Pugh and Mr. Abraham]. On page 20, at the end of line 18, after the words "of the" delete the word "total" and delete lines 19 and 20 in their entirety. At the beginning of line 21, delete the partial word and punctuation "steads," insert in lieu thereof the following: "assessed valuation of all property within such subdivision,"

Amendment No. 2. On page 20, line 25, after the words "of the" delete the remainder of the line and delete line 26 in its entirety and insert in lieu thereof the following: "assessed valuation of all property within such district; and"

Amendment No. 3. On page 20, at the end of line 28, delete the words "total value" and delete lines 29 and 30 in their entirety and insert in lieu thereof the following: "assessed valuation of all property within the political subdivision."

Explanation

Mr. Abraham Mr. Chairman, ladies and gentlemen, this amendment is a technical amendment in that we're simply trying to clarify the language. If we are talking about the fair market value, we want to say ten percent of the fair market value. If we are talking about the assessed valuation, we want to say ten percent of the assessed valuation. We're not going to quarrel...or I'm not quarreling either way as to what the percentage should be or anything like that. Mr. Pugh and I have actually prepared two amendments. One says fair market value, the other says assessed valuation. But, it's my understanding from a direct question of Mr. Perez that the intent of the committee is that it be the assessed valuation, and that's all we're trying to do here is clarify that language.

Questions

Mr. Pugh Mr. Abraham, every assessor in the convention here today has told me when you say assessed valuation, you mean including the homestead. Is it not correct that if I have a hundred thousand dollar house and it's assessed then--it will be assessed at ten thousand dollars--which has nothing to do with the amount of my homestead?

Mr. Abraham That's correct.

Mr. Pugh This is directed to the assessment amount, period. It has nothing to do with how much homestead I may be entitled to.

Mr. Abraham That's correct. As I understand the present situation today, under the present constitution they are using assessed valuation.

Mr. Champagne Mr. Abraham, all three of these amendments would have to be submitted or rejected as a whole, so would you have any objection of voting them all at one time?

Mr. Abraham No, I have no objection if this is the intent...it needs to be shown in three places though.

Mr. Singletary Mr. Abraham, I didn't hear your answer to Mr. Pugh's question. Your amendment does include homestead exemption property?

Mr. Abraham Yes, because all property must be shown on the assessment rolls at the assessed value, and then the homestead exemption is simply deducted from that.

Mr. Singletary O.K. One other question. Your amendment refers to taxed property right? It doesn't include property that's exempt?

Mr. Abraham Do what? I didn't hear you, Alvin.

Mr. Singletary Your amendment doesn't refer to property that's exempt, does it, other than the homestead exemption? In other words, you're talking about taxable property.

Mr. Abraham It refers to all property listed on the assessment roll within the taxing district.

Further Discussion

Mr. Perez Mr. Chairman, and ladies and gentlemen of the convention, there is no question about the fact that the intent of the committee and the words which we use had the intent of including only ten percent of the assessed value for any particular purpose. But, unfortunately, this amendment goes far, far beyond that point and that's the real problem which we now have in this state, and which we must correct with this amendment. I asked the author of the amendment, or one of the authors, to take care of that and unfortunately, I could not prevail upon him. The part which is not taken care of are the words "including property exempt as homesteads." Now, we have been told that the present posture of the situation with respect to ad valorem taxes is that all property, rather than the homestead is totally exempt from taxation, and therefore is in the same position as the courthouse or a church, and so forth. It is not included as a part of assessed valuation. This is a very, very important item as far as the bond base is concerned. You heard Senator Rayburn earlier raise that same question, and he said, "We understood that they were going to include as part of the tax base that property exempt as homesteads. So, I have asked the members of the committee...I have no objection to the wording "assessed valuation of all property within such subdivisions." But, with the deletion of the words "including property exempt as homesteads," you are going to be reducing the base--your bond base--very, very, substantially. I say this is a very serious matter, and I wish that I could prevail upon them to leave those words in so that I could support the amendment. But, as the amendment now appears, I cannot support it because of the fact that it presents the same problem we have today, and that is, it reduces the bond base to the extent of the homestead exemptions, and we wanted to make it clear that that property exempt as homesteads would be included in the determination of your bond base of your total amount of bonds that could be issued. Therefore, I regret that I have to object to the amendment unless those words are included in the amendment. If they are included, I'd be glad to go along with it.

Questions

Mr. DiGerolamo Mr. Perez, I was just speaking to Mr. Benton there and asked him about this thing that we're talking about, and he assured me that it was included.

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Mr. Perez What do you mean, it was in [redacted]

Mr. D'Gerolamo That the base would be, you do not deduct the homestead exemption from the total to get the base, that the homestead exemption is included in it.

Mr. Perez Again, I don't understand what you're saying. What you mean is you think that the amendment as it is now prepared, Mr. Denton tells you is O.K. and we do not need those words?

Mr. D'Gerolamo Yes.

Mr. Perez Including property exempt as homestead?

Mr. D'Gerolamo Yes, sir.

Mr. Perez Well, that's completely contrary to what they've told us before, and that's the reason we put those words in there. So, I'm only trying to protect the situation as it was explained to us.

Mr. D'Gerolamo I know that, and this is the reason why I went back there and asked him again.

Mr. Goldman Mr. Perez, from what I've just been explained by someone over here--Mr. Pugh and several others--the way, if this amendment is passed and it goes in the way this reads now, it would even include industrial property that might be under ten year exemption. It would even include churches, hospitals, and other that are completely exempt, but the value of that property on the tax roll would still be included in this base.

Mr. Perez No, sir, I cannot agree with that, and I don't believe...

Mr. Goldman That's what they told me.

Mr. Perez Well, I can't agree with that, and I'm sure that I'm correct on that.

Mr. LeBleu Mr. Perez, if the homesteads are included in the tax base that would allow the taxing authority to issue more bonds, wouldn't it?

Mr. Perez That's correct.

Mr. LeBleu But, there're no receipts or no payments up to the extent of three thousand dollars, anyway.

Mr. Perez That's correct. There's no payment of taxes made on the first thirty thousand dollars of value, or three thousand dollars of exemptions. All this does would be to provide the base for the issuance of bonds. The question of who pays the taxes to pay for the bonds is covered under the homestead exemption provision.

Mr. LeBleu Yes, sir. What I'm talking about is those over and above the homestead exemption plus industry, and so forth, would then have to pay a higher millage on the larger amount of bonds that would be available to be issued by the taxing authority.

Mr. Perez Well, there's no question that what's left on the tax rolls is going to pay for servicing those bonds. It's only the question of whether you want to include, in figuring this ten percent, the value of the homesteads, or whether you don't want to include the value of the homesteads. So, that if you do include the value of the homesteads, it then gives you that much larger base--the ten percent base is larger.

[Irregular question period.]

Closing

Mr. Pugh Mr. Chairman, fellow delegates, earlier today Mr. Perez had expressed to you his opinion of what they meant by this Section 40 was that it was to be the assessed valuation. All Mr. Abraham and I are trying to do is say what they meant. That's

all we take issue with the fact that we don't put the phrase "including property exempt as homestead." The mere fact that you're using the word "including" instead of the word "and," is indicative of the fact that it's there. What does this mean if property is included, it's placed on the roll; that's the assessed valuation. Some of us as veterans are fortunate enough to have a five thousand dollar exemption. Some of our neighbors have a three thousand dollar exemption. Some of our sixty-five year old friends have a five thousand dollar exemption. That's got nothing to do with the assessment. The assessment is the total amount. If I've got a hundred thousand dollar home--well, unfortunately, I don't--and under this constitution, it would then be assessed at ten thousand dollars, that's my assessment. Whether I get a five thousand dollar exemption or a three thousand dollar exemption, or when I get sixty-five, another five thousand dollar exemption, has nothing to do with the assessed valuation. Now, every time we start talking about these homesteads, we're creating additional constitutional problems. Now, I talked with every arse or in this room, and every one of them agrees with me that when you use the phrase "assessed valuation of all property within said subdivision," you are talking about the assessment and it has nothing to do with whether or not you've got a homestead exemption on it.

Questions

Mr. Abraham Bob, would you agree, then, that if it does make some people feel happier to include the words "including property exempt as homestead" that if they would offer such an amendment, we would support it, would we not?

Mr. Pugh Well, that's right. They've got to put it in all three places when they put it, though. They have it in just one place here. They have to put it in all three, if it means anything.

Mr. Roemer Bob, just so everybody understands it, "assessed valuation" and "fair market value" are not the same things. You are not trying to say they are, I know. But, they are not, are they?

Mr. Pugh No, sir.

Mr. Winchester Mr. Pugh, "on the assessed valuation" is one thing, and "the taxes on the assessed valuation" is another, isn't it?

Mr. Pugh That's absolutely correct.

Mr. Winchester In other words, I'm saying that homes are assessed.

Mr. Pugh That's correct.

Mr. Winchester So, when you say "assessed valuation," you mean that column on the tax roll or on the recap that lists all property that is assessed whether it is partially exempt by homestead or not. Is that correct? Is that the way...

Mr. Pugh As sure as night follows day. It can be nothing else.

Again, I reiterate, if I've got a hundred thousand dollar home, then it's a ten thousand dollar assessment, and this is talking about ten thousand dollars, and has nothing to do with what kind of exemption I may or may not be entitled to. Period. This is the assessed amount.

Mr. Champagne Mr. Pugh, would you agree that if we're going to provide what the present constitution provides, even though I don't think it's such, that your amendment is absolutely necessary?

Mr. Pugh Sir?

Mr. Champagne Do you agree that if we are going to provide the same thing the present constitution provides, that your amendment is absolutely necessary...

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Mr. Pugh Well, I'll say that whether or not you want Section 40 in here is of no consequence to me. I say, if it's going to go here, then just speak English. That's all I'm suggesting.

Mr. Chalagie That's correct, correct.

Mr. Perez Mr. Pugh, did you know that just a few minutes ago someone asked me the question that didn't I know that Mr. Benton, who was a bond attorney, who appeared here before, said that he did not feel that it was necessary to have these words 'including property exempt as homesteads' in the amendment? Did you know that I just talked with Mr. Benton, and he insists that those words do belong in this provision?

Mr. Pugh Well, of course, I'm not familiar with either conversation with Mr. Benton. I respect his opinion; I just happen to differ with him. Every assessor in here tells you that the assessment value is just that. It's the assessment value. Why use the word "including"? There would be no need for the word "including" if it didn't. If you want to add something, use a conjunction.

[Amendment adopted: 65-32. Motion to re-amend tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Leigh]. On page 26, line 14, immediately after the word "purpose" insert a period "." and delete the word "which" and delete lines 15, 16, and 17 in their entirety, and insert in lieu thereof the following: "the aggregate of all indebtedness of such political subdivision incurred for such purpose and evidenced by bonds payable solely from ad valorem taxes levied without limitation as to rate or amount,"

Explanation

Mr. Leigh Mr. Chairman and ladies and gentlemen of the convention, again I think I'm simply trying to clarify the language used in the first part of this section. The section reads, "The general obligation bonds may be issued by any political subdivision for any single purpose which," and then go on including the bonds and put the limitation on it. It seems to me that there is some ambiguity as to what might be the antecedent of the relative pronoun "which," whether that's the purpose or whether it refers back to the bonds. In order to leave no doubt about it, I have suggested a redrafting of the first part of the section so as to provide that general obligation bonds may be issued by any political subdivision for any single purpose--period. Then, a new sentence, "The aggregate of all indebtedness of such political subdivision incurred for such purpose and evidenced by bonds payable solely from ad valorem taxes levied without limitation as to rate or amount, shall not exceed in the aggregate ten percent of the total value," and so on. It's designed simply to clarify the intent of the section. I believe it states it more accurately than the section as originally worded, and I urge the adoption of the amendment. I might add: I think I'm quoting Mr. Perez correctly but, I understand you have no objection to the amendment.

[Amendment adopted without objection.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Schmitt]. On page 20, delete lines 11 through 32, both inclusive, in their entirety and on page 21, delete lines 1 through 13, both inclusive, in their entirety--and Mr. Schmitt, I think we'd better add--including all floor amendments thereto.

Explanation

Mr. Schmitt Section 40--at least, in my opinion--which is entitled "Limitations on Bonded Indebtedness of Political Subdivisions" is meaningless and ridicu-

lous and perhaps, would be quite costly. It's meaningless because of the fact that you have a ten percent limitation for one purpose, and as indicated by the bonding attorney, the present practice is to stack these bonds in a situation in which the limitation would apply and therefore, the authorities can get around this specific limitation. Therefore, in reality, there is no limitation at all. I think that if you want to provide some type of meaningful limitation, let's apply something which people can readily understand. As an example, that the aggregate amount of all ad valorem property taxes, collected on the fair market value of property from one area would be, as an example, three percent of this fair market value. That would be some type of reasonable limitation which would provide the protection if it is deemed that the people need this protection. I don't feel that this is a necessary section because of the fact that it has been gotten around in the past; it has resulted in a lot of cost and expenses to the state and to local governing authorities in the past; it has added costs to many bond issues, and has led to detriment of the people of the State of Louisiana. I feel that the removal of this particular section would not hurt any of the rights of the people of the State of Louisiana because of the...the only meaningful type of limitation is the marketplace, whether or not the bonds which are passed are marketable. I would request that you act favorably on this amendment, and delete Section 40. Thank you.

Further Discussion

Mr. Duval I rise in support of Mr. Schmitt's amendment for the following reason: let's at least be honest with ourselves when we do these things. If you say you're for a limitation, but then the legislature can raise the limitation without a constitutional amendment, you in essence have no limitation; and because it's difficult for us here in a constitution to contrive a formula, a limitation which is workable for all sixty-four parishes right here, right now, with the facts and the statistics we have, I suggest to you, it would be best to leave the limitations out of the constitution; the legislature would have the authority to establish a limitation if one is necessary. I might also point out that all bonded indebtednesses have to be authorized and passed by the people, also the bonds have to be sold, so you have many built-in protections that are purely pragmatic and realistic in the everyday goings-on of life. But, if we're going to have a limitation, it's rather silly to say the legislature can change it. You don't have a constitutional amendment. So, in essence, you're having a constitutional provision under the committee proposal. In other words...under how it's been amended, you have a constitutional provision which can be changed by a majority vote of the legislature. So, it's not a constitutional provision. So, I suggest to you that in all honesty, we might as well delete the section because it's totally meaningless. It is window-dressing, and I don't think we should engage in that kind of really fooling ourselves as well as a contrived attempt to fool the public. We should just leave it out, and leave it up to the discretion of the legislature who are the direct representatives of the people.

Further Discussion

Mrs. Zervigon Mr. Chairman and delegates, I wouldn't come up and speak to you on this amendment because I'm sure not very many folks are listening, except for the fact that I've got a homey little story to tell them. When I think of a homey little story, I can't resist telling it. About ten years ago, I went to a wedding rehearsal, and the new couple had agreed that they would promise, not just to love, honor, and cherish, but that she would promise to love, honor, and obey, and they got into a terrible argument with the preacher, and the preacher said, "You know, in my line of work, we're not supposed to be forcing folks into lying; we're supposed to be trying to help them tell the truth." This constitution is our basic law. When we put in

ten percent of ten percent per purpose, we're taking the bond attorney to lie, cheat, steal and manipulate to the point where the limitation is meaningless. If it is meaningless, let's not stick it in. Let's not ask our upright, fine attorneys to lie, cheat, steal and manipulate so that we can have sewer systems, roads, light and new buildings. Thank you.

Further Discussion

Mr. Jenkins: Mr. Chairman, I rise to oppose the amendment to delete this section, not because I think the limitation, the way it is now, is so good, but because we need such a limitation in here, and I think language will be offered to improve it substantially. I haven't been in politics very long, but I've learned one thing that's coming home more and more and more to me--something I've heard all my life--that the only thing we learn from history is that people don't learn from history. The limitation on the bonding authority, the debt-incurring authority of governmental subdivisions care about for a reason--for many historical reasons. It's been brought out about the experience of the Civil War, and the excessive bonding use that came about then. There will come times of insurrection, of depression, of runaway inflation in the future, when local governmental officials will be tempted to expand the bonding authority of their areas endlessly. The people will not know better, and in times of trouble will vote for such proposals. In the long run, they may be faced with financial disaster, with bankruptcy as a result. Let's try to learn from history. If the federal government had some limitations on its debt-incurring authority, we would not face many of the problems that we face today in this country, particularly with regard to inflation and the interest on the national debt. Let's don't delete this section. Let's make it right. Let's improve it. Let's make it workable. That's the only way to deal with the bonding capacity and the debt-incurring authority of local government--not to ignore it or leave it to future whims. The trouble is, if you leave it to the legislature, you leave it solely to local governing authorities, you're going to find that, in a pinch, in the depression, in the runaway inflation, in the time following an insurrection, in the time following an invasion, there's going to be panic. Legislatures and votes of the public are not going to be the thing to rely on. It's going to be principles that need to be relied on at such a time, not the whim and fizzle of the moment. So, I urge you to reject this amendment.

Question

Mr. Roeber: Woody, I've known you personally and I guess professionally at this convention, and throughout both those relationships, you've always maintained a strong adherence to the free enterprise system, as much as you could. Don't you think that we would be better off to allow the free enterprise system here, and that is, the salability of bonds, and a vote of the people to determine what bond they put on themselves?

Mr. Jenkins: It's not a question of relying on the free enterprise system. It's all for the free enterprise system, but by setting a limit here, we're not in any way impinging on the free enterprise system. We're acting here in the same way that a corporation would act in determining the bonded indebtedness that that corporation, or here, a governmental entity, will attempt to incur. Now, in the free market there is from a practical standpoint, no limit to the bonding capacity... There is no practical limit to the bonding capacity of anyone, if you will pay the interest rate required. Now, certainly, if the rates are bad, we can agree to pay a few hundred percent interest rate, say, and we might have to do that to be able to sell bond, and the free market will work for us. But, what I'm saying is that under the situation, in times of distress, it is mortgaging future generations to allow a governmental entity to do such a thing.

... we need limits to protect future generations, but if we were a corporation, we would want to get up limits to protect our shareholders in the future. Now, that's not an investment of the free market, but it is self-protection and self-defense of our jurisdiction here.

[The following amendments were introduced and read into the record.]

Amendment

Mr. Poynter: A amendment set up by delegate Perez as follows:

Amendment No. 1. On page 60, line 10, of Bill Amendment No. 1 proposed by Delegate Pugh and Abraham and adopted by the Convention on November 7, 1973, today, on line 2 of the language added by said amendment after the word and punctuation "division," add the following: "including property exempt as homesteads."

Amendment No. 2. On page 2, line 10, of Bill Amendment No. 2 proposed by Delegates Pugh and Abraham and adopted by the Convention on today, on line 2 of the language added by said amendment after the word "district" and before the word and after the semicolon ";" and insert in lieu thereof the following: "; including property exempt as homesteads;"

Explanation

Mr. Perez: Mr. Chairman and ladies and gentlemen of the convention, when the Pugh and Abraham amendment was adopted, I explained to the convention the fact that I had no objection to the language of the amendment, but that I had objection to the deletion of the words "including property exempt as homesteads." I want to reiterate one more time, that the trouble that we have had with the issuance of bonds since the adoption of the absolute homestead, we have had a reduction in the base for the issuance of bonds because the position was taken that property absolutely exempted from taxation such as the first thirty thousand dollars of a homestead is in the same position as the courthouse, as church, as the church property, and so forth. I don't believe that for those who feel that it's already taken care of, it certainly will not do any harm to include the words "including property exempt as homesteads." But, if we do not include these words, then I'm afraid we're going to find ourselves in a position... in fact, I know we're going to find ourselves in the position that we have reduced the bond base of local governments. That was the testimony before the Committee on Local and Parochial Government. It is also the same testimony before the Revenue Finance and Taxation Committee, as evidenced by the comments, I think you heard today from Senator Rayburn. Therefore, I urge you to adopt this amendment to make it clear that in determining the tax base, you also figure out... you figure in that tax base the property which is exempt as homesteads.

Questions

Mr. Conroy: Mr. Perez, I agree with what you're doing, but I had two questions. The first one is: you did it in two places; why didn't you do it in all three?

Mr. Perez: The reason I didn't do it in the third place is because the third situation refers to general obligation industrial development bonds, and it's my understanding that that would only include the industry area. If I'm in error, it should be in the third place, also. But, that's the reason I did not put it in the third place because it may, as to general obligation industrial development bonds, and I was under the impression that those bonds included all the industrial area itself.

Mr. Conroy: I see. My other question was that under the amendment, so far as new areas, though, there would be no in lieu of other exempt properties. Only the homestead exempt property would be

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included in the computations. Is that correct?

Mr. Perez: That's correct, and that's the way the present bonds are figured; that is, the industrial exemptions on your church property and so forth are not figured in determining the amount of bondability.

Mr. Abraham: I just want to say that Mr. Pugh and I have no objection to the amendment.

[Amendment adopted without objection.]

Amendment

Mr. Poynter: Amendment No. 1 [by Mr. Roemer and Mr. Pugh]. On page 20, delete lines 13 through 30, in their entirety and on page 21, delete lines 1 through 11, in their entirety, including all amendments thereto and insert in lieu thereof the following: "Section 40. (A) The aggregate amount of general obligation bonds secured solely by ad valorem taxes within any taxing district, including existing such bonds, shall not exceed ten percent of the fair market value or use value as applicable to the taxable property within the district.

(B) The legislature may increase the debt limitations established in this Section by general law or by local or special law passed by a two-thirds vote of the elected membership of each house."

Explanation

Mr. Roemer: Mr. Chairman and fellow delegates, we reworded by original amendment to try to state succinctly and directly the concept of a legitimate, meaningful limitation on the bonded indebtedness capability of a local political subdivision. We've changed from the committee proposal the concept that these ten percents of assessed value can be stacked one on another, as high as the people vote them, as often as the people vote them, and as many times as the bond attorneys will buy them. We've done this by setting a ten percent of fair market value, aggregate limitation within any taxing district. In addition to that limitation of ten percent, we have acknowledged in this amendment that that rate, that ceiling, that limitation might in some future day need to be raised, and we've provided in Paragraph (B) for the raising of that limitation--if so needed--rather than by a constitutional amendment, by a two-thirds vote of the legislature. I don't know if this amendment will pass; we'll have to see in a few minutes. But, whether it does or not, I'd like you to understand exactly what we, on this amendment, are trying to do, and that is, we're trying to put in concrete terms the mouthings and the words of those people in this convention who say, "Oh, yes, we need a limitation; oh, yes, we've had a limitation for years; oh, yes, this constitution won't pass without one." Well, you don't have one now. We're trying to give you what you've been saying you want. Now, you might quibble with the ten percent. Maybe it should be five; maybe it should be fifteen. With the calculation that we've done, we think ten will meet the objections and the criteria, statewide. With the addition of the legislative right to change it, we think we've given it the strength of flexibility. I hope that you can support this amendment because I believe that this amendment does what the people expected us to do--provide a limitation on the willy-nilly growth of bonded indebtedness at a local level. This has been a hard day for me, and I apologize for coming up so often, but I don't apologize for my concern, and I care that we do something here that is right, and we back up our words with some action, and not just a meaningful section that number one: puts no limitation, and number two: leaves it up to the legislature by simple majority vote. Now, we haven't done a dadgum thing in three hours of debate if we pass that. I'm open for questions.

Questions

Mr. Newton: Mr. Roemer, when you recover--taxable property within the district, would that include property subject to homestead and other exemptions?

Mr. Roemer: Yes, sir. Yes, sir. That's the broad terminology, taxable property within a district. Yes, sir.

Mr. Newton: In other words, the homestead exempt portion in all other exemptions would still be part of the bonding capacity?

Mr. Roemer: Right, we're trying to make the base broad, Autley. We're doing what they did in Section 40 by excluding homestead exemption, for example.

Mr. Newton: I don't believe you're doing that, Buddy.

Mr. Roemer: Well, I think we are. We say taxable property--not property that is taxed. There is a difference. Property subject to the homestead exemption is taxable. The exemption makes it not taxed.

Mr. Perez: Buddy, what troubles me in Section (B) is, I don't know whether it's clear that the general law would require two-thirds vote of the elected membership of each house, the way it's prepared. It says "the legislature may increase the debt limitation established in this section by general law, or by local or special law passed by a two-thirds vote of the elected membership of each house."

Did you intend to mean that it would require a two-thirds vote both by general law and by local or special law?

Mr. Roemer: It was our intention, and it's the opinion of the staff who helped us prepare this, that that is the case. That is a general law, a local and a special law, require a two-thirds vote. I agree with you. It's not exactly clear to me with the "or's" in there.

Mr. Perez: The other question is, the concern I have is that who would determine the fair market value to apply the ten percent to? Shouldn't that be spelled out in some way?

Mr. Roemer: Well, the assessor, of course, determines fair market value; it's his prerogative. He has to determine fair market value before he can put the ten percent assessment rate against it. He has to do it right now.

Mr. Perez: Well, of course, the article provides that he shall assess at a percentage of fair market value.

Mr. Roemer: Well, then...

Mr. Perez: The only question that I'm interested in is, assuming that this passes, I would like to see to it that we know what it means and that there would be a provision which would tie down how you would determine fair market value.

Mr. Roemer: I share your sentiment. But let me tell you this. Going through eleventh grade math... I think if we realize that the formula is ten percent of fair market value, and we just have the ten percent on the books to obtain fair market value, all we have to do is multiply it by ten.

Mr. Perez: Well, my only concern was that if it said, "as determined by the assessor," then we would have some guideline, and the bond people would have some guideline, to go by to determine who it is that determines fair market value, wouldn't you think?

Mr. Roemer: Understand, yes.

By the way, on the two-thirds vote, Chalin, that is exactly the same language which you passed in your committee.

You're welcome.

Mr. Flory: Mr. Roemer, I think you have a good amendment. Don't you think it's necessary that you go back to the two-thirds vote of the elected membership of each house? Because as the present practice on local and special bills, the legislature

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doesn't even draft the bill. Consequently, no one knows what's contained in them unless you get to the desk. As I think you really have to have something to draw the attention to the issue at hand, when you're particularly when you're talking about debt limitation.

Mr. Roemer: The question about it. That's why we changed the majority back to a two-thirds, Mr. Flory.

Mr. Goldan: Mr. Roemer, a little while ago on your previous amendment, the question was brought up about what difficulty there would be between now and the time this would take effect. You stated then that there should be something in the language that would have this take effect at the same time that the reevaluation takes effect. It wasn't put in here. Do you still intend to put that in?

Mr. Roemer: Yes, that was an oversight. We do... we intend for it to apply on the same timetable.

Mr. Goldan: I have one other question. Was it the intent, was it your intention, or the intention of you and the other gentlemen who are presenting this amendment, that industrial property be included in the base.

Mr. Roemer: Yes.

Mr. Goldan: Did you know that I asked the assessors and they told me that they do not extend the value of industrial property which is under exemption, over to the column which would then include the addition of that. The value of that property in the total value of the property. Well, now, would that... would it be possible to include this, even though they don't extend it down to that line?

Mr. Roemer: Yes, they value it even though they don't extend it. We would... they would just have to extend it under this law.

Mr. Denney: Mr. Roemer, if you plan to put in a further amendment in accordance with Mr. Perez's suggestion, are you aware that all property is not appraised at fair market value by the assessors, but some of it is appraised at fair market value by the Louisiana Tax Commission?

Mr. Roemer: Right. I'm aware of that.

Also, Moise, let me point out to you that we're not just talking about fair market value here; we're talking about use value as applicable.

Mr. Chehardy: In other words, you're saying that this would include all the exempt property, as well, in the base. But do you realize, for example, when you say that, you take in a parish, that for example, our parish, where we have a billion dollars of industrial exemptions. Now right there, you are adding a hundred million dollars to the base of something that doesn't exist. In other words, taxable property... taxable property is property that can actually be taxed. It would not include this.

Mr. Roemer: Well, would you agree that the tax exemptions are not infinite but are finite in terms of industrial exemptions? I mean they can only extend ten years, can they not?

Mr. Chehardy: You and I know better than that. I mean they start off with ten, then they renew and they stay on ad infinitum. They're not finite. They're infinite.

Mr. Roemer: Well, under the law, they ought to be. I know you will pursue the, Mr. Chehardy.

Mr. Chehardy: But do you understand the problem with what you are saying? You're creating a base which is not there.

Mr. Roemer: Well, I submit to you the base is... the base is there. We're trying to make the base as broad as possible yet still have the limitation,

wherein you and I might disagree. Now, read it should be.

Further Discussion

Mr. Conroy: I rise in opposition to the proposed amendment. I think that as Section 4 has now been amended, it's a thoroughly acceptable and desirable provision in the constitution. It carries forward and clarifies the present limitations that exist in the constitution, and I think it's a completely workable program. The actual limitation presentedness is a vote of the people. That's the ultimate and actual limitation. In addition to that, there's set, but a provision that you won't put all of your debt in one place. It limits the way in which bonds will be issued for a single purpose, and limits the extent to which you can run up indebtedness for a single purpose--it's not intended to be an overall limitation. The overall limitation is through the market itself and through the vote of the people.

I'm opposed to this amendment because it distorts that approach which I think is a sound approach when it has worked in this state, and I think should be continued in this state. It distorts it and substitutes for it a provision which I think would be totally unworkable, and which would be subject to considerable question on the part of those who had to approve the issuance of bonds and their curtailment. It refers first to the aggregate amount of bonds secured solely by ad valorem taxes within any taxing district. I assure that this is a geographic reference when it says "within any taxing district". It does not say, "issued by any taxing authority," it says "within any taxing district." If it's a geographic limitation, we are left with the problem which Mr. Benton referred to of determining what the aggregate amounts of outstanding bonds are, and how you determine what they are. It might be in finding the different authorities and overlapping authorities that may be involved within a given district. You may have other areas that--you may have a larger area that includes a part of a district. Do you include all or part of the bonds issued by saying multiparish district--if you have a multiparish district that's issued some sort of general obligation bond, do you run into the question of, do you take part of that, or all of it, or where do you go?

Despite Mr. Roemer's answers to the questions about what his language says, the language doesn't really say what he says. Because it says that the percentage will be ten percent of the fair market value or use value as applicable to the taxable property within the district. I don't see how taxable property can mean anything other than taxable property. It could not be expanded to include "exempt property", Mr. Roemer. There's no way it could include exempt property if you're talking about taxable property. So, I urge you to reject what I regard as a thoroughly unworkable amendment, and now, and as quickly as we can, adopt Section 4 as now amended by the committee.

I'll yield to any questions.

Questions

Mr. Roy: David, I agree with what you said and when you tell me why twenty-six senators should have to vote affirmatively to allow some local area or some local parish to increase its rate of taxation if it wanted for its particular purpose? Can you tell me what would be served by that... that requiring a two-thirds vote?

Mr. Conroy: No, as far as the two-thirds vote, I don't understand why that got back in here anyway. But I'm opposed to the whole approach so I don't even concern myself to that.

Mr. Duval: David, do you really think this is a limitation with a majority of the legislature being able to raise it to any? I think we're trying to achieve--all of us are trying to achieve... some type of limitation.

First, do you believe in the concept of a limitation for a single purpose?

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Mr. Conroy No, I don't believe in that approach because, unless you're going to deal with a particular taxing authority. If you deal with it on a geographic basis and say that you cannot have more than a certain amount of debt in a geographic area, I think you immediately run into very difficult problems of determining what taxing authorities, and how many of them you add up, to get to what the maximum authority is within that particular geographic area. So I'm opposed to that concept; I think it's totally unworkable.

Mr. Duval So, as I...as I understand you, you just don't believe there should be a limitation within a geographic area?

Mr. Conroy That's correct. I think it's unworkable.

Mr. LeBleu Mr. Conroy, my question was similar to what Mr. Duval was asking you. I just wondered, under this amendment, say, if you had a garbage district and a water district, and a sewerage district, and a recreation district, and so forth, all with the same boundaries, wouldn't this ten percent maybe stop any one of those taxing authorities in the future from adding some more bonds that it might need?

Mr. Conroy That's right. It would create a very difficult method of determining how many of those you had to add up and where you found them all.

Mr. LeBleu That's right.

Mr. Abraham David, you mentioned the problem that would be incurred in trying to determine which bonds had been issued, etc., to these various authorities. Won't all of this show up on the tax rolls because when you get your tax notice all these different--separate--millages will be listed?

Mr. Conroy Unfortunately, I'd have to turn the question around to ask you a question. Suppose you had a taxing authority that covered a larger geographic area. Do you allocate all of it within a special district? You're in a district, say, that is a sewerage district, and it's very small--encompasses only a square mile. Then, also, covering that same geographic area is a larger, different kind of district that covers two square miles and it's got...and the one with the two square miles has two million dollars of bonds outstanding within the one square mile area, do you have two million dollars worth of bonds outstanding, or just an allocated portion that applies to that area, or what?

Mr. Henry You have to wind up your remarks. You've exceeded your time.

[Previous Question ordered.]

Closing

Mr. Roemer I'll just make one statement.

There have been objections to this amendment because they say, "My goodness, this is a limitation!" Well, "Hello, world!" You're right. For the first time, this is a real limitation on the bonded indebtedness ability of our local and parochial government. The same thing we've been mouthing for all these years. The same thing we heard out of committee. The same thing we heard on the floor of this convention. There it is. In real live black and white--a real limitation. Now I suggest you ought to vote your conscience on it. Do you want a limitation in the constitution? If so, vote for it. If you don't, just vote it down and we'll keep on fooling the people.

Questions

Mr. Lanier Buddy, haven't we heard some discussion about how do you figure the aggregate indebtedness in each individual district? When you publish a prospectus on the bond issue, aren't all the districts set forth as to how much the indebtedness is

in each district?

Mr. Roemer Exactly. They do...are we trying to fool ourselves? Don't you think the bonding attorneys do this figuring anyway? Don't you think they want to know what the percentage is that this bond issue represents to the total value of the property affected? Certainly they do. Are we going to suggest to this convention that this limitation is tough to figure 'cause they might have to add ten or fifteen numbers together?--Foolishness.

Mr. Denny Mr. Roemer, Mr. Conroy made much of the fact that the...we are talking about a geographical area. Is there any distinction that you can see between the geographical area in your amendment and the geographical area in the committee proposal?

Mr. Roemer No, the real...the real criticism is that it's a limitation, not that it's on a geographical area. Bet that.

[Record vote ordered. Amendment rejected: 48-58. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Avant]. On page 20, delete lines 13 through 32 in their entirety, and on page 21, delete lines 1 through 8, in their entirety, including all amendments thereto and insert in lieu thereof the following:

"Section 4D. (A) The aggregate amount of general obligation bonds secured solely by ad valorem taxes within any taxing district, including existing such bonds, shall not exceed ten percent of the fair market value or use value as applicable to the taxable property within the district.

(B) The legislature may increase the debt limitations established in this Section by general law or by local or special law."

Explanation

Mr. Avant This is the identical amendment that Mr. Roemer had except that the legislature may change the debt limitation instead of by a two-thirds vote, by a simple majority vote. That's the only difference between the two amendments.

I ask your favorable support of the amendment.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen, I know we are all tired. I think this is the same thing essentially we just voted on. Please, let's vote this one down; let's vote and get this section over with.

[Previous Question ordered. Amendment rejected: 44-60. Motion to reconsider tabled. Previous Question ordered on the Section. Section reread as amended. Section failed to pass: 59-46. Notice given for reconsideration on next Convention Day. Motion to revert to other orders adopted without objection.]

REPORTS OF COMMITTEES

[1 Journal 753]

Announcements

[1 Journal 753]

[Adjournment to 9:00 o'clock a.m., Thursday, November 8, 1973.]

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Thursday, November 8, 1974

At the Chair, an Casey in the Chair

ROLL CALL

[Roll call omitted.]

PRAYER

Mr. Mattiny Grant us grace, O Merciful God, to desire all that is pleasing to Thee, to examine it prudently, to acknowledge it truthfully, and to accomplish it perfectly, for Thy praise and glory of Thy name. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

REPORTS OF COMMITTEES LYING OVER
[Reports omitted.]

RECONSIDERATION
[Reconsideration omitted.]

Mr. Poynter Morning Hour No. 12. Reconsideration. Up for reconsideration is Section 40 of Committee Proposal No. 17, dealing with limitations on bonded indebtedness of political subdivisions, and at this time, Mr. Perez moves to reconsider the vote by which Section 40 failed to pass on yesterday.

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 17, introduced by Delegate Perez, Chairman on behalf of the Committee on Local and Parochial Government and other delegates, members of that committee.

A proposal making general provisions for local and parochial government, levee districts and ports, the financing thereof, and necessary provisions with respect thereto.

The status of the proposal is the Convention has adopted the proposal as amended, with the following exceptions: still outstanding is Section 40, which was just reconsidered, the vote by which it failed to pass on yesterday just reconsidered. In addition, there are outstanding Sections 45, 46, and 49 in Section 3, which deals with levee districts. I might bring further to your attention that on yesterday Sections 41 and 43 were adopted, but there was no motion to reconsider those sections and table that motion. It is my understanding that... in fact, at the desk there is one amendment to each of those two sections pending and presumably, the authors of those amendments would move to reconsider the vote by which those sections did pass on yesterday.

Mr. Perez, before you go back to 40, do you want to try to dispose of 41 and 43? Would that be your desire?

All right--41. Section 41 passed on yesterday. However, it was the feeling of the Convention that that section should not be reconsidered, and the motion to reconsider tabled. In that light, Mrs. Warren has prepared a single amendment to said section 41, and presumably, Mrs. Warren, you would move to reconsider at this time, the vote by which section 41 passed on yesterday. Would that be correct?

Mrs. Warren does move to reconsider the vote by which section 41 passed on yesterday with a view, of course, to offering a further amendment to that section.

Point of Information

Mr. Perez A point of information first. Can we have the proposed amendment by Mrs. Warren read so the delegates will know what that proposed amendment is?

Mr. Casey I believe that would be in order.
Mr. Perez

Amendment

Mr. Poynter Amendment No. 1. This is an amendment proposed by Mrs. Warren to said section.

Amendment No. 1. On page 22, line 2, immediately after the word "least" and before the word "in" delete the word "once" and insert in lieu thereof the words "three times".

Substitute Motion

Mr. Perez I now move to table the motion to reconsider.

Point of Order

Mr. Avant That would have the effect of precluding the consideration of Mrs. Warren's amendment, would it not?

Mr. Casey In effect, that's exactly what would happen, Mr. Avant.

[Substitute Motion to table reconsideration motion rejected. 46-47. Mr. Warren's motion reconsidered on a vote of 46-47.]

Closing

Mrs. Warren Mr. Acting Chairman and fellow delegates, I think that this is very important that if we are going to have bond issues passed and we want people to vote on them, I think it is only fair to give them at least more than one time to read it in the paper. I noticed yesterday, it was mentioned that even the print is real fine. Now, I read my paper every day. Some days the paper boy doesn't throw it, or either he says he threw it, and somebody took it. I have to go out of the way, and sometime I've missed a paper like that. A baseball player has at least three strikes before he's out. Some says it costs a lot of money, and I want to say to you: the little ass in the corner is waking up now, and he's not going to vote on these things unless he has a fair share of knowledge to know what is going on. He's going to vote against them just like he did in the past. Many a good amendment's went down the drain because people were not knowledgeable of what was going on. The only thing this amendment is going to do is going to say that when these proposals come up that there's going to be more than one writing up in the paper of what is happening. I ask your favorable vote for reconsideration.

[Motion to reconsider 46-47.]

Reading of the Section

Mr. Poynter Section 41. It was read extensively on yesterday.

Section 41 deals with limited time for contesting bonds of political subdivisions...

[Motion to amend section 41 rejected.]

Mr. Poynter I might just point out, Mr. Chairman, the changes that were by way of amendment, adopted on yesterday, on page 22 in lines 2 and 3, the words "the bonds or other debt obligations authorized thereby were deleted on lines 2 and 3. On line 13, the words "bonds, other debt obligations were deleted. The section (C) as provided in this section which begins on line 32 of page 22 and extends through line 33 on page 23 was deleted, and in addition, a new Paragraph (C) was adopted. It is proposed by Mr. Durson which reads "The provision of this section shall not apply to school boards. Save for those changes, the section reads as you will find it in your reprinted pro-

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posals

[A... ..]

Explanation

Mrs. Warren: Mr. Acting Chairman and fellow delegates, I'm not going to take up a whole lot of your time, but I think this amendment is self-explanatory. I'd like to bring to your mind... I asked a question concerning the domed stadium, and when we voted on it, how much money was said to be spent on the domed stadium? They said it was an open end affair. So, the domed stadium has gone up, up, up. Nobody seems to be worrying about it too much. But, when it comes to educating poor people, and other people who do not read the paper all the time about what is going to happen, it's just a little bit too much money. I'm saying to you, ignorance keeps people down, and ignorance is going to keep our state down. Thank you. I ask you for your favorable consideration.

Questions

Mr. Fontenot: Mrs. Warren, you're concerned about these people reading the newspaper to insure that they know what's going on?

Mrs. Warren: Exactly.

Mr. Fontenot: Do you think the average person in Louisiana reads the fine print in this newspaper when he gets it.

Mrs. Warren: I asked in the event that it not only be printed more, but the print would be enlarged. I think one thing, that people are reading a little bit more now than they used to, and I think we ought to give them a chance to do it.

Mr. Fontenot: Well, in my area we had trouble passing some bond issues, but the school board or the police jury, either one of them, would go out and try to convince people to vote for these things. But, putting it in fine print in the newspapers three times, I don't think it's going to help. Maybe I'm wrong, but I just don't think it's going to help.

Mrs. Warren: Well, I think we ought to at least give it a change [chance]. We talk about money and how much it costs on one end, but when it goes up on the other end, nobody seems to care. It seems to be something that everybody wants because it's so important. I say it is important that people have a chance to know; it's educational to put it in there more than once. Are there any other questions?

Mr. Nunez: Mrs. Warren, you come from a big metropolitan area that has a daily newspaper, and they can run these things off on three different days, I assume. A lot of us come from the rural areas that have only a weekly... our daily journals are weekly, and it would take three separate occasions maybe... at least three weeks to run them off. The time element might be sometimes an inconvenience to which you're trying to do. Wouldn't you agree with that? It's a difference in what you do in one paper than what you do in another one that comes out on the daily basis, and then some of them come out on a weekly basis.

Mrs. Warren: Well, if you put it in the paper, in a weekly paper, you don't have to run it but three weeks, or two weeks if you put it in there twice. We're going to be paying for those domed stadiums a long... whole lot longer than we think.

Mr. Nunez: Do you believe the domed stadium would not have been built, or would it have been any different had they run it three different times. I don't...

Mrs. Warren: That's not the point. The issue to

is it's important for you to have the money to have the domed stadium, but it's also important that people know what's coming up. It's not going to be the domed stadium from here on in. We're not going to build them all over the state.

Mr. Avant: Mrs. Warren, in view of the fact that you only got thirty days to attack the ordinance if it's unconstitutional; you only have sixty days in which to attack the election if it were replete with election fraud---do you think it's asking too much to say, "Let's print it in the paper three times"?

Mrs. Warren: I sure don't. This is the very reason I voted against the section yesterday.

Further Discussion

Mr. Kean: Mr. Acting Chairman and fellow delegates, I rise to oppose the amendment. If I understand Mrs. Warren's concern, she feels that there ought to be additional notice for the purpose of letting the people know that we're going to issue some bonds. Actually, this particular section comes after Subparagraph (A), and Subparagraph (A) provides a period of... prescriptive period after the bonds have been voted. Subparagraph (B) has nothing to do with the authority to issue the bonds, it occurs after the bonds have been authorized by the people in a properly called election. In order to call the election under the bond laws of this state, you've got to publish a notice that runs for thirty days, from the time of the first publication until the bonds are sold. Under those circumstances you've got, first of all, a thirty day notice to hold the election within which time you have to advertise for three times, giving notice of the election. You then have a period of sixty days after the promulgation of the returns of that election within which the results of the election can be contested, and then Subsection (B) comes into play which relates only to the sale of the bonds, which have already been authorized by the people of the particular area concerned in which the amount of the bonds had been fixed, in which the percentage had been fixed, and it seems to me that the thirty day requirement is sufficient, and that a requirement that it be published at least once is sufficient under those circumstances. About all we would do at that point in time by having additional publications would be to delay the issuance of the bonds under circumstances where the market might justify an earlier sale of the bond and under circumstances where the bonds have already been authorized and the prescriptive period for attacking the validity of those bonds has expired. I see no justification for the additional publication. It simply adds cost; it delays the issuance of the bond, and it serves no useful purpose under those circumstances where the people have already voted to approve the bonds in the first instance, and the prescriptive period has passed for attacking the validity of that election." I suggest to you that the section as it presently reads gives sufficient leeway. It says, "at least once." If the local governing authority feels it's desirable to have additional publications, they can do so. I see no basis for making it once a week, three times; it just simply delays it, costs additional costs. I'll yield for questions.

Questions

Mr. Goldman: Mr. Kean, do you think the analogy between a baseball player getting three strikes and publishing this three times has any validity?

Mr. Kean: No, sir.

Mr. Goldman: The reason I asked the question, a baseball player when he gets up to bat, he's forced to get up to bat; he has to get up there and bat. If he doesn't, he's not on the team anymore, and he can't play. People can't be forced to read. If it's published one time, it's there. If they want

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to read it, they'll read. If it's published three times and they don't want to read it, they won't read it any of the three times. Isn't that true?

Mr. Keane: Well, that's correct, Mr. Goldman, and my further point is that this is merely notice that you're going to sell the bonds that have already been approved, and it seems to me that additional publication at that point, it really simply added expense for serving no useful purpose.

Mr. Burns: Mr. Keane, as I understand your explanation of this amendment, it really in no way accomplishes the purpose that Mrs. Warren would hope that it would accomplish.

Mr. Keane: That's correct, Mr. Burns, because the prescriptive period for attacking the sale...attacking the election has expired, and all you're doing now is giving notice that you're going to sell the bonds which any right to contest is already gone by the board.

Mr. Burns: In other words, her amendment would only take effect after the voters had approved the bond issue after thirty days notice to them that there was going to be such an election, and after they'd approved the bond issue by their votes, and it would be only after that that this three times publication...

Mr. Keane: That's correct, and further only after the sixty-day prescriptive period is run that's in (A). So, you've got considerable period of time involved in which a voter can take some action. This is merely dealing with the sale of the bonds and for additional advertisement at this point simply delays it, could cause a problem with market situation where you've got an opportunity to start the market at a good market. You've got to wait another three weeks before you do it, and the market's gone haywire at that point, you've simply lost money.

Mr. Riecke: Keane, what is the purpose of giving notice that you're going...in the newspaper that you're going to sell the bonds? Is that to invite bidders to bid on the bonds?

Mr. Keane: That's correct. This is for the purpose of inviting bids on the bond, notifying the public that the bonds will be sold.

Mr. Riecke: At that point, the bonds have already been authorized by the people.

Mr. Keane: That's correct. The bonds have been authorized and the prescriptive period in (A) has been run.

Mr. Riecke: Thank you.

[Previous action ordered. Amendment tabled: 88-62. Motion to reconsider tabled. Previous action ordered on the motion. Motion passed: 88-13. Motion to suspend the rules to table the motion to reconsider the Section adopted with the objection. Motion to reconsider tabled.]

Mr. Poynter: All right. We're in a similar status with respect to Section 43 which deals with revenue-producing property. That section was adopted on yesterday. However, due to certain problems that a few members felt might arise, the section was not reconsidered, and that motion tabled on yesterday. In the interim, Delegate Stagg has prepared an amendment, and I would presume at this time, Delegate Stagg, you do wish to move to reconsider the vote by which Section 43 was adopted on yesterday.

[Motion to reconsider the motion.]

Further Discussion

Mr. Perez: On yesterday, Mr. Stagg has made reservation as to whether other revenue-producing public facilities might or should be included under this. We have gathered together with Mr. Stagg and the committee agreed that an amendment should be adopted. Therefore, I urge that we do reconsider.

[Motion to reconsider the motion. Motion adopted: 88-14.]

Reconsideration

Amendment

Mr. Poynter: Section 43 deals with revenue-producing property.

Section 43 is as it is contained. It was read on yesterday. It is as it is contained in your reprinted proposal with the following exception after Section 43, that first...that entire section was made Paragraph (A), and Mr. Burson did add a Paragraph (B), which provides that the provisions of the section shall not apply to school boards. Other than that of those amendments, there have been no changes in Section 43. Mr. Perez, you want to waive your opening and so forth, and go straight to the amendment?

Mr. Stagg sends up the following amendments:

Amendment No. 1. On page 23, line 13, immediately after the word "utility" delete the period and add the following: "or work of public improvement."

Amendment No. 2. On page 23, line 16, immediately after the word "utility" and before the word "and" insert the words "or work of public improvement".

Explanation

Mr. Stagg: Mr. Chairman and ladies and gentlemen of the convention, this provision provides that the legislature can authorize subdivisions to issue bonds for the "purpose of constructing, acquiring, extending or improving any revenue-producing public utility." The purpose of this amendment is to make sure that such things as airports are also included and that are revenue producing and that are employed in these days revenue bonds, in order to prevent the necessity for having general obligation bonds floated for these improvements. If a public improvement produces revenue in excess of its needs, then those public improvement bodies are permitted to bond those excess revenues to make further improvements without imposing on the people further ad valorem tax bonds. The amendment simply adds to the words "any revenue-producing public utility" the words "or work of public improvement, so as to include such things as airports. If you look in your present constitution in Article XIV in Section 36.1, you'll find two and a half pages of small print that are only concerned with Moisant International Airport and its ability to use excess revenue bonds for further improvements. Mr. Chairman, this simply is a--in my opinion--a needed addition to this section so that other revenue-producing public enterprises can use revenue bonds and have a base for it in the constitution. I urge the adoption of the amendments.

Questions

Mr. De Blieux: Mr. Stagg, if this is to be...extend the section to airports, why not say airports rather than to "other public improvements"? I don't know of any other public improvement, besides possibly airports, that where there could be revenue-producing.

Mr. Stagg: Well, I think, Mr. De Blieux, if you would look at the stadium at the State Fairgrounds in Shreveport--which they have presently improved to contain forty thousand or so seats--as a revenue-producing activity it could be bonded...those revenues could be bonded in order to pay for such improvements. Airports are not the only public

utility...airports are not a public utility, and that's why this language imposing or providing for revenue-producing public utilities was too restrictive to permit other revenue-producing public improvements from bonding their excess revenues, and that was the provision of this so that ad valorem bonds wouldn't always be used tying the price of these improvements to the owners of real property.

Mr. De Blieux Well, then this would extend it to things like airports, and stadiums, and bonded stadiums, etc.

Mr. Stagg It would cause those public improvements producing excess revenues to be able to use those excess revenues for bonds, rather than further ad valorem bonds. It's my intention by this amendment to prevent the constant imposition of ad valorem bonds on the back of property taxpayers when the project itself should produce sufficient revenues to pay for its own improvements.

Mr. Flory Mr. Stagg, my question is similar to Senator De Blieux's. I would support the airport having the right to issue revenue bonds. I think that's proper, but when you use the work of public improvement, my concern is in local governmental units when you look at the definition of political subdivision, aren't we then getting into the area of toll roads, toll bridges, etc. under your amendment? This is the great concern that I have that you're really opening the door to this sort of thing.

Mr. Stagg Well, Mr. Flory, that may be true in the case, again, of Shreveport with which I am most familiar in this state. There's been a project on the drawing boards, or under consideration for a number of years, for a north-south expressway because the city has no main artery north or south. It was proposed in the City Council that that north-south expressway be made similar to the toll road in Dallas, for which ten cents per automobile is used to fund a very greatly needed public improvement of that type in the city of Dallas. The city of Shreveport has such a proposal under consideration.

Ms. Zervigon Mr. Stagg, I'd like to ask you a couple of questions that may quiet some of the fears we are hearing here right now. Doesn't this section that we are considering begin "The legislature may authorize?"

Mr. Stagg Yes, ma'am.

Ms. Zervigon Doesn't that carry with it the corollary understanding in your mind that the legislature may not authorize the project, if they don't approve of it?

Mr. Stagg That's correct.

Ms. Zervigon And in addition to that, wouldn't these revenue bonds more than likely have to go before the bond commission?

Mr. Stagg They would.

Ms. Zervigon So that they would be sound bonds and wouldn't drag the whole rest of the state down a rat hole; isn't that correct?

Mr. Stagg Correct, or the local government involved either.

Ms. Zervigon So there are two checks on it, really, aside from the fact that it's hard to market bonds if the revenue is being produced and not sufficient to service the bonds?

Mr. Stagg Yes, ma'am.

Ms. Zervigon Thank you.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I have discussed this amendment with several members of the committee. They all feel it's a very good amendment, and I urge the adoption. If there are no more speakers, I move the previous question on the amendment.

[Previous question ordered. Amendments adopted: 88-3. Motion to reconsider tabled. Previous question ordered on the Section. Section passed: 92-2. Motion to suspend the rules to table the motion to reconsider the Section adopted without objection. Motion to reconsider tabled. Motion to revert to Section 40 adopted without objection.]

Reading of the Section as amended

Mr. Poynter "Section 40. Limitations on Bonded Indebtedness of Political Subdivisions

Of course, this section has been substantially amended but failed to pass on yesterday on final passage. I'll read it as it now stands.

"Section 40. (A) General obligation bonds may be issued by any political subdivision for any single purpose. The aggregate of all indebtedness of such political subdivision incurred for such purpose and evidenced by bonds payable solely from ad valorem taxes levied without limitation as to rate or amount, shall not exceed in the aggregate ten percent of the assessed valuation of all property within such subdivision, including property exempt as homesteads, to be ascertained by the last such valuation for political subdivision purposes previous to incurring such indebtedness except that: (1) as to both parishwide school districts and other school districts, the limitation shall be twenty-five percent of the assessed valuation of all property within such district including property exempt as homesteads; and (2) as to general obligation industrial development bonds, such limitation shall be twenty percent of the...."

[Motion to waive reading of the Section adopted without objection.]

Motion

Mr. Perez Mr. Chairman and ladies and gentlemen of the Convention, it appears that we still are having problems straightening out something on Section 40. Therefore, at this time I move that we pass over Section 40 and move to Section 45 so, hopefully, we can get through with the noncontroversial parts of this article and revert back to 40 at the end.

[Motion adopted without objection. Motion to consider Section 45 previously passed over adopted without objection.]

Reading of the Section

Mr. Poynter All right. This is back on page 24. There are three sections which were passed over in Part III, concerning levee districts. Those are respectively Sections 45, 46 and 49.

"Section 45. District Taxes; Increase in Tax to Raise Additional Funds

Section 45. (A) For the purpose of constructing and maintaining levees, levee drainage, flood protection, hurricane flood protection, and for all other purposes incidental thereto, the governing authority of each district, may levy annually a tax not to exceed five mills on the dollar, except the Board of Levee Commissioners of the Orleans Levee District which may levy annually a tax not to exceed two and one-half mills on the dollar, on all taxable property situated within the alluvial portions of said district subject to overflow.

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...should the necessity to raise additional funds arise in any levee district for any of the purposes herein set forth, or for any other purpose related to its authorized powers and functions, which may be authorized by the legislature, the tax herein authorized may be increased. However, before taking effect, the necessity for the increase and the rate thereof shall be submitted to the electors of such district and no increase in taxes shall occur unless a majority of the electors in such district who vote in the election hereinabove provided for vote in favor thereof.

Explanation

Mr. Perez: This is the alimony tax section for levee districts, similar to the alimony taxes for parishes and for municipalities, which is established at five mill. There is an exception for Orleans Parish, and the reason for that exception is that in the past--because at one time they felt Orleans had more millage than it needed at that particular time--through constitutional amendment two and a half of those mills were taken away from Orleans. The committee took the position that it did not want to, by means of adopting a new constitution, increase taxes on anyone. So it was necessary to make the exception for Orleans in order to let it keep its millage to the present millage, instead of the five mills which the other levee districts now have. Beginning in line 17, there is a provision for an increase in that alimony tax if it is found necessary, but only by a vote of the people. It is very similar to the alimony tax provisions which we have already adopted with respect to parishes and municipalities. I'll yield to any questions.

Questions

Mr. De Blieux: Mr. Perez, I think at the present time that this provision which you have here now is the present law with reference to levee taxes.

Mr. Perez: That's correct.

Mr. De Blieux: Now, how does that fit in with the percentages that we have adopted in the revenue and taxation section of the constitution? You know we don't have percentages in our present constitution.

Mr. Perez: You know, Senator, this same provision will...that is just like the alimony tax for parishes and municipalities, you'll have an automatic rollup or rollback; so the same situation will apply with regard to levee district taxes as will apply to the alimony taxes for municipalities and for parishes.

Amendments

Mr. Poynter: Amendments sent up at this time by Delegate Gravel.

Amendment No. 1. On page 24, line 11, immediately after the words "on the" and before the word "except" delete the word and punctuation "dollar," and insert in lieu thereof the words and punctuation "assessed valuation,".

Amendment No. 2. On page 24, line 14, immediately after the words "on the" and before the word "all" delete the words and punctuation "dollar, on" and insert in lieu thereof "assessed valuation of".

Explanation

Mr. Gravel: Mr. Chairman and ladies and gentlemen of the convention, Mr. Perez says he has no objection to this amendment; so I think it does clarify the provision of the committee proposal, and I move its adoption.

[Amendments adopted with out objection. Previous question ordered on the amendment. Section passed: 28-1. Motion

...the committee...
...the committee...
...the committee...

Reading of the Section

Mr. Poynter: Section 46. Bond Limitation.
Section 46. (A) Subject to the approval of the State Bond Commission or any successor thereto, the governing body of any levee district may fund the avails of said taxes or other revenues, interests, bonds, or other evidences of indebtedness, the proceeds thereof to be used for the purposes mentioned in this Article or for the funding or payment of any outstanding indebtedness.
(B) Bonds issued under the authority of the foregoing provision shall be sold in accordance with applicable provisions of the Louisiana Revised Statutes relating to the issuance of bonds by levee districts."

Explanation

Mr. Perez: Mr. Chairman and ladies and gentlemen of the convention, this is simply a standard provision similar to that which is in the present constitution which would authorize the funding into bonds, if necessary, of the levee district taxes in order to take care of the indebtedness of the levee districts, and just says that the bond will be issued first of all only "subject to the approval of the State Bond Commission or any successor thereto" and in the manner provided by law. The provision now says "the Louisiana Revised Statutes." To make it consistent in style and drafting, I'd suggest, "with applicable provisions of law," if that's the will of the convention.

Are there any amendments, Mr. Chairman?
I'll answer any questions.

Questions

Mr. Tobias: Chalin, on lines 30 and 31 you say "of said taxes." You're referring to the taxes in Section 45 (A); aren't you?

Mr. Perez: Yes.

Mr. Roemer: Chalin, as we read this Section 46, there are no limitations on the amount of the bonds they can float--isn't it--just depends on the market, what the revenue will support; is that right?

Mr. Perez: Well, I say the bond limitation section, if we adopt a bond limitation section, would probably apply to this also.

Mr. Roemer: But in the Section 46, there's none. Specifically, these....

Mr. Perez: That's correct. Yes, that's correct. There's none specifically in this particular section.

[Previous question ordered on the Section. Section passed: 101-1. Motion to reconsider tabled. Mt. : to consider Section 49 previously passed over adopted without objection.]

Reading of the Section

Mr. Poynter: "Section 49. Compensation for Property Used or Destroyed, Tax
Section 49. (A) Lands and improvements thereon hereafter actually used or destroyed for levees or levee drainage purposes shall be paid for at a price not to exceed the assessed valuation for the preceding year; provided, if property used or destroyed for levees or levee drainage purposes from a landowner shall exceed more than one-third....
All right, picking up at the end of line 25...
provided if property used or destroyed for levees or levee drainage purposes from a landowner shall

exceed more than one-third of the value of that landowner's property and improvements, the land and improvements thereon used or destroyed for such purposes shall be paid for at fair market value; and provided further, nothing contained in this Paragraph with respect to compensation for lands and improvements shall apply to batters or to property the control of which is vested in the state or any political subdivision thereof for the purpose of commerce.

(B) If the district has no other funds or resources out of which such payment can be made, it shall levy, on all taxable property situated within the district, a tax sufficient to pay for said property so used or destroyed to be used solely in the district where collected.

(C) Nothing contained in this Section shall prevent the appropriation of said property before payment."

Explanation

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I would hope that we might move through this section as rapidly as we moved through the other two, but I understand that probably that will not be done. I would hope, however, that I could get your undivided attention because this is a rather complicated matter which does deserve your full consideration before you vote.

As a person who has been deeply involved in levee matters--because of the fact that in Plaquemines Parish we have over two hundred miles of levees in our parish, and at least half of my time is taken up with levee problems--I would hope that you would look upon me as a person who understands and knows this particular problem. First of all, let me assure you that under applicable federal law a person receives fair market value for all property taken for levee purposes, except in two very restricted and isolated conditions. Federal law provides that wherever there is a levee setback that the federal government pays through the levee district, and the levee district pays to the landowner, the property owner, for all land and for all improvements. In addition to that, there is the recently enacted Federal Relocations Assistance Act, which not only provides that the person be paid fair market value, but be paid many additional fringe benefits. For instance it even provides that if a person has a substandard home--if it doesn't have enough bathrooms, or if it doesn't have enough bedrooms to take care of his family, or if it doesn't have other modern conveniences--it is the responsibility of the levee districts, with the U.S. Corps of Engineers supporting it, to even build new homes for people. We've even gone so far as to move people who are crippled out of their homes and put them into other areas by uses of ambulances, etc., for all of these problems. Ladies and gentlemen, in my judgment, with regard to levee setbacks and with regard to all taking of property for levee purposes--except in two very limited situations--the landowner is more than adequately compensated. I can tell you as a public official that I see to it that our people are adequately and fairly taken care of. The only problem we have, with regard to the nonpayment of fair market value to a landowner, is first of all if there is a levee enlargement--not a levee setback--a levee enlargement. A levee enlargement means where a very minor or limited amount of property is taken for making the levee larger, where they do not move the levee but just to make that levee larger. In our area the land taken is never more than fifty feet. Now, even under those circumstances, under certain situations, that does become a heavy burden on the landowner where the property has been subdivided into smaller tracts, and when you take as much as fifty feet--if the property is divided into lots--then you would be substantially injuring that person's property. If you will look at the committee proposal, it provides that under those circumstances the landowner is--if more than one-third of the value of his land and improvements are taken--that that

landowner will be compensated full market value; that is, fair market value for whatever is taken, even when you take as little as fifty feet from that landowner. We've had situations like that to come up in our parish, and I realize the problem involved. There is also one other exception, which I understand there will be an amendment in which I would concur and that is that from time to time it is necessary to provide borrow material: that is material used to build a levee inside of or on the protected side of the levee. In which case, generally, one person's land is dug up to make a pond or a lake or a borrow pit in order to be able to build levees for everyone else in the area. Under those circumstances I think it's fair that we should pay a person fair market value. But, let's look at the other side of the coin. In my parish, for instance, we have one large landowner who owns twenty-two miles of riverfront. That particular landowner has sold off parts of that property for as much as seven thousand dollars an acre. That land wouldn't be worth twenty-five dollars an acre, if it were not for the levees which were protecting that large landowner's property. Now, if we are required to pay for this levee enlargement to that one landowner for enlargement of that levee and the Corp. [corps] does not reimburse it it would cost our local levee district at least a half a million dollars, and we'd have to go tax everyone else to pay that one large landowner a half a million dollars. So that there are two sides to the coin, and I understand that it is very popular to say, "Pay a person fair market value." But, let me explain to you the origin of the law with respect to this subject matter. The courts have held time and again that when the property was divested from the sovereign: that is, when the original purchaser bought, either from the United States or the State of Louisiana, it was burdened with a servitude for levee purposes so that when any person buys that piece of property he knows or should know that it is burdened with that servitude, and therefore, what he pays for that property is determined by the servitudes which exist on it, just as if there were a servitude or a right-of-way across a piece of property for highway purposes. If that servitude or right-of-way existed, that landowner knows about it, and he's not going to pay for that part of the land which is subject to that servitude. So, we have a similar situation with regard to levees. That servitude is already there; the land is burdened with that servitude, and the courts have held that anything, any amount of money--whether it be assessed valuation or fair market value--any money that is given to the landowner is strictly a gift. It's a donation because of the fact that the landowner under the...the conditions under which that land came out of the sovereign was burdened with the servitude, and he owes that servitude without being entitled to any compensation whatsoever. What the committee proposal has attempted to do is to give relief in those areas where we feel that the servitude would be overly burdensome and where we would want to take care of the small property owner, and again when the amendment--I think Mr. McDaniel will have--when the property is taken inside of the protected area. But, again, I remind you that fair market value is paid to landowners for virtually every...under every condition other than the one limited case I'm talking about with regard to levee enlargements. They are paid fair market value for levee setbacks when they take a substantial amount of the property. They are paid for their improvements; they are paid under the Uniform Relocations Assistance Act. I know in our area our people feel that they have been more than adequately compensated for the damages sustained to their property in connection with these matters. So, I'd urge you, ladies and gentlemen, this is a very important matter, and it's very easy to say "Pay that man fair market value", but the big question is where is the money going to come from? There are many levee districts in this state which are virtually broke, and if you impose that burden on them, then they're going to have to

...of all the... the people through the dis-
tract, probably to say, one or two large landowner
... I say to you this is a fair proposal. It is
not taking advantage of anyone. When people acquire
the land, they know it's subject to that servitude,
and they pay for it accordingly.

I'll be glad to answer questions.

Question

Mr. Bollinger: Mr. Perez, I realize that this is
going to be an issue on this section with regards
to fair market value or assessed value, but this is
not the ball of my question. In paragraph B
of this section, line 6, you have a tax sufficient
to pay for said property. Now, I'd also say that
this tax is remedial and does not need a vote of
the people. Is that correct?

Mr. Perez: That is correct, because of the fact
that if you were to... if you had no way of finding
the money, this is one way of finding the money if
you are required to pay it. I understand that the
present constitution has, I believe, a quarter
mill or a half mill tax which is all that's au-
thorized, and we felt that under certain conditions
with property values the way they are, and with
assessments pegged the way they are that it might
be difficult with a quarter or half mill to find
the dollars to pay off, and this restricts the im-
position of the tax strictly to pay only that which
is needed to pay off that particular indebtedness.

Mr. Bollinger: So it is the committee's intention
that the word sufficient would mean only enough
money to suffice to pay that amount and no more.
Is that correct?

Mr. Perez: That's correct.

Mr. Bollinger: The only other thing I'd like to
ask you: in the beginning of your comments you
referred to the federal government giving money to
the levee boards which give money to the landowners.
Could you elaborate a little more on that, because
I think it's an important point that the committee
did not....

Mr. Perez: Yes. The federal government has their
own group of appraisers. They go in and they ap-
praise the property; they appraise the improvements,
and we have a federal relocations assistance act
manager who works for the levee district who goes
in connection with the federal people, sits down
and talks to them and work the problems out; discuss
the fair market value, and in any cases where they
can't get together--as far as my particular parish
is concerned, I sit down with the people, I sit
down with the federal negotiators--with the federal
appraisers--and try to work the problems out with
the people. So, there is detailed investigation
as to fair market value and many, many consultations
with the landowner in an attempt to try to resolve
any problems which might come about.

Mr. Avant: Mr. Perez, under the federal relocation
act, isn't anyone that's being relocated or just
almost without exception, given a better deal than
he had to start with?

Mr. Perez: There is absolutely no question what-
soever about it. They are always not only provided
with... for instance, if it's a little business
place, they're even given the loss of income during
the period of time in which they are relocated.
We build new houses for people where they have sub-
standard conditions where they don't have enough
toilets or enough bedrooms, and so forth. We're
required to build new houses for them, and to
provide safe and decent and sanitary dwellings--I
think, is the law and the regulations require.

Mr. Avant: Chalm, would you explain what you mean
by levee drainage purposes? I really don't know.

Mr. Perez: Yes, it is necessary for the stability

of levees to be able to drain the water away from
the levees, particularly during high river when you
have seepage through the levees, and you have what
are called sand boils where the water comes through
the base of the levee and then what you have to do
we must have, not only the right for the levee
the levee, but in order to guarantee the stability
of the levee, we have to be able to get the water
off those levees, particularly in high river times
when we have a great deal of seepage through the
levees, that is, the water will a little seep
through the levees. During this last high river,
many of you may have remembered reading in the news-
papers, particularly in the Orleans area--I know
in our area we had a great deal of it--where we had
a tremendous amount of seepage through the levee
during the high river stages through what they call
sand boils, and it is necessary to get that water
away from the levees so it's necessary to dig
ditches to get the water back away from the levee.
That's the purpose of levee drainage purposes.

Amendment

Mr. Hardin [unclear]. On page 25, line 24, immediately after the
word "price" delete the remainder of the line and
delete lines 25 through 30 both inclusive in their
entirety, and on line 31 at the beginning of the
line, delete the partial word "market value" and
insert in lieu thereof the following: "equal to
the difference between the fair market value of
the property before the taking and the fair market
value of the property after the taking."

Explanation

Mr. Lowe: Mr. Chairman, and ladies and gentlemen
of the convention, you heard Mr. Perez's explana-
tion to this particular section. I agree whole-
heartedly that I know very little about levees when
compared to Mr. Perez, and I think many of you will
agree that you cannot match the knowledge that Mr.
Perez has regarding levees and levee districts.
But, I think all of us understand one thing equally
as well as Mr. Perez, and that is that when a
person's property is taken that that person should
be compensated for what has been taken from him.
That's the question that we have. It's not a ques-
tion of how much we understand about levees or
how much we don't understand about levees. A man
has a fair market value of a piece of property
before it's taken from him. After it's taken, he's
lost something, and if he's lost something, he
should be compensated for it. That's a simple
question as far as I'm concerned, and I don't think
anyone should have any quarrel with that. Now, the
delegate from Plaquemines Parish says that we'll
have a problem if we have to pay a person for their
property. We have a big landowner, he says, and
if we go along and we enlarge the levee and we
take some of that man's property, well, it's going
to be bad because we're going to have to tax every-
one else in the district to pay him. Now, what's
more democratic about taxing everyone else that's
getting benefit from what's happening, to pay an
individual for what he's lost? I don't even see
how we have an issue before us. I think every
delegate to this convention would say that if a
taxpayer or a citizen of this State of Louisiana
loses something, and he loses it by virtue of the
fact that we've given in this constitution the
right to state government to take that property
from him, that we should compensate him for it.
Now, I'm not saying that if a man has a fifty foot
strip of property along the river, that because
he's lost that property--it was river frontage and
you should pay him for river frontage. If he's lost
fifty feet, he still has fifty feet of river front-
age because he has a new piece; it's like the back
end of his property was taken, what my amendment
says is that that person shall be compensated
equal to the difference between the fair market
value of the property before the taking, and the
fair market value of the property after the taking.
Now, I don't see how anyone can quarrel with com-

pensating an individual for what he's lost, and I can't say that often enough. Now, I'll say again that the delegate from Plaquemines Parish argued that it's going to require a tax against some of the people in the district, and I'd say that that's just the way our system is. In equity, we tax everyone for what they receive. We don't make the person, because he owns a lot of property, sacrifice his rights to that property because state government needs it. Now, Mr. Perez says that everyone is always compensated equitably, and if everyone is always compensated equitably, I don't see any reason for putting in this constitution the fact that he will be compensated equitably. Without further to do on this particular amendment, I ask that you join me in protecting the citizens of the State of Louisiana. I live in a levee district myself. I live three blocks from the levee in West Baton Rouge Parish. Someone asked me if I knew what a batture was because they felt that the value of a batture was important. I told them I waded [waded] in mud knee deep in the batture when I was a young man, and swam in the bar pits back of the levee. I know as much about that part of levees as anyone. It's land just like any other land. This land, that if you owned it, you wouldn't want to lose it, and if you did lose it, you would want to be compensated for it, and I hope that's what we'll do here this morning is make sure that if this land is lost, the owner will be compensated fair and equitably. I ask you to join me in adopting this amendment and let's move on.

Questions

Mr. Lanier Mr. Lowe, are you aware of the fact that the United States Supreme Court as well as the Supreme Court of the State of Louisiana have both held that the exercise of the riparian servitude, which we are discussing here in Section 49, is not a taking?

Mr. Lowe Well, if it's not a taking, the man doesn't have a right to it. If he doesn't have a right to it, then he has nothing of value before it's taken, so if he has nothing of value before it's taken that belongs to him it would have no more fair market value as far as he's concerned. The part that's left afterward, if it doesn't belong to him, there would be no fair market value as far as he is concerned. So, what you are saying is it has no effect on the formula that I've set up.

Mr. Lanier I asked you, did you know that these courts have held that the exercise of this servitude is not a taking?

Mr. Lowe If you tell me that, I'll tell you that I agree with what you say because I think you're knowledgeable, and part of my answer to you was that it would have no effect then. If a man owns nothing, the fair market value of what he owns is zero. So the fair market value before the taking for that which he does not own would be zero.

Mr. Lanier Now, are you also aware that the servitude is actually conferred by Article 665 of the Louisiana Revised Civil Code?

Mr. Lowe I'm not aware of that, no, sir. I'm sure that you are.

Mr. Lanier Did you know that this has been the law in our state for years, and goes back to the old French law?

Mr. Lowe That's nice.

Mr. Lanier Now, let me ask you this? Are you aware that the reason for the constitutional provision is to get around the requirement of Article 1V, Section 12, that you cannot use public money for a private purpose?

Mr. Lowe Well, I'll answer you this way, Mr. Lanier. If anything involved in this amendment is for a private purpose, an individual cannot have a fair market value for something which is private. It's only his own property that I refer to. If there is some private property then there would be no fair market values as far as that individual is concerned, and I'm impressed with the knowledge that you have of all the statutes that you can quote, and so forth. But, you won't find any place in those statutes on equity where we should take property from an individual and not pay him for it.

Mr. Roy Are you aware, and do you agree, that notwithstanding what the Supreme Court of both the United States and the State of Louisiana have said with respect to riparian servitudes--which is a legal term--and anything else they want, that in your opinion, when you take a man's property--whether you call it taking, appropriation, expropriation, stealing, borrowing, or lending--that he ought to be paid for the fair market value of what you've deprived him of?

Mr. Lowe I knew my lawyer would come to the microphone, and thank you, Mr. Roy. I agree with you.

Further Discussion

Mr. Avant Mr. Chairman and fellow delegates, I rise in favor of Mr. Lowe's amendment. I think this is the fairest solution that you can have to this problem. As I appreciate Mr. Lowe's amendment, what you do, you simply look at the tract of land before the particular improvement was made. You place a value on it; what was this property worth? Then after the improvement is made in the form of a levee enlargements, you then appraise the property again. What's it worth now? The difference in value is what the person gets. If there's no difference in value, he gets nothing. If the property has actually been enhanced in value because of the improvement, he gets nothing. Now, I think that as a practical matter that if you have one landowner that owns, say, twenty miles of frontage on a levee by a mile and a half or two miles deep and you take fifty feet off of the front of that to widen the base of the levee, I frankly would doubt in many, many cases if you've damaged that property, because if you look at the entirety of what the person had and place a value on it before this improvement was made and after, I doubt if there would be any difference. But, in those cases where there is a difference, where that person has been damaged, then he should be compensated. But, if he hasn't been damaged, he should not be compensated. I think that is what Mr. Lowe's amendment does; I think it's the fairest way you can approach the problem, and I ask your support for that amendment.

Questions

Mr. Kelly Jack, in highway expropriation cases where you're dealing with servitudes as opposed to an actual taking, isn't this more or less the formula that the courts have gone along [along] with?

Mr. Avant No, Mr. Kelly, as I understand it, when they actually take land for a highway, then they pay the value of the property taken plus any damage to the remainder. Now, if they...but, the man always gets the value of what was actually taken. Now, I see a difference though, because that land--if it's high and dry--it's worth something even though the highway may not be there, it's worth something. But, this land that we're talking about, if that levee wasn't there, it wouldn't be worth a dime, in most cases. That's the distinction that I see.

Mr. Kelly Alright, this is a friendly question. My question is though, I understand the actual

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taking and the business about partial takings, and so forth, and leverage with regard to highway expropriation cases. But, there are occasions when the highway department will expropriate only a servitude, and my question to you is in these particular cases, is it not your understanding of the law that this is more or less the formula that they use in those cases? In other words, fair market value before the taking as opposed to fair market value after the taking.

Mr. Alant: That's correct. I thought you were talking about a fee expropriation.

Further Discussion

Mr. Conroy: I rise in support of the Lowe amendment. I think it's the fairest approach to this problem. You may recall when this came up before, I'd had an amendment pending at the time that the committee decided to pass over Section 49. That was somewhat similar to this, but I think this is a fairer approach. I really want to point out only one thing in connection with the committee proposal which this amendment corrects. The suggestion was made, the presentation of the committee that an approach, as suggested by Mr. Lowe, might enure [inure] to the benefit of the large landowner. The fact of the matter is that Section 49 as written by the committee affords an opportunity for a large landowner to protect himself that a small landowner simply would not be in a practical position to avail himself of. Section 49 provides that full fair market value will be taken if one-third of the landowner's property is taken. I can assure you that it is going to be no problem what ever for large landowners who adjoin a levee or something like that to set aside the part that come closest to that levee and put about a fifty foot strip in a separate subsidiary corporation to make sure that whenever their property is taken, they're going to get full fair market value. I could almost guarantee you that that will happen if the committee proposal is adopted as it's presently written. I think it's an absurd opportunity to permit some people to put themselves in an advantageous position under the committee proposal as written where there is a distinction based on how much of the property is taken. I think it just opens itself up to unfair treatment. Mr. Lowe's amendment by contrast provides for equitable treatment for all and spreads throughout a levee district, the burden of some property being taken for levee purposes, and I urge the adoption of Mr. Lowe's amendment. I yield to any questions.

Questions

Mr. Lanier: Mr. Conroy, if we look at Mr. Lowe's amendment, it deals with the difference in value before the taking and after the taking. Would you agree with me that the exercise of a servitude is not a taking under the law?

Mr. Conroy: Mr. Lanier, I think we're playing with words here. I think if you read this sentence in context with the rest of the paragraph that it's clear that in this case the word, "taking," refers to the actually used to destroy phrase that appears earlier in this sentence, and I don't think that anybody would take the phrase that Mr. Lowe used and jam it into some prior court decisions that dealt with the problem that's not before us in this particular sentence as written. I think the reference to lands and improvements actually used to destroy it is what the "taking" refers to here; I think, clearly.

Mr. Schmitt: I think it be only fair that assuming that a certain amount of property would be taken from a landowner in order to put up this levee, and so forth, that if it would increase the value then should the landowner pay back the levee district whatever the increase in the fair market value would be? If you want fairness, that would be fair to everybody, wouldn't it?

Mr. Conroy: Well, that would be fair, but I don't think that that is likely to happen if part of it is actually used for a levee. In court cases they already have a levee of some sort there. It will improve the value of his property, but it will also improve the value of all the property in the levee district that's protected.

Mr. Schmitt: Are you aware of the case of the Orleans Parish Levee Board v. I think it's the Whitney National Bank Holding Company in which the levee was put up and Whitney came in and demanded the fair market value of the spot where the levee was placed, and the value of the land around there increased greatly in value. Do you think in that instance that the...

Mr. Conroy: This is precisely what Mr. Lowe's amendment takes care of. It doesn't require the payment of fair market value. It requires the payment of the difference of fair market value before and after so that if there is an increase in fair market value--the kind that you just described--the landowner would get nothing. That's why I think Mr. Lowe's amendment is practical to the other approaches.

Mr. Schmitt: Shouldn't the landowner then be obligated to pay to the levee district whatever type of benefits he's getting from this levee going up?

Mr. Conroy: Mr. Schmitt, that same problem exists in all expropriation cases, and I think you find uniformly that people who have a road built through their property, even though they wind up with a much greater benefit, don't actually wind up having to pay anything to the...

Further Discussion

Mr. McDaniel: Mr. Chairman, fellow delegates, I feel that I'm part of the, maybe the discussion that's going on this morning because I was joined with Mr. Conroy the other day in supporting of the fair market value concept for paying people who lose their land for levee purposes. I'm one of the delegates here, as many of you are, that live beside levees. We depend on them, and I want to see that people who live there are adequately protected. I'm in a terrible dilemma at this position at this moment. It's hard for me to get up here and argue with my friend, "Monday" Lowe, and David Conroy here, who want to give people the whole hog and with my amendment on down the way. I'm only asking for a ham or maybe half of it. But, I think those of you, if you don't really know what's involved here, there are some people here--and I don't pose as an expert--but, I do know some of the problems from a practical standpoint, and I know of some of the problems from actual experience. I would urge you in your effort to be fair and adjust compensation, let's weigh these things awful carefully. I think the implications here are very far-reaching as far as finance of local levee districts. For example, the fifth Louisiana, Mississippi district which covers my area, we have this five mill limitation. It's currently imposing three. As I understand it, about three mills would raise about two hundred thousand dollars a year. Well, even at land at four hundred dollars an acre, this is only about five hundred acres that could be bought a year. The amendment that I am supporting, and have coauthored later, we are only talking about land that is taken on the protected side--the land side--the side like we're sitting on this morning. Most people along the Mississippi River in my area of Northeast Louisiana, recognize when they invest in this batture land that it does carry with it, certain rights and obligations. They have the right to grow timber on it, they pasture it, and it's some of the finest in the world. But they know that at some point, for levee enlargements, and what not, that this land is subject to certain restrictions. I say, let's leave that as it is. Let's look at the

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individual that on the protected side where there is no bature that can be dug up to raise or produce a levee, and this individual may be miles away from the levee--not even adjoining it--who has no farm or his land dug up, and he has a hole. These are the people that sustain a bona fide real bill that by amendment that's coming on a little later is attempting to adequately compensate. As I say, I'm in the horn of a dilemma. It's hard to argue against you folks and ask you to vote against the whole hog, and then wait down until the levee is up and then offer you only a portion. But, I submit to you that the burden of financing this levee boards, this is borne by the people who reside in that geographic area. This Mississippi is actually a national or a state problem, but, the financing of payment for these people with losses are the people in that general geographic area, and I submit to you that if we begin to open up to pay for land used on the protected side plus the burdens of levee enlargements, plus the bature, that the burden is going to be very, very heavy. So, I beg of you to vote against this amendment and these others, and carefully weigh the facts, because you are...those of you that may not be living right in the sight of one of these levees, talk to someone who really knows what's involved.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen, I heard a little guff from out in the audience. So, instead of repeating it about eight times, I'll just say: eight times it's a bad amendment.

Mr. Chairman and ladies and gentlemen of the convention, this amendment either means one or two things. It means that the landowner gets nothing because under the existing law this land is already burdened with a servitude. Or, it means the fact that all land, including bature land, would have to be paid for, and thereby put a burden on levee districts so great that the cost to the people in the area could be prohibitive.

Now let me again explain to you the fact, first of all, that I want to see the people in my area get paid. I want to see them get paid a certain amount. In over ninety-five percent of the cases, the U.S. Corps of Engineers reimburse for fair market value of the land which is taken. Now I say to you that this amendment, depending upon what the courts would say about it, could go even further in bankrupting local levee districts than paying fair market value for everything which would be taken, for this reason: the Corps of Engineers will pay no attention to anything that's in our constitution. They say we live by the applicable federal law. They say they will pay--in virtually every case other than a very limited area--they are going to pay the fair market value for the property actually taken. This says that you have to pay a man equal to the difference between the fair market value before and after, so that the standards of payment by the Corps of Engineers would be totally different from the standards under this amendment. I don't know what this amendment, eventually, the courts will decide it means. But it is leaving the levee districts in a position where they may have to pick up the tab when they have never had to do it before, and where the people have been satisfied, and in ninety-five percent of the cases everything works out beautifully. So I say to you that of all the amendments, this is eight times a bad amendment. I would think that if you want to consider paying a man for fair market value for property actually taken, let's consider that later. But this particular amendment is fraught with many, many dangers. It's fraught with the danger of the possibility of the landowner getting nothing. I don't think that's fair. I want to see our landowners get paid at least something, and as much as we can afford to pay them on a levee district basis. But I don't believe that under this amendment that, if it is construed as Mr. Lowe says, the man is going to receive absolutely nothing in many cases. I don't

think that's fair, either. So I say to you, this is probably the worst of the various approaches to this subject matter and should be rejected.

I'll yield to questions.

Questions

Mr. Cannon This is a friendly--whup--sorry about that.

Mr. Henry It's a hot question here.

Mr. Cannon It's a friendly hot question.

Yes, but isn't the basic idea behind the concept of repairing [riparian] servitudes of what that value of the land protected would be by virtue of that levee being--if that levee were not there?

Mr. Perez The basic concept is this: that if you did not have levees, then the land behind those levees would be worth virtually nothing because they'd be subject to overflow on practically every high river. The problem is with this particular amendment is that if we say that property is burdened with a servitude, which as it is, then the land...the man will never get a nickel out of this particular provision.

On the other hand, if we interpret it the other way and say he is entitled to something, he's not only entitled to the land taken on the protected side, but he would also be paid for the land taken on the Mississippi River side, or what we call the bature side. Now, down in our area where we have a very limited amount of bature, we, the levee districts, have the responsibility for providing the area for borrow: that is, the area which is required to get the mud to build the levee. It is possible down our way, where we have a very great shortage of material and where that material is commercially used to raise lots, etc., that we, the levee districts, would be put in an untenable position of having to pay for bature material which we have always had the right to utilize without cost. This could provide a tremendous, tremendous burden on levee districts, which in turn would be a tremendous burden on the people that have to pay the taxes to support it.

Mr. Cannon Would you venture a guess, then, if Mr. McDaniel's property which is protected by the levee, will normally sell for three hundred dollars an acre, we could say it would be worth well under one hundred dollars an acre if that levee were not there?

Mr. Perez Oh, there's no question about that. It might not be worth fifty dollars an acre because if it would flood every year, I don't believe anybody would have any particular use for the land.

Mr. Kelly Mr. Perez, we're not really talking about the value of the property behind the levee or in front of the levee or anything else. We're here talking about the value of a servitude that is actually taken. Is that not so?

Mr. Perez No, sir. We would be talking about the land utilized for that particular levee purpose. Included within a levee enlargement would be the utilization of bature material for enlarging the levee. In other words, if you have a levee that's like this, and you want to build it up like this, then you have to get the material to enlarge that levee. The usual procedure, if bature material is available, is that they use a large dragline and they will reach out into the bature, take the material, and put it on top of the levee to build the levee up. The local levee districts are required under federal law to provide the bature area. That is, they are to provide the area for the borrow. What that would mean is that a landowner could come in and claim: you have taken dirt; you have taken material off of my land; and, therefore, my land is worth a great deal less now than it was before because I wanted to haul that dirt off, and it has a commercial value. So, the problem

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... that what you're saying is that what the man already is subjected to that servitude, and you would be taking a donation to that person. He later again, the servitude is there. When the man bought the property, he knew the servitude was there. All we are talking about here is what we're going to give a person for what he is not legally entitled to.

Mr. Kelly: But we're not talking about the value of his property that is lying behind that levee. We're not concerned with that in this particular article. We're talking about...

Mr. Perez: Oh, yes, sir. You certainly are. What you're saying is you take the total... the total whole of what a man owns before the taking and the value of the total whole after the taking. If there is a difference, then you pay him for it... including the borrow material on the batture.

Further Discussion

Mr. Roy: Mr. Chairman, ladies and gentlemen of the convention, I have been extremely bored for the last several days by the Revenue and Taxation Article. I knew very little about it, and you didn't hear me up here. But I'm going to tell you I'm not on the horns of any dilemma in this battle. There is no way that you can tell me that when you take a strip of land from a person--whether he's got a million acres, or he's got one acre, or he's got one lot--that you have the right to take it and not to pay him. Now Mr. Lanier and Mr. Perez and Mr. Cannon can use all the legalisms they want. They can call it batture; they can call it riparian right; they can use all those legalisms. The only thing that reminds me of is Shakespeare--a view about, in one of his plays, when he said the first thing we'll do is kill all the lawyers. And Dickens said if the law provides this, the law is an ass.

Now, if the law provides that a person's property may be taken and he not paid for it, I don't care under what circumstances you call it; it's wrong. It's not right. Mr. Kelly's question to Mr. Perez was very pertinent. We're not talking about the batture. We're talking about the strip of land that's taken. This amendment specifically provides for the difference between the fair market value. How else are you going to do it? Historically, roads used to be taken that way. Is there any difference between a man's property or the servitude being taken for a road or for a levee? What are you going to do with the levee once the state abandons it? Raise goats and grow grapes on it? You've got a levee in the middle of your field. That's not any good. There's just no reason why we should be here talking about 1820 where this is 1973. We should be talking about what people should get for their property taken. Now, I haven't been here arguing a lot for property owners. I supported the property article in the Bill of Rights, and I think we were correct there. I think Mr. Lowe's amendment is not strong enough. I would allow damages for the taking of around... I mean I would allow money for the actual taking as well as damages to the landowners. That's how I feel, because it's illogical to me to say that a levee doesn't protect about nine or ten other people who don't front on that particular river. Mr. Schitt's question about the payment back to the landowner whose property has increased in value, well if that's done, if no one else has been helped, then we've had special legislation building a levee for someone that shouldn't have been built in the first place. Now you know darn good and well that the property that is protected by the levee is not only the riparian owner, which is a fancy word for the guy on the river. It's everybody else in that area. In Avoyelles Parish, there's a lot of land that would flood that is not right on the river. They should carry their fair share of it. Those folks who are against this now were the same folks who got up and argued "let's constitutionalize the levee boards. Let's fix it so that we have all

these boards in the levee districts and we don't let the legislature deal with it. But if they're going to be constitutionalized, then let's not constitutionalize the right of property owners against the state and just make a bill or something and words that don't mean anything to most people in this convention, and then we can't have a discussion against a property owner.

I yield to questions.

Mr. Kelly:

Mr. Kelly: Chris, it's my understanding you'd really like to go a little further than this. Is that correct?

Mr. Roy: You're darn right I'd like to go further.

Mr. Kelly: All right. But, now, trying to analyze the situation without bias at all, don't you think that this is the most fair and equitable plan that we could come up with? In other words, it's definitely some type of a compromise. Would you not agree with that?

Mr. Roy: I agree with you a hundred percent. The thing that makes it especially fair is that "Monday" Lowe is behind it.

Mr. Kelly: All right. That... makes it extremely fair, we'll say. But it's been said at the levee before that there be some cases where a person might not be compensated anything. Well, if there's no difference between fair market value before the taking and after the taking, then, would you not agree that that particular person should receive nothing?

Mr. Roy: That's right.

Mr. Kelly: All right. Now if there is a diminution of, say, ten percent in the fair market value before the taking and after the taking, would you agree that under this formula that man would be compensated to ten percent of the fair market value?

Mr. Roy: That's correct.

Mr. Kelly: All right, if it amounted to an absolute destruction or taking, he would receive full fair market value. Would you not agree with that?

Mr. Roy: I would agree.

Mr. Kelly: And, therefore, you would agree that this is an extremely fair plan?

Mr. Roy: That's right. And not only that man is protected, but neighbors down the road or two miles behind his property is protected.

Mr. Stinson: Chris, on referring to Mr. Perez, he says when you buy the property you know it's subject to that servitude or that easement. But isn't it a fact--now he may be talking about where the banks are stable, but we're on the Red River--isn't it a fact that sometimes it caves maybe a mile or two miles? When you bought your property, you could be a mile from the Red River, and it caves up; and actually, in a lot of cases, the levee doesn't... there's no flooding, but the law requires a levee to be there. You are, by the fact, you're not only losing that that's being caved in, but they move over and take your other property--not to protect you, but someone else. Isn't that so?

Mr. Roy: That's true, Mr. Stinson.

Mr. Stinson: When you bought it, you weren't fronting on the river. Therefore, you couldn't say that you could anticipate that you'd someday have to have a levee moved.

Mr. Roy: You didn't contemplate that you were buying batture land that would be subject to being

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st len from you, according to what the committee proposal generally provides, in my opinion.

Mr. Chatelain Delegate Roy, I got problems trying to analyze the situation along the Atchafalaya River, along in the Henderson area, where we have foreign owners who bought land during the Great Depression and before, at twenty-five cents an acre, fifty cents an acre, and it has appreciated greatly, in value. It's on the tax rolls now for about a dollar to a dollar and a half an acre, and it's worth thousands an acre. You can't buy an acre. Anytime you have to improve a levee, they're going to get a so-called fair market value. I can't see the equity in that, Mr. Roy.

Mr. Roy well, Mr. Chatelain, as much as I don't like foreign people owning all the land and not paying for it, that's not my determination. Justice is based upon every person being accorded with right, whether he's rich or poor or foreigner or not. But I will say this: you ought to get your assessor to assess that property at its fair market value, and then those boys may decide to sell a little. But you can't make an argument and say, well, in this case the law is good because that fellow is a poor guy; and in this case not good because he's a rich guy.

[Previous question closed.]

Closing

Mr. Lowe Mr. Chairman, and ladies and gentlemen of the convention, I have never seen people over-react to such a simple situation in all of my life. We're merely talking about establishing the value of something before the government has stepped in and taken something away from a citizen, and the value after the government has stepped in and taken something away from a citizen, and paying him for it. Now I've heard a lot about battures and the fact that when you receive it, you receive it certain to subject...certain conditions. Now, if those conditions are bad, that gives it very little value for the owner. If it's good, it gives it high value. So, when you're buying, if you're buying something good, you're going to pay a lot for it. If it's something bad, you're not going to pay much for it. So if you didn't pay much for it, it doesn't have much fair market value. So when the fair market value is set, not much will be put on it. If you paid a lot for it, well the fair market value will be a lot, and it should be a lot because you should get it back.

Now let me tell you one thing. One of the delegates is concerned about going back of the batture and taking some silt and putting it on top of the levee. Now everyday when we build roads, people go back of the levee and they take silt and they build up roadbeds. I don't hear anyone hollering not to charge the taxpayers for the silt that comes back of the levee to build roadbeds. Now, are we going to say that we can take silt and pay an owner for it--or we have to pay an owner for silt if it's going to build a roadbed--but if it's going to build a levee, well, don't worry about it because we have something in the constitution that's going to cheat him out of that. Now, that's not equity. Now, I've also heard you say that the people next to the levee, they are being protected, and who's going to pay it? Well, this poor fellow sitting a half a mile or ten blocks away is going to pay it. But, they don't say that the fellow sitting a half a mile or ten blocks away is going to be standing knee-deep in water if the levee isn't there. Now the man next to the levee isn't any-more protected than anyone else in the district. The lines to that district is drawn by virtue of the fact that if there's flooding, that district is going to flood. You take the levee away, and you're going to see a lot of people, knee-deep in water wishing they had been able to pay their proportionate share to that big millionaire sitting up on fronting the levee.

Now, I don't think we're here to draw a consti-

tution that's going to discriminate against people if they're rich, poor, or otherwise. We're in a certain position; and, in equity, people are supposed to receive compensation for property that they own.

I ask you to join with me and keep this constitution equitable, and let's end up paying citizens of the State of Louisiana for any property that we take from them. Mr. Chairman, in the interest of moving on, I won't answer any questions.

[Record vote ordered. Amendment rejected: 50-53. Motion to reconsider tabled: 54-50.]

Amendments

Mr. Hardin Amendment No. 1 [by Mr. Duval]. On page 25, line 22, after the letter "(A)" delete the word "Lands" and insert in lieu thereof the following: "Notwithstanding any other provision of this constitution, lands"

Amendment No. 2. On page 25, line 24, after the word "for" delete the remainder of the line and delete lines 25 through 30, both inclusive, in their entirety and at the beginning of line 31 delete the partial word "ket" and "value" and insert in lieu thereof the following: "as provided by law".

Explanation

Mr. Duval Mr. Chairman, fellow delegates, again we arrive at that cul-de-sac, which we usually do in this constitutional convention: that is, trying to solve in the constitution a specialized problem. Again we get into legislating rather than constitutionalizing. I think before we do anything we ought to again ask the question: Is it something that should be in the constitution? This problem is a complex problem. It has different possible situations and alternatives. In some event, the federal government reimburses. In some cases, they don't. I think it's a classic case where there should be a statute because...The point being that the...certainly the Lowe amendment sounded good. I voted against it because I didn't know what particular effect it would have on the financial structure of some levee districts. I didn't know what money it would mean in dollars and cents; I did not have the facts. I am reluctant to put a new concept into the constitution without understanding the facts. The concept may sound very fine, but it's a question of how does it mechanically work. I think it's something we should all direct our intelligences to as to how something is going to work--is it feasible? I think that is why the inequities can be cured by the legislature. Many of you feel, well, we don't want to trust this to the legislature, we really have no protection. I think that you would generally find that the legislature will attempt to be responsive to the needs of the people. If not, elect some other people. If you enshrine a bad...a concept that's not functional in the constitution, you have to live with it. This is...that's why this should be statute law so that different situations involving levees, and the different circumstances that can arise can be dealt with by statute. If the statute isn't right, it can be changed. I think this is the most palatable way to solve this problem rather than going one way or either the protected side, or the Lowe way, or the Conroy way, or the committee way. I think the committee way is rather absurd, actually, where you say, "one-third." That's a very unworkable formula. I don't think that's wise at all. But, whenever you get into putting specific formulas to solve specific problems rather than stating the basic organic law of your state, you get into problems in the constitutional convention. Not only in this issue, but on every other issue that's going to come up, I implore you to please attempt to keep what's constitutional in the constitution, and what's statutory...let's not legislate. I think we all had an editorial on our desk today. I wish you

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would all read it carefully and understand the difference between legislation and what's a constitution. Thank you very much.

Further Discussion

Mr. Perez: Mr. Chairman and ladies and gentlemen of the convention, I would say to you that if you do not want to go along with the committee proposal, this would be the least offensive of all of the various provisions or amendments which I see offered. On the other hand, I do believe that the committee proposal is one which should be followed because of the fact that it does guarantee certain amounts of money to people under certain conditions, with the servitude that is now existing with respect to land needed for levee and levee drainage purposes, that it's possible that eventually the landowner may get nothing. That's why I would think that we should put this provision in the constitution. Therefore, reluctantly, I'd have to oppose the amendment.

Further Discussion

Mr. Womack: Mr. Chairman and fellow delegates, I rise in support of this amendment, and I can try to show you what it is. I don't have a large enough drawing to give you an idea, but if you might see, utilizing this as the levee and this as the outside of the levee and the protected area that it has no effect on, and what this amendment says, if they come over here a quarter or a half a mile, or two miles, or five miles--which quite often they may have to do to get suitable soil to dig enough borrow pits to build that levee--that the man will get paid for this land that they totally destroy. Now the difference in it, in the first start, if they're going to widen the base of the levee fifty feet, the man that has the additional base on the levee which ceases to be flat, and becomes an elevated section of a portion of the levee, really gains land because they just turn it up on a slant. He can still use it for pasture, and really have more land than he lost otherwise. But, in this particular case, when they move way off away from the levee, find suitable land and dig a hole in the ground which is good for absolutely nothing, then the man will be paid the fair market value. So, I'd urge you to vote for this one.

Questions

Mr. Roy: Mr. Womack, if we allow the legislature to deal with it, couldn't the legislature then increase the sizes of the various levee board districts so that there would be more property that is protected...taxable to take care of this?

Mr. Womack: Well, Mr. Roy, as important as the levee system is to the State of Louisiana, where everything--literally thousands and thousands of people own--is solely dependent upon that levee, I have absolutely no objection to putting a levee system in the constitution. I don't want it politicalized any more than it is. In fact, ours is not politicalized in my area, and I would hope that it's not politicalized any time. Putting it in the constitution is a pretty good way to keep it that way.

Mr. Lanier: Mr. Womack, isn't it true that if this amendment is adopted and the legislature fails to act, that we would be back under the law as it was before 1938, and that there would be no payment whatsoever for the exercise of the riparian servitude?

Mr. Womack: I would say that would be right, but then I see no reason why the legislature wouldn't act. I just don't see a problem with it. But, this does take provision where that portion of land that can be destroyed and dug up into borrow pit is paid for.

Mr. Servino: Mr. Womack, couldn't we take care

of Mr. Lanier's question in the transcript of the measure?

Mr. Womack: I would say you could.

Further Discussion

Mr. McDaniel: Mr. Chairman, fellow delegates, this is certainly a first for me because this is the first time since I've been here I've got my voice in the same day, and I hope it isn't a habit for me. I'm reluctant to oppose Mr. Loyal's amendment, I think if mine fails, this is an alternative. But, I think with this constitution we have a unique opportunity here at this point in time to study this problem, that maybe the legislature with a press of the thousand and one bill that they normally have may not be able to look at it as objectively as we have. I think that if we look at this thing realistically, we're realizing the importance of levees and levee boards to this state. I think we've touched these items in the previous articles. Certainly, the levee boards of this state, when we met with them last week and talked about this problem, they will concern about anything, any break with the past. That means the assessed evaluation. They resisted the idea, generally, of paying fair market value for this other land that was taken or destroyed. But, I think in fairness to these gentlemen and to those of us that met and talked and worked with them looking for an acceptable solution, we generally agreed on the amendment that we came to that several coauthors and I are supporting. I feel like that from the work that's gone into this thing, the considered opinion of many, many of us--and I certainly don't mean to imply that any proponent of any amendment hadn't given a considerable amount of thought and work to theirs--but we do have a sort of a consensus deal in mind that breaks up with the past. It recognizes that people are incurring losses. You look at the Mississippi system, for example, and this is just one of many. This is really a national problem. None of the water in my area gets in the Mississippi till they get far, far downstream. I think that I would plead with you to let's reject this one and be patient. I would like, at a later time, to come back and encourage you to support mine because I feel it's a recognition of the problem. It offers an acceptable solution, and I think that here, while we are writing this constitution, this is the proper place to make that break with the past.

Further Discussion

Mr. Womack: Mr. McDaniel, I want to use this mean of getting out. I thought that Mr. Loyal was talking on your amendment. I had gotten lost because I was trying to work with somebody else, and I'm for your amendment, that's the thing I wanted to clear.

Mr. McDaniel: Thank you.

[Reads an amendment to the constitution adopted by a 4-4 vote. Motion to reconsider tabled.]

A. e. n. d. e. n. t.

Mr. Poynter: Amendments sent up by Mr. Lanier are as follows:

Amendment No. 1, on page 25, line 24, after the words "or at" delete the remainder of line 24 and delete lines 25 through 29, both inclusive, in their entirety, and on line 21 delete the words "destroyed for such purposes" shall be paid for at .

Explanation

Mr. Brian: Mr. Chairman and delegates, I believe it to be only fair that the land which is sold or large--receive just compensation for property, like for any purpose. I don't think it is just compensation.

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sation at the fair market value of the property in question. Let's say if one owner is paid eleven dollars for two acres of woodland assessed at five dollars per acre in one case, and in the other, receive three hundred twenty-three dollars for sixteen acres of cultivated land assessed at twenty dollars per acre. Now, in the second case, the farmer would be left with a substantial mortgage on the property that was taken, and the only way he is able to pay for it, from the proceeds of the cultivation of his remaining land. So, I would like to ask you for land so taken, whether it is a small landowner or a big landowner, to make it at fair market value. Thank you.

Questions

Mr. Lanier Mrs. Brien, have you done any studying into the ability of levee boards to be able to pay this?

Mrs. Brien I think it can be paid.

Mr. Lanier Did I give you a report from the Department of Public Works dealing with this problem?

Mrs. Brien Yes, but we're talking about levee boards here. But, some...in some areas the people paid taxes. It's not so...if the people protect it, I don't think they mind to pay a little taxes for their home to be protected from floods.

Mr. Lanier Do you recall what that report said with reference to the ability of some of these levee districts to pay this type of payment?

Mrs. Brien It's all right, but I'm thinking about the landowners, especially about the small landowners.

Mr. McDaniel Mrs. Brien, these figures you mentioned from Farm Bureau, are you aware that I supplied most of those to them?

Mrs. Brien Yes.

Mr. McDaniel And that they are...they feel that the amendment that I have that follows meets the basic requirements of the farmers of this state?

Mrs. Brien Maybe it is, but I think mine is just as good.

Mr. Roy Mrs. Brien, in answer to Mr. Lanier's question, isn't it a fact that the legislature could enlarge the present levee board districts and thereby bring in more property upon whom the taxes would be paid for their own protection, and thus pay for the cost that you're seeking to get for people when their property is taken? Isn't that true?

Mrs. Brien Maybe.

Further Discussion

Mr. Tapper Mr. Chairman and fellow delegates, I'll be very brief. I know that this amendment is very...sounds like or seems very popular to the populace. However...and it makes my heart really heavy to get up here against my good friend, Hilda. We've been, I think, voting together ever since we started in this Convention. However, my parish, or one of my parishes, St. Bernard Parish, is a parish where one or two people own most of the vacant land in the parish. My question is: What will happen if you do put fair market value? If someone can determine the fair market value of a particular piece of property, what will happen? Who will pay the bill? In my parish, most of the people who own any property own a home. Now, we've put a three thousand dollar, or thirty thousand dollar homestead...the homestead exemption is three thousand dollars, but if you have a home at thirty thousand, according to the ten percent, if

that holds up, the people who own homes that are worth more than that will be paying all this money. Now, my concern is in the parish of St. Bernard, and also in that section of New Orleans that I represent, I have mostly homeowners. The homeowners, they only own one thing, and they have a mortgage on that, and that's their home. They don't own large tracts of land. The people who own the land in St. Bernard Parish, there's one or two individuals that live in the parish, and the rest of them are from outside of the parish. They are large landowners. I don't want to have to tell those people in my parish that they're going to have to pick up this tab to build these levees when all they...all the property they have is a home that isn't paid for in most cases.

Questions

Mr. Nunez Representative Tapper, wouldn't you say since we've already passed the last amendment which says, "as provided by law," that the legislature can adequately deal with the problem? If we go ahead and pass this one, we'll be, in fact, legislating in the constitution.

Mr. Tapper Yes, Senator. Not only that, to get back to the fair market value, the legislature really...either the legislature or the courts are going to have to determine what fair market value is. So, I believe it's going to end up in the legislature, anyway. I think if we adopt this amendment, we're putting something technical in here that is going to be very hard to interpret, and also, I think it will work an injustice on the homeowners of the state.

Mr. Lanier Mr. Tapper, isn't it true that under the existing law that where the riparian servitude is exercised that the owner of the property still retains the title?

Mr. Tapper Yes, Mr. Lanier, and in the event that there's no further need for the servitude, it reverts back to the property owner.

Mr. Lanier If you pay them the full market value, then they could be in the situation of having received the full value for their property and still end up with it unencumbered at the end.

Mr. Tapper And they still have the property. Yes, you're right.

[Previous question ordered.]

Mr. Henry All right, before you close on it, Mrs. Brien, Mr. Clerk needs to make a change in it to, I think, make it conform. Is that right, Mr. Clerk? Explain it, please.

Mr. Poynter ...be several ways to approach this, but the amendment needs to be redrafted in light of the Duval amendment which affected those lines in somewhat different fashion. Make it read:

On page 25, strike out Convention Floor Amendment No. 2 proposed by Mr. Duval and adopted by the Convention on today, and insert in lieu of the language deleted thereby:

"at fair market value,"

Now, that depends, again, on something we've only had come up about once or twice. The standard construction of amendments is that the deletion of an amendment which in turn deleted language does not reinstate that language. So, that language deleted by the Duval amendment would still remain deleted, and we would simply insert "at fair market value;" and that will accomplish the purposes of your amendment, Mrs. Brien.

Closing

Mrs. Brien I really don't want to say nothing. Only I want to help Mr. Perez because I know he is worried at that bad, bad, bad amendment. I say this is a good, good, good amendment.

[REDACTED]

Release

[REDACTED]

Amendments

Mr. Foynter: All right, this one reads as follows, this is Guarisco's amendment. Amendment No. 1. On page 25, delete lines 22 through 32, both inclusive, in their entirety and on page 26 delete line 1 through 8, both inclusive, in their entirety and insert in lieu thereof the following. [Mr. Guarisco will add including all Floor Amendments thereto]. Right? Amendment No. 2. On page 26, line 9, at the beginning of the line, change "(C)" to "(B)".

Explanation

Mr. Guarisco: In page 25, if you'll look at Section 49 I want to explain what I've attempted to do and I think I've done. First of all, Section 49 would now be the (A) part would just be "no property shall be used or destroyed for levee or levee drainage purposes without just compensation paid to the owner or into court for his benefits." Now, when we took up the Bill of Rights Article on property, Mr. Perez asked that we defer the action insofar as levee and levee drainage purposes until we got to this article and now we're...to this article. As you may recall that the biggest objection seemed to be--and I can understand that...that we might have an emergency situation in this state or that levee...the ravages of flood waters might override some of these other considerations insofar as the Bill of Rights is concerned and in the taking of the property without just compensation. So, I felt that I remedied this; first of all a person would have to be paid just compensation as determined by the courts, but that would not prevent appropriation, that would not prevent the police power being exercised to take the property for levee purposes and if the compensation has not been determined yet, then to put it into court or in the registry of the court for his benefit. In Section B, I eliminated Section B for the simple reason that the legislature could make its own determination as to how the compensation may be paid. It might be paid out of the state, generally, or by the taxing district or what have you, so I left that solid. I changed (C) to (B) to further protect the idea and the concept of appropriation and to further protect the idea that you...the district can still appropriate and use its police power. So, we're talking about one thing: fair and just compensation, and I don't see now anybody can be opposed to that if you were for the...just compensation in the property article, why shouldn't you be for fair and just compensation in this article. Now, I gave one more point in...is that in the property article we let either party have a jury trial. I'll concede that and say just let the judge decide it, the compensation. So, I think this is a fair compromise; I think it's fair to everybody. There is no doubt that--in fact, I think Professor Wolfe said it in Tulane Law Review that this, a Louisiana study--he wrote a law review article, "Louisiana Study In The Taking Without Just Compensation". We are the only state...we are not the only state that has levees, as you well know, we are the only state that does not pay just compensation. What's wrong with just compensation. Historically, before the 1920 Convention they paid nothing whatsoever, now...in 1920 they said this is pretty darn inequitable so at least we'll give...make a gratuity of the previous year's assessed valuation in what you know...what that is a mereittance. I yield to any questions.

Question

Mr. Singletary: You know, Mr. Guarisco, I think you have a good amendment. I'm not sure if it's properly taken without just compensation or if it's violation of due process.

Mr. Guarisco: Well, I don't say that I feel that it's a violation of due process, but the federal courts in *Wolfe v. Perry* did say that it was not in violation of the Federal Government's Constitution at that time. Let me say, don't think that it's just property that's riparian, and when you say riparian it's right on the water. There are cases--and one case in point I don't remember the name, but when I read that--there is a case where a man's property was taken overthrown with inland for the purposes of repairing and building a levee merely because, historically, his land was riparian when separated from the sovereign. So, this...you know, just because something is right...when something is inequitable, it's not right...it's inequitable. I think we can make this repair. I don't think we...I think we can pay just compensation; we paid for road, we paid for highways, we paid for bridges. Why not for levee purposes? Why is this thing sui generis? Any other questions?

Mr. Tobias: Tony, I'm reading Section 49, let me throw at you a hypothetical situation. Suppose a levee is breaking in a parish and it's, in fact, a Saturday afternoon; how could a local levee district or governing authority ever pay the money into court at that time for this man's benefit? You're absolutely mandating before they take his property that they have to pay it in. How do they know it's going to happen?

Mr. Guarisco: Mr. Tobias, now you're using again the same argument and then use the same scarce tactics as has been used before. That certainly is not so, and I left (B) in for the specific purpose of an emergency that "nothing herein shall be construed to prevent the appropriation of such property before payment." That would take care of an emergency situation; that's not a problem. If the levee's crumbling beneath Chalain Perez, I'm sure that the Commission Council will appropriate that property before it gives way. That's not a problem. I'm not constitutionally prohibiting him from doing that.

Further Discussion

Mr. Perez: Mr. Chairman and ladies and gentlemen of the convention, this is virtually the same amendment which was considered in the Bill of Rights Section and which was rejected by this convention. I don't believe that a fair reading of Section (A), even with Section (C), would mean that you could take property before either paying the just compensation to the owner or into court for his benefit. Now, again I'll remind you what I told you of the experience that we had in Plaquemines Parish, just in this last high river, when we had a large section of our levee failing, when the U.S. Corps of Engineers said it couldn't be done, when the state engineers said it couldn't be done, but in spite of all that our local levee district people pitched in, and we worked all night long to stop the levee cave and to build a new levee before we had a disaster which would have destroyed many, many hundreds of thousands or millions of dollars worth of damage and flooded people's homes. I say to you that the present posture of the situation leaves the matter up to the legislature. You had an amendment a little while ago by Mr. Arrien. You rejected the fair market value concept, so, therefore, I say to you that this is a matter which has already thoroughly been considered by the convention, has been rejected both in the Bill of Rights Section and in what we've considered today. I suggest to you that this would do serious violence to the necessity to protect people's lives and property as a result of threatened levee failure or as a result of necessary immediate levee work to see to it that the levee does not fail. I, there-

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fore, strongly urge that you defeat this amendment.

Questions

Mr. Lanier Mr. Perez, didn't we have the Department of Public Works make a study for us in Local and Parochial Government on the ability of levee districts outside of the Mississippi River Commission to pay fair market value?

Mr. Perez You say have we had such a study?

Mr. Lanier Yes.

Mr. Perez I don't recall all the details of it, if you'll refresh my memory.

Mr. Lanier Was it a study that was made by Roy Auullard, the Director, and D.V. Cresap, the Chief Engineer?

Mr. Perez Yes, I have a general familiarity with it...

Mr. Lanier And didn't they advise us that the local levee districts in some instances...most levee districts in Louisiana are not financially able to acquire rights-of-way for enlargements and setbacks at other than the assessed value where reimbursements cannot be received from the U.S. Corps of Engineers?

Mr. Perez That's correct.

Mr. Lanier Now, if you look at this proposed amendment, does it appear to you that there's a direct conflict between the (A) Paragraph and the (B) Paragraph as presently written?

Mr. Perez Yes, because if you will read the (A) Paragraph carefully, it says "No property shall be used or destroyed," etc., "without just compensation paid to the owner or into the court for his benefit." So, if you can't use it until you do that, there is a direct conflict, and, although, that theoretically you might be able to appropriate before compensation, you cannot use the property under the provisions of Paragraph (A) without paying just compensation or putting the money into the registry of the court. Of course the important part is the use: that is, the physical use of the property to be able to get onto the land and to make the necessary ring levees or whatever is necessary to take care of preserving the lives and property of people.

[Previous question reread.]

Closing

Mr. Guarisco The question just comes down to simply one thing: Do you want to pay fair and just compensation for that property taken, or you do not want to pay it. All this issue about ring levees and everybody is going to drown, etc., is certainly untrue. Talking about, "You can take the property but you can't use it" is begging the question. But, I'll leave it to the convention. You either want to pay or you don't want to pay. I urge you adopt the amendment.

[Record vote ordered. Amendments recorded: 34-18. Motion to reconsider tabled.]

Amendments

Mr. Poynter Amendment No. 1 [by Mr. McDaniel and Mr. Lanier]. On page 25, lines 22 and 24, delete Floor Amendments No. 1 and No. 2 proposed by Delegate Duval and adopted by the convention on November 8.

Amendment No. 2. On page 25, delete lines 22 through 30, both inclusive in their entirety and at the beginning of line 31, delete the portion of

the word "market value;" and insert in lieu thereof the following: "Section 49. (A) Lands and improvements thereon hereafter actually used or destroyed for levee or levee drainage purposes shall be paid for at a price not to exceed the assessed value for the preceding year; provided, if the property used or destroyed for levees or levee drainage purposes from a landowner shall exceed more than one-third of the value of that landowner's property and improvements, or if land is located on the protected side of a protective levee and is used for borrow purposes, the land and improvements thereon used or destroyed for such purposes shall be paid for at fair market value;"

Explanation

Mr. McDaniel Mr. Chairman, fellow delegates, this is essentially the amendment that I asked you to use patience and forbearance to wait for because I didn't get it before you as fast as some of the others. This is an effort to come up with a reasonable break from the past and compensate people who are losing part of their farms on protected sides of the levee from total loss, or almost total loss, of compensation. I, personally, appreciate the concern that many of you have expressed here in your desire to give adequate compensation for land lost for levee enlargement and construction purposes. This is a proposal that in the opinion of most of us, I think, we can see that there is a determined effort here to make a change from the past and to find the way that we can live with it as far as the cost to the people in the protected area to pay this compensation. This could be our last chance in a long, long time to meet some of these problems. The proposals that we are dealing here with are very, very closely related to what is now currently being done in Arkansas along the Mississippi River and also in Mississippi. I have in my file here statements from the Arkansas area of the Mississippi that simply says that they pay people for the staked out portions of barrow pits on the protected side. This is essentially what we're asking here. The people, when levee enlargements were the base of the levee and the berms that are put on to strengthen the levee, they have the limited use of this land for... and then some of the best grazing rights that are available. But, the real problem is for the man who is some distance or doesn't even adjoin the levee, and because of lack of bature land, he must surrender part of his land for barrow pits. My amendment here would compensate this person at fair market value. This, with the construction that's planned along the Mississippi where the levee will be raised from the mouth of the Red to in Arkansas four to six feet over the next few years, is going to mean that some of the very productive agricultural land of this state is going to be required for barrow purposes in order to enlarge and strengthen the existing levees. We support this. Those of you that live in the proximity of the levee, you want good strong levees; you want to go to bed at night secure that they're going to hold fast when you know that wall of water is twenty or twenty-two feet high, as it was in my area last year. I think that we have come up with the considered opinion of many people here that is an alternative. It's an acceptable alternative for paying more than the assessed value for that land that's actually lost for barrow purposes; yet, it will not impose such a burden upon the levee districts who will have to pass this on at the millage tax for the people that are living in that area. I don't know how many realize that in the case of the Mississippi, particularly, in most of the state, very little water from this state, actually, ends up in it. Along in my area, it's all from north of us, but yet, we do keep, or are responsible for providing right-of-ways and land for enlargement purposes. I think this is all right; it will pay the fellow that loses his bean field or his cotton field or for barrow purposes. This is what our farmers and other landowners...we think this is fair. We are not dealing

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at a 1 with the batture. We take the position that most people have interpreted this into higher land values. They know that this land is subject to certain uses, and most people that are living today, when they acquired it, know that they got it subject to those limitations. I would like to encourage you very strongly. Let's approve this amendment and move on.

Question

Mr. Duval: Mr. McDaniel, one thing that concerns me. Several things, but one thing that really concerns me is this one-third that's in this amendment. That's the thing that I objected to to begin with. Don't you think that's a little bit arbitrary to put in the constitution, sir?

Mr. McDaniel: Well, this has been in there, as I understand, for a long time and is intended for... would take care of the small owner that has a lot and a home at the foot of a levee and a substantial portion of that small lot would be taken. I think you would want to adequately compensate such a person.

Mr. Duval: Mr. McDaniel, I understand that your main thing, and as I understood it, was the protection side of the levee, but when you put this one-third in... do you know it's not in the old constitution? This is a brand new concept thought up by the committee. Now, that's where that one-third comes from.

Mr. McDaniel: Well, I'm sorry; I'm uninformed.

Mr. Roy: Mr. McDaniel, do you realize that barns and sheds of that nature, which are improve-ments, do not go on the assessment rolls? Do you know that?

Mr. McDaniel: Yes.

Mr. Roy: Well then, you mean to tell me that if a man had a hundred thousand dollar milking barn, or whatever have you, and it was taken for a levee, how would he get paid for it if it can't even go on the assessment roll for the low value of what the improve-ment would be assessed at when it's not assessed?

Mr. McDaniel: We're getting away from the assessed valuation. I think you notice here this says...

Mr. Roy: Look at your first sentence: "Lands and improve-ments thereon hereinafter actually used or destroyed... shall be paid for at a price not to exceed the assessed value for the preceding year." Now, a barn... a man has a hundred thousand dollar barn. It is not assessed, because it doesn't go on the assessment rolls. You put a levee there and you take it, you can't even pay him for it under your amendment; can you?

Mr. McDaniel: Mr. Roy, I believe you quit reading too soon. I believe if you look down about three or four lines from the bottom, you see, "if land is located on the protected side of a protection levee and is used for barrow purposes, the land and improve-ment thereon used or destroyed for such purposes shall be paid... at fair market value."

Mr. Roy: Suppose he's not on the protective side?

Mr. McDaniel: We're not dealing with that at this time. This is part of what I said in the early going, it was hard to suppose going for the whole hog and ask people to accept half of it. But this is a substantial break with the past, and I think it shows the willingness of many of us that are lively as opposed with it to meet it in a fair...

Mr. Roy: You heard Mr. Ferd Stinson's question to me this morning where you could have land that isn't even batture considered batture, and suddenly

one day they have to put a levee in behind your barn that is on the outside of the... the barn would be on the outside of the levee and the river, and under that situation, never having contemplated that you're buying a hundred dollar barn, you would have a hundred thousand dollar barn, and you wouldn't get paid under one circumstance in your agreement. Isn't that true?

Mr. McDaniel: Yes, that's true. Well, that's true. This works, I think as a reasonable break with the past, and certainly you look at every individual situation you can find those of hardship. I think you might find it even if you'd approved any of these amendments today.

Mr. Kelly: Mr. McDaniel, referring to the ex-emption beginning four lines up, "on its land is located on the protected side of a protection levee." I understand what that says if there is already an existing levee there, and then you dig in and you dig a bar pit or something on the protected side of the levee. What if there has never been a levee? What if you're going with a new construction; how is that going to be handled?

Mr. McDaniel: Well, I'm sure some of you that are knowledgeable in the legal aspects of this I think this is where some of your riparian rights and some of these things come in. I'm not qualified to answer the legal aspect. Most of your water screens are under... do have levees and there are the areas that we're trying to deal with.

Mr. Roemer: Jim, isn't the effect of your amendment to destroy what we just passed a few moments ago in the Duval amendment: that is to give the legislature the right to review and set up guidelines that can be changed as the times change. Doesn't your amendment just destroy and reverse completely what this convention does... did just a few moments ago?

Mr. McDaniel: Yes, I think that's a fair assumption. I think my position... the convention needed to make this choice, I think mine is a fair, defendable position. However, should it fail, I could accept Mr. Duval's.

Mr. Roemer: Right. I would suggest that you know that yours is not a fair, perhaps compromise because the one-third seems to have been pulled from somewhere. Maybe it was magic, maybe it's the collective minds of the people that worked on it, but there's no mathematical reason or sound logical basis for one-third being the threshold effect and no one has been able to defend that.

Mr. McDaniel: Well, perhaps, that's right, but you know there are very few things that are absolute and positive.

Mr. Winchester: Mr. McDaniel, where you say that "shall exceed more than one-third the value of that landowner's property..." value means what-- assessed value, or actual value, fair market value, or what? On line 7, I think.

Mr. McDaniel: This would be... the way I would understand-- here, again, this was a committee proposal, and perhaps someone from the committee should answer this. I believe Mr. Duval said he was the author of the one-third. I would assume it to be fair market value.

Mr. Winchester: Thank you.

Mr. McDaniel: Did I misquote you, sir? I apologize if I did.

[The following is a list of names and addresses, partially obscured and illegible.]

Closing

Mr. Perez I only wanted just to mention in order to allay any fears with regard to the Pugh amendment that lands taken for levee purposes are strictly a servitude and not the title of the land, so it would not affect the minerals. I just wanted to be sure everyone understood that. I now ask you, please, to vote for the section.

[Section passed: 101-4. Motion to reconsider tabled. Motion to revert to Section 40 previously passed over adopted without objection. Reading of the Section waived.]

Amendment

Mr. Poynter These amendments are sent up by Delegates Roemer, Lanier, Kelly and Lowe.

Amendment No. 1. On page 20, delete lines 13 through 32, both inclusive in their entirety and on page 21, delete lines 1 through 13, both inclusive in their entirety--and I think we ought to say--including all Floor Amendments to said pages and lines and insert in lieu thereof the following: 'Section 40 (A) The legislature shall fix the limitation on bonded indebtedness payable solely from ad valorem taxes levied by political subdivisions.'

Mr. Roemer, before he introduced it, didn't want that Paragraph (A). There's no need for the parentheses (A) in there. Again, he deletes all floor amendments thereto.

Explanation

Mr. Roemer Mr. Chairman, ladies and gentlemen of the convention, if you reflect back on our actions yesterday, we talked for some three and a half or four and a half hours on Section 40, which has to do with the limitation of bonded indebtedness in local and parochial government. At the conclusion of that lengthy debate, we came to no conclusion. In effect, by not passing Section 40, we have taken it out of the proposed new constitution. Frankly, I see no great objections to taking it out, because leaving it in, having explained to us the realities of what it did, it mentioned limitation and had a page and a half of verbiage about limitation, but, in effect, we had no limitation at all. You heard testimony yesterday from the bond attorney; you heard testimony at the microphone by various speakers. They could stack these single-shot, ten percent of assessed value, one on top of another, and in effect, there was no limitation at all. I think we clearly understood that yesterday, and hence the section was voted down in effect--was not passed, what actually happened. Now, I could live with taking it out. I think that politically and economically we'd be better off to have this amendment, which is a short concise statement, to replace that page and a half of verbiage, which says that "the legislature shall fix a limitation on bonded indebtedness payable solely from ad valorem taxes levied by political subdivisions." Now, you see, if we pass Section 40 just like it is today, on the one hand we don't have a limitation, because they can stack these ten percent modules, and on the other hand the legislature, by a simple majority vote, can change that limitation any time they want to. So, what I'm doing, instead of trying to fool the people by having all the verbiage in there, and instead of having a constitution that inevitably will be out of date the first time the legislature by a majority vote changes the limitation, we're calling in this amendment mandating the legislature to fix such limitations as it sees fit, subject to its change from time to time as the needs change. I don't think it's very complicated, and I don't think it should be too controversial, because we're not removing a limitation. There is no limitation now. We're not granting the legislature something that we already haven't granted it, because yesterday we gave it the right by a simple majority vote to

love any limitation we set. I'm trying to do two things here. I'm trying to help us write a short, concise constitution, and number two, I'm trying for us to say in plain, simple, direct, English language what we actually meant by yesterday's action. I think this amendment does both these things. It does no injustice to our legislature. It gives them the power that I think is theirs. It does no injustice to our local and municipal governments because they have that forum on which to call for whatever limitations they deem necessary. It certainly does no injustice to the people because we mandate the legislature to set limitations, and we nod our head in the direction of the fact that we have no limitation whatsoever right now.

I'm open to questions, Mr. Chairman, if there are any.

Question

Mr. Champagne In other words, Mr. Roemer, you're giving the people another opportunity to vote for something good. Is that right?

Mr. Roemer I hope so.

Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I'm going to be very brief. I think we've argued this matter to the point where I think all of us know where we stand. I think the only difference between the Roemer amendment and what we now have in the committee proposal is at least we give the assurance to people back home that there are certain fixed debt limitations in the constitution, even though the legislature by a majority may increase it. I do believe that, when you go to pass a document, when people know that you have...Mr. Roemer, if you don't mind, let me speak, please, without those side comments...it's a little distracting...with, when people know that they have in the constitution provisions with certain limitations, I think they will feel a little more secure than if they feel that there is an unlimited...that there are no limitations of any kind. The difference between the legislature establishing limitations and the legislature having to change limitations, is that in one case you have to get both houses of the legislature to pass the limitations and have the governor sign it. In... with the provisions which we have here where you set up those limitations, any one house of the legislature can stop those changes so that you do have a more effective provision the way it's set up now than you would have if you tell the legislature to establish them. So I suggest to you that we should follow the committee proposal which gives a great deal of latitude to the legislature, but at the same time, still gives the people of this state some assurance that there are limitations on bonded indebtedness.

I, therefore, urge you to defeat the amendment.

[Previous Question ordered.]

Closing

Mr. Roemer I think that the battle line should be clear to you. I want a limitation. The people who oppose me keep saying that we have one. But they should, if they look at the facts and have heard the discussion for the last two days, they know dadgum--well we don't have one. I submit to you they don't want to see one. I further submit to you that they are playing on that old idea. That is we can fool all of the people some of the time. I don't think we need to keep playing that game. Let's leave it to the legislature. The alternative is we are going to follow your action of yesterday, and that is vote the section down. When we do that, we've left it right up to the legislature. I hope you can support this amendment because it mandates that there shall be an actual limitation. I submit for the first time.

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Question

Mr. Heill Buddy, the committee proposal as it stands, does it mean anything?

Mr. Ruerer No, it means nothing because we've already heard that what they do in a practice is stack the ten percent modules one on the top of another. There's no limitation at all to the number of modules except as the bond market will accept them.

Mr. Heill Do you think the legislature can make some definitive statements of law on this if this amendment were to pass?

Mr. Ruerer Yes, I certainly do.

[Amendment offered. Amendment received: 197-11. Mr. Heill - proposed reading. Mr. Ruerer - second reading of the amendment. Amendment passed: 197-11. Mr. Heill - proposed reading of the amendment.]

Vice Chairman Casey in the Chair

Amendment

Mr. Pointer The first amendment is offered by Delegate Willis.

Amendment No. 1. On page 23, between lines 18 and 19, insert the following:

"Section 43.1 Maximum Charges for Attorney Fees

Section 43.1. The maximum charge which may be paid for legal services by a bonding authority in connection with the issuance and sale of its bonds shall not exceed \$20,000 or one-half of one percent of the total authorized amount of said bonds, whichever is the lesser."

Explanation

Mr. Willis Mr. Chairman and fellow delegates, no cause is more sublime or divine than to fight the battle of truth. The warrior whose weapon is the sword fights no harder for our people or property than do we with our pens. The well-directed pen wins nobler victories and spills no blood which makes it mightier than the sword. The pen that writes the laws is maintained by the sword only when the laws are worthy. When the pen is misdirected, the sword supplants it. This is the historical circumstance of where good laws end tyranny, and bad laws begin. This peaceful and contemplative arena is not one to make the worse the better reason seen. It should be one to reveal, not to conceal. But truth will....

As I was saying, this arena is one to reveal, not to conceal the operative facts whereon our judgments are to be founded. Just as I don't propose to lead, I promise not to mislead you. The plain and gross meaning of this amendment is obvious to the dullest. I propose no explanation of it. It does not have the language of the landscape. It is plain. You may impute that it does not behoove a lawyer to propose such an amendment. I do so to separate the tall from the short, and to determine whether or not we want austerity in government, at all levels by way of irrepealable law, austerity is virtuous in government. Who denies this? In matters of public service, and we are all victims of that, the less the profit, the greater the honor. Lawyers are officers of all courts in which they practice. The law has honored them. They should reciprocate. I do not need to go to the extreme end of our plantation to hear the birds chirp, flutter and whisper their evening prayers to the music of the bayou, and meditate there until the sun disappears and silence rules the scene, to tell you, including my fine feathered friend from Webster Parish, that I greatly applaud this amendment. The opponents have no respect if they claim to be impartial in their devotion to good government. Perhaps I make too bold to pro-

claim that I cannot see any argument but those that would destroy our plan. I am not oblivious of the fact that he who knows only his side of the case knows little of that. I admit the fact that this amendment is needed as a necessary condition. Everything has a limit. I solicit your support of the truth of the matter that if we have a government at all levels the tranquility it needs. I'll answer any questions.

Question

Mr. Burson Mr. Willis, is it your desire that this money raised by bond issues which formerly went to pay attorneys would go in toward the building of the classrooms for the children in the schools?

Mr. Willis Much glory, to you, sir. I did not want that it leaves the rich plums in the fruit salad so our school children may enjoy them.

Mr. Derbes Mr. Willis, in reference to your amendment, or rather to your section, the twenty thousand dollars seems to have no referent. That is, nothing seems to...it doesn't seem to refer to anything. Is it twenty thousand dollars per bond issue? Twenty thousand dollars for the life of the bonding authority? Twenty thousand dollars for what?

Mr. Willis It is explicit in that it is the maximum charge which may be paid for legal services, and I've skipped some words which are impertinent, with the issuance and sale of its bonds, shall not exceed two thousand dollars. That means one bond issue, of course.

Mr. Derbes One bond issue?

Mr. Willis Surely.

Mr. Newton First of all, Mr. Willis, did you know that I am not a bond attorney?

Mr. Willis Well, I can tell you the same thing about myself.

Mr. Newton Mr. Willis, what is the present practice of bonding attorneys on their charges?

Mr. Willis Well, on the same plea of ignorance that you gave me and I gave you, my answer should be, I don't know.

Mr. Newton All right. Let me ask you this. If...aren't bonding attorneys liable if they make a mistake?

Mr. Willis Any attorney who makes a mistake is liable....

Mr. Newton If they made an error, say, on an eighty million dollar bond issue, they'd have an eighty million dollar liability, wouldn't they? How much do the insurance premiums cost for an eighty million dollar policy, Mr. Willis?

Mr. Willis Well, I'm neither an insurance agent....I don't know.

Mr. Newton Do you think twenty thousand dollars on a bond issue would cover an eighty million dollar liability policy?

Mr. Willis My answer is no.

Mr. Weiss Delegate Willis, I suppose you are aware that all federal and state medical care sets limits on physicians' fees. I would like you to know that...or wonder if you know that this is the finest evidence I can see of attorneys' roles in promoting good---not the most expensive government for the people of the great State of Louisiana.

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Mr. Willis I thank you very much. I might add to that that it is...the best pesticide for good government...it is better than DOT. By that I mean, 'Don't Dare Tell.'

Mr. Shannon Did you know that I am for you on this amendment? But I've heard some attorneys around here say now that you are meddling.

Mr. Willis Now, that I am meddling?

Mr. Shannon Yes, that you are meddling.

Mr. Willis Well, I'm happy you say that. I prefer to use the word intervening.

Mr. Stinson Mr. Willis, I'm for your amendment, but if by some remote....

Mr. Willis Thanks.

Mr. Stinsonpossibility it would fail, would you consider introducing one that the attorney general shall represent and handle?....

Mr. Willis Well, my dear Mr. Stinson, I'm very glad you asked me that because when it comes to Revenue, Finance and Taxation, I have one that will make the attorney general, the bonding attorney for the State of Louisiana, and I'm going to save millions of dollars for the State of Louisiana.

Mr. Stinson Billions of dollars.

Mr. Willis And there ain't going to be no plum trees near that capitol.

Mr. Stinson Mr. Willis, have the bonding attorneys endorsed this amendment?

Mr. Willis They never would, sir. They are under the plum tree.

Mr. O'Neill Mr. Willis, did you know that I wanted to be a bonding attorney but if your amendment passes I'm going to have to go into another line of law?

Mr. Willis Well, let me tell you, sir, then I'll go into the bonding business because twenty thousand dollars ain't nothing but blue chips for me.

Mr. O'Neill Well, Mr. Willis, further, did you know that there's so eone here who thinks this amendment is bad, bad, bad?

Mr. Willis Well, tell him that I think that it is good, better, best.

Mr. Champagne Mr. Willis, are you familiar earlier in this convention someone asked me how I could tell bonding attorneys from other people, and I said at that time they smiled a lot?

Do you remember that?

Mr. Willis Yes, sir.

Mr. Champagne I'm wondering, do you think they might be smiling after this, sir?

Mr. Willis Well, maybe....

Mr. Champagne Should your amendment pass?

Mr. Willismaybe their wrinkles would show where the smiles have been, but they don't...they fly. They don't roll.

Mr. De Blieux Mr. Willis, is...does the legislature have the authority to set the bonding fees on these type of bonds?

Mr. Willis My dear sir, the legislature has unlimited authority. But since Louisiana entered the union many moons ago, there never has been a ceiling placed by the legislature. This is...the

purpose of my amendment is to do what the legislature has not done and to make it irrevocable.

Mr. De Blieux I'd like to ask you if you know that some years ago I introduced a bill to the effect that the local attorney for all these agencies should be the bonding attorney without any additional fees? That that should be one of his duties, the responsibility to handle them in the legislature?

Mr. Willis Well, glory to you. Then help me caress this amendment.

Mr. Anzalone Mr. Burt, since we...since you are by your amendment attempting to do a very, very good job on the bonding attorneys of this state, none of whom I happen to know with the exception of one, don't you think that we ought to do something for the plaintiff attorneys in this state and say that they shall be a maximum contingency fee of about ten percent?

Mr. Willis Well, I think the...rules of ethics

Mr. Anzalone Certainly it would make the insurance rates go down...protect the public.

Mr. Willis Well, you're talking about third or fourth bounce, Joe. I'm talking about the first bounce.

Mr. Anzalone Or, in other words, I'm meddling, but you're not?

Mr. Willis Oh, no. I am intervening...on behalf of the people. You may be meddling. I don't know.

Mr. Anzalone Then...certainly you would ask the Clerk to make that little correction and let's include the plaintiff attorneys in here.

Mr. Willis Well, I don't understand the purport of your question?

Mr. Anzalone Well, I mean you are going to save the state so much money by not letting a bond attorney earn a fee in excess of twenty thousand dollars, which is going to save a lot of tax money. But we know everybody in this state pays insurance money. If we would limit the attorneys to a ten percent contingency fee, and maybe the defense attorneys to a ten dollar an hour fee, just think of how much money we could save in insurance rates.

Mr. Willis Well, we don't have a section, Joe, on attorneys in this constitution.

Mr. Anzalone Well, I'm looking here, it says maximum charge for attorney fees. We're about to have one?

Mr. Willis No, it's legal fees, but we don't have...we don't treat of attorneys in this constitution.

Mr. Anzalone Well, what are we doing here?

Mr. Willis We are treating of a special breed of attorneys--bond attorneys.

Mr. Anzalone Ohhhh.

Mr. Rayburn Burt, I think you've got a good amendment, but it might be a little too good. Mr. Burns, who is a member of this convention now, who sits right here at my left, served as district attorney for my senatorial district for twenty-four years. He handled over forty bond issues and never paid a consultant over two hundred dollars. That was a Chicago firm, and he never paid them over two hundred dollars as a consultant, and handled every bond issue in my two parishes for twenty-four years. At the most, cost, on any bond issue, was two

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hundred dollars.

Mr. Willis Thank you very much, senator, for bringing that to my attention.

Further Discussion

Mr. Galt Mr. Chairman, ladies and gentlemen, first I want to apologize for being here in a short sleeve suit. But the president had them cut the air conditioning off so I went up and changed into something wool.

I'm going to be brief. I just want to merely state that I'm in favor of this amendment. I do want to say this, there's a lot of levity and joking about lawyer and bonding attorneys. I don't even know a bonding attorney. But I do want to say lawyer as a whole are very hard working people. They are not out to try to gouge anybody. I think a vast majority of lawyers would like to see this fixed--a percentage like it. Just like the workmans compensation law, our fee is fixed. So, I want to say that I think that all lawyers, outside of maybe a handful, would go along with this amendment. There's no vested interest like we keep hearing. I have not, during this entire time I've served, had any lobbyist, vested interest, otherwise, come try to tell me how to vote. I think it's just wonderful how independent this convention is. This is a fine amendment.

Further Discussion

Mr. Segura Mr. Chairman, fellow delegates, I hate to rise against, to speak against the amendment proposed by the delegate representing part of the same parish I represent, but I feel I have to.

Mr. Willis said that less the profit, the greater the honor. Well, honor won't feed your family. I have no idea what it costs a bonding attorney, how much work there is involved in working up a bond issue. I have no idea. I have no idea how much the fees that they get today are. But the point I want to make to you, and listen to me closely, this does not belong in the constitution. Mr. Willis knows that. If anything should be legislated about that, it should belong in the legislature. But I think that supply and demand could rule on this. I ask you to defeat this because we are trying to write a constitution that is concise, to the point, and does not contain a lot of unnecessary verbiage. I ask you again, please vote against this because it does not belong in the constitution.

Questions

Mr. Rayburn Mr. Segura, you didn't really take us serious when we sent those people to you this morning and told you that if this happened to get by, that architects and engineers would be next. You didn't really take us serious, did you?

Mr. Segura Thank you, Senator Rayburn.

Mrs. Zervigon Mr. Segura, Dr. Weiss made a good point about limiting doctors' fees by the federal government. Is that in the Federal Constitution, do you know?

Mr. Segura Not that I know of.

Mrs. Zervigon Maybe they are setting us a good example by putting it in the statutory matter.

Mr. Segura I don't really believe that it belongs in there, either. I think that this is a problem between the client and the attorney.

Mrs. Zervigon You know that I agree with you on that?

Mr. Segura Thank you.

Mr. Kelly Perry, over here. By the same token when we talk about lawyers, architects, doctors,

the price of Arabian cattle might be next, too, right?

Mr. Segura I really agree with you on that.

Mr. Cannon Mr. Segura, I do you know that I...that I don't think the material belongs in the constitution. It would be a valid restriction for voting against this amendment even though I may agree in principle.

Mr. Segura Well, I think we all agree in principle that the public should save a money dollar as they can. We'd all like to save it. I think maybe that something like this, beings there are so many attorneys as delegates--so many attorneys--that this could embarrass many of them into feeling that this is really good government when they know that it should not be in the constitution to legislate their fees.

Yes, Dr. Weiss.

Mr. Weiss Just a quick question. Do you know if there were forty percent doctors in this constitutional convention or in the legislature, we wouldn't have to worry about things, either?

Mr. Segura I agree with you--and more architects.

Further Discussion

Mr. Womack Mr. Speaker and fellow delegates, we reached a situation here which has always disturbed me in the House. It disturbs me in this convention, is when we tend to make about a half joke out of something of this kind.

Number one is, let's keep in mind that if you are going to set up the attorney general's office as a place to save money last year with a state budget that increased about five percent across the board, the attorney general's office went up a hundred and thirty nine percent. So maybe that didn't save too much money. I feel that possibly in a number of these fields that the state should be in the business doing its own work. The thing that disturbs me is there is many, many municipalities, local governing agencies that come up with proposed bond issues and an enormous amount of bond work has to be done by bonding attorneys on issues that are submitted and rejected. So, if you really want to get your local government down to where you don't have the expertise to work with them in the preparation of proposals to be submitted to the people, then you go put this type of restriction on this quality of professionalis. If we are going to go this far and adopt this, even though it is not carried in it, then I'm ready to go all the way and put the plaintiff and the defendant at a ten percent and let's go all the way. Then put the medical profession in it--a number of other professions. I just think that this doesn't belong in the constitution. I feel that as time goes on, the legislature should look very seriously, and I think they will look very seriously, at the Louisiana government getting in the field of architecture, in the field of this type--in the pretty well all the fields of professionalis--if for no other reason to see that you are getting your money's worth. But I don't think this belongs in the constitution. I'm going to vote against it. Because I think it would be a crippling...would have a crippling effect on your local governmental agencies, when they call on a bond attorney firm to come in and help them prepare an issue.

Today in northeast Louisiana, and I know of one particular case to where a bonding firm has made as many as twenty trips from New Orleans to northeast Louisiana working on one proposal, and that proposed bond issue is not going to be but about three quarter of a million dollars, in that general neighborhood. So they are already operating awful close to a loss if they are not already at a loss. If you put this kind of restriction on the big ones, then the little ones are going to go by the wayside and you are going to lose a lot of what we're getting a pretty reasonable price for today.

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I think that the title will come, and I think maybe it's here, where we do need to have a graduating scale. But a ten or fifteen minute discussion, and ten or fifteen minute consideration of all the ramifications that goes into it, is not sufficient for me to put it in the constitution. I'd be happy to attempt to answer any questions.

Questions

Mrs. Warren Mr. Womack, about how many attorneys work on one bond issue?

Mr. Womack Well, you usually have one attorney working on it, but he's a member of a firm. They do an enormous amount of work. Now how many, I couldn't tell you. But usually, when they start dealing with a firm, one particular attorney out of that firm makes the many contacts that's made.

Mr. Weiss Delegate Womack, as a representative to our state legislative bodies, frequently this comes up and perhaps you can help me answer this question. That is, we often say that this is really not a constitutional matter, the legislature should do this. Now for many, many years, the legislature has been in session. Is it so that they cannot pass these laws? Or is it that they never even thought of setting up such type of operations as these simple five minute or ten minute observations are making known to us today?

Mr. Womack Well, Dr. Weiss, these kind of bills, usually when they come into the legislature, are flooded with a number of additional good government amendments. When you start putting the good government amendments in, then you start including everybody else, and when you get total good government, then nobody wants it. That's what usually happens to this type bill. It does need to be worked out on a graduating scale. But then, even at that, there's got to be some provisions made for the enormous amount of work that's done on issues that's never sold.

Mr. Weiss If these issues aren't sold, isn't the worst thing that could happen is that the bonds are not received by the bonding authorities, and, therefore, the particular political subdivision will request another type of bond issue or another review of the bonds?

Mr. Womack Sometimes they request others. Sometimes they submit it two, three or four times over a long period of time. Then sometimes they'll go by the wayside and the work and all the trips, the mileage, the plane fares that's been put into it by the bonding firm, they lose that. So it's a catch-up deal. I think it's complicated enough that we just need to put more time in it. You'd probably need a graduated scale maybe worked out by one of your standing committees in the legislature.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, first, I want to make it definitely clear that I'm not a bonding attorney. I don't know how many of you noticed the editorial that came from Senator Rayburn's paper on your desk this morning, but I'd like for you to take a good look at it and notice one particular statement in it. It says, "The delegates are, in fact, making law rather than drafting a new constitution." Someone has brought up the question about if this is legislation, why hasn't it been passed by the legislature. If that would be good reasoning, we wouldn't need the legislature because when the first legislative session met, it would have passed all the laws that were necessary and we wouldn't need to ever consider any more. But, this is a changing society, and so we have to take the problems day in and day out as they come before us. I saw some legislation passed this past 1972 session of the legislature which I had been working on since 1956.

I just don't feel like this is something we ought to place in our constitution. It sounds good; it sounds funny, but ladies and gentlemen, let's get serious. Let's put into the constitutional constitutional matters and leave to the legislature legislative matters, particularly when you start putting dollars and cents into the constitution. This twenty thousand dollar limitation may be good for today, but it may not be good five years from now. Therefore, you would need a constitutional amendment to change it which would bring about just exactly what this editorial said. I'd like to call your attention to this phrase out of the editorial, it says, "What they don't seem to realize is that by so doing, they are setting the stage for the continued mess of more and more constitutional amendments in the future." That's what I'm afraid of when you put matters like this in the constitution. Let's stick to constitutional issues and constitutional matters and leave the legislation to the legislature. I ask you to vote against the amendment. I say I'm not a bonding attorney, so I'm not defending them in the least. I'm defending the principle of constitution as to legislation, and tell you that I would support such action in the legislature, but not in the constitutional convention.

Questions

Mrs. Warren Senator De Blieux, can you tell me the usual fee that is paid now to bonding attorneys?

Mr. De Blieux Mrs. Warren, I don't know. I'm not a bonding attorney. I had thought that those fees were very exorbitant at one time when I had questioned them. But, upon checking into them I found out that it all depends upon who the attorneys are and what the issues are as to the fee and the amount involved. In some issues, that because of the small amount of the bonds, that they hardly get enough to cover more than their expenses.

Mrs. Warren Is it a percentage? You really don't know?

Mr. De Blieux It's usually on a percentage basis. Now, I don't know the percentage scale because I'm not a bonding attorney.

Mrs. Warren Since you have reviewed some of this and you thought it was exorbitant, can you pull any figure out of the hat of any particular time what figure was paid to a bonding attorney?

Mr. De Blieux No, I can't. I couldn't tell you because I just don't know what the scale is. But, I might make this reply to you: that I've found that most of the bond issues have to be approved by some nationally recognized firm of attorneys, and that the fees that the national attorneys get is very small in comparison to the issue. I had Mr. Tugwell tell me one time when the state needed to float a twenty or thirty million dollar bond issue the fee very seldom was in excess [excess] of fifteen thousand dollars.

Mr. Deshotels Without editorializing, do you endorse, as a delegate to this convention, the editorial that you quoted from, from the Bogalusa paper?

Mr. De Blieux A portion of it. I think a portion of it kind of hits us right square. Not everything, I kind of got a little upset when I saw the headline on it and read the first paragraph or two this morning.

Mr. Deshotels You cut both sides, don't you? The second question: Did you not, talking about legislative matters in our constitution--were you not the one that introduced a proposal to prohibit district attorneys from practicing law in this state?

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Mr. De Lige: Yes, I did that because I think that's a constitutional issue.

Closing

Mr. Willis: Mr. Chairman and fellow delegates, I have never been more serious than now about an amendment. The place for this amendment is in the constitution where it will be irrevocable law. It will not cripple local government half as much as the crippling fees that are paid by local government. That's where the crippling is. Your rejection of this amendment will not destroy my respect for you. I propose to give you a choice as you wish to quiet the undercurrents of our state and all local governments, hurned and bestirred by the root of all evil. If you do, I recommend this amendment with my whole heart. I do not understand the threat. I know you understand the threat of what I say. Not to proclaim the principle here and now is never to have it at all. A call on your practical judgment will verify this. Bond attorneys show great devotion to the validity of bonds. Let us give the same devotion to the validity of their fees. Now, you have a choice. Exercise it wisely, and to have the benevolent effect forever. Let never be never. I have made my decision in good conscience. I ask that only your conscience be your guide.

I yield to questions.

Questions

Mr. Avant: Mr. Willis, I would assume that on a time basis in your practice of the law you have represented clients who are well able to pay you on a time basis in matters of great importance involving much money, have you not, sir?

Mr. Willis: Your assumption is not vicious, but inaccurate.

Mr. Avant: It is inaccurate?

Mr. Willis: Yes.

Mr. Avant: You have never represented a client on a time basis when your client had a lot of money at stake and was in a financial position to pay you on the basis of time expended?

Mr. Willis: Well, I charge a fee as set forth by the minimum fee schedule in my district.

Mr. Avant: What do you charge a client who is able to pay, per hour, for your services, in a matter involving great professional responsibility?

Point of Order

Mr. Stovall: Mr. Chairman, it seems that the question is out of order. If he has a direct question concerning the matter, I think that he should ask it. But, I think that's a personal question that has no validity before us at this time.

Mr. Avant: I think that Mr. Willis is perfectly capable of defending himself.

Mr. Casey: Just a minute now, just a minute. As the Chairman, I would suggest that rather than get personal, we stick to the material of the amendment. If Mr. Willis wishes to answer the question...

Mr. Avant: I'll rephrase the question.

Mr. Willis: Well, let me thank Reverend Stovall for the rescue, anyway.

Questions

Mr. Avant: Let me rephrase the question, Mr. Willis. What is the minimum fee, per hour, for

attorneys according to the schedule of the Louisiana State Bar Association?

Mr. Willis: I don't know.

Mr. Avant: So, you would not know how long it would take to conclude that twenty thousand dollar figure that you have placed it there as a question, would you?

Mr. Willis: Well, no, but arithmetic is a perfect science. You can figure that out.

Mr. Denney: Mr. Willis, three quick questions. How do you define a bonding authority in here?

Mr. Willis: A bonding authority would be the four bonding authorities on a local level. That would be the parishes, the municipalities, the districts, and the school boards.

Mr. Denney: Are any of the required to hire outside counsel?

Mr. Willis: No, sir. The school board, the parishes, and the districts are serviced by the district attorney. If you had heard Senator Rayburn, he would have told...he told you what Mr. Burns did, and at no cost to the bonding authority. Now, municipalities are in a different category, in some instances where the town attorney...

Mr. Denney: But, nobody is required...no one is required to go out and secure the services...

[Record vote called. Amendment retableted: 36-75. Motion to reconsider tabled.]

Amendment

Mr. Poynter: The next amendment is sent up by Delegates Zervigon and Casey.

Amendment No. 1. On page 19, between lines 6 and 7, add the following section:

"Section 37. Extension of Homestead Exemption to Additional Millages; Approval

Section 37. Notwithstanding any provisions contained in this constitution to the contrary, no homestead exemption shall extend to any additional millage imposed by any political subdivision after implementation of the provisions of Article XI, Section 5 hereof, unless the governing authority of a political subdivision, by ordinance proposing the imposition of such millage specifically extends the exemption to such millage."

Now, Mrs. Zervigon, incidentally, there was a prior Section 37 which has been deleted. There's certainly nothing wrong with making this Section 37, but it is a new section. It's not an attempt at an amendment at the old Section 37 which was deleted. Of course, in that light, it would require sixty-seven votes to adopt. I just...

Explanation

Mrs. Zervigon: Mr. Vice-Chairman and coauthor of the amendment and delegates, the purpose of this amendment is to allow local governing authorities of political subdivisions--which would include parishes, municipalities, which don't need the benefit of this amendment, and also, special districts--the right to place upon the ballot for the approval of the voters, nonhomestead exempt millages. The voters could then approve them or disapprove them as ordinary millages are approved or disapproved in their parish. Homeowners who were very excited about these millages felt very strongly against them, would have two shots at the : once, as the ordinance was being considered by the local governing authority, and once as it appeared on the ballot, they could vote it down. The intention of this amendment is to give a little bit of flexibility to parishes and to special districts which may contain a large percentage of homes so that they may put nonhomestead exempt millages on

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the ballot. There are special districts in this state which we have made homestead exempt by our constitution--our proposed constitution--which contain almost nothing but home valued thirty thousand dollars and under. This would allow them --if they became desperate--to levy nonhomestead exempt millages by a vote of the people. I yield to an question.

Questions

Mr. Kelly: Mary, you keep talking about, "by a vote of the people." Maybe I have the wrong amendment. Is this the one, "Section 37, Extension of Homestead Exemption, etc."? The way I read that, it says, "unless the governing authority of a political subdivision." Are you implying that that's going to put this to a vote of the people, or by an ordinance passed by the particular governing authority, involved?

Mrs. Zervigon: You must read this in connection with the previous sections of this article, which sets out the millage limitations and then says that they may be raised, only by a vote of the people. So, this is the ordinance putting it on the ballot.

Mr. Duval: Mary, the way I read this, though, that the...and you can correct me if I'm wrong, it apparently says that if the governing authority wishes, it can allow that option, but it implies that the governing authority can propose that the millages be raised without...and exempt...not exempt the homes without a vote of the people. That's what it seems to say to me unless I'm just reading it wrong.

Mrs. Zervigon: Mr. Chairman, could I have a three-minute recess? I think he may be right.

Recess

[...for roll call...no delegate present...and a quorum.]

Mr. Poynter: Mrs. Zervigon, you're not proposing any change to the amendment, is that correct?

Mrs. Zervigon: No, Mr. Clerk, I'm not.

Mr. Poynter: All right, the amendment stands as introduced by Mrs. Zervigon with no change.

Mrs. Zervigon: Let me now reply to Mr. Kelly's question. You will recall that Mr. Kelly's question was whether or not this would be subject to a vote of the people, as all millages are to be under this article. The answer to that...Mr. Vice Chairman, I'm flattered but terrified that Mr. Roeber wants to hear what I'm saying. But, in answer to Mr. Kelly's question, this still would be subject to a vote of the people because if you read along the last three lines of the amendment, it says that the homestead exemption would be extended by the governing authority "by an ordinance proposing the imposition of such millage." The governing authority would propose; the people would dispose, as is required in the rest of the article.

Are there any other questions?

Mr. Tate: Mrs. Zervigon, this is really not a friendly or an unfriendly, just out of ignorant curiosity. Now, if I understand the revenue sharing fund, it is going to reimburse the local governmental subdivisions as first priority up to the amount of millage lost through the state exemptions. Do I understand that correct?

Mrs. Zervigon: As I understand it, Judge Tate, they are reimbursed as the first priority for the losses caused by the homestead exemption granted in the Revenue, Finance, and Taxation Article we just adopted, not by the losses caused by themselves...upon themselves.

Mr. Tate: All right, that's what I mean. Well, what I'm really sort of curious about: the purpose of this amendment, if the revenue sharing fund is going to reimburse them for the losses caused by the homestead exemption or...what is the purpose of this amendment? In case the revenue sharing fund doesn't have sufficient funds to pay them in first priority?

Mrs. Zervigon: That's correct, that's correct. And in addition to that, Judge, it would allow any local governing authority who so desired to levy, for example, one mill of nonexempt millage as opposed to three mills of exempt millage if they so desired, and if one of two things didn't happen --if the homeowners didn't come terrify them to death when they were considering the ordinance, or if it didn't lose at the polls. If neither of those things happened, then the one mill of non-exempt millage as opposed to the three mills of exempt millage would be imposed.

Mr. Tate: Just as a practical political matter, I was trying to wonder why a local authority would very generously say, "Let's pay the taxes instead of getting whatever share we can get out of the state fund to reimburse us for this tax subject to homestead exemption."

Mrs. Zervigon: It's my opinion that in the ordinary course of business they would not, but that there could possibly be political subdivisions that are desperate for revenues, but have nothing within their area to tax, and that are afraid that under the priorities listed in the revenue sharing they would come so far down the list that by the time it came to them, they would not be reimbursed for the full extent of their loss, but only partially to the extent of their loss. In that case, they would go ahead and levy this nonexempt millage. It is not a portion of the constitution that I expect to be used and read every single day of the week. I think it will very seldom be put into practice. But, it's a little bit of flexibility, a little bit of escape valve that I do believe that we need in the new constitution.

Mr. O'Neill: Mary, in a newly organized or newly incorporated city, would you explain the effect that this would have on that, and if that city could start out without a homestead exemption at all?

Mrs. Zervigon: Well, municipalities don't have homestead exemptions in the ordinary course, anyway. New or old municipalities don't. Only Orleans has a homestead exemption on its municipal taxes.

Mr. O'Neill: Okay. The next question is: Do you really think that a bond issue without the homestead exemption on it would pass--pass the voters?

Mrs. Zervigon: Well, Gary, I don't think that's for us to prejudge at this point in time. I think that it is highly unlikely, but I think that it is possible. I think that we ought to leave the people that choice. It must be publicized in the same way that all millage elections must be publicized. People would know very well upon what they were voting, and we are giving them the choice.

Mr. O'Neill: Well, we should leave the people that choice, but in your amendment, we'd be leaving it to the choice of the governing authority what they would present to the people.

Mrs. Zervigon: No, sir. It's a two-step process. The imposition of a millage is a two-step process. The governing authority proposes, and the people dispose. If the governing authority proposes a nonhomestead exempt millage and loses, they may well follow right behind with a homestead exempt millage which may win or lose, depending on the mood of the people and whether or not they think

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the project proposed is necessary.

Mr. O'Neill: Yes, then the mills are being duplicated, then.

Mrs. Zervigon: It's up to the people, isn't it, Gary, and it's up to them to keep in touch with their representative. I think that a lot of these ordinances will be stopped at the police jury level, but I think that it is possible that they won't be, that there are certain improvements the people are willing to pay for. My experiences going home to my folk--and I'm not just talking about in my neighborhood, but I'm talking about the ones I've talked to in the two parish areas, Jefferson and New Orleans, the past few weekends I've been home has been very interesting--the ones I've talked to--and I'm talking about the Lakefront, the Ninth ward, and some folks in Jefferson--don't like exemptions. They think it hides inequities, and they would rather have no exemptions at all. So, this would give them the choice. If they want to vote it down, they can.

Mr. O'Neill: Now, in Baton Rouge, I believe, in February we're getting ready to vote on whether or not we're going to extend the same millage for the school board for their purposes. Is it conceivable that in extending these millages they could decide to take away the homestead on that millage, and people would still think they are voting five and three-quarters mills or whatever it is on the basis of a thirty thousand dollar homestead exemption? Yet, they would have taken...the local governing authority would have taken the homestead exemption out.

Mrs. Zervigon: Well, your question is not clear to me, but I think you're asking two questions. One is: Can they take the homestead exemption off the old millages? They may not. It's going to apply to old millages and to the rollup. On new millages...

Mr. O'Neill: When those millages are being renewed.

Mrs. Zervigon: On new millages, I think it's up to the people to inform themselves, and I believe when it comes to pocketbook issues, Gary, that they do inform themselves in great detail about exactly how it's going to affect them per year out of their pockets.

Mr. Roemer: Mary, would you mind walking us through this amendment in terms of the process by which the people vote or not vote on these specific bond issues. What happens first, by the local governing authority, and then what options do the people have?

Mrs. Zervigon: As I see it--and you're not only talking about bond issues, you're talking about operating millages as well--the council or the governing authority of a district would propose a millage, and the ordinance proposing that millage would declare it to be homestead exempt or not. The millage would then go on the ballot, and the people would vote it up or down. I don't think that the council would want to put a homestead exempt millage and a nonhomestead exempt millage on the same ballot because the courts have said that one of the options that the people have to have is "no." You can't give them a choice of between two "yeses," as I understand it. They have to have the option of the status quo if they want it. Therefore, you would be splitting the vote three ways. So, I would assume that any governing authority that had its wits about it would put another millage on the ballot and declare in the ordinance, and therefore, it would appear on the ballot because the ordinance appears on the ballot whether or not it is homestead exempt. Also, I would assume that the people who are the proponents and the opponents of the millage would tell the people loud and strong whether it was homestead exempt or not,

as in bond issues they always say, "if the millage has already been levied, this will not increase your taxes." It would be one of the talking points for or against.

Mr. Roemer: Would this law allow these "local governmental subdivisions to put an alternative on the ballot--an either/or five mills or ten mills and exempt, okay, or ten mills exempt?

Mrs. Zervigon: Without putting a "no" on the ballot as well?

Mr. Roemer: Oh, they'd have to have a "no" for you know, they could vote "no." They could have the three alternatives: "no" to the whole thing, "yes" with it homestead exempt, "yes" without homestead exempt. But, what I'm getting at--and it may be a fine point, but I think politically it's a very real one--you're giving the voter a choice. Okay, "yes, I need this improvement, and now I'm forced....I'm going to vote a five mills versus a ten mill tax." You understand what I'm saying?

Mrs. Zervigon: I understand exactly what you're saying.

Mr. Roemer: Well, now, would this allow for that situation?

Mrs. Zervigon: Could they do that...as I understand it, it would. But, as I just finished stating to you, I don't think that any police jury in its right mind would do such a thing because what you're doing is splitting the "yes" votes in half, and the "no" votes would win.

Mr. Roemer: Oh, I didn't hear the last part. What?

Mrs. Zervigon: I say, what you would be, in effect, doing would be splitting the "yes" votes in half between two different sorts of "yes" votes, and the "no" votes would have to carry the day under the situation like that.

Mr. Roemer: You don't see, then, any option for the voter in terms of millage "yes" or "no" and exemption "yes" or "no"?

Mrs. Zervigon: Not unless it were in the form of two different proposals. If I were a police juror, I wouldn't do it that way because for one thing, you'd have to have two separate millages. You're giving them three options with two separate millages and a "no." So, you're dividing your "yeses."

Mr. Roemer: Do you realize that I'm just trying to point some of the problems with the implementation of what you're trying to do here?

Mrs. Zervigon: I don't see that as a problem, Buddy. It seems to me a police juror just puts it on the ballot in response to the public hearings he's had to have. The law requires a public meeting act, as I understand it, it requires a little bit of time to lie over before it's...they've got a public discussion, and public testimony before the police jury. The police juror or the city council of New Orleans will have a very good idea, going in, how the water feels. If it's too cold when it comes to nonexempt millage, you can bet that the millage that goes on the ballot is going to be exempt. As to putting two different millages on with "no" as the third option, I think they'd be crazy to do that. Politically speaking, "no" has got to win under a situation like that. I don't see that as a problem.

Mr. Roemer: Well, but don't you see the alternative to putting these options on the ballot--multiple elections? Have election "A" when you try to do it one way and that's defeated. You have election "B," you come back sometime later and try to do it another way, and that's defeated. You have

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election C. you come...

Mrs. Zervigon Buddy, as I...you've got that problem every time you put a bond issue on there. If I put the fire engines in the same purpose with the...if I put the opera house in the same purpose with the parish prison, does that do me more harm than good? If it does me more harm, then I've got to put it on the ballot again. That sort of discretion the governing authority has got everyday of the week when it comes to bond issues or millages. If I ask for one, am I more likely to win than if I ask for three, exempt or not homestead exempt? Lose on three, do I go back to one or do I go to two? Those are decisions that governing authorities must make everyday of the week. If they don't feel the water is right, and if they get beat too often, then they're really not good governing authorities. But, I think, by and large, they feel the waters pretty correctly, and once they lose, they go home.

Mr. Roemer But, would you agree that in a situation already beclouded with many, many variables, that you're adding another variable on top of it?

Mrs. Zervigon Buddy, I think that's the good thing about it. I think that we've got too few variables when it comes to this mandatory homestead exemptions for all special districts and all parish millages, regardless. I think that they ought to have a choice. As I say, I don't think it's a provision that will be used very often because I think most homeowners would rather be exempt than be paying their fair share. But, I think we could easily get to the spot where they need to pay this in order to get what they want, and in that case, I want to give them the choice.

Mr. Gravel Mrs. Zervigon, just to clarify one point that I think may be a little bit confusing as a...No, as a result of the question that Justice Tate asked you. Actually, the revenue sharing fund does not operate as a reimbursement fund for the losses sustained by homestead exemption, initially, does it?

Mrs. Zervigon No, sir, not until it gets to the parish level, at which case, it helps set the priorities, but only with regard to those imposed by the article that we passed--No. 26.

Mr. Gravel Those priorities only occur within the parish after the allocation has been made on the basis of the formula to be determined by the legislature.

Mrs. Zervigon Yes, sir, that's the way I understand it.

Mr. Rayburn Mary, if I understand this amendment, you're saying here that if and when Article X, Section 5, is finally adopted and becomes effective...

Mrs. Zervigon By the people.

Mr. Rayburn ...by the people, in the future, no bond issues will enjoy homestead exemption unless the governing authority of a political subdivision, and you say, "by ordinance proposing the imposition of such millage specifically extends the exemption to such millage." If I read this right, in a lot of the parishes you've got ten and fifteen political subdivisions that require money to operate and levy...I mean, in other words, they issue bonds or call for millage to operate. You've got a mosquito district, or drainage district, or hospital district, or school district, or police jury special ward district. Now, if I read this right, the people in authority of those political subdivisions could grant the homestead exemption or could not grant it strictly by an ordinance, and not by a vote of the people concerned.

Mrs. Zervigon No, sir, that's incorrect.

Mr. Rayburn It is?

Mrs. Zervigon They may propose the millage without the exemption, but the people must dispose of their proposal. It's required elsewhere in the article that every millage requires a vote of the people.

Mr. Rayburn And they have to put that on the ballot?

Mrs. Zervigon Yes, sir.

Mr. Sutherland Mary, I'm a little bit concerned with what Senator Rayburn just asked you and your answer to it. If I read this correctly now, every ordinance proposed--the imposition of an increasing millage--will automatically provide that it's not exempt from homestead exemption unless the ordinance provides otherwise, because under this amendment the first sentence says "notwithstanding any provisions contained in this constitution to the contrary." With that language in there, it appears to me that every ordinance increasing the millage will automatically not apply the homestead exemption unless it so specifies.

Mrs. Zervigon That's right, Matt, but I am assuming that most police jurors wanting to be elected again will extend the homestead exemption unless it's absolutely financially necessary for them not to do so, because after all, they pay these taxes themselves, and they don't pocket the money, so there would be absolutely no benefit not to extend the homestead exemption unless they were just desperate for funds, and as I said to an earlier question, I don't expect that this will be used very often, but I think it ought to be there to allow a minimal amount of flexibility.

Mr. Sutherland But, what I'm saying, Mary, is that every proposal in the future will automatically not be exempt from the homestead unless it so specifies.

Mrs. Zervigon That's right.

Mr. Sutherland O.K.

Mr. Winchester Mrs. Zervigon, in the Article on Revenue and Taxation, the ninety million dollars that the legislature...I mean that this article has set up for revenue sharing, in there it says, "the legislature may appropriate additional sums to the revenue sharing fund." Would not this amendment tend to give impetus to the legislature of not wanting to increase that ninety million dollars?

Mrs. Zervigon No, sir. I don't see why. I don't think they're going to be just overwhelmed with joy to increase the ninety million dollars in any case, but I can't see how this would have any bearing on their thinking.

Mr. Winchester Well, they would say: you take part, you take care of the additional over ninety million. It certainly would tend to do that in my estimation.

Mrs. Zervigon Mr. Dan, I just don't see the two things as related. I know that the legislature's going to be hard pressed for funds in the future, but I don't see that as being related to this in any way, shape, or form.

Further Discussion

Mr. Mire Mr. Acting Chairman, fellow delegates, I rise in opposition to the amendment for two or three reasons. One particular one is that it's awfully confusing, and I think the sort of ammunition that people who will oppose this constitution could use, certainly, to an advantage to defeat

this constitution. If you'll listen to me just a minute, you've heard some people in the past come and tell us how people who oppose the constitution for various other reasons would use a special device to defeat it. My taking this just a little bit out of context could certainly lead the people to believe that it is the end of homestead exemption when you would do this, I think you would do damage to the constitution. I think if New Orleans needs additional tax money, that they could certainly allow themselves to vote some municipal taxes in the City of New Orleans, like all the rest of the cities in this state are doing today, and it not be covered by homestead exemption. I also see here where people who do not own property could certainly impose a tax on all property owners of any parish, without homestead exemption. In some areas you would probably have a majority of the voters who would go to the poll and vote for an issue, when it wouldn't cost them a nickel, and put, in fact, a tax on people that would not be covered by the homestead exemption. For these reasons and for the management of it, I rise in opposition to this amendment, and would urge you to defeat it.

Questions

Mr. J. Jackson: A assessor Mire, I was concerned about your last statement about possibility of nonproperty owners being able to vote in a property tax increase. But, is it not true when millages are raised or a bond issue is being proposed that presently, all voters vote on the issue?

Mr. Mire: That's absolutely true.

Mr. J. Jackson: Right. So, that's no major change, and I suggest that that's no deviation from the present policy, right?

Mr. Mire: Of course, I'm speaking as a practical matter in what sometimes some things are done to pass issues. Many times, Mr. Jackson, they are clouded, and the truth of the matter is not handed to the people--and I think you know that yourself--in any cases.

Mr. J. Jackson: I agree with you, but I just want to make it clear for this record that there are no cases in which bond issues are proposed and millages are proposed to be increased that only property taxpayers vote on it, right?

Mr. Mire: That's absolutely true.

Mr. Jean: Mr. Mire, based on the sections we have now adopted, we have taken off the millage ceiling, have we not?

Mr. Mire: That's correct, sir.

Mr. Jean: So that your concern about nonproperty taxpayers voting taxes on property taxpayers could be equally the same, whether we had this amendment or not, wouldn't it?

Mr. Mire: That's correct. There is a danger.

Mr. Jean: So, that instead of having a five mill tax or a one mill tax without the homestead exemption, you could have a fifteen mill tax in order to finance your improvement, and the nonproperty owners would have a right to vote on that tax, wouldn't they?

Mr. Mire: Yes, and I can see even a shift, not only to property owners, but in some areas, even the property owners deciding that where--say, like in my area where we've got ninety percent industry--you know, say, "well, look, we'll pay that little ten percent because industry will pay the whole ninety percent of this, and don't let it be covered by the exemption." I see a lot of tax shifts in this sort of thing that could happen. Thank you, Mr. Chairman.

Further Proceedings

Mr. Jean: Mr. Attorney General, following the rise in support of the proposal on the proposed bill, and I would like to request to you what, in light of a specific example, to that you can see what the problem is and how this would present to deal with it, if we decided to proceed. I only recall that when we took up revenue sharing, we provided that tax recipient bodies, as defined by law would be entitled to receive the benefits of revenue sharing on a priority basis to be re-established. In my questions to certain legislators at the time that was discussed, he brought out that the amendment which I had proposed, to eliminate special districts from the revenue sharing questions in the future could be covered by the legislature defining tax recipient bodies, as including special district taxes after the repeal of the Property Tax Relief Fund Statute. Now, speaking that the legislature will define "tax recipient bodies" to exclude special district taxing, we have a situation where the special district taxes are subject to the homestead exemption, but are not entitled to participate in revenue sharing. Now, we have a district in East Baton Rouge Parish that's called Village St. George Fire District. That fire district needs about a hundred thousand dollars a year with which to operate. That district is predominately residential, and under the present circumstances where the homestead exemption applies--but it is not eligible for revenue sharing funds--it is simply impossible for that district to raise the amount of money that they need to operate a fire protection service in that district. Now, this amendment would permit those people and their...the representatives of those people have told the parish council in East Baton Rouge Parish that they would be willing to do it; they would be willing to waive the homestead exemption insofar as it applied to that particular tax in order to raise the necessary funds for their fire district operation. Under present circumstances and without an amendment such as this, there is no way to waive the benefit of the homestead exemption as it applies to special district taxes. With this amendment, the parish council could vote to call the election, to levy the tax, which would not be subject to the homestead exemption, and under those circumstances would provide a vehicle by which the district could levy sufficient tax levy to bring in the necessary money to operate a fire protection service in the district. I think this is a sensible solution to the problem that I discussed before, having the district taxes subject to the homestead exemption, but not being able to share in the revenue sharing funds. If you don't have some way to paint yourself out of that corner, then the special districts are going to be wonderfully set up with the benefit of the homestead exemption, but not any tax base on which to provide the services for which the district might be created. This would simply provide a vehicle by which the people in that district could decide they want to levy the tax without the benefit of the homestead exemption or be able to provide the funds for the needed service, and handle it without destroying the overall approach to the homestead exemption and the revenue sharing fund. I yield to any questions.

Questions

Mr. Avant: Mr. Jean, we've been talking about special districts and the creation of new districts and things like that, but I want to talk about something else, and I want to ask you this: Isn't it a fact that under this amendment that if the millages were rolled up under the rollup provision, that the additional millage required by that would not be subject to the homestead exemption unless the governing authority said that it was?

Mr. Jean: I don't read it that way because it applies to any additional millage imposed after implementation of the provisions of Article VI, Section 5...that is the rollup-rollback provision.

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Mr. Avant: Uh, that's not all of the implementation of that article, is it?

Mr. Bean: That's all Article 41, section 5, I think, applies to.

Mr. Avant: What about if you had a subdivision that was not levying the full millage allowed? If they then determined to levy up to the maximum allowable millage, that again would not be subject to the homestead exemption, would it?

Mr. Bean: It would be unless the governing authority provided. It would not be unless the governing authority provided for the extension of the exemption to that millage.

Mr. Avant: That's right.

Further Discussion

Mr. J. Jackson: Mr. Chairman, ladies and gentlemen of the convention, I rise in support of the Zervigon-Casey amendment. I suggest that, one, it does provide the kinds of flexibilities that local governing authorities need. I suggest to you that when we get to the point whereby local government cannot finance its operation, as Mr. Mire said, it's going to be forced to impose some additional municipal taxes. I suggest to you that that... those municipal taxes may be in the form of an additional sales tax, or they may be in the form of income taxes. Secondly, I rise in support of it, and I want to suggest to you that the revenue sharing fund at ninety million dollars is possibly a very limited fund. I'm not sure that the legislature with all the priorities of the state can find the necessary funds to bring back to local governments for their operation of governmental services and school boards and, at the same time, provide for the adequate maintenance of state services and agencies. Thirdly, someone suggests that it removes--and I stand corrected--but, it removes the kinds of voter approval. I suggest that, one, that it does require that any such additional millage, void of the homestead exemption, must have public hearings. Now, I don't know how you do it in your particular parish, but I know that there are at least three public hearings. Secondly is that it must take voter approval on the additional millage increase. Presently, right now, if we do not have the kind of flexibility as provided in this amendment, then it appears to me that we have to--as Mr. Mire says--that we have to look at imposing additional millage... I mean municipal taxes. I do not believe, representing my district, that that's the best solution. I suggest to you that it's going to come to a point in most of these parishes where we're going to have to realistically look at homestead exemptions and recognize that at some point that we have to get--it appears to me--a more equitable distribution between the homestead exemptions and providing for the various services necessary to homeowners, property owners, etc. So, I urge your support of the Zervigon-Casey amendment, and I'll briefly yield to questions.

Questions

Mr. O'Neill: Johnny, I listened carefully to what you said, but my question is not really related. Let me ask you about the millage that can be assessed up to a point without voter approval. Will they be able to assess this additional millage up to a point without voter approval, without the homestead exemption?

Mr. J. Jackson: As I appreciate the process of millages, any millage increase requires the vote of the people. If you have mandated millage that's given to a governing authority to, say, operate millages, and the constitution mandates it, then you don't have to do it. But, this specifically says that even if you apply it to homestead exemption, or don't apply it to homestead...even if you

apply, if it doesn't apply to the homestead exemption, that the voter's still got to vote on any millage increase--whether it has it or don't have it. I believe that this offers the kinds of flexibility for parishes who could very well get voter approval for millage increases without necessarily reverting to regressive taxes like income tax and sales tax. I do not seriously know if the city could very well pass another municipal tax in the form of sales tax. I doubt very seriously you could get any kind of voter approval on that. I think this provides...in that we provided--we've raised the homestead exemption--it does allow governmental authorities and school boards and special districts to function without the necessity of imposing additional tax burdens on the electorate of a particular parish or municipality.

Further Discussion

Mr. DeBlieux: Mr. Chairman and ladies and gentlemen of the convention, I rise in support of this amendment. I can see that, possibly, it could be some saving to the state in the form of taxes because it gives more local control to the local government to decide whether or not that they want to pass a particular millage and have it subject to the homestead or not subject to the homestead. To give you an example, the local governing body might need a certain amount of money. They may feel like that if they exempt the homestead that they would have to maybe have a three mill tax. While on the other hand, if they had a two mill tax without exempting the homestead, that would be enough to bring in sufficient millage. Now, all of you who have had some dealings with the legislature know that the revenue sharing funds are mainly for the purpose of taking care of homestead exemption. So, if the property is subject to homestead exemption, eventually if those homestead exemption funds of property amount rises, we will have to add more money to that to take care of them eventually, even though that there may be some occasion when these funds might be considered that they would not have been passed for that particular reason. I think up until the time that we get back to in the old property tax relief fund, that this is the best solution to our problem because it means that the local governing body can decide itself whether or not it wants homestead exemption at an increased millage, or not homestead exemption at a less millage, to all of their taxpayers. It's their decision to be made--they're the ones who are going to decide how it's to be done by a vote of their people--and I think this is home rule, and we should let the local governing bodies and the local people decide that particular issue. Furthermore, as a result of this particular provision, we are not going to be burdening the state with additional homestead exemptions from time to time, which this would bring about if we did not have this in our constitution. I certainly think this is a good approach to a local governing issue, and I ask you to support it for that particular reason.

Questions

Mr. D'Gerolamo: Senator DeBlieux, in the Committee Proposal No. 26, the Revenue and Finance, did it not state and would make all homestead exemption absolute? Is this...the committee that you were on made the homestead exemption absolute--three thousand dollars, five thousand for veterans and people over sixty-five?

Mr. DeBlieux: Yes, that's in there.

Mr. D'Gerolamo: All right. With this amendment here, if it was passed, would it not--if a parish had to rollup its millage because of reevaluation as CP 26 would allow it to do; let's say it had to rollup the millage by twenty mills to get the same amount of money it needed because of the ten percent cut down--would not it only be then that the governing authority could put this twenty mills

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into the people without a vote and make it continue
stead ever off

Mr. De Blieux: No. I don't read it that way, Mr.
Chairman.

Mr. D'Gerolamo: This is what it says in the propo-
posal.

Mr. De Blieux: No. It won't read that way because

Mr. D'Gerolamo: Only by an ordinance of the
governing authority.

Mr. De Blieux: You see, if the local governing
body says that they will not extend the... that
is, they make a proposal to the people. Now, this
only pertains to issues and your increased millages
which are voted by the people. This does not
pertain to any other section. It has to be by a
vote of the people, and that means that the govern-
ing body--when they submit the issue to the people
--they're going to submit to them whether they want
to extend homestead exemption or not extend home-
stead exemption, in the proposal. It's up to the
people to decide whether or not they want to accept
that proposal that way or not.

Mr. D'Gerolamo: Senator, let me ask you one more
question. The rollup in millage, should it have to
occur in a parish--is this rollup in millage
subjected to the people for a favorable or a non-
favorable vote, or by an ordinance of the parish
council?

Mr. De Blieux: Not the rollup or rollback millage,
no... That's the operation of law insofar as setting
the amount of revenues to be obtained.

Mr. D'Gerolamo: All right. Then, would not it
also be true by this amendment that it would not
necessarily have to be under homestead exemption,
the rollup millage?

Mr. De Blieux: Any taxes voted would be subject
to that after they had once been voted on by the
people to roll up or roll back. If there was on
assessment reevaluation after the tax had once
been imposed, it would be subject to the same
rollup or rollback provision. But, it would not
change the homestead exemption on this particular
issue. It would still be as the people had voted
it.

[... present and
...]

Further Discussion

Mr. Jack: Mr. Chairman and ladies and gentlemen,
I rise in opposition to this amendment. Now, I'm
going to call to your attention briefly this: when
the new constitution goes in effect, in the three
years after the first of January, and all that,
we start having the five thousand dollar homestead
exemption, let's say, for the old people. Now,
if you pass this amendment, any additional millage,
unless it's provided in the election, in the thing,
the homestead exemption is not going to exempt
these old people from it. You're just going to
be flim-flaming people about their homestead exemp-
tion. Now, let's just take an example of these
renewals of millage. In Caddo the other day,
Tuesday, we had an election on a fourteen mill
renewal. Now, the way I construe the wording of
additional millage, that being a tax that's expir-
ing; even though it's called a renewal, that is
additional taxation. That, then, would mean people
with the homestead would pay taxes on that fourteen
mills. Now, let's don't give people a home lead
exemption and immediately start wiping it away.
All right, additionally you have millage that pays
off bonds, bond issues. When those bond issues
are paid, then a new bond issue comes along, addi-
tional millage. Your homestead exemption would

avail you nothing as to that additional millage
I can see in a few years, after the new constitu-
tion becomes effective and the homestead exemp-
tion law, that a certain number of years--maybe twenty--
the homestead will exempt you from entirely. You
wouldn't completely have eroded away the homestead
exemption. Now, the state's little four and a
dime people, and the people I think supporting
this--mostly appear to me to be trap New Orleans
you all have a problem there, apparently, because
you don't have any city taxes. Everything was
called a parish tax. If that be your trouble, why
can't you all change your charter down there and
call some of the city taxes and the other parish
taxes, then you won't have a homestead in New
Orleans applying to your city taxes. Now, the rest
of the state doesn't have that problem. You
all get in line with the rest of the state. I say
that if you really believe in home lead exemption
and telling the old white-haired and the old grey-
haired old people you're going to help them, then
on and defeat this amendment.

Chairman Henry in the Chair

Further Discussion

Mr. Rayburn: Mr. Chairman and fellow delegates,
I rise in opposition to this amendment. In my
opinion, this could be the beginning of the end of
homestead exemption. As Mr. Jack so ably put it,
your school board and your police jury has a
renewal tax that comes up, I believe, every ten
years. If that renewal comes up a year or two
after--if this amendment passes and becomes law--
then, unless the governing authority passes an
ordinance and specifies that you will get homestead
exemption, you won't get it. This language, in
my... the way I see it, is just reversed from the
way it should be. I don't see Johnny Jackson, but
I want to say this to Johnny, and I hope you're
listening: I could be wrong, but I think one of
us is wrong--I know one of us is. The way I read
this amendment, everybody now votes in an in rease
in millage--everybody votes. Whether it's five
mills or ten mills, everybody votes; and everybody,
if I'm a property owner, can increase my millage,
if that election carries, by their vote. But,
under the present constitution nobody can take away
my homestead exemption coverage by their vote. If
you pass this amendment, they can take away my
homestead millage on any amount that the millage
called for, whether it'd be five or ten. Whether
they own property or not, if they vote for it, then
I am deprived of my homestead exemption. As the
law is today, we can all vote in bond issues,
whether we have property or not, but, we cannot
disturb your homestead exemption. If you pass this
amendment, then you can disturb my homestead exemp-
tion, if it's adopted, whether you own any property
or not. We spent many weeks here trying to give
to the people of this state an absolute homestead
exemption that every man, woman, and child would
know what we were talking about. If you pass this
amendment, you will not know from week to week or
month to month what your homestead exemption's going
to be, unless you know what your millage is going
to be and unless you know whether or not they're going
to pass the ordinance and tell you that this will...
you will get homestead exemption on this. If they
fail to pass that ordinance, if they fail to tell
you, you don't get it. I can just see some of these
poor old people walking in that polling booth now
and voting for a bond issue, and find out six months
later they voted to give up their homestead exemp-
tion on five or ten or twelve or fourteen mills,
or what ever it might be. I don't think you want
to do the people of this state that way. I know I
don't.

Question

Mr. Anzalone: Mr. Jack, the way this thing is
drawn, though, it's not really clear that the people
that would take away the homestead exemption, but
it's a really... of your police jury and...

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board that can levy property taxes without a vote of the people. Is that correct?

Mr. Rayburn If they fail to pass an ordinance, yes, the way I see it.

Mr. Anzalone In other words, the police jury could pass an ordinance and say, "we got a ten mill road tax and it ain't going to be homestead exempt." Nobody ever gets to vote on it.

Mr. Rayburn Well, I don't believe that because I think our provision applies for votes on all additional bond issues..increase in millages, Mr. Anzalone.

Mr. Stinson Sixty, this applies statewide and not just New Orleans, either; doesn't it?

Mr. Rayburn That's exactly right. It applies to every little political subdivision in this state, Mr. Stinson, if I read it correctly.

Mr. Stinson Now, when someone argues and says, "well, the homeowners have to vote to come under it." But, isn't it a fact that-suppose there are four hundred homeowners and five hundred non-homeowners, and all four hundred vote against it; and the other way, it'd be put on even though they one hundred percent are against it, wouldn't it?

Mr. Rayburn That's right, exactly right.

Mr. De Blieux Senator Rayburn, we've got a problem here in East Baton Rouge Parish that I want to ask you how could we take care of it, then. Down in the southeastern section of our parish we've got a lot of pretty nice homes down there. But, it's outside the city limits. It's quite a little distance outside the city limits. They want fire protection. But, if you exempt... to extend the homestead exemption to all the houses down there, there wouldn't be enough money to support a fire district. Now, would you deny those people the right to have that type of protection just because they wanted to waive their homestead exemption, because that's what they would be doing passing that? Now, this would permit them to do that. Don't you think...

Mr. Rayburn Not any one, Senator De Blieux, than I am now depriving the people of Angie, Varnado, Enon, Mt. Hermon that don't have fire protection that's a pretty good little community.

Mr. De Blieux Well, they'd have to vote to..they vote that upon the selves that they waive their homestead exemption; that's what they'd be doing. Do you think that'd be wrong to let them decide whether or not they want to extend their homestead exemption...

Mr. Rayburn Senator De Blieux, if I read this right, if they don't...if the governing authority does not adopt an ordinance prior to the time they submit the proposition to the people, and say that your homestead exemption will be covered under this proposition, then it's not covered, unless they adopt an ordinance that states that--if I read it here.

Mr. De Blieux Well, that's the proposal that's submitted; they can't have an election unless the governing body submits the election to them. Isn't that right?

Mr. Rayburn I'm sure that's right.

Mr. De Blieux Now, when the governing body submits that ordinance to them to vote on whether or not that they want to have that millage or not have that millage, if the governing body says that you can have this millage provided that you waive your homestead exemption--if that's the proposal submitted to them--don't they have a right to decide whether or not they want it?

Mr. Rayburn Senator De Blieux, what worries me about this is...if you do that and continue to do it in a few years from now, you won't have any more homestead exemption.

Mr. Goldman Senator Rayburn, you know that I agree with you in the interpretation that you read that. It is written in reverse order. I agree with you a hundred percent.

Mr. Rayburn That's what worries me about it.

[Previous question ordered.]

Closing

Mrs. Zervigon Mr. Chairman and delegates, I appreciate your thinking about this amendment, considering really what it says rather than what you've heard. I particularly..ordinarily waive my closing, but there were two things that I wanted to answer.

The first is would it apply to millages already authorized that could be levied without a vote of the people? It does not. It applies only to millages which would be proposed by the governing authority in the future and would, therefore, have to--under the conditions already adopted in this article--have to be submitted to the people. It also does not apply to rollup millages as Representative D'Gerolamo was asking in his question, but specifically says that after implementation of Section 5 of the Revenue Article, which is the rollup, then this would apply.

The other question is whether this should have been written in the positive rather than the negative; whether you should have to specifically waive the homestead exemption rather than specifically apply the homestead exemption. Ladies and gentlemen, I submit to you that, in practicality, there is no difference between the two. I cannot imagine a police jury or a city council of New Orleans not extending the homestead exemption when they have a choice. It would just be in times of dire financial crisis that they would not extend the homestead exemption.

Let me answer one more point. My name is on this, and so Mr. Jack and others have assumed that this is a city of New Orleans proposal. Please let me tell you that while it may benefit us some because we are homestead exempt, as other parishes are, it is primarily to the benefit of special districts, which are smaller in area than a parish, but which are homestead exempt and which contain nothing, or very little, except homes under thirty thousand dollars. Those are the districts that are going to be in such trouble that they are going to need this provision as an escape valve.

I appreciate your thoughtful consideration of this amendment, and I move its adoption.

[Record vote ordered. Amendment rejected: 40-69. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 107-4.]

Personal Privilege

Mr. Perez Mr. Chairman and ladies and gentlemen of the Convention, I wanted to rise briefly to express my gratitude and the gratitude of all of the other members of the Local...Local and Parochial Government Committee for your kind consideration of the Local and Parochial Government Article. I do believe it's been a very hard-fought article; and I think, generally, Local Government has come out in pretty good shape.

So on behalf of all the members of the Local Government Committee, I thank you; and again, I would like to commend the members of our committee who worked so long, so hard, and so diligently in preparing this article.

Thanks again.

[Motion to take up other orders adopted]

[REDACTED]

REPORT OF COMMITTEE ON STYLE AND DRAFTING
[REDACTED]

Motion

Mr. Tuttle, Mr. Chairman, in behalf of the Committee on Style and Drafting, I would like to move that the Manual on Style and Drafting, the basis of which we rewrote the Legislative Article or corrected it, be made a part of the Official Journal of the Convention in order that members of this convention may refer to it easily...to...to understand exactly what we did.

[Motion carried without objection.
Adopted by the House of Representatives,
Friday, November 9, 1973.]

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Vice Chairman Casey in the Chair

ROLL CALL

[The following prayer was read.]

PRAYER

Mr. Rachal. Lord, the hour is growing late, and we are getting weary; help us. Help us to protect the principles contained in your ten articles. Help us to help each other to provide for a greater future for our state through the plan we establish for the development of our most precious resources, our children. In short, Lord, may the true spirit of fraternity rule our hearts, guide our thoughts, and control our actions so that we may become, through Thee, servants of all of the people of our state.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

[The following Committee Proposal No. 7 was read and its reading was adopted without dissent.]

Reading of the Proposal

Mr. Poynter. Committee Proposal No. 7, introduced by Delegate Aertker, Chairman, on behalf of the Committee on Education and Welfare and other delegates, members of that committee:

A proposal making provisions for education and necessary provisions with respect thereto.

Mr. Aertker, do you want to make some general comments before we go into Section 1?

Explanation

Mr. Aertker. Fellow delegates, I wish that I could tell you that the proposal that we are about to get into represents one of those noncontroversial matters. But, after sitting in this convention as long as I have, I recognize that I don't believe there is anything that could be presented to this convention that doesn't have some semblance of controversy to it. So with that in mind, I do believe, though, it should be pointed out that if we can refrain and restrain our somewhat natural impulses to really speak as lengthy as we have on many of the issues--I really believe that we are dealing with a matter that if we confine ourselves just to the issue at hand, that we ought to be able to resolve this entire article in a very short time. I make that statement based on the fact that, really, we're not involved so much with the technical details that you would be involved with on such matters as revenue, and taxation, local government, and so forth. I really believe that we are talking about some basic concrete issues, and issues that really evolve the selves into a matter of maybe a philosophy, maybe a personal belief, but certainly in the long run, something that represents whether you believe something should be thus, or whether you believe something should not be. I would even venture to say that at the present time, most of the issues that we have facing before us that just about ninety percent of the delegates present here today have pretty well resolved most of these matters in their own mind. I don't mean this in the form of an admonition; I just really mean this in the form of a suggestion.

Now, this proposal that is before you is the result of the work of some twenty-one people, the largest committee that worked in this entire convention. I would like to ask those members of that committee to step forward here to the podium so that you all would recognize, at this time, just so that you all could see who is represented here at this committee [committee] and with this committee. So, as we proceed, perhaps

maybe they can give you some insight and answer some questions for you. If you all will come up just here to the front, because I think if you stand you will get lost with the standees. This committee that we developed at the outset, as you know, was assigned three basic areas and that was: education, civil service, and welfare. We recognized we had so many issues involved into it, that we had to break our committee into three groups: one dealing with elementary and secondary education, another one dealing with higher education, and the third dealing with civil service and welfare. I know that you, as other committee members, feel that you all have worked harder than anybody else in this convention. I can assure you that this group of ladies and gentlemen here equal the output and the input of any amount of work that anybody has done in this convention. These people would start at nine o'clock, and we would finish at five and six o'clock. As I was accused even of doing, by some of the members...we were even accused that the Chairman was trying to get them out of the habit of coffee drinking, because we never even would recess for coffee. But, these people worked on this proposal. I would have to tell you that certainly we were disunited at many times. In fact, sometimes we were so far apart that we even had to end up with a tie vote one time on a motion to adjourn. But, despite that, these people came out with the proposal that you have before you, and it represents what the majority of that group felt should be presented to this board for consideration. The persons who handled the three subcommittees were: Mr. Rachal, who handled the Committee on Civil Service and Welfare; the Committee on Higher Education was Mr. Sutherland, and the Committee on Elementary and Secondary was Mr. Carmouche. This committee maybe is the work of...was such that we had some casualties as we went along on the way. For instance, Mr. Armentor was a member of this committee. After about a month of this, he decided that the duties were too pressing and, of course, had to resign, and Mr. Charles Wattigny was the replacement for him. We, of course, had unfortunately some folks get sick; Mr. Silverberg unfortunately had a heart condition develop and had to, of course, leave, and Buzzy Graham was his replacement. We have had other people who are...Mr. Horace Robinson, of course... this convention ran his blood pressure up so high that the doctor wouldn't let him come back and visit with us; and Mr. Jimmy Morris has, of course, been appointed to replace him. Unfortunately, today, we also are missing two other members of that committee: Mr. Thistlethwaite, and you know, is confined at home with hepatitis, and, unfortunately, Mr. Lennox felt compelled to submit his resignation. So, that is the committee; that's the work that they have done. I can assure you, these people have done a noble task for you. I hope that you join with me in my personal thanks to them for a job well done. Thank you, ladies and gentlemen.

I'm going to try to give you a general review of what this proposal contains. I'm going to confine it to generalities rather than to the specifics; but, frankly, it is divided really into four groupings. The first and second part of it really represents the goals and purposes of education. Then, the second part is the general structure of education, in which we will be breaking up into a division of education. I think we have some handouts that we should be giving out to you that will...has that been given to you? This handout that you have--it should be on your desk--will save my talking quite a bit and will also give you the opportunity to read and evaluate and see just what we are proposing. But, basically, what we are proposing is really two major boards: one for elementary and secondary education, and one for higher education--and two lesser boards: one, the board of supervisors for the state university system, L.S.U.; and the other, a board of trustees for all other colleges and universities in the state. That basically is the structure; we will get into the specifics of that when we present

the individual articles. The other matter, of course, of report that we have is certainly the matter of funding and appropriations, and that was and is covered in the Proposal No. 7. Then finally, the other is a group of miscellaneous dealing with such things as the inclusion of Tulane University, some of the city school systems, the matter of teacher certification, the matter of accreditation for private schools. These are some of the minor items on that, but basically that's what we have. I would now, at this time, then, like to move into the first section of our proposal, Section 1. At this time, I would like to ask Mr. Haynes to present this section to the convention.

Questions

Mr. Juneau Mr. Aertker, as you pointed out, we are going to take up Committee Proposal No. 7. But, obviously, we are going to get into the amendment process, and I would like to ask you a few questions in that regard. It is correct, sir, that there is a Delegate Proposal No. 54 which was reported out favorably by the Education Committee? Is that correct?

Mr. Aertker That's correct.

Mr. Juneau So that we can put it in perspective so the delegates can have them before them, with regard to the board structure, that proposal is to a large extent diametrically opposed to some of the concepts contained in Committee Proposal No. 7.

Mr. Aertker I would agree with that, yes.

Mr. Juneau All right. I just wanted to point that out so they could have it before them, you know, when we get into the amendment process.

Mr. Weiss Delegate Aertker, I'm sure your committee considered all possibilities. But, I would like to know what weight your committee gave to the fact that one-third or more of the state's budget goes toward education. In projecting to the future, according to the reports from The State of the State of Louisiana, the book that was placed on our desks July 5, approximately one-fifth of the school population, or about twenty percent, will decline in the years ahead. What type of projection did your committee give to that consideration?

Mr. Aertker Well, Dr. Weiss, I can't speak for the inner thoughts of all the committee members. The only thing that I can say is that I feel that the matter of appropriation and funding is in such a nature in this proposal that it would take any decline, increase, or anything else, as far as the future is concerned. When we get to that specific matter, for instance, on the matter of dedicated funds and so forth, I think it would be appropriate at that time for maybe me or someone else to elaborate what was the thinking of the committee as to why we included some of this, and why we felt it was necessary at that time, and what was the attitude or thinking on that.

Mr. Stovall Mr. Aertker, I notice that in the article, Section 3 deals with the state superintendent of education; then Section 4, the boards. Would it not be more in order to consider the boards of education first and then return to the question of the superintendent as to whether or not he might be elected or appointed and his responsibilities and so forth?

Mr. Aertker Reverend Stovall, your point's well taken, and this matter will be given consideration. The reason why it will be is because I'm convinced that if the State Board of Education is resolved in the manner that it is an appointed board, then, of course, I think that the many members of the committee that voted for an appointed superintendent

would then reverse the votes and find that the people be represented by having an elected superintendent and vice versa--that if it's an elected, then I think they would retain their thinking. So, perhaps it would be in order, and when we get to that, we might ask permission to change that section and take the other one first.

Mr. Stovall You're saying that you would give favorable consideration to a motion to reverse the order of consideration?

Mr. Aertker Yes, we would.

Further Discussion

Mr. Leithman Mr. Acting Chairman, member of the delegation, fellow members, well...everything that Mr. Aertker has said is perfectly true about this committee. They certainly worked hard, and it was not a simple job. It seemed right off the bat that there were conflicting philosophies, and there are still today; there is a great difference of philosophy in this proposal. I want to call to your mind some of the highlights of the proposal that I think are the basic objections to the proposals by, let's say, ten members of the committee. Usually the vote in this committee was tie, and Mr. Aertker would break the tie--that's how close the decisions were. So, bear in mind that this proposal that you have before you did get twenty-one signatures, perhaps on a tie vote. So, keep this in mind. The other proposal, Mr. Juneau brought out briefly, is No. 54. It received the same type treatment, and it came out favorable, perhaps--I don't recall the vote--but perhaps with a one vote margin. So, this is no clean-cut decision either way; it's left entirely to you. The big philosophy that the opposing views have towards the bill that you have before you is the four boards that it calls for. As I mentioned, the Commission of States--there are some fifty states here in the United States--together, all fifty states only have twenty boards in the constitution. This proposal that you have before you is attempting to put in four boards, or an increase of twenty percent. Again, on the proposal that you are looking at that's before us today calls for some sixty members to appear on these four boards or to serve on the four boards. Basically, all of these people are to be appointed by the governor, whatever governor that may be in at that time. So, this education... these boards of education--it's not an independent board of education that you're looking at to run education at our higher levels and what have you--these are handpicked people to be appointed by the governor of the State of Louisiana, something like fifty somewhat appointments made by the governor. I feel this is bad to let governors take over the running of education. Maybe today we have a good governor; we all agree with him. But, we don't know what happens when this constitution goes into effect and what will be the position some four, five, six, ten years from now. We are writing a constitution for the future. This is what...these are some of the highlights that I'm asking you to look at. In the years...In closing, the legislature realized that our education was not going well. We realized this several years ago. When ten percent of our...we rank ten percent in the nation--in the top-tenth in the nation--for the funding of education and we rank forty-eighth in what comes out on the other end, we know something is going wrong. The legislature looked into it, our Education Committees; we came up with what we thought was the proper approach, and that's the single board. Of course, it's now in court, and we don't know what's going to happen. The legislature didn't let up at that stage. We met this week--the House and Senate Education Committees. These people have years of experience behind them. We broke down the House-Senate Joint Legislative Committee into three committees to continue our studies, one of which is higher education; and, of course, most of the people on that

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board realize and have been working and are inclined to go with the single board. But, we haven't given up in the legislature; we are just beginning. But, with this proposal, we are regressing from what the legislature has done. This is a step backwards with four boards and all of these appointments by the governor; it could very well be 1950 with the context of this proposal. So, bear these things in mind as we go through the proposal, please. I'll answer any questions that...

Questions

Mr. Champagne Mr. Leithman, I just want to ask you a question. I think I understood you well. You didn't say that all of these members would be appointed by one governor, but by governors; right?

Mr. Leithman For instance, if this would go into effect--and I don't know the exact phase out--but, it's quite conceivable that the initial appointments of these fifty somewhat people would be made by one governor. Now, we have designed it to go six years in overlapping terms, which possibly could bring two governors in. I don't know how the calendar will break, you see.

Mr. Champagne And, in question to that: in other words, all of these people on these boards at the present time, you're going to do away with them?

Mr. Leithman They would phase out. We have a phase out under this bill.

Mr. Champagne You have a phase out, but they are not going to be phased out in one stroke. Isn't that correct, sir?

Mr. Leithman No.

Mr. Champagne So, really when you say that one governor is going to appoint all of these people, that really isn't exactly right, is it, sir?

Mr. Leithman It is. I'm not looking at today. Your question is directed as to what happens in 1964, that one calendar year. I'm looking with this constitution to the future. If this goes in, it's conceivable that Governor Brown, who's next elected, could have--during a two term period--have the responsibility of appointing all of these people to the boards during his two terms.

Mr. Champagne I see. Now, if I am to understand properly, your approach to this is very much as your approach as a legislator. In other words, you have very much the same idea. Is that right, sir?

Mr. Leithman With progress in education being uppermost.

Mr. Champagne I see. But, they are very much the same idea. Is that right?

Mr. Leithman Well...

Mr. Champagne General. Your approach in this as a delegate and your approach as a legislator are pretty much the same.

Mr. Leithman I would say yes. I would say basically...

Mr. Champagne Yes. O.K.

Further Discussion

Mr. E. J. Landry Mr. Chairman, ladies and gentlemen of this convention, I'm still a one hundred percent. I have not missed one meeting, one subsection meeting, of the committee. I have not missed one of your meetings here. I don't take any credit for it; I have no excuse for not having attended. The only reason is that I have no excuse for not having attended, and I've enjoyed attendance at each one of the meetings. But, I

do believe that before you think about this big proposition that I present to you several concepts. It was because of my insistence at the meeting, subcommittee meeting, that you have been exposed to a unique procedure. You will consider more than one proposal because of the fact that I insisted. Even though it may have won by only one vote, you are well aware of the fact that one individual in your convention, I, just recently came near winning a proposal that had to do with tax exemptions right out of the clear sky. It surprised me, but it came near happening. Now, I want you to think of a big concept that I think has been done an injustice. The research on LSU proves to me beyond the shadow of a doubt that it is one of the big issues in this convention. The research shows to me that the distribution of monies is not as it's been told. I don't think it's been right. LSU is going to be a big issue. I want you to think of a state university with prouddness; I want you to think of one big university with all of its assets as something that all of us need to have and live with. Now, do your homework well. Think about that one factor. The other factor is the one having to do with the elected superintendent. There is not a doubt in my mind that you need somehow to place into that constitution that fact first. The one that you agreed upon in this convention, and the one that the people throughout this state have spoken on, and that is an elected superintendent of education for the educational system of this state. So, you may have to put one before the other. But, move in that direction, please. Be proud of a great university that has had trouble, but those troubles have been remedied. Later on I may be able to explain to you--those of you who are younger and have not had an opportunity to understand what happened--I'll be able to explain it to you, but think of those concepts, please. That's all I want to say.

Question

Mr. Roemer Mr. Landry, you said that LSU would be a big issue in this education discussion. You don't think that's the biggest issue though, do you? Don't you agree that the biggest issue is the education of all the people of the state, and not just LSU?

Mr. Landry, E.J. Yes, but it could affect the consideration of all if that issue is not discussed and understood properly.

Further Discussion

Mr. Juneau Mr. Chairman, and fellow delegates, I won't take up too much of your time, but I think we can save some time in this convention and possibly be a little bit better education as to what the issues are going to be. I want to respectfully submit to you that what we are going to do over the course of this next two weeks is going to definitely affect the future of the educational system of this state, and it's going to affect the outcome of this Constitutional Convention. Now, you know, whether you like it or not, there are probably fifty percent of the people in this state that feel one way about whether there should be a specific provision for the LSU Board, and there are fifty percent of the people that say, "If you do that, then I will vote against the constitution." The other fifty percent of the people say, "If you don't put the LSU system in, then I'm going to vote against it." That's a dilemma! I thought we ought to clear the air and get the facts before you before we get into specifics. You know, when this issue originally came up--I'm a graduate of LSU, undergraduate and law school, and a very fine and outstanding university, one of which I intend to send my children to--but, I think the point raised by Mr. Roemer is the real issue. It's not LSU; it's not McNeese; it's not Louisiana Tech. It's the educational system of the state that we're dealing with. I had to

make a decision when this convention originally adjourned. Should we do it strictly by amendment, or should I follow the processes that were established by this convention? I did that. I filed a delegate proposal. I went through the committee system with what I thought to be a viable alternative for the educational system of this state. That proposal, fellow delegates, is Proposal No. 54 which, to my knowledge, is the first time in the course of this convention you have two proposals from your own committee, which are diametrically opposed. The point that I'm trying to make don't be misled; do not think that you are wed to a Committee Report No. 7 because what you have is two committee reports, in essence, 7 and 54. Now, let me go one step further. What we are talking about is: are we going to put a multitude of boards in this constitution, are we going to decide that we have the wisdom and the knowledge in 1973 to tell the people in year 2000 that we can dictate to you in this constitution how your university shall be run? We're going to tell the people in year 2000 that irrespective if you, Louisiana Tech., have an enrollment of twenty-eight thousand students, that you would be different from a university who at that time may only have twenty-eight thousand students. The issue is going to be raised. You know, we don't want to revert to the scandals of the thirties. Be very meticulous and careful when we talk about the scandals of the thirties. What were the scandals of the thirties? The scandal of the thirties was fraud, misappropriation, and theft--which could happen today in this convention. It could happen in every parish; it could happen at USL, McNeese, and, yes, it could happen today at LSU. What they did in the thirties, misappropriated funds that came back with an amendment in 1940--and I might tell you from a personal standpoint that in 1940 my own father was one of the authors and coauthors supporting that amendment in 1940, and I think it was necessary to correct what they thought to be a problem--to turn over to the university complete control of its internal affairs. Do you know, ironically, that up until the present time that that same privilege has not been enjoyed by the other universities? The legislature could pass acts affecting the other universities, but not the LSU Board. Now, here's the point: here's a case of 1972--it's just where you want to put the emphasis--Student Government Association vs. Board of Supervisors 1972. The position of the LSU Board of Supervisors in that case was as follows and I quote: "the Board of Supervisors takes the position that with the adoption of this constitutional provision, it was created and became a distinct and separate unit of government, free from interference from the legislative, executive, and judicial branch of the government. To my knowledge and dismay, to the first time in the history of this state, I thought we had three branches of government, but we apparently have four. The point that I am making to you is when you vote, keep in mind that you have competing philosophies and are you going to jeopardize the net effect of this state, and are you in a position to historically make the decision for the people in the year 2000 that you're going to pretermitt their chance or you're going to leave it to the flexibility of the legislature as I propose in Delegate Proposal No. 54?"

Point of Order

Mr. Jean: Mr. Acting Chairman, I was under the impression that what we were doing at this time was having a general discussion of this particular proposal. Mr. Juneau, just a minute ago, was dealing only with a specific part of the proposal, and if we're going to start having talks now on specific phases of the proposal, then I suggest we go into the proposal. If we're going to have people talk generally, that's one thing, but, I don't think we ought to have speakers getting up arguing against certain specific parts of the proposal under a general discussion.

Mr. Casby: Mr. Jean, you're certainly correct, and we had requested the delegates just to have any general remarks in this particular area of comment, and would request that...there's only one more request that we have for the floor, Mr. Sutherland. We'll make the same request of Mr. Sutherland that all comment be general rather than on specific areas or sections.

Further Discussion

Mr. Sutherland: Mr. Chairman, fellow delegates, I had the honor of serving as the chairman of the Subcommittee on Higher Education, and I would like to direct my remarks specifically to that phase of this proposal which deals with higher education. We had numerous people appear before our committee to discuss what was the best way to organize the structure for higher education. Needless to say, there was nobody in agreement. We had recommendations that varied all over the place. We were in agreement on a number of things. One, that we needed a board which would coordinate higher education; that would do away with the duplication of efforts that were being made. I think we were all in agreement on this, that we needed this type of board. Now, when we got into the discussion of whether we needed additional boards or not, we had disagreement. We had some that said leave everything up to the legislature. We had others who said you need to put this in the constitution. You need constitutional protection. I certainly believe that we need some constitutional protection. Whether we need it all, whether we need all the boards in here is your decision to make. But, for goodness sakes, don't lose sight of the fact that we're talking about what Dr. Weiss said, one-third of the budget of this state. We're talking about the education of all of our students, so don't just say, "Well, this is too much of a controversy, we're going to leave it all up to the legislature." We're going to have to pick and choose; and I think when you go through, when you see the powers that we gave in this proposal to the Board of Regents, you're going to see that we think we corrected one of the problems that we have. This board, of course, any structure that you make will not do the job unless you have good people filling the positions. This is most important. But, we don't have control over who you elect to this board, or who was appointed to the board. We can only put the structure into the constitution if that is your desire. But, keep that in mind, please, that remember when you're thinking through this whole thing, if you don't like what's in here, amend it. But, don't just throw the whole baby out with the bath wash.

Reading of the Section

Mr. Poynter: "Section 1. Educational Goals
Section 1. The goal of the public educational system shall be to provide, at all stages of human development, learning environments and experiences that are humane, just, and designed to promote excellence in order that every individual may be afforded the opportunity to develop to his full potential."

Explanation

Mr. Haynes: Thank you, Mr. Acting Chairman, fellow delegates to this convention, I'm deeply honored and it's a great privilege of mine to be requested by the distinguished chairman of this committee to speak to what I consider to be the very heart of the Educational Article. We've had across the years developing in America, strategies and concepts about education. I remember the first document I read about the purposes of education was The Seven Cardinal Principles of Education that was developed back in 1918. Then in 1933 and 40, there was a newer concept: The Four Fold Objectives of Education in an American Democracy. But, more recently, the scholars of our times have succinctly addressed

the selves to a more reasonable and a more fundamental concern about education. They have designed what I consider to be a basic commitment to education, and to the children and youth and the people of this state and the nation. We've talked about developing the ability to do critical thinking. We've talked about many other things, but let's look at this thing, what Section 1 of the proposed article says. It simply forms the foundation for anything that we might write in an Education Article. It talks about humanizing the teaching-learning process, and if we fail to humanize that process, there's no possibility that any teaching and learning can take place in our system today. This expresses our fundamental belief, our credo. If we, in Louisiana today, have no beliefs, no credo, no commitments to education, how are we going to get any kind of education we talk about, regardless of how many dollars we've spent? I look at our famous documents of freedom: the Preamble to the Constitution of the United States of America. We talk about domestic tranquility in that famous document. This preamble is not a part of the law, but it certainly undergirds, or it forms the foundation for all of the laws that we might write in that constitution in the years to come. I look at the self-evident truths of the Declaration of Independence, and we declare in that document about what we believe about human beings, and this is all we're doing in Section 1 today. It was Dr. John Goodlad--and most of you have read about this distinguished educator out at the University of Southern California...University of California at Los Angeles--he said that the real purpose of education is to develop people who are fully human, who will not lie, steal, or kill, or cheat. It was Giron Bruno--about two years ago out at the L.B.J.'s education symposium--who said our job is to help the children and youth and the people of this nation to develop a new sense of hope. I would submit to you that hopelessness in our communities and in our state, and in our nation breeds hostility and disruptive behavior, and in our schools, and in the society in which the schools and our youngsters must grow up and develop and ferment. Tom Frill said, not many months ago--and Tom Frill was a distinguished graduate of Harvard University like Delegate Roemer--and he said that there must be good interpersonal relations permeating the educational enterprise before any teaching-learning can take place anywhere in our school system. I would submit...I would ask you to look at our schools today. During the last session of the legislature--the 1972 session of the legislature--there was passed a concurrent resolution calling on the State Superintendent of Education of Louisiana to appoint a task force to study suspensions. What are we talking about? We're talking about driving youngsters out of school or keeping them in school, helping them to become more fully human, helping them to become productive citizens in the society in which we live. What did this task force find? It found that in one year alone we had over a hundred thousand suspensions in public education in Louisiana. Is this what we want, or do we want the kind of education system that produced people like the delegates to this convention, who are more fully human, and that's the reason they are here? I picked up in our office last night, a copy of a conference that was held in the eastern region of the United States of America, and what were these people concerned about? They were concerned about the effects of Watergate and other crime on our schools and the children and youth and the people of this nation. They were concerned about crime in high places, and why can't we have a humanistic society where all people are having the opportunity to grow and develop in a free society. We pledge allegiance every morning when we come here, after we've had prayer to the Almighty God. In that Pledge of Allegiance nothing does me more good than to hear Ford Stinson when he comes to the clause "one nation under God, indivisible, with liberty and justice for all." That's the kind

of education system that we're talking about. That's the kind of world that we want to live in. What do we need in our schools today? Surely we need tough minds; we need academicians; surely we need reading, writing, and arithmetic. But, the first thing we need in our education system today is people with tender hearts. If you can couple tough minds and tender hearts, you're going to develop a system of education where everybody is going to live in a free society, and where people will get along one with the other. I call your attention...a letter that was carried in one of the Shreveport Journals, and this letter is a prayer of a mother--prayer of a distressed mother--and it's a child's right stressed in prayer, and in this prayer she said, "Make me fair and just and kind". That's all we're asking for in this section. To make people in education, to make this society in which education must ferment, fair and just and kind. Remember I said to you that no teaching-learning can take place unless there are good interpersonal relations. This is all we're asking. Somebody questions where we wrote in there, "at all stages of human development." Education today is a continuous process. Every individual, every child who goes to school must be educated some four different times in his experiences in order to make a living. But, we're talking about making a living, and we're talking about learning to live in a free society. I think we have the choice of creating this kind of environment. I think we have the choice of humanizing the teaching-learning experience, or we have the choice of making youngsters want to burn rather than wanting to learn, making youngsters want to get on the streets and commit crime rather than wanting to become productive citizens, filling our penal and mental institutions with the people who want to be productive and taxpaying citizens of our society. I beg of you, my fellow delegates, that we would vote favorably. This particular section has nothing to do with the boards and anything else. It simply forms the foundation on which we must build any kind of system of education in this state; and Mr. Chairman, I would like to move the adoption of this very fundamental concept of education. It's simply a basic philosophical statement that forms our belief, our credo, and what we want people to be like in the state and across this nation; and you and I have the responsibility. I beg of you, Mr. Chairman and member and fellow delegates, that we adopt this section of the constitution, and then we can deal with the other issues that deal with the mechanics of education; but this is the basic foundation on which we must build any good education system. I move, Mr. Chairman, the adoption of the section.

Amendment

Mr. Poynter Mr. Alphonse Jackson and Mr. Haynes send up amendments as follows:

Amendment No. 1. On page 1, line 17, after the word "afforded" delete the word "the" and insert in lieu thereof the words "an equal."

Explanation

Mr. A. Jackson Mr. Vice-Chairman, ladies and gentlemen of the convention, I ask for your consideration for this amendment. I suppose looking at it by way of, or the words that are suggested here, one would be prone to say that this is a technical amendment, but it is more than a technical amendment, and I want to, in all fairness, point this out. My concern in offering this amendment deals with about three basic concerns that I have about the direction and the commitment of public education in Louisiana. First of all, I offer the amendment because I am concerned about the great disparity that exists in this state between parishes and between the ability of local governmental agencies to provide for all of the children of all of the people equal educational experiences. I think that this state has to make

a commitment to that proposition. There are parishes in this state that can ill afford, because of their tax base, and because of their lack of resources, to provide equal and proper educational experiences that are excellent and that are designed to place all men on level ground. So, I address myself to that by way of this amendment. Secondly, I am concerned about this section and offer the amendment for the reason that I believe that this state can ill afford to have large segments of its population unproductive. This emanates from the fact that a large number of parishes in our state are not able to provide the kinds of experiences that are designed to render individuals fully productive. So, I am concerned that we would make this kind of commitment that we will give every youngster the opportunity to develop his full potential. My third concern is that we would see that education will become the kind of equalizer that we talk so much about and that we believe education to be. So, for those three reasons, I am offering the amendment and would ask your favorable consideration by way of adoption for this amendment that adds the word "an equal" educational opportunity--"an equal opportunity to develop to his full potential."

Questions

Mr. Cannon Representative Jackson, I'm a little bit concerned about the particular word "equal" in there in that I am--I'm not an attorney and not a judge, of course--but I can see that, conceivably, if all children in this state do not receive the blessings of having been instructed or supervised by myself or yourself, as being educators, would therefore be unequal. The fact that children themselves are not equal in their ability to take advantage of these opportunities would... my concern is, and I'd like you to direct a comment to it as to whether or not we would be falling... making the state and school boards liable to suits such as happened recently in Los Angeles, California, where they graduated a man from high school, and he didn't know how to read and write, and he instituted a suit against the school system. Would you care to comment on this?

Mr. A. Jackson I certainly would, and I'm going to be as candid as I know how to be because I don't think that we ought to play games with each other. First of all, I want to say that you have to read the phrase "an equal" and put it in its proper context, and you will talk about developing the full potential of an individual; but let me address myself to your real question. I want to be honest with you. I personally believe that it is the school's responsibility to teach a youngster to read, and when the school fails, the school has not exercised its responsibility to that youngster.

Mr. Bollinger Representative Jackson, I have a similar concern, but a little different situation. Assume, for instance, that your family was fortunate enough to be able to send you to a school for higher education, and mine was not--financially speaking. Would, then, I be able to bring suit that my opportunity to develop to my full potential was not equally granted, since you and I are not being granted the same opportunity--I mean, your family could afford to send you and mine could not? Don't you think this could present a problem? I concur with your problem, but I don't think the word "equal" is going to solve all of them. It might create more problems than you're trying to solve.

Mr. A. Jackson Well, I don't agree with you. I think what we're talking about is a basic commitment toward a direction of trying to provide the whole concept of open education, the whole concept for excellence for all of the children of all of the people, and this is what I'm addressing myself to.

Mr. Carlucci Delegate Jackson, don't you think your amendment would require the same expenditure statewide per child? In other words.

Mr. A. Jackson Yes. In the last foundation program, but it would not preclude enrichment at the local level. But, I do think that we would certainly have to consider what is basic to each parish, and it doesn't mean that we are going to have the same number of dollars. I think that what we're really talking about is the level of experience and a level of excellence.

Mrs. Zervigon Representative Jackson, we're dealing with that portion of it that says... of the report that says "goals for education"--that thing. When we were dealing with the preamble of your committee report, we were told that it didn't have the force of law, but that it was an expression of philosophy, and that the citizens of the State of Louisiana needed to express a philosophy as to what they wanted their government to accomplish and the rights they wanted to reserve for their citizens. Isn't that correct?

Mr. A. Jackson That's correct.

Mrs. Zervigon Do you have any idea whether or not this has the force of law--this statement of goals--or whether it is more a statement of philosophy?

Mr. A. Jackson I would think that it's more a statement of philosophy personally. I'm not a lawyer and I would not want to be emphatic about it. Somebody who is a lawyer would probably have to comment on it, but the more I think about it, I think it would be treated in the same manner as the preamble.

Mrs. Zervigon So that the differences among teachers in different school systems and the differences among children really doesn't matter when you're expressing the philosophy or even the legal premise, that every child must have an equal opportunity.

Mr. A. Jackson Right. It is a goal.

Mr. Arnette Alphonse, when you say "equal" here, does that mean you have to have equal money spent per student or equal funds expended in each parish, or something like that?

Mr. A. Jackson No. I'm talking about a level of experience, and a level of excellence.

Mr. Lanier Mr. Jackson, so that the record will be clear on this point, I believe there's recently been some cases in Texas and I believe in California, with reference to whether it was a denial of equal protection that school districts were on different tax bases, with reference to the overall system. Is my understanding correct that by using the language here that you are using, you are not trying to constitutionalize the approach that was taken by the people who brought those suits and those cases?

Mr. A. Jackson If you're referring to Rodriguez, I'm certainly not, but in candor, I think that I ought to say to you, and I agree with the dissenting opinion issued by Mr. Justice Marshall in that case in which he addressed himself to the problem that we are discussing. I think even in the majority opinion, the justices noted that there was great and grave inequities existing in this country that must cease if we are going to provide educational excellence for all people. But, at this time they did not believe that the vehicle of ad valorem tax was the means to cure the inequities that school systems must resort and must review the whole problem of educational support as it relates to financing education and provide a facility and structure for supporting education over and above the use of ad valorem taxes.

Mr. Lanier But, the point I'm getting to is: you're not trying to constitutionalize the dissenting opinion with this language here, are you?

Mr. A. Jackson No, I'm not.

Mr. Aertler Mr. Jackson, let me get one thing clear, and that is that this amendment that you have, this does not stop a local effort from providing a special program, for instance, in East Baton Rouge if they wanted some particular type that they were willing to pay for over and above, what you're saying is, is that this provides an equal opportunity for all people at a statewide level...

Mr. A. Jackson That's precisely what I'm saying, and in fact, I think that this amendment would encourage enrichment, and additional funding efforts at the local level.

Mr. Aertler Thank you.

Further Discussion

Mr. Roy Mr. Chairman, ladies and gentlemen of the convention, I rise in support of this particular amendment. I think that the first section is kind of like the preamble to the Bill of Rights in a sense. It's more of a homily than it is anything else. I think Mr. Hayne's remarks with respect to what we all address ourselves to, is very important. I don't read this as saying that they're entitled to equal facilities if that's what some people are trying to infer from the word "opportunity." I think what it means simply is that...is that if you have a school and kids need to get there by school buses, then they are going to have to afford some type of equal opportunity to get to the school. I just don't think that it makes sense to say that we all want our kids and every child in this state to have the same chance of succeeding, and at the same time, realize the disparages that now exist in certain areas. Now, Mr. Lanier raised the issue of the Supreme Court decision with respect to Texas, and I thought Mr. Jackson answered it very capably. I would personally believe, though, that we should address ourselves to the issue of equal opportunity for all citizens of this state, irrespective of their background, and irrespective of where they live. You know, many, many years ago, when public education became a must in the State of Louisiana, many people opposed it on the basis that, well, it's not fair that we pay taxes to educate the masses of the people. Some people had the notion that education should be in the United States like it had been in the past, and like it was in Europe; that is, that if you were particularly capable, either financially or otherwise, you may get to be educated. The greatest thing that we've ever had in the United States is public education--the idea that the masses can be educated. No country has ever equaled what we have done technologically, not because we've had the greatest scientists; because, I think, Germans probably were greater theorists, and what have you. But, the practical matter was that public education made the United States of America the greatest technological nation in the world, and that's what I'm for. I'm for everybody being afforded the equal opportunity for education. I want to make one other comment. Many years ago when some of the rich parishes now, like Lafourche which has a lot of oil and stuff; before oil and what have you became popular, all they had down there was probably a lot of mosquitoes, a lot of swamp... other parishes. The parishes up in the state where I come from like Avoyelles, which at one time had forty thousand people, in the early 1920's and was probably twelfth largest parish in the state, is way down now. Now, at that time, those people, and the people in the rest of the state afforded the taxes whereby everybody in this state was educated. I think now that we've got some rich parishes that we shouldn't be so

interested in saying that in the small parishes where we have little money, we're going to make sure that you don't get what's coming to you. I think we ought to address ourselves to the issue that education of all Louisianians is the obligation and the duty of every delegate in this room, and every citizen of this state, and to start harping on that my parish is going to have more or less tax dollars than yours because the ad valorem tax issue is not the issue. I disagree with the United States Supreme Court's decision in the Rodriguez case. I think it stinks. I think it's a decision by five old judges up there who are too conservative. I don't think it's right to say that you can afford some kids a school that provides very little and only two hundred dollars to educate him, and another district, six hundred dollars and say there is not disparity. I think that this is a good amendment; I think we ought to address ourselves to the issue. I think we ought to keep our eyes on the ball, and I think we ought to move forward.

Questions

Mr. Duval Chris, my main problem is not with the Rodriguez case, but with the language. In your opinion, does this language, do you think, would entitle everyone to a college education, for instance, in the public system?

Mr. Roy No...to a college education?

Mr. Duval Yes.

Mr. Roy Yes, I think everybody...I don't think that they have to furnish it free of charge, but I think everybody has an equal opportunity to go to college.

Mr. Duval I certainly can't argue with you there. But, under this language,...would one have the right if he was, say, could not afford it, to be admitted into college?

Mr. Roy No, I just say that it means that if you're allowed to go to college on a thousand dollars a month, then Joe Smith ought to be allowed to go for the same thousand dollars a month. That's what I'm saying.

Mr. De Blieux Mr. Roy, under our present society, since it's so mobile, isn't it true that the community where you have an affluent society and can afford greater education also suffers from the fact of students coming from the less affluent sections of the state, moving into those sections for jobs, and so forth, so therefore, isn't it incumbent to see that those children in the less affluent get the same type of education as in the affluent society?

Mr. Roy I'm for that. I think that's the answer to all our problems, or a lot of them.

Mr. Kean Mr. Roy, I'm not quite sure I understood your reference to the Rodriguez case, but are you suggesting that by the inclusion of the word "equal" in this section, that the East Baton Rouge Parish, for example, could not levy additional taxes to bring its school system up to a level that might be different from that in another parish?

Mr. Roy No. I said that...I merely said that I disagreed with Rodriguez insofar as what the majority said, and I thought...but, then, I don't think this equal opportunity changes what we've said it does. All it says is in my judgment is that everybody in the same circumstance will have the equal opportunity to attend a school and be educated. That's all I'm saying.

Further Discussion

Mr. Burson Mr. Vice-Chairman, fellow delegates, I rise in support of the amendment because to me

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lock into this constitution boards, a lot of verbal explanation, then we are dooming education to be frozen in 1973, and probably be extremely, extremely difficult to change.

Questions

Mr. O'Neill Max, would you please go a little bit further into explaining why this first section would have the effect of law? I think that might help some of the delegates in understanding what this first section means and how it is applied.

Mr. Tobias Well, basically it's a provision of a constitution other than a preamble has...is law. The preamble itself is just not law; it's just a statement of principle. This is the way the case law in this country has developed. I would suspect that in the state you can be assured it will follow that line.

Mrs. Warren Mr. Tobias, you said that educationally these things were going to change, I'll agree with you there. But, do you think that fairness is going to change, that justice is going to change? All that word says is "justice"...the same thing as you say up there "union justice." Do you think it's going to change? If so, do you think we ought to erase that off the podium?

Mr. Tobias I firmly believe that the Bill of Rights as drafted protects that...justice. It's so fundamental I just cannot see how everybody...

Mrs. Warren Let me ask you one more question. Since you say it is so fundamental, do you have any objection to saying it twice?

Mr. Chatelain Delegate Tobias, I treasure your judgment a great deal, and you're more often right than wrong. But, I'm trying to make judgment on this. I think we're going to have to really look at this in a real serious vein. The proposal states very clearly that the goal of the public educational system shall be to provide that all stages of human development, learning environments, and experiences that are humane, just, and designed to promote excellence in order that every individual may be afforded the opportunity to develop in his full potential. Really, what is the reason for putting words...deleting "the" and putting "and equal"? Explain that to me, I have problems to equate that with slow learners, exceptional child, private school child, or parochial school child, I'm just confused. Would you try to clear me on that, please, sir?

Mr. Tobias Well, it's like this. We say... Declaration of Independence life, liberty, and the pursuit of happiness. The constitution or the Declaration of Independence only guarantees you the right to pursue happiness; it doesn't guarantee you happiness. When we say "an equal opportunity," we are guaranteeing that you have the right to pursue the equal opportunity...

Further Discussion

Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, I rise to support this amendment. The basic fact which we should keep before us at this time is that in the past we have had unequal opportunities. We have not had equal opportunities for all of the children and young people of this state for education. Now, during this convention we have made many decisions in order to correct past abuses. This amendment will constitutionalize an effort to correct the most obvious abuse that has occurred in our recent past history. References have been made to certain things that happened at L.S.U. a few years back. Well, the most outstanding abuse and crime that has been in our past has been the unequal opportunity we have provided for our children. This simple amendment, then, provides us this opportunity to affirm our commitment to equal education. Unequality in the

past has been in two primary categories: one has been economic. A few years ago, we had a governor to come to this state who offered free textbooks. This was considered revolutionary at the time; today it is accepted policy. The other inequality has been in the area of race. The 1954 decision by the United States Supreme Court struck down theoretically that inequality. This simple amendment affords us an opportunity to affirm our commitment to the progress that has been made in our recent years and to say simply, "We believe in equal opportunity for the full development of all of the children and young people of our state." It seems to me that we can do no other than to give our commitment and endorsement to this very simple amendment. I thank you.

Questions

Mr. O'Neill Reverend Stovall, I'm so sure what you based your judgment on that there had been such blatant inequalities in the past. But, I would like to ask you if you believe by putting this word in here that it is going to force the school system to conform somewhat to one another and to come to some higher standard, as you call it.

Mr. Stovall Mr. O'Neill, your first remark about unequal treatment in the past is rather surprising. You're a rather young man and certainly some of us who are a little older are very much aware of the inequalities that have existed. I think this provides a meaningful educational goal for our state. I move the previous question.

Mr. Kean Reverend Stovall, I just want to try to get it in the record what is my understanding of this word "equal opportunity." It's not your contention here is it that East Baton Rouge Parish, for example, couldn't levy additional taxes to have a better school system than, say, another parish by reason of this provision?

Mr. Stovall No, it is not. It is a commitment to state policy which will do everything within reason to provide equal opportunity, Mr. Kean.

Mr. Kean But, my point is that you're not suggesting by this language that a particular parish couldn't levy additional taxes to improve its school system over what might be the situation in another parish?

Mr. Stovall No. I just answered that. I said that it would not be more understanding of such.

Mr. Kean It's not your understanding; it's not your contention it has that effect?

Mr. Stovall That's right.

Mrs. Warren Reverend Stovall, Mr. Chatelain brought up a question about slow learners and fast learners, I'll put it like that. Do you think if a man had two sons, one was a slow learner and one was a fast learner, do you think he would make any difference in trying to give each one of those sons an equal opportunity to produce to their full potential?

Mr. Stovall I don't think so, Mrs. Warren. I move the previous question.

Mrs. Warren Wait, one more question I want to ask you. We are talking about Local and Parochial Government and them running their own affairs and them levying so many mills, and this, that, and the other. You've got one family on this side of the street that's got plenty money. You've got one on the other side that has a little money. Do you think because one that doesn't have any money would...the one that has money would not be able to buy a car because the one on the other side of the street couldn't afford one? We're talking about families. We're talking...parishes

to the families to pay.

Mr. Stovall: Yes.

Mr. Warren: So, I think that should settle the fact about whether you want to make the parish levy this tax or the other way to make their educational facilities equal.

Mr. Singletary: Reverend, what would your interpretation of the word "equal" be with regard to a student who couldn't afford to go to a particular school?

Mr. Stovall: To go where, Mr. Singletary?

Mr. Singletary: With regard to an individual who couldn't afford to go to a particular school, what would your interpretation of the word "equal" be in that situation?

Mr. Stovall: Mr. Singletary, I think that our State of Louisiana has provided different ways whereby people of different economic standing can have an equal opportunity in education. For example, one is the welfare program which means that if a child does not have adequate funds through the welfare Department, funds are provided. Another provision is through a free school lunch program. This, again, is an effort to permit a child to have an equal opportunity. I think that what we are doing here is affirming our commitment to different state programs and policies which will provide this for all children and young people. I move the previous question.

[The speaker's name is not clear.]

Closing

Mr. A. Jackson: Briefly, ladies and gentlemen, I want to address myself to some of the concerns I heard. I know there they are legitimate concerns. So, I take a few minutes to see if I can allay any fears that we might have relative to the insertion of this concept. First of all, I want to emphatically state that this amendment will not abridge local control of school systems. I want to emphatically state that this amendment is designed to promote and motivate creativity and flexibility at the local level and enrichment. I want to emphatically state that this amendment will not preclude any local school system from levying taxes, from adding to its level of financial support for public education. What it simply tries to address itself to is the whole concept of how do we fashion educational experiences in this state on some sort of basis that will represent equity? That's all we are talking about. It might mean that two or three parishes might have to come together and provide an educational experience. But, the experience will be there for all of the children of all of the people. It will not cost, in my opinion, any more than we are presently spending. But, it will force us to be flexible; it will force us to be creative; it will force us to be efficient. But, it will also force us to be humane. With these points, I would ask for your favorable consideration of this amendment.

Questions

Mr. Singletary: Mr. Jackson, let me ask you what I asked Reverend Stovall. Under this amendment do you think that if an individual could not afford to go to a particular school, that the state would be required to furnish the funds for him to attend that school?

Mr. A. Jackson: No, no, no, no, never. We aren't talking about making everybody go to some private school that might have gained a reputation as a prestigious school. But, we are talking about the responsibility of the state to provide the opportunity and the experience, you know, it means

that there be nothing to be done to give everybody education for everybody, to say that with some people include individuals from having private education if they want to have it and are willing to pay for it.

Mr. Singletary: Then, you don't interpret this as meaning that the state would be required to furnish financial aid to an individual?

Mr. A. Jackson: No, sir.

Mr. Willis: Alphonse, that is the question that plagued me a while Mr. Singletary asked you before I ask you my question, I ask you about the last two words. When does a person develop his full potential?

Mr. A. Jackson: Never.

Mr. Willis: Then, if it's never then, then he is still striving in educating himself through college. Is that correct?

Mr. A. Jackson: Right. Now, education, in my opinion, is a continuous process.

Mr. Willis: Yes. I understand that. Now, if the state had to afford me an equal opportunity to my full potential... I had to borrow the money to go four years to college. Then, the state... to give me that equal opportunity, would have had to have given the money. Isn't that correct?

Mr. A. Jackson: No, sir.

Mr. Willis: I would then been denied the opportunity...

Mr. A. Jackson: Well, I think that there is no question that we are now providing support for youngsters by way of scholarships, by way of federal programs for youngsters who are financially deprived, so that they can have the opportunity to...

Mr. Willis: I understand about those youngsters, but those are particular youngsters. We are talking here about the entirety of the state's school system because the fifth, and sixth, and seventh words of this section--which are modified by the last clause--says "public education system, that means statewide. Now, statewide not only those few selected that you talk about, but all students, and that has nothing to do with black or white. All students have to be afforded an equal opportunity to develop to his full potential. Now, if the full potential is never, then that certainly takes it through college, so that if he can't afford financially to go to college, the state would then have to pay that money; that's my interpretation of this section.

Mr. A. Jackson: Well, I think the state is doing this in a large measure today.

Mr. Willis: But, they aren't doing it for everybody, that's the point. If they do it for everybody, there ain't enough taxes in the state.

Mr. A. Jackson: Well, I think that we are confusing the fact that the whole program of education ought to be an individualized. We ought to have the ability somewhere along the lines to enable students to make the kind of choices that are consistent with his interest than his potential. I think that's the real function of the school. If we take that into consideration, I don't see that we have a problem.

Mr. Willis: That's inarguable, what you said; in the generalities I embraced that. But, in the specifics and the thrust of which this... not solely your amendment, I'm going to vote for your amendment because it doesn't redeem the first section. I think the first section is out of place for the reasons Tobias said, because you have it in the Preamble to the Bill of Rights.

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Mr. A. Jackson Well, I don't agree with that opinion of all either on Mr. Tobias's part or your part. I think we are talking about a basic function of the state that is so important that we can't afford not to address ourselves to it in a whole...fashion.

Mr. Denney Mr. Jackson, in connection with Mr. Jean's question which he raised two or three times, I understand your answer to be that the parish of East Baton Rouge would have a free hand in improving its educational system if you chose to do so.

Mr. A. Jackson Of course.

Mr. Denney Now, suppose the parish of East Feliciana, let us say, does not have enough tax base to provide the same type of educational program. Do I understand you to mean that the state must then provide the funds to the parish in order to raise its program?

Mr. A. Jackson No, what I'm really talking about...

Mr. Denney I asked you this question truly to get it into the record, I do not believe it means.

Mr. A. Jackson Yes, what I'm really addressing myself to is the minimum foundation program in this state. I haven't said this and because it's really complicated, and we'll start getting into a whole lot of problems. But, I just don't believe that it's fair for the children in St. Helena Parish not to have the resources with which to attract teachers with the same amount of interest, and the same amount of training that some other parish is able to do as a starting level, is what I'm talking about. I'm saying that when we talk about...if the national...if the statewide average for starting salaries in this state is fifty-four hundred dollars, and St. Helena or some other parish without proper resources can only pay four thousand dollars, I think that that parish is at a decided disadvantage. All I'm suggesting by way of this amendment is that we need to address ourselves to this inequity.

Mr. Denney Now, you believe the inequity, then, should be cured by the state by the language in there?

Mr. A. Jackson All right. I'm talking about state action.

Mr. Denney Thank you.

Mr. Milbourne Mr. Jackson, I merely wanted to inquire if this could, under some stretch of the imagination, require bussing?

Mr. A. Jackson Well, I don't avoid issues. I think that if you are talking about the whole issue of bussing to achieve racial balance, this certainly is a consideration. I think that many school systems are going to have to come to grips with. It could utilize the whole principle of equal education or providing equal educational experiences by requiring transportation. What I'm talking about, let's take the whole business of special education. Special education is a serious problem for a large number of parishes. They cannot afford, as an individual parish, to provide it. It would seem to me that the answer to that is to have educational clusters that would utilize the resources of one, or two, or three parishes in order to provide the experiences needed. I could envision that it would be necessary to bus youngsters into the educational cluster for special education. Of course, you know, talking about the whole business of bussing that's not a new concept for Louisiana. We have been bussing in Louisiana a long, long time. The only trouble is that some of us didn't have the opportunity to ride the bus.

Mr. Stinson Delegate Jackson, in other words then you might eventually...we would end up with a regional school system instead of a parish school system then, wouldn't we?

Mr. A. Jackson It's certainly a possibility, Mr. Stinson. I think that if we are going to be really efficient in this state in terms of utilizing the taxpayers' dollars, we are going to have to forget about parish lines as it relates to providing educational experiences. I think that we have had sufficient study by a large number of committees, the hundred man committee even recommended this, the abolishment of parish lines and the development of cooperations between parishes and this doesn't...does not bother me at all.

Mr. Stinson In other words, you would have no objection to a regional school system instead of having Caddo having theirs and Bossier...it would be all right if north Louisiana had a...

Mr. A. Jackson I think that some of the experiences are going to have to be regional. The legislature just approved the regional concept for career education that's going to cut across several parishes.

Mr. Stinson In other words, under this amendment, suppose that Caddo Parish had kindergarten and Bossier did not. Any student in Bossier would say, "Well, now we are not equal to Caddo, therefore, somebody's got to provide kindergarten facilities in Bossier." Is that right?

Mr. A. Jackson Well, I certainly believe that kindergarten and nursery education as to be very vital components of the educational enterprise. If the people in Bossier and the people in Caddo agreed mutually, that they wanted to share facilities and wanted to provide this kind of experience for the children in those two parishes, I certainly think it to be proper. I would have no objections to it.

Mr. Stinson But, if they did not agree then the students could go into court and force them to either furnish it or consolidate it, couldn't they?

Mr. A. Jackson Well, I think that that's a possibility.

Mr. Stinson In other words, also, suppose in Bossier we don't teach Russian. Suppose they do teach Russian language in Caddo, and we have a student in Bossier who says, "Well, I want to take Russian language." He could force somebody to provide him a course and opportunity to take the Russian language course, couldn't he?

Mr. A. Jackson Well, you know up in Bossier and Caddo, they would never force anybody to take Russian.

Mr. Stinson They are very conservative...that very conservative group on the Supreme Court might force them to though, that they refer to as being conservative this morning.

Mr. A. Jackson Well, I think, you know, Mr. Stinson, that we talk about law and order and if the Supreme Court orders that, I'm sure that a law-bidding citizen like you would want to obey the law.

Mr. Riecke Mr. Jackson, sometime ago we gave one of the delegates the privilege of having his remarks recorded officially in the daily Journal. Now, my question of you is this: I want to vote for your amendment. I think the principle of it is good. But, in order to help some of us to do that, would you object to having put into the daily Journal your remarks to the effect that it is not the intention of this amendment to preclude any enrichment programs of any school board in the direction of the teachers' salaries, or in

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any other way? Would you object to putting that in the report?

Mr. A. Jackson: I certainly would have no objection, Mr. Riecke. In fact, I think the legislative history for this section and for this amendment ought to reflect that, because I certainly believe in the local control of school systems. I certainly believe that school systems ought to have the right and the opportunity to enrich programs and experiences. I certainly believe that there ought to be flexibility and creativity at the local level. This amendment certainly is not designed nor intended to abridge any of those rights by local school systems.

Mr. Riecke: Mr. Chairman, at what point then would we request that, now?

Mr. Casey: Mr. Riecke, I think it would be appropriate if you and Mr. Jackson wish to do that, that the comments be prepared in writing and that the request be made, really, at any time. But, preferably after this section is adopted, referring to this particular section, some sort of explanation if you wish to include comments in the Journal. So, I would suggest that when this amendment is completed that you all prepare whatever comments you wish.

Mr. Riecke: Fine.

Mr. Avant: Mr. Jackson, this may be repetitious, but, I think it's important. I want to make sure I understand it. In East Baton Rouge Parish one hundred percent of our classrooms are air-conditioned. No question that in the hot summer months you can learn better in an air-conditioned classroom than you can in one where the temperature might be up around a hundred degrees, because we have that in East Baton Rouge Parish. If this amendment is adopted would it mean that in Mr. Milbourne's parish where maybe they don't have even ten percent--I don't know--that they would have a right to bring a suit and compel the state to provide air-conditioned classrooms in any school, in any parish where they didn't have one just because we had them in East Baton Rouge Parish?

Mr. A. Jackson: I do not believe that it would require that, Mr. Avant.

Mr. Avant: It's not your intention to require that?

Mr. A. Jackson: It's not my intention to require it. There is some question in my mind relative--when you start talking about the effect of the environment on the learner, you know, whether or not we can conclusively approve that air-conditioning is, you know, really a big factor in the ability to learn.

Mr. Avant: But, it is not your intention to bring about that type of situation?

Mr. A. Jackson: Not my intention.

Mr. Chatelain: Delegate Jackson, I have a problem with "at all stages of human development." Can you clear that for me please, sir?

Mr. A. Jackson: Well, I certainly, that's not a part of my amendment; it's a part of the section; but, I'll address myself to it if you...

Mr. Chatelain: Well, your amendment says...

Mr. A. Jackson: If the Chair would...

Mr. Chatelain: But, I'm afraid...I'm tying your amendment, sir, which says "an equal opportunity at all stages of human development." This is the thing...

Mr. A. Jackson: If the Chair would think it would

be proper, I would address myself to it.

Mr. Chatelain: But his amendment, Mr. Jackson, does bear on this amendment.

Mr. Casey: Explain the problem, Mr. Jackson; what is it, would it help you?

Mr. A. Jackson: All right, well, I think that there is a very important point of concern of Mr. Chatelain, that would suggest to me that learning is not only continuous, but that many, many of the experiences necessary for youngsters to be successful start at conception. That what we are really talking about is the need to be aware of all of the experiences that influence the teaching and learning process, the life style, what happens to a youngster between the ages of two and three, what kinds of experiences we ought to have, what kinds of environment we ought to provide even for prenatal embryo--you know, by way of the mother.

Mr. Chatelain: That's the problem, I see, sir.

Mr. Casey: Gentlemen, I have to say Mr. Jackson has now exceeded his additional ten minute that he has had.

Mr. A. Jackson: I ask for a favorable vote on this amendment, Mr. Chairman.

[Roll call vote taken 1. Amendment passed 10-11. Motion to reconsider failed.]

Amendment

Mr. Poynter: Next amendment sent up by Delegate Conroy:

Amendment No. 1. On page 1, delete line 12 in its entirety and insert in lieu thereof the word "Preamble" and on line 13, at the beginning of the line delete "Section 1."

Explanation

Mr. Conroy: I have no objection to the statement of principles contained in what is now denominated Section 1. However, I think that rather than promoting education, Section 1 as an enforceable part of this constitution, would paralyze education in this state. I believe that we would have suits throughout this state by people trying to determine exactly what it means and what enforceable rights it may give them. I think it's an appropriate goal to state what our objectives are, and what our objectives should be, but I don't think that we should put this in as an enforceable part of the constitution where suits could be brought to determine what it means and what effect it may have. There were a number of questions raised throughout this discussion earlier. I disagree with the answers given from the podium that said that this would not be enforceable when they said it would not be. I think that it would create a real chaotic situation to adopt Section 1 as part of the body of the constitution.

But as I said, I think it's a fine statement of principles. Therefore, I have--the amendment here simply changes it from Section 1 to a preamble to the education article. In that way, it's a recitation of principles, and I think an appropriate recitation of principles.

I urge adoption of the amendment.

Questions

Mr. Bergeron: Dave, we'd just like to clear up what your amendment--that this first section would be a section of philosophy. Am I correct?

Mr. Conroy: Yes, correct.

Mr. Bergeron: O.k. Thank you.

Mr. Conroy: Just like the preamble to the constitution itself.

Chairman Henry in the Chair

[...]

Mr. Jackson Mr. Conroy, under the committee proposal, the words which you choose to delete say very simply, "educational goals." How is it that...you know...how do you define "educational goals?"

Mr. Conroy Well, my concern, Mr. Jackson, is with that recitation in here, any school board that took any action that somebody might consider was not in the direction of those goals, could be challenged by an individual--in court. That's my concern. Because it says what the goals are. If any member of a school board fails to follow those directions and goals, I think he'd be subject to suit.

Mr. O'Neill David, the proponents of the prior amendment stated that they thought that this section was analogous to the Preamble to the Bill of Rights. So I don't believe, and I'm asking you, do you believe they should have any objection?

Mr. Conroy I wouldn't...if that's their belief, then this clarifies that belief. That's all I'm saying, is that it...if it's parallel to a preamble to the Bill of Rights, then it should be a preamble to the educational article.

Mr. O'Neill Well, let me ask you if you're sure in your own mind that putting this word "preamble" in here will do what you want it to do. I want it to do the same thing that you do. I'm asking you if you're sure in your own mind that it will do that?

Mr. Conroy I'm not absolutely certain, Mr. O'Neill. But I know it'll be a lot better than if we don't have it.

[Previous question ordered. Record vote ordered. Amendment adopted: 72-32. Motion to reconsider tabled. Previous question ordered. Preamble adopted: 45-3. Motion to reconsider tabled.]

Reading of the Section

Mr. Poynter Next section, Section 2, Public Educational System

"Section 2. The legislature shall provide for the education of the people of the state and shall establish and maintain a public educational system consisting of all public schools and institutions of learning supported in whole or in part by state funds, the funds of any political subdivision thereof, or both."

Explanation

Mr. Carmouche Mr. Chairman, ladies and gentlemen of the convention, this section contains simple and concise language. It differs from Section 1 of Article XII in that the language is... "people" is replaced by "school children." In other words, "school children" is in the original Article XII of 1921, and is replaced by "people" in this section. By doing so, we give a broad educational concept to education. In other words, it's an education from the cradle to the grave. All types of education at all age levels are possible. This section also deletes the language, "granting public funds to children attending private, nonsectarian schools." This section has been declared unconstitutional, so has been deleted from this section. It also leaves out the minimum school age for children entering schools. As I see it, there...the...one of the main changes is "people." In the modern world, we need to educate people at all age levels. Career education is very important today as well as vocational courses. So, it also provides in this section that we be...that we have an opportunity to provide funds at the state level as well as at the political subdivision level.

Mr. Chairman, I urge the adoption of this section.

Questions

Mr. Jenkins Mr. Carmouche, the section says "the legislature shall provide for the education of the people of the state." Just for the record and so there's no misunderstanding, I'm sure this is your view. That means that we'll provide a system of public education, but it's not intended to mean that the state exclusively shall provide education or to any means exclude private or parochial schools from their function in providing education. Is that correct?

Mr. Carmouche No, that's right, Mr. Jenkins.

Mr. Dennery Mr. Carmouche, in view of the word "and" that's in this between the first clause and the second clause, do you not agree, sir, that the legislature may also provide for a system, say, of public libraries which really are part of the educational process but would not necessarily be part of the educational system?

Mr. Carmouche I agree to that, Mr. Dennery.

Mr. Champagne Is it the intent of the committee to provide any more or any less, for instance for parochial schools, than are now provided at this time?

Mr. Carmouche No. No, Mr. Champagne.

Mr. Champagne For the record I'm asking this question.

Mr. Carmouche For the record, we don't intend providing...we still intend providing text books and materials and supplies.

Mr. Champagne This was very important. This has been asked of me by a lot of people.

Mr. Carmouche O.K.

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Rachal]. On page [1 line] 22, after the word "system" insert a period "." and delete the remainder of the line and delete lines 23, 24, and 25 in their entirety.

Explanation

Mr. Rachal Mr. Chairman and fellow delegates, while brevity is one of the objectives of my amendment, I have another. My amendment also provides, while retaining the mandate as the committee proposal does, to...for the legislature to provide an educational system, and it commits the state to providing a system of education. I'm merely suggesting that the unnecessary language be eliminated. I further state that the...this language which I contend is unnecessary, may also prove to be limiting to the state in its educational system in the future. It seems to me that to make the statement that the legislature shall provide for the education of the people of the state, and shall establish and maintain a public educational system, is adequate language to commit the state to the providing of education within the state.

With that simple explanation, I would move your favorable consideration for the amendment.

Questions

Mr. Burns Mr. Rachal, I'm a little bit like Mrs. Warren about your amendment. I don't believe you can repeat "public schools" too much.

Mr. Avant For the record, Mr. Rachal, this question.

is it the intent of your amendment to provide a constitutional basis under which the legislature could prohibit the operation of a private system of education?

Mr. Rachal I don't consider that by amendment for anything does not give me take away that right

Mr. Araft It does not have that intent?

Mr. Rachal Mr. Araft it is simply to state as briefly as possible the mandate to the legislature to provide, and the commitment of the state to maintain a public school system and, in fact, it is public the additional language there, does not really add anything except words. In fact, I fear in a sense that it may be somewhat limiting at some time in the future. By that I mean that the state, I am suggesting, should provide for a public educational system with no limiting factors connected to it. Let me go further, the committee's proposal had it supported in whole or in part by state funds, etc. I'm just concerned that the legislature and the state will be committed to provide and maintain a system by whatever means it deems necessary. It could utilize federal funds for that matter, in providing some programs.

Mr. Jean Mr. Rachal, I would not have any concern with your amendment except that the last part of the committee proposal would indicate to me that it contemplated a continuance of the funding of public education, both on a state level and on a local level. It's not your intention in offering this amendment to in any way disrupt that approach to public education, is it?

Mr. Rachal Not at all. In fact, I think the language in the Revenue, Finance and Taxation, etc., continues us in this constitution as committed to a...cooperative means of providing for education within the state.

Mr. Jean So that if we put a period after the word "system" on line 22, when you say that "the legislature shall establish and maintain a public educational system," that would mean that the legislature could authorize local political subdivisions to levy taxes for the benefit of that system if they wished to do so?

Mr. Rachal It is not my intention...let me answer it this way...it's not my intention to change any of the current operational procedures. In fact, I would expect that that would be continued. I was simply stating in there that I didn't think that the extra language was necessary. It is not my intention, to answer you directly, to interfere with any of the present arrangements in terms of the funding of the school system. I think that the reduction in the amount of the language allows whatever flexibility is necessary for the legislature and local communities to work out arrangements regarding the providing of education.

Mr. A. Jackson Delegate Rachal, would your amendment decrease the level of financial support for a school system?

Mr. Rachal No, I don't see that the present article gives it any more, and I'm not...

Mr. A. Jackson Well, my concern is...hinges on Mr. Jean's question. You know we are trying to talk about a level of support for education as one-third, one-third, and the elimination of the last part, in my opinion, reduces the level of support at the local level, don't you think?

Mr. Rachal I suppose you would press that interpretation. That is not my intention whatsoever.

Mr. A. Jackson But aren't we really...wouldn't we reduce the level of excellence if we...reduced

the level of financial support at the local level?

Mr. Rachal In answer that question first, yes...if you remove support from the local level, you would, but I'm not suggesting that the support from the local level would be reduced. I'm not suggesting it in any way.

In fact, in response to further to your question adding that it will consist of the other...concerned with mandating that the legislature shall provide in the state, committed to it...not in any way suggesting that the elimination of any current arrangements for providing for education, Mr...

Your...added to that because your question...right...and my answer saying you...right...that I intended something other than what presently exists. Certainly if you remove the local support, you would have a different--not necessarily a different quality--but certainly you would have a different amount of funds going into it. I don't suggest that at all.

Mr. A. Jackson But don't you...remove the requirement when you take out that last sentence?

Mr. Rachal I would tell you to look at it another way that I...don't want to limit the providing of school systems to state and local funds. I want to make certain, on the other hand, that by whatever funds and whatever resources that the legislature shall provide and maintain.

Mr. Comar Mr. Rachal, in the wording of this, I get from the wording that's included in the committee amendment the fact that maybe the state legislature may not be able to support any aids for colleges and universities, if this amendment is adopted. Is that your interpretation, or is it that you are limiting it to elementary and high schools?

Mr. Rachal Well, ordinarily when you refer to the public educational system, usually it is felt that it is referring to elementary and secondary schools. The language...I'm retaining that part of the language in here. I don't see that my amendment makes any difference to the providing of the educational school system. What I'm really eliminating is really what I consider a phrase, a clause in that, in the statement that's in the committee's proposal.

Mr. Comar I have no particular concerns with it. I just was wondering whether institutions of learning may mean that the...that an interpretation of this may mean the legislature may not provide some aids at the college level which they are now providing or will in the future provide.

Mr. Rachal My only response to that is, the present language doesn't...your question could be raised about the language as it presently exists in the proposed article. My amendment to eliminate the remaining words has no bearing on your question as I see it.

Mr. Goldman Mr. Rachal, isn't it true that there is some financing of programs in public schools and institutions through federal aid, and, also, through private foundations, etc., which require matching funds, locally or state...or by the state?

Mr. Rachal I'm sure that I'd be safe in saying that every...certainly every institution of higher learning has that kind of assistance.

Mr. Goldman Well, also, the primary and secondary schools have those...

Mr. Rachal Yes, Title I and several of the...

Mr. Goldman That's right, and that's the program...that being the case, wouldn't the leaving in of the committee proposal...that last phrase that you would eliminate by your amendment, wouldn't

that strengthen the ability of the...of the local political subdivisions and the state to provide these matching funds if we left that in there and didn't eliminate it?

Mr. Rachal Well, I don't see that it does. This simply says "supported whole or in part by state funds or funds of a political subdivision." It seems to me that may be more limiting than the granting of permission.

Mr. Goldan Well, the part that I was interested in was "in part." That "in part" would be that providing matching funds for federal and private foundation funds that would require the matching funds.

Mr. Rachal Well, I'm suggesting in my amendment that not saying it means that you could...it could be totally nonstate funds for that matter. It could be whole, in part, or no state funds providing some programs or activities as a part of an educational system. I want to make certain that the...that adequate flexibility is given to the legislature in providing for the educational system in the state...with no...with as little opportunity for an interpretation to the contrary.

Mr. Roy Mr. Rachal, I agree with you and think that it does limit it. Don't you agree that when you add the words "consisting of all public schools and institutions of learning supported in whole or in part by state funds," that if the state provides in the future for, let's say, training nurses, and I'm sure they do, and has some arrangement worked out with a hospital which is not a public hospital, which is not supported by state funds, that you may be limiting the ability of the state to give our citizens training in hospitals where it would have to reimburse the hospital for the amount of services that the hospital provides. Don't you agree with that?

Mr. Rachal That's a good example. I wish I had thought of it myself in my presentation. I want to avoid any kind of interpretation that such an arrangement would be precluded by the language in this article. The emphasis to me should be placed upon the necessity and the mandating and the requirement to maintain whatever kinds of educational programs are needed for the citizens of the state--without any possibility of interpretation for limitation.

Mr. O'Neill Mr. Rachal, I agree completely with your amendment before I ask my question. But it's been pointed out in several places...by several speakers...several questioners...that the sentence where it says "in whole or in part" may include private schools by reference which do get some state aid in the form of books or what have you. Don't you believe that your amendment will take out, you know, all the complications of all of this, and just simplify it a great deal, and take away this, what I think is very questionable doubt in most people's minds?

Mr. Rachal ...the more you talked, the more you lost me. I was a little worried when you made... the last gentleman who said he was in support of an amendment and asked a question, ended up voting against it. So, maybe I'd better get you to repeat the last part of your statement.

Mr. O'Neill Well, I'm going to vote for your question. My concern is where it says "supported in whole or in part." I'm concerned that that may include private schools by reference.

Mr. Rachal You mean the supporting of them in part?

Mr. O'Neill Right. That they could be termed, then, part of the public educational system. Therefore, I think your amendment simplifies things, and I think it's a good amendment because it takes

that doubt out of our minds--did you know?

Mr. Rachal Yes.

Mr. Giarrusso Tony, I think you have already answered the question, but specifically, I'd like to ask you: Would your amendment preclude subsidization to Tulane Medical School, presently given by the state?

Mr. Rachal No, it does not preclude that. It does not say that it should be done, either, though. It doesn't preclude it; it leaves it to the legislature to find the best, as well as, sometimes, the most economical means of providing an educational need, if that would be the case. If you are referring to the present arrangement whereby advantage was taken advantage of, you know, to provide for some of our citizens who could not go to L.S.U. I'm thinking that's what you're referring to.

Mr. Giarrusso Well, it's my understanding that the state presently subsidizes scholarships, or, rather, tuition for seventy medical students to attend Tulane University. Of course, I am concerned as to whether this would deprive people of a medical education and doctors that we so sorely need.

Mr. Rachal No, it would not preclude that arrangement.

Mr. Champagne Mr. Rachal, would you agree with me that your amendment is more general in nature, and therefore, more constitutional material than the committee report?

Mr. Rachal That was another of my objectives, Mr. Champagne.

Mr. Champagne And...further, if you're going to specifically mention local funds and state funds, then you would also be required to list all the other funds such as federal funds that many parishes are getting.

Mr. Rachal Right. One fear was that it may be interpreted that it precluded the use of other funds, and I would want to make certain that in providing, as I've said, quality education, that we do it in the most economical means, and to the benefit of the state.

Mr. Aertker Mr. Rachal, your whole purpose here is first, as you are attempting to eliminate some unnecessary language from this section, and secondly, that you are strictly restricting this responsibility of the state to maintain a public education system and not getting involved with any other kind of system. Is that correct?

Mr. Rachal That's right. It's public--I deliberately left the word "public" in there, Mr. Aertker.

Mr. Aertker That's the reason why I continue to support your amendment.

Mr. Riecke Mr. Rachal, wouldn't your amendment excluding these lines preclude the supplying of school books to private schools, to parochial schools?

Mr. Rachal Would it preclude it?

Mr. Riecke Wouldn't that preclude the furnishing of school books and supplies to parochial schools?

Mr. Rachal That is not my intention, Mr. Riecke, and I don't think it would because there...the present constitution, in its language, doesn't specifically--oh, I better take that back--is not provided in this same area in order to make that provision possible. It's applied to the children of the state. I don't...

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Mr. Wheeler—now specifically say public school, and then you have to...then you don't include the other. It would seem to me that that would preclude the state supplying a hold back and applying to nonpublic schools.

Mr. Sutherland—well, first, it is not my intention, but I would go further to say that the present language which I am attempting to amend, does not have anything which would permit that anyway. It also is a public school system and simply says how it shall be funded. So, the language in the present article does not give permission, you know, does not have language permitting what you are saying. Yet, that has been provided. My intention, therefore, and I insist, is not to preclude such continued assistance.

Mr. Wheeler—All you do, therefore, is to eliminate three lines in order to shorten the constitution, then—is that the purpose of it?

Mr. Rachal—I didn't quite hear you.

Mr. Wheeler—I say, isn't it the purpose of your amendment simply to shorten the constitution, and you only shorten it by three lines?

Mr. Rachal—Yes, but if I multiply three lines enough time, it will amount to some added space. But, aside from that, I think it...that it's...it clarifies. I must, in all candor, say that it also allows some flexibility. I'm thinking that the language may be somewhat limited.

Further Discussion

Mr. Sutherland—Mr. Chairman, fellow delegates, I rise in opposition to this amendment for the following reasons: It seems to me that when you say you're going to have a public educational system, you have to define the public education system, and that is what this language attempts to do that's in the committee proposal. It's "the public educational system consisting of all public schools and institutions of learning supported in whole or in part, by state funds, the funds of any political subdivision, or both." Now, when you start talking about aid to parochial schools, you're not giving aid to parochial schools under your present provisions. The courts have interpreted this as saying you are giving aid to the children, but not to the institution. I have serious doubts as to the constitutionality of something which would say you can give public funds to private institutions. Now, if you go about giving it to students to use for training in private institutions, that's a different concept. I think that the same thing is true when you say: could this...what about federal funds? Well federal funds don't enter into this picture because you are defining what is a public educational system for the state, and you're not including federal funds there. So, it seems to me that this provision as the committee has proposed it does do what we want it to do, and should not be tampered with.

Questions

Mr. Wheeler—Mr. Sutherland, we were talking about it back here awhile ago. You said that you did feel that this reference here, "supported in whole or in part," that the aid that went to private or parochial schools, that you felt like they were part of the public educational system, then.

Mr. Sutherland—No, I said, Mr. Wheeler, that the aid that is being given at the present time--textbooks, lunch, bus transportation--is not given to the school. The courts have held that it is given to the child.

Mr. Wheeler—Well, is it given to the child in Tulane Medical School?

Mr. Sutherland—If the object of the question is going there, it would be to state that Tulane is not, and not to be taken.

Mr. Wheeler—Well, really, Mr. Sutherland, Mr. Rachal's amendment would remove the word "supported" and put a list here, make it a list of what you want what it is.

Mr. Sutherland—If I thought you would take up time applying his amendment, Mr. Wheeler.

Mr. Singletery—Mr. Sutherland, would you use the word "operated" instead of "supported" as you think it would be better to use the word "operated" by the state and its agencies and political subdivisions rather than "supported"?

Mr. Sutherland—well, I think what the word is to say is the public educational system, and which consists of all schools and institutions of learning--that's elementary, high school, colleges, [...] or anything, but receive state support, in whole or in part, from public funds.

Mr. Singletery—But, would you have any...

Mr. Sutherland—State or local funds.

Mr. Singletery—Would you have any idea about an amendment that used the word "operated" instead of "supported"--operated by the state and its agencies and subdivisions rather than "supported by the state"?

Mr. Sutherland—If you want to take up an amendment, I would...I would not want to have that I would say that I would be opposed to that amendment which has presently taken that language. If you want to do that later, I'd be willing to support that.

Mr. Jenkins—Mr. Sutherland, would you say that a private trade school which receives vocational rehabilitation funds from the state is an institution of learning supported in whole or in part by state funds?

Mr. Sutherland—A private school that receives state funds?

Mr. Jenkins—Yes, that receives vocational rehabilitation funds, as an example.

Mr. Sutherland—That would probably come under this language.

Mr. Jenkins—Well, under the definition of public educational system, it says "the system of all public schools and institutions of learning supported in whole or in part by state funds." So, if we adopt that language, aren't we saying that any private school, or college, or trade school which has...any help from public funds is part of the public educational system?

Mr. Sutherland—I would think that that is correct. I don't know that it's been interpreted, would, whether or not the grant of funds to a private school is constitutional.

Mr. Jenkins—well, we certainly don't want to subject private schools--not be under the way, get, directly or indirectly some sort of help--to being within the public educational system, and thus, the control, I suppose, of boards and State Board of Education or the local county boards, would we?

Mr. Sutherland—That is correct.

Mr. Jenkins—So, would we need some sort of some five language here, then, that would state that direct aid of here to that private schools are not allowed with the public schools?

Mr. Sutherland . . . question, Woody, again--I may be wrong--but I question whether you can use state funds to support private schools.

Mr. Jenkins . . . ut, it is being done, in fact, we know now, right?

Mr. Sutherland . . . It has not been tested, has it? Anything can be done until it's tested.

Mr. Jenkins . . . Well, until it were tested, then, they would be in the public educational system, now?

Mr. Sutherland . . . But, you're talking about putting something in the constitution, here, or taking something out of the constitution, and I think it's important that we know where we are going.

Mr. Denberry . . . Mr. Sutherland, my question is along the same lines as Mr. Jenkins'. Although the state may not grant money to private institutions of learning, it can certainly contract with private institutes of learning, and if it does so, then those private institutions are supported in whole or in part by state funds which would throw them into the public system. I don't think this is the intention of the committee, is it?

Mr. Sutherland . . . No, it was not the intention of the committee, and maybe what Mr. Singletary said would be necessary...

Mr. Denberry . . . Well, under those circumstances, don't you think it would be wise to go ahead and adopt the amendment as proposed?

Mr. Sutherland . . . No, because I would think...I would like to see it which says "operating in whole or in part."

Further Discussion

Mr. Roy . . . Mr. Chairman, ladies and gentlemen, I rise in support of the amendment. I think Mr. Sutherland has just proved with his tedious arguments exactly what we've been saying, that the last words starting with the word "consisting," modify only "public educational system." So, that if you had some type of welding program, that certainly is in the interest of the state to educate people and give them some type of skill. If the state had some type of educational program involving welding with a private person, either number one, if Mr. Sutherland is correct--it amounts to the state supporting that private welding firm which is teaching the state's citizens--then we would say that that private welding firm would be in the state operational educational system, and would be a public institution--which doesn't make sense. But, the other thing that I was trying to suggest earlier is true. If it is not a public institution or an institution supported by state funds in whole or in part, then the state could not make any arrangement to help pay for the education of that citizen who's taking a welding course. My point is: that the amendment is a good amendment because it stops with a period right after "public educational system" where the state is mandated to establish and maintain a public educational system in the broadest sense. It is not restrictive. Please read: "consisting of all public schools and institutions" as modifying only "public educational system," and you can come to one conclusion--that what I have said, I think, is right. That if you don't...if the state cannot...if it cannot be considered a public educational program supported by the state, then, of course, no monies can be funded for it. So, I think the amendment is good, and if there are no other speakers, I move the previous question.

Mr. Henry . . . I believe there are some other speakers, Mr. Roy.
You are not going to insist on that motion, are you?

Further Discussion

Mr. E. J. Landry . . . Mr. Chairman and delegates, I reserved my time for this very important consideration. I haven't spoken to you much in the past, but it's very necessary, now, for me to teach. Sometimes we do well many things we have no business doing at all. Yesterday, we had a perfect example of two young delegates in this convention proving to us that we could simplify in two amendments--there were two very short amendments that covered a day's conversation, one full day's discussion, three pages of material--and two men--two young men, two delegates in this group--Duval and Roemer, succeeded in convincing us what we are here for. Now, this is a perfect example today. Listen well, this amendment of Mr. Rachal does exactly what I was sent here to do. That Section 2 is simply an expression of the public educational system, and it simply states what it should state--"The legislature shall provide for the education of the people of the state and shall establish and maintain a public educational system." Now, all of the other expressions are not needed because all of the provisions are made where the taxation, where the other revenues are found. There is no need whatsoever for anything but that statement, and that's what you and I are here for. I hope you support this amendment, and then begin doing today what we did yesterday--simplify, remove, identify, and do the job that we came here to do. We're doing...again, let me repeat, we're using too many words well, that we have no business using at all.

Further Discussion

Mr. Comar . . . I know everybody is ready for lunch, including me, so I'll be very brief. I rise in support of Mr. Rachal's amendment. I asked him some questions on the microphone awhile ago only to clarify some questions that were on...and were in my own mind with regard to whether this would endanger those special aids which may go to Tulane, or Loyola, or Xavier, or other schools in the state of higher education. So, I would urge you to adopt this amendment. It does simplify the language, and it does provide, I think, a consistent program according with the present wording of the constitution now. I would urge that you do adopt this amendment.

[Previous question ordered. Record vote ordered. Amendment adopted: 93-13. Motion to reconsider tabled.]

Personal Privilege

Mr. Jack . . . Mr. Chairman and members, I'm not really mad, but I'm distressed how the voting machine still don't register properly. Mr. Chairman, I don't want any wisecracks at me, but this is a serious matter. I believe I've had more trouble with the voting machine that controls my button. Last time I voted, supposed to be green, it's red. It's been happening. Now, I'm not blaming anybody, but it looks to me like when we are spending several million dollars here that my voting machine, regardless of whether I'm smart, dumb, or what, ought to vote like I want to vote. It's that simple. Now, I understand Mr. Harry Howard is the man that's called to fix these voting machines. This thing has gotten irritating. I've had to--since I first discovered this kind of stuff on mine back in August--I have to continually check, read carefully the Journal. I know you can say, "Well, everybody ought to read it carefully." We've got a lot of work; I can't check everything. Now, I think since they blame these voting machine troubles on Saturday night shoot-out, balls, dances, music, the wrestling matches on Wednesday, let's get Mr. Howard down here each Thursday morning, each Monday, get these machines checked. Somebody even said maybe it was these flying saucers messing up the voting electricity. I don't know. I've said some bad things about

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Mr. Chatelain U.A. Thank you.

Further Discussion

Mr. De Blieux Mr. Chair and ladies and gentlemen of the convention, I don't see how you can possibly debate whether or not you're going to have an elected superintendent of education without also taking into consideration whether or not you're going to have an elected board of education. That is, if they are going to have overlapping duties and responsibilities, and how will the superintendent work? Will he be subject to the policies of the board or will his duties and functions be entirely separate and distinct from the board? We have got to decide what we're going to do before we can decide whether or not we want an elected superintendent or an elected board. I feel like that under our present functions that we have right now, the present duties and responsibilities of the superintendent of education, and the board of education, that they are just incompatible with each other. That just makes plain common sense. Now, it may be that this is one of those provisions that we should have an alternative on the ballot for this constitution, is to let the people decide whether or not they want an elected board of education or they want an elected superintendent. I think it's just as clear as that. Now, we can't say that we can't discuss the board of education when...we're talking about whether or not we're going to elect a superintendent of education because the two are entwined with each other. We've got to decide what kind of policy we want to set for education in this state, and therefore, I would suggest that we do consider both of them at this particular time and set forth a policy, and then we can determine whether or not we want an elected superintendent or an elected board because we certainly, in my opinion, should not have both, and I believe the majority of this convention sees that and agrees with that. Now, so, if you want to elect a superintendent, you're going to have to vote to abolish the board of education. I believe it's just that simple.

Questions

Mr. O'Neill Well, Senator De Blieux, the question is not whether we're going to consider these together. The motion is to pass over completely this No. 3. Correct?

Mr. De Blieux Well, you're going to have to consider them both together. I think that, Mr. O'Neill, and so, if you want to pass it over until we get to that point, maybe so.

Mr. O'Neill Well, I don't want to pass it over, but we're not considering them together. The other question is that we debated and settled this issue back in the Executive Department Article at one time, and we didn't have the benefit of how the board was going to be set up at that time, and so, I really think the arguments are without any validity at all.

Mr. De Blieux Well, Mr. O'Neill, probably we decided too early and too quick at that particular time when we were discussing the executive budget. Probably we should have waited until we got to the article on education before making that decision. I think I urged that. But, it so happened that I couldn't get enough of the delegates at that particular time to agree with me.

Mr. Roemer J.D., I don't understand your argument. You say we've got two parts to this equation and we can't solve one without thinking about the other. I don't think anybody quibbles with that, but don't we have to proceed? Can't we remember when we get to the second part what we did in the first part?

Mr. De Blieux Well, I would support the motion

to pass over this until we get the other part so we can consider them together.

Mr. Willis Senator, I applaud what you say and quite agree with it. I think that we should first settle Section 4 before we decide on Section 3. Now, the reason for that is that I didn't vote on the question of electing or appointing the superintendent. I wanted to wait for this proposal. So, don't you think that to put matters in proper perspective, and especially in view of this amendment, that the superintendent would act as secretary and chief executive--no definition of which is given in that amendment, signed by everybody, we the people--that we should preempt, that is to say, pass over Section 3 and consider Section 4 so that we can determine and make a rational and intelligent decision with respect to Section 3.

Mr. De Blieux I certainly agree with you, Mr. Willis.

Mr. Denny Senator, don't you agree that if you voted for...or against, rather, an elected superintendent, and the convention decided to have an elected board that you might well want to have; an appointed superintendent, on the other hand, the reverse may be true. I voted against an elected superintendent, but if we decide to have an appointed board, I might well want to change my mind. Contrariwise, is it not true that if we have an elected board that some of those who voted for an elected superintendent might not want to change their mind?

Mr. De Blieux That is possible, Mr. Denny. That's the reason I think that the two sections ought to be considered together. We can't just take one without the other one.

Further Discussion

Mr. Kelly Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to the motion to pass over this particular section dealing with the election or the appointment of the superintendent of education. I think Mr. Flory has an amendment which is ready that has numerous, numerous signatures on it. I think this convention has already spoken overwhelmingly in the past, and I refer specifically to Section 23 of the Executive Article, which allows the flexibility that apparently some of the people in this convention wanted, allowing the superintendent of education to become an appointive office anytime after 1976 if the legislature by a two-thirds vote so decided. I think we've settled this issue. I see no use in prolonging it. I'd like to go ahead and see it settled once and for all within the next ten or fifteen minutes. Therefore, I ask that you vote against the motion.

Further Discussion

Mr. Stovall Mr. Chairman, members of the convention, I rise in support of the motion made by Mr. Aertker. A few moments ago, Mr. Flory said that the people of the state wanted an elected superintendent of education. I realize that this is not the issue before us at this time, but I have here before me an article by Mr. Gerald Moses of the Advocate in which he gives a report of the scientific survey made of the people of the state, in which the conclusion was drawn that a majority of Louisiana voters prefer a separate board to govern elementary and secondary education, and they want an appointed superintendent. Now, the more important issue, I think, is simply this: that you decide on structure and form and organization and then you decide on personnel. I think this is a basic principle in business administration, in government, you adopt a constitution, and then you elect or select the people or appoint the people who will carry out the mandates of the constitution. I think we're dealing with something

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very last. We deal with structure and financing, with personnel. Therefore, I encourage you to support the motion made by Mr. Aertker.

Questions

Mr. Lanier: Reverend Stovall, would you agree with me that basically we have two choices here? We either go with an elected board and an appointed superintendent or an elected superintendent and no board at all?

Mr. Stovall: Yes.

Mr. Lanier: Do you think we'd have a real bad situation if we had an elected board and an elected superintendent?

Mr. Stovall: Yes.

Mr. Lanier: Don't you also think we'd have real bad situation if we had an appointed superintendent and an appointed board?

Mr. Stovall: Yes.

Mrs. Warren: Reverend Stovall, did I understand you to say the issue was not what the people wanted?

Mr. Stovall: No. I did not say that, Mrs. Warren.

Mrs. Warren: But, I'm thinking that's what you said. But, then you went on to say somebody else made some kind of survey and said the people wanted an appointed one. I'm just trying to wonder how did they contact all of the many people when they are one individual and you have representatives from a number of districts who have had the privilege of contacting people in these favorite districts come up with a different version.

Mr. Stovall: Well, that's quite possible, Mrs. Warren.

Mrs. Warren: Can you remember that in the offset that they voted almost unanimously--this convention--for an elected superintendent, and then can you remember the game that came back down?

Mr. Stovall: Yes. Mrs. Warren, I think that basically what the people of this state want is a good system of education--period. They want us to think through and to work through the best organization and method of bringing about this system.

Mrs. Warren: I understand that, too, but that ain't what mine told me they wanted a part in selecting who was going to do it.

Mr. Willis: Reverend, don't you think there's another way to skin that cat to find out what the people want, and that's to give them that alternative proposal? Don't you have...

Mr. Stovall: I don't understand your question. Start over.

Mr. Willis: Don't you have a proposal from the Rules Committee whereby we can submit to the people? Then, we'll find out what the people want. Give them an alternative proposal. Don't you have such modus operandi that we can...don't you have such a rule?

Mr. Stovall: Such a provision has not been approved or provided for as yet, Mr. Willis. We have a committee on the rules within the Rules Committee that has been appointed to study this and to present such a recommendation to the convention if we feel that the need calls for it.

Mr. Willis: Well, don't you think that, of course,

the state should be organized for the row if it's not legislative, but don't you think that's what you say about what the people desire and what the present superintendent of education has campaigned on, and the consensus in a view of what the constitution of that document that would have the superintendent elected, that we should give the people an alternative?

Mr. Stovall: Well, I think that's one possibility--Mr. Willis, but basically I feel that right now, we could approve Mr. Aertker's motion, and deal with the board setup.

Further Discussion

Mr. Morris: Mr. Chairman, ladies and gentlemen of the convention, I too, wish to speak in opposition to passing over Section 3 and going to Section 4. I think the arguments that you will make for Section 4, whether you have an elective superintendent or an elective board can be made for Section 3 or 4. I don't think it really makes any difference when it...your argument is going to be made because one does bear on the other. But, I think it's just as easy to take Section 3 now as it would to pass over it and come back to it. I would like that we proceed like that.

Further Discussion

Mr. Rieckle: Mr. Chairman and gentlemen, as a member of the Education Committee, most of us felt that we wanted to do everything we possibly could to keep education out of the hands of a governor or any control group. We wanted education to be perfectly free from that. For that reason, we said that the Board of Education should be elected, seven members, one from each district which divides the state with representation on the board, and we felt that that was the best way to eliminate control of the school system of our state. If the superintendent...we can vote here today on an elected or an appointed superintendent. That's not what Mr. Aertker asked us to do. He asked us to defer that until some of us had an opportunity to determine what you decide on the board because obviously, if the board is going to be appointed, many of us think that the superintendent should be elected. But, if the board is going to be elected, we feel that the superintendent should be appointed. This would also avoid the conflict that we've had in the past between the elected superintendent and the elected board. I urge you to give yourselves an opportunity to check and see what you want to do with respect to the board, first. Thank you.

Further Discussion

Mr. E. J. Landry: Mr. Chairman and delegates, this is a very important issue, to be considered now, and I'll give you the reason for it. We are fifty-fifty in the committee on this issue. But, you are almost a hundred percent in this delegation for the amendment proposed by Mr. Flory. You must realize that you start from the known in building any concept or any structure. If you know something, if that's the first block, then you lay it, and that's the block to be laid--the fact that this convention has spoken. Then, you build around it. Now, there's not a doubt in my mind that if you nail that block down at this time where it belongs; put it there; then you will change your concept on whether you want an appointed board or an elected board when that time comes. Now, let me remind you of something. You're living in a day of change. No one has ever thought about the fact that we do not need a board at all. Now, I've lived through fifty years of conflict between the superintendent of education for this state and the Board of Education. It would very well be that with a Department of Education and an elected superintendent of education, you might very well manage without conflict, the affairs of the State of Louisiana. It's never been tried, but

it could very well be considered as a very meaningful way of directing the affairs of this state. Now, think about it, but for goodness sake, at this time, put your blocks down in order from the known to the unknown. Now, the known is that you want a superintendent of education. Put first things first, and then build the other structure around that fact. Now, ladies and gentlemen, you've got to admit that that makes sense.

Questions

Mr. Stovall Mr. Landry...

Mr. E. J. Landry I'm afraid of questions because these legal minds have a way of answering questions beautifully.

Mr. Stovall You've been a superintendent of education, haven't you?

Mr. E. J. Landry I have been a principal of a high school, and a supervisor and a director of administration in the Air Force over a long period of years.

Mr. Stovall All right. But, say a superintendent of education--first of all you have the Board of Education, do you not? Then, the Board of Education or the school board selects the superintendent?

Mr. E. J. Landry Right.

Mr. Stovall Isn't that the normal procedure that you have your basic structure and then they select or the decision is made as to how the head man will be selected?

Mr. E. J. Landry The normal procedure in establishing any fact is to deal with the known and then move from the known to the unknown. We know what the people of this state want, and we know what this convention wants because you are the elected representatives of the people, and you expressed yourself.

Mr. Chatelain Mr. Landry, you speak of the knowns and the unknowns, sir. Is it a known fact that today under the present constitution, we have an elected Board of Education? Don't we have an elected state board? Is that a fact, sir?

Mr. E. J. Landry Yes, that's a fact.

Mr. Chatelain Do we also have elected state board...superintendent of education? Is that right, sir?

Mr. E. J. Landry That's true.

Mr. Chatelain Well, I think the question here is: what's coming first, the chicken or the egg? It seems to me like if you're not going to have a board, you certainly need an elected superintendent. But, I think the question, sir, is reasonable that we should know which comes first.

Mr. E. J. Landry Well, we all have a right to our own opinion.

Mr. Chatelain Thank you, sir.

Further Discussion

Mr. Goldman Mr. Chairman, fellow delegates. First of all, I rise in support of the motion to pass over 3 and go to 4 because I think that's the horse, and it should come before the cart. But, in having said that, I'd like to call your attention...I think you ought to be thinking about this. You may not realize it to a discrepancy here that may be very important. You may call it technical, but I think it's very important. If you'll think about all we did in the executive branch, we provided in Section 3 for the election of a superintendent of education. Back at the end of that, we added a new section saying...or some-

where in there, we added a section saying that the legislature...Section 23, after a certain date, could decide whether or not the superintendent--and listen to me well--the superintendent of education should either be elected or appointed. Now, look at this article we're considering now. This says, "a superintendent of public education for elementary and secondary education." Are we talking about electing or appointing two different superintendents of education? One says "a superintendent of education"; the other says "a superintendent of education for public elementary and secondary education." Perhaps, the wording on one should be changed to conform with the wording on the other so that we won't have the possibility of, perhaps, having to elect or appoint two different superintendents of education.

Delegate Stagg in the Chair

[Irrelevant question ordered.]

Closing

Mr. Aertker Mr. Chairman, ladies and gentlemen, I'm going to be quite brief. It just amazes me to think that you all would tell me that you don't want to hear some facts concerning how education is going to be governed, how it's going to be composed. All you want to do is tell me that you've made up your mind, and don't confuse you with any facts or any other information. If that's your attitude, then, the only thing I can say is that we really don't need an elected or appointed superintendent of education because we just need education in this state.

[Motion to temporarily pass over Section adopted: 55-41.]

Reading of the Section

Mr. Poynter Section 4. State Board of Elementary and Secondary Education.

"Section 4.(A) Creation; Function. There is created a body corporate, known as the State Board of Elementary and Secondary Education. The board shall supervise, control and have budgetary responsibility for all funds appropriated or allocated by the state for all public elementary and secondary schools and special boards under its jurisdiction as provided by law. The board shall have such other specific powers, duties, and responsibilities as are provided by law..."

Pick up on line 15.

"The board shall have such other specific powers, duties, and responsibilities as are provided by law, but shall have no control over the business affairs of parish and municipal school boards or the selection or removal of their officers and employees.

(B) Membership; Terms. The board shall consist of three members who shall be appointed by the governor, with the consent of the Senate from the state at large, and eight members who shall be elected from single-member districts to be determined by the legislature. All members shall serve overlapping terms of six years, following the initial terms which shall be determined by the governor or the legislature as the case may be, in a manner as to effectuate this purpose.

(C) Vacancies. Vacancies occurring for any cause prior to the expiration of the term shall be filled by appointment by the governor for the remainder of the unexpired term. Members shall serve without pay except for such per diem and expenses as shall be fixed by the legislature."

Explanation

Mr. Aertker Before getting into this section, let me first express my personal appreciation for your last vote. That does preserve my faith in the integrity of this body. I think that perhaps as we discuss this thing, we'll see that there are some points and there are some facts that might come out that will have a decided bearing

... I would trust the rest of this whole article...
 ... that we are about to discuss...
 ... the heart of this entire...
 ... this is the heart of the...
 ... what we've got to decide when...
 ... to go in that direction...
 ... decision involved here...
 ... that we are going...
 ... to be responsible...
 ... the first time in the history of the State of...
 ... the problems of...
 ... elementary and secondary education. It means we...
 ... to have a board that is knowledgeable...
 ... about the problems of elementary and secondary...
 ... education. It means we are going to have a...
 ... board that will meet and discuss the problems...
 ... and the issues involved in elementary and secondary...
 ... education. It will mean the discontinuance of...
 ... a board that presently meets and spends ninety-...
 ... five to ninety-eight percent of its time dealing...
 ... with matters involving higher education and voca-...
 ... tional-technical education. This isn't my...
 ... analysis of it. This is a fact. All you have to...
 ... do is go back and look at the minutes of the...
 ... meetings of the State Board of Education for the...
 ... last fifteen or twenty years, and you couldn't...
 ... how we are meeting in which they devoted ten...
 ... percent of its time to problems of elementary and...
 ... secondary education. I have to hold and contend...
 ... that education in Louisiana is completely dependent...
 ... upon what we do and how we resolve the problems...
 ... at elementary and secondary levels. For this...
 ... reason, I just believe that we have got to make...
 ... a decision to move forward in the direction of...
 ... developing a board that will represent those...
 ... feelings and those understandings that are so...
 ... necessary in order if we are going to make progress...
 ... in this state-continued progress--in the area of...
 ... elementary and secondary education.

Education is an expanding operation. The very fact that it takes more and more of the tax dollar tells you that education is going to continue to grow. Unless we recognize and deal with specific areas, and get people who understand what we are doing, we are going to continue to make mistakes in the expending of the tax dollar. I believe that until we get the proper thinking involving our boards of education, that we are going to continue to perhaps make decisions that we'll live to regret and face up some other time.

Now the proposal that we have is that we would have an elected board of education--I might point out to you that one of the changes in this election is that we do propose that we would have an eleven member board, and that we would have eight of these members elected from single member districts. This is, in my judgment, in concurrence with what this convention has already done in the legislative area in which you have agreed in principle to the single member district. So this, in my considered judgment, would allow and track and follow that thought and that line of reasoning. I agree with that.

In addition to this, we feel that there should be some inclusion of the power of appointment in order to make sure that, perhaps, certain interests and certain needed interests are represented there. For that reason, they have recommended, and are recommending to you for your consideration, the appointment of three of these members. The powers that are given to these... to this body is budgetary power. It means that they will, under the provisions of this act, they will go directly to the legislature with the problems of elementary and secondary education; they will be able to speak to the problems and hopefully, they won't cause the embarrassment that I have suffered through sometimes. They hopefully will go there with a full knowledge of the problems of elementary and secondary education when they ask some questions about programs and plans, that maybe they will present them in such a fashion that they won't strain the legislature, as I've seen the strained sometime, to have to support and appropriate funds on programs that were explained in such a manner that sometimes not too many people understood them.

... if you're a representative of something, you first...
 ... we represent a new day in education, if you will...
 ... give serious consideration to this...
 ... I ask your favorable consideration of this...
 ... proposal.

Question

Mr. Shannon: Mr. Aertker, in your opening statement you indicated that everyone that voted against your motion is a person of questionable integrity, and I resent that very much because I am one of those that voted against it. The vote was not too far apart.

Mr. Aertker: Mr. Shannon, I'm sorry you may have interpreted my statement as I meant, but my statement really was meant that I had faith that this body wished to hear provisions about that act. I regret that you have put your interpretation on it.

Mr. O'Neill: Two short questions, Mr. Aertker. Why weren't, in the single member district--which I agree with, why weren't they specified in congressional districts?

Mr. Aertker: Well, one of the reasons is that we just thought that the principle of single member districts would be followed, and again, Mr. O'Neill, it is quite possible that we might end up one day with census population figures, etc., having seven congressional districts. We might end up with nine sometime. For that reason we decided that this would be... that we would always know that we had eight geographical districts...

Mr. O'Neill: Well, I simply wondered if it was a conscious decision or not.

Mr. Aertker: It was.

Mr. O'Neill: The second question was, did you discuss the concept of a super board, and just some basic reasons why you rejected that idea?

Mr. Aertker: Yes, we did, and the basic reason we did it was because we feel that this would just be perpetuating the very thing that we have right now with the present state board, and that is that they would get themselves involved in nothing but problems, either with vocational or higher education, and that elementary and secondary education would continue to get as little attention. Secondly, it's difficult for me to really conceive that we would have people knowledgeable enough to really understand everything involving elementary, secondary, and higher education. We thought that we'd get a better select group of people if we had them on these types of boards.

Mr. Lanier: Mr. Aertker, I note here that you create this board as a body corporate. Would I be correct in saying that it was not your intention to make this board as the State of Louisiana itself, but as a separate political subdivision under the State of Louisiana?

Mr. Aertker: You've assumed correct. Yes.

Mr. Lanier: So when you use the word body corporate, it would be synonymous with political subdivision.

Mr. Aertker: That would be my interpretation of it. Yes.

Mrs. Warren: Mr. Aertker, did I understand you to say for the first time in the history... we're going to have some board members that's going to spend ninety-five percent of their time dealing with education and the interest of our children? Is that what you said?

Mr. Aertker: I really, if I said ninety-five, I

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really meant a hundred percent of the time dealing with that many things.

Mrs. Warren All right. Thank you. That's even better.

Let me ask you this. If these people are going to get only a per diem, and they are going to have to make a living, what time are they going to spend making a living? Or are they going to be required to be having so much money until they won't have to work?

Mr. Aertker I don't quite understand you.

Mrs. Warren I hope I'm making it plain. If one hundred percent means all you've got, now, they're going to give all of that time, and they've got to make a living, what time are they going to give toward making a living? Or are they going to find some way of making it through our children? This is what I'm trying to ask you. You said at ninety-five; now you say a hundred.

Mr. Aertker Mrs. Warren, the only thing that I can hope is that we continue to find in the State of Louisiana people of enough dedication who... won't be dependent upon this position to make a living at.

Mrs. Warren I hope we can find them, too. I want to say this. I'm a delegate to this convention, and I have missed one, and that was this past one...board meeting in the city of New Orleans. I think that a person that is elected and spends full time, has a better opportunity of seeing the problems than the ones who've got to make a living. 'Cause this one board member that you can catch up with when you want him on our board. I'm saying it open...

Mr. Roemer Bob, you...looking at the language in paragraph (B) and (C) and taking them together, how many state board members are appointed now?

Mr. Aertker None.

Mr. Roemer Then you have, with the appointment of three, that's new. Right?

Mr. Aertker That's correct.

Mr. Roemer There would be eleven total board members as I read it, three of whom would be appointed.

Mr. Aertker That's right.

Mr. Roemer So, somewhere between twenty-five and thirty percent of that board would be appointive and not elected. You go down to Paragraph (C), you notice that...the appointment in (B) is by the governor; the appointments of the vacancies in (C) is also by the governor. Now on an eleven man board, what does it take for control? Six. Right?

Mr. Aertker That's correct.

Mr. Roemer All right. With three appointments going in, and over a six year terms, perhaps the loss or the retirement of three other members and their subsequent appointment by the governor, then he's got six. Right?

Mr. Aertker That's correct.

Mr. Roemer Doesn't seem too smart to me.

Mr. Aertker Well, I would have to presume that we're not going to have that turn over. I think if you'll check the record of these members of the present State Board of Education, you'll find out that their longevity extends pretty well in most things.

Mr. Roemer Well are you going...Bob are you trying to tell this convention there's something

about being a State Board of Education member that it insures longevity?

Mr. Aertker No, but I'm not; I'm also saying it doesn't automatically kill you off in six years.

Mr. Roemer Very good.

Mr. Dennis Bob, could you give us some facts and figures as to how many states have a board which is devoted solely to secondary and elementary education, and how long they've had them and how that's working in those states?

Mr. Aertker Judge Dennis, I really don't. I could probably get you the information very easy. But I really couldn't tell you offhand. I do know that several states do have them, though.

Chairman Henry in the Chair

Mr. Jenkins Bob, I'm looking at your section, and I'm comparing it to Section 10 dealing with minority representation.

Section 10 says, "An appropriate numbers of citizens from the predominant minority race of the state shall be included on each of these boards." Now what is an appropriate number of citizens of the minority race to be included on these boards, including this one?

Mr. Aertker Mr. Jenkins, you're dealing with Section 10. I can assure you that I listened long and hard when that was discussed in the committee. I heard about twenty-one different definitions of "appropriate;" and so all I can say is that I really couldn't tell you what Section 10 is really saying as far as the...my appreciation of it would be...an appropriate number would be that one out of three would be appropriate. I mean that would...but again, I could understand where somebody might say "appropriate" as far as they are concerned might be three out of three.

Mr. Jenkins Well, I raised that question because you have an eleven member board here, three of whom are to be appointed, eight of whom are to be elected. Is it your concept that maybe the three appointees would have to be of a certain race?

Mr. Aertker No, it's not my appreciation of that at all.

Mr. Jenkins If we'd say the elected ones were of a different race, or something like that?

Mr. Aertker No, that isn't my understanding of it. I really believe that, Mr. Jenkins, that we put it at Section 10 because we felt that that was another issue involved, and that that would have to come after we made the decision as to the powers and the functions and the purpose of the creation of the Board of Education, because I have an idea that that Section 10 will be in for quite a bit of discussion. Perhaps, maybe, some at that time, somebody might even be able to tell you what "appropriate" is. It might be appropriate at that time.

Mr. Riecke Mr. Aertker, doesn't it say that the board members shall be elected for overlapping terms?

Mr. Aertker Yes, it does.

Mr. Riecke Wouldn't that preclude the possibility of a governor controlling the board?

Mr. Aertker Well it...the purpose of it would be. I think...the question, Mr. Riecke, was asked that it...should you have deaths or resignations, etc.?

Mr. Riecke I understand that. But the possibility of a governor controlling the board when it's overlapping--your school boards, your local school

boards are over a long term. The purpose of that is to prevent any one political organization from dominating.

Mr. Aertker: That's correct.

Mr. Speaker: That's what we provided here on the question. Of the three members appointed by the board, in our discussions on the committee, didn't we provide for three members to be appointed on that board by the governor to assure the people of the minority race on our committee said that it was unlikely that black people would be elected, and they wanted some cushion there where the governor could appoint people of the minority race to give them an opportunity to be represented on the board? Is that not correct?

Mr. Aertker: That's correct. In fact, that's the very reason why Section 10 was included in this amendment.

Mr. Kieck: Thank you.

A. Amendment

Mr. Foynter: Proposal...the Amendment, excuse me, by delegate Leithan reads as follows: Amendment No. 2 [1]. On page 2, delete lines 7 through 3E, both inclusive in their entirety and on page 3, delete line 1, in its entirety, and insert in lieu...

[Mr. Speaker to waive reading of the amendment except as without objection.]

Explanation

Mr. Leithan: Mr. Speaker, I'm sorry...Mr. Chairman, members of the delegation, the amendment that you have before you is, in essence, more than just Section 4. The amendment that you have, the one page amendment, is intended to represent Section 4, Section 5, 6, 7, and 8. The entire structure of education in the state. In order to do this, I've got to go beyond Section 4 which we are presently considering in order to get a fair balance between the two. Under the Proposal No. 7, the committee proposal, there are four boards intended to be in the constitution of the state--four boards--a total of sixty-five people on these four boards. Now this is the whole crux of the situation as I appraise it.

On these four boards--and you can write this down because this is how it's reading in Proposal No. 7--there will be fifty-seven appointments by the governor--fifty-seven appointments by the governor--only eight people to be elected by the people of the State of Louisiana. Therefore, as I see it, education will not be by the people of Louisiana. It will be by the governor in office. With fifty-seven appointments, he can do anything he wants in the state. I'm certainly not pointing this at our present governor. I'm looking to the future. This is what would happen under Proposal No. 7 as you see it. I stand here before you representing with this plan--this is in essence Proposal No. 53 which I had--with fifty-three, this proposal calls for only two boards: One board for secondary-elementary education; a second board for higher education. So there'll be two boards for the entire make up of education in the State of Louisiana. In offering this to you, I am speaking on behalf of your universities, exclusive of LSU, Baton Rouge Campus. I am speaking on behalf of LSU in New Orleans, LSU in Shreveport, University of Southwestern, University of Southeastern, Northeastern, Northwestern, Louisiana Tech, Delgado, Holy Cross, McNeese, and Nicholls. I'm speaking in offering these amendments to you on their behalf--some sixty thousand students. In addition, I am presenting this amendment to you on behalf of the following persons: Superintendent Michot, who strongly feels that we should not have as many boards in the constitution, feels that the governor should not have the appointive

power to control education for the state. I'm speaking to you on behalf of the president of our current State Board of Education, Gene Banker, who also agrees that Proposal No. 7 is wrong. I am speaking to you on behalf of Senator Mouton who is chairman of the Senate Education Committee. I am speaking to you on behalf of a vast majority of the state legislature who did a few years ago, realizing that our education was in trouble, attempted to make a change with a single member board. I'm speaking to you again on behalf of the universities from around the state.

Yes, we have certain problems. Problems that we would like to raise is that of funding of the state. I read to you from the Southern Regional Education Conference which is independent of the State of Louisiana. This is their finding. They outlined every allocation that is made throughout the state of Louisiana, and it reads in essence: Compared to total amount expended in 1972-73, the current year's increases amount to 9.8 percent for the LSU system, and 4.6 for all other colleges in the State of Louisiana. This is a vast imbalance in financing. I read to you, each of you have an article which was written by a member of the State Board of Education, and it reads this way: "LSU now receives two thousand three hundred and twenty-five dollars in its current operating budget to educate each of its students. LSU at Baton Rouge receives two thousand three hundred and twenty-five dollars per student. McNeese--you people from the Lake Charles area--your school receives one thousand one hundred and twenty-five dollars per...student. Southern University, the system of Southern University, your students receive one thousand three hundred and twenty-seven dollars; Southwestern, one thousand one hundred and sixty-eight. It goes down to the bottom where Louisiana Tech, Grambling, and Delgado share the bottom."

What we're saying in this article, or what the...State Board is saying...this member of the State Board, the inequity is this, that LSU educates roughly a third of our students in the state, and receives better than half of the monies in the state. This is a great inequity. I am not speaking out against LSU. I'm a big supporter of LSU. I have never voted one time against any appropriation for the LSU system, and I don't intend to in the future. However, this is a vast and a great inequity, and this is one way that I can see of correcting the matter.

Right now you all are now aware of this, perhaps, but the Legislative Education Committee is. Right now, there is being considered throughout the state, a fee increase at each of our campuses--a fee increase. Last night LSU in New Orleans, the student body strongly objects and plans to object to this fee increase. This is going to occur throughout the state. Why will it occur? Because of the inequities in the funding. Now, I know one of the defenses regarding the funding are those items that are being raised...

Point of Order

Mr. Aertker: I introduced a section that deals with a state board for elementary and secondary education. Now I have sat here and listened for two minutes a discourse on the LSU Board of Supervisors, the LSU school system getting funds. I just have a real doubt whether this whole thing if germane to the section that we have under discussion.

Mr. Henry: Mr. Aertker, the question was raised up here at the desk while ago. While the amendment's rather lengthy and it's rather all-encompassing, I'm of the opinion that the amendment is germane to the subject matter.

Mr. Aertker: Well, Mr. Chairman, the only thing I've stated is if I were to have known that that would have been allowed, then I would have talked about Sections 4, 5, 6, 7, 8, and 9 while I was

up there.

Point of Information

Mr. O'Neill Does the amendment purport to delete further sections, Mr. Chairman, or just this one section?

Mr. Henry Just this one section, Mr. O'Neill.

Explanation continued

Mr. Leithman Gentlemen, as I originally stated when I opened my conversation, or my delivery here. That I'm not dealing only--these amendments deal with Sections 4, 5, 6, 7, and 8--all of the structure of education. In Proposal No. 7 you have some four boards that are intended to go into this constitution. My amendment directs itself to the four boards replacing them with only two. This is why I have to cover a broad scope in this presentation. Now, directly to the amendment. As far as the elementary and secondary education, under my amendment there will be one board for elementary and secondary--not involving higher education--one board. There will be eleven persons on this board. There will be one person elected from each Congressional District. The remainder, which right now is three, would be appointed by the governor. So that is the elementary board. They will deal totally with elementary and secondary education. Do not be confused about their dealing with any other segments of education at that point.

Board No. 2 would be the higher education board which I refer to as a Board of Regents. On this Board of Regents, there will be eleven persons, also. Right now we would elect eight from around the state, and there would be three appointed. So we are replacing in Proposal No. 7, four boards we're replacing with two. We are replacing sixty-five persons with twenty-two people--sixteen elected by the people of the state.

Now the State Board of Education is a combination of these two boards for long range and budget control. Now I would, at this time, I would like to reserve some of my time for questions--if there are any questions.

Questions

Mr. Riecke Kenny, you said eleven members on that board. Now that would help because it tracks the eleven member board that's recommended by the committee. But you don't say that in your amendment here. You say "an additional number of members shall be appointed by the governor." Would you object to putting three additional members as appointed by the governor?

Mr. Leithman Well, why I, why I wanted to stay away from that, Mr. Riecke, is this. It was brought out when Mr. Aertker was up here. We don't know what is the future of our Congressional Districts. In other words, if, let's say next redistricting we wind up with seven or we wind up with eight...or nine Congressional Districts. The balance, one from each Congressional District would be elected, and the difference to the eleven would be appointed by the governor. So I purposely stayed away from pinpointing it in our constitution at eight will be elected and three appointed because this could present a big problem if our Congressional Redistricting takes place.

Mr. Riecke Don't you see, Kenny, if we pass it as you have it here, the governor could appoint nine. Then he would have control.

Mr. Leithman One member shall be elected...

Mr. Riecke Doesn't...

Mr. Leithman No, sir. I don't agree.

Mr. Riecke You say an additional..."one member

shall be elected from each Congressional District into which the state is divided" and "an additional number of members shall be appointed by the governor." This gives him unlimited appointments.

Mr. Leithman Well, the...in other words, you start one line further and you say, "The board shall consist of eleven members." That is the limitation of the board--eleven members. One member shall be elected from each Congressional District. Right now that would be eight. In reference to the additional members, that's the difference between eight and eleven. But in that first line, the board is restricted to eleven members--one elected from each Congressional District. So I don't really see any problem facing us at all. If you are limited to eleven, one must be elected from each Congressional District, the additional members are appointed by the governor.

Mr. Riecke Would it clarify that point, Kenny, if you took the word "and" out and put "the" additional members? Wouldn't that clarify it?

Mr. Leithman I have no objection to that.

Mr. Riecke That's a technical amendment, but I would like to restrict the number appointed by the governor. That would cover, too, if you had a resignation, then he would appoint four. If you had a death he would appoint four.

Mr. Leithman I have no objection to that. No objection at all, sir.

I would have no objection to doing that, sir.

Mr. Roy Kenny, I have two questions; first of all, in about line 5 of Section (B), you provide that the Board of Regents will be able to appoint boards to manage each college and university, is that correct?

Mr. Leithman Yes.

Mr. Roy There's no restriction at all. They could appoint all from one area; they could appoint all of one race; they could appoint all in a different area of the state; they could appoint any type person they wanted, is that right?

Mr. Leithman This would...they may do this. Now, what I intended in this section in that line is this, that each university in the state; let's take Northwestern at Natchitoches, they may have their own governing board at that university. Of course, the intent is to offer the opportunity for them to have their own managing board at the University of Northwestern...that is my intent on that...

Mr. Roy Yes, but that...not even the legislature could interfere with the board's action in that particular area, since we are constitutionalizing that right of the board; isn't that true?

Mr. Leithman Well, it...I don't see anything going into the constitution. This would be resolved by regular statute if there's any problem at all, Roy.

Mr. Roy All right. I have a couple of other questions, and the only reason I'm going to ask you this is because I really think that mentioning figures as to which schools spend how much money is not a fair representation of what's occurring. Do you know that only four colleges of the present ten under the State Board of Education offer doctorate degrees, and only in education? Did you know that at this time? Did you also know that of the ten colleges and universities under the State Board of Education only six offer master's degrees and only in Business Administration, Engineering and Education?

Mr. Leithman Yes, and let me...

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Mr. Roy Well, don't you think that that is really unfair, and that's what I'm getting at because I want the issue to be clear-cut. It may be to say that L.S.U. spend more per student than other when L.S.U. offer doctorate degrees. I don't think, of course, and any number of other's degree and what have you, isn't that true?

Mr. Leithman Well, it's based on a per student cost per student hour, regardless.

Mr. Roy Yes, but Perry, don't you know that as a matter of fact that it's a heck of a lot more expensive to educate a doctor...

Delegate Chehardy in the Chair

Mr. Roy This will be the last one, Mr. Chehardy. I may have to raise a point of order up there, but anyway...don't you realize and isn't it a true statement that it's a lot more expensive to educate a doctorate student than it is to educate a freshman in general business?

Mr. Leithman Yes, just as it would be more expensive to educate a medical student. Yes, we fully understand that. In our formula for the distribution of monies we...it's taken care of right there.

Mr. Avant Mr. Leithman, while you were quoting from the article that was written by Mr. D'Aquin, I happened to be reading the article that appears to be written by Mr. Joe Silverberg who was a delegate to this convention. I note that he states--when we get to those figures that you're talking about--that less than half of L.S.U.'s operating budget is devoted to classroom instruction, and that the institutions under the State Board of Education received forty-six and three tenths million dollars for classroom instruction while the L.S.U. system spent only twenty-five million. The difference is, as I understand it, the vast amount of research that is conducted and being performed by Louisiana State University for the benefit of all of the citizens of this state--and I ask you--did you dispute those figures?

Mr. Leithman Yes, I read the entire article. Why I...I don't know where Mr. Silverberg has gotten that information, I don't know. I do know that Mr. D'Aquin is a member of the State Board and I certainly value--in addition to which--I know in sitting on the Education...Joint Legislative Education Committee, I have a pretty good input as to where the monies go and just the purposes and where they direct it, and the wonderful job L.S.U.'s system is doing. I'm aware of this.

Mr. Avant Well, then you do admit then even though we may not at this moment be able to come up with specific dollar and cent figures, that a vast amount of the budget of L.S.U. is for research and experimental programs that do benefit the entire state?

Mr. Leithman No question.

Mr. O'Neill And who says there's no Santa Claus? Mr. Leithman, I made the same observations that Mr. Roy did about the students at L.S.U. and I think those figures are, if not in error, somewhat misleading. But, you know, I want to make two points and I'll ask them in the form of questions: first, whether or not you feel that the people of the state are looking to this Constitutional Convention to fix up what the legislature created in 1972, and whether they expect us to come up with a better solution to what's now being fought out in the courts?

Mr. Leithman No, I don't think so. I think the legislature realized very well, Mr. O'Neill, what was happening in Education in the State of

Louisiana when they sought to create a State Board and straightened out things in the state. Right now, we act as if yesterday, and I think we're going to continue to continue to continue. Out because yesterday, we had a committee to deal in education, and you're going to bring those figures brought out, Mr. O'Neill, in connection with between now and the 1975 or the next legislative term. We're fully aware of the fact that we're talking about people that took office on January 1, and got a full experience in the past that time. I'm talking about Senator Mouton who has been involved in it for years, Senator Baker, the majority...the vast majority of the legislature. These are people that have been working with the problem and know exactly what's going on. There aren't people that have just come onto the scene, these are people that are recommending things and attempting to bring it about. I'm not talking about just a few months of experience or exposure. I'm talking about years and years, and years of illustrations.

Mr. O'Neill Well, are you aware of the bill pending in court by the State Board of Education which would seek to nullify Art 71?

Mr. Leithman On a constitutional basis, yes.

Mr. O'Neill Yes, you say that they were in accord with the concept that you've come up with here?

Mr. Leithman Mr. O'Neill, the vast majority of the State Board of Education agrees with this. I have...I can read to you if I had the time, the president of the state board's comments as to what we should have. I could read to you Senator Mouton's verbiage as to what we need. I can read to you this quote from Michel who is the superintendent, "The idea of a single board for all education is neither new or novel. Now it is a necessary...it is the necessary panacea to cure all of the ills of education." I can go on and read these comments from these knowledgeable persons and only time prevents me from doing so--they...they totally realize that the change in change is made. When we prepared that the state board...we had a problem with it.

[REMARKS CONTINUED ON THE NEXT PAGE]

Mr. Leithman I'm using up a lot of time, Mr. Chehardy.

Mr. Burns Mr. Leithman, in providing for your two boards that you explained, where does L.S.U. fit in...where does L.S.U. fit in under this two board structure?

Mr. Leithman I purposely stayed away from L.S.U. and Southeastern, and L.S.U. in the entire makeup. I merely provide for a Board of Regents, eleven persons to handle higher education in the state of Louisiana. What happens for L.S.U., and we certainly will look after and take care of L.S.U. under statutes and not in the constitution. So, all I do is merely call for a Board of Regents to handle the long-range planning and...the budget and what have you for higher education in the state. I place no preference on any university in the state. I feel our kids at Northwestern or Southeastern deserve the same consideration as does the student at L.S.U.

Mr. Burns But, second question: then that would automatically do away with the L.S.U. Board of Supervisors, as we know it, as the governing body of L.S.U.?

Mr. Leithman The L.S.U. Board of Supervisors could be part of regular statutes, but it would not...it's not my intent to include it in the constitution.

Mr. Burns That's all I've been hearing from...

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from those supporting the L.S.U. Board of Super-
vision.

Mr. Leithman Yes, sir, the same with me; I agree.

Mr. Hernandez Mr. Leithman, Mr. Avant beat me to
it, the question that I was briefly interested
in, but did you go on further and read Mr. Thistle-
thwaite's article in the same subject?

Mr. Leithman Yes, I read the entire article.

Mr. Hernandez Well, did you consider too the
fact that L.S.U. has the medical school in New
Orleans, a dental school in Shreveport, and a
dental school in New Orleans that are very expen-
sive to operate, and that actually Mr. Thistle-
thwaite--did you read where where Mr. Thistlethwaite
pointed out that the L.S.U. system was funded in
1972-73, at a level of about sixty-three percent
of the formula while the state board system was
funded at about sixty-eight percent; did you notice
that, sir?

Mr. Leithman I don't know where Mr. Thistlethwaite
received his figures, but it's certainly in con-
flict with the legislative figures. It is also in
conflict with the Southern Regional Education
Conference figures which are officially furnished
by the State of Louisiana to those independent...
to that independent agency. I don't know where
Mr. Thistlethwaite received those figures.

Mr. Hernandez He was on the Coordinating Com-
mittee, to answer your question.

Mr. Jenkins Penny, two questions: first, I've
kind of gotten the impression from your remarks
that make...it sort of appears that the legis-
lature was overwhelmingly in favor of the super-
board concept--the board with thirty or forty
members and racial quotas and all sorts of things.
Isn't it true that was very controversial in the
legislature, but that it was not preceded by a lot
of discussion, but, it has been followed by a
lot of discussion--most of it somewhat derogatory
to the concept.

Mr. Leithman Well, Woody, it...as you recall...
I don't know what the vote...I don't recall the
vote in the committee--I handled the Superboard
bill in committee. I can't tell you what the vote
was; I know it was at least two to one. On the
house floor I feel it was at least...it received
at least two-thirds of the vote of the House of
Representatives. As far as what has happened
since that time, I feel that it's a...it's one
of interpretation of the law and not the concept
of the Super Board. I feel that it's being
attacked on the constitutional grounds and not for
any other reason, although those persons interested
or those antipersons probably are going against
it for that reason. But it's my impression that
it's a matter of interpretation of the law whether
it's constitutionally sound or not. That's my
personal comments; I can offer no other coments
other than my personal ones.

Mr. Jenkins All right. One other question I
have. Both in your concept of this...these boards
and in the committee's proposal, you have boards
which are made up of some elected members and
some appointed. How do you square that with the
one man, one vote concept, and the idea that people
ought to be representing the same numbers of people
if they're going to have the same vote?

Mr. Leithman Well, I don't think it's any dif-
ferent than this Constitutional Convention because
there are some of us that are appointed to this
Constitutional Convention which probably it could
throw us into a problem, but those three people
appointed would be at large, and they wouldn't
certainly be not representing a segment of the
state. It would be...each congressional district
would have one elected person and the balance

would be...So, Woody, I don't really foresee any
problem. If we have a problem there we also have
a problem with seven, because if you're going to
go on and have the governor appoint fifty-seven
people I think we have a real big problem because
fifty-seven are being elected...appointed here and
only eight are being elected. So, really I think
this magnifies your problem under seven.

Mr. Jenkins Isn't there a distinction to be made
between this convention in that we can only pro-
pose things to the electorate? We have no final
decisions that we can make on anything, whereas,
these boards are given extensive powers and can
make final binding decisions in the field of
education.

Mr. Leithman I agree.

Mr. Stagg Mr. Leithman, I was struck by the
figures that you used on the per student basis
and the unfairness of the use of those figures in
the manner that you did, and I've been going
through the list of degree programs in these in-
stitutions of higher education. In the state board
colleges there are two hundred and thirty-one
master's degrees offered and twenty-three doctoral
degrees. On the L.S.U. system there are a hundred
and thirty-five master's degrees offered in dif-
ferent fields and eighty-two doctoral program
areas. You know, I think, that these are the more
expensive parts of education. Do you think it
fair to compare in effect, apples with oranges
when you probably know that these differences do
exist?

Mr. Leithman Well, of course, there is great
proliferation in our degree program; I'm the first
to admit this. The legislature is very concerned
about this. I think if we're going to put our
monies to best use, I think we're going to have
to tackle that very problem that you raised about
this multiplication of degree programs, particularly
at the upper level. We certainly intend to tackle
this problem and I don't think you're going to
find duplication in the very extended future. I
agree with you there's no question; to conduct a
medical school on...is more expensive than a
business administration college. I'm not ques-
tioning that fact at all.

Mr. Stagg In your concept, I suppose you have
carried this out as far as to examine into what
these two boards will be doing. In other words,
my problem with your concept--and I must state for
you now, in the case you didn't know it--that I
don't agree with it. But, the problem that I'd
like to hear you address a comment to is, with all
of the details of curriculum, the details of leg-
islative enactments in budgets, the details of
campus management, the details for elementary and
secondary and vocational education, when are these
eleven men on one board and eleven men on the
other board going to attend to their respective
fields, going to have time to sit down together
to study the problems of education which Louisiana
has long ignored...

Mr. Leithman I didn't hear the end of the question,
but I think I can...if I answer you erroneously,
it's because I didn't. As to how many meetings
the Higher Education Board will have a year, I'm
leaving that entirely to them to work out their
own meeting schedule. As to the elementary and
secondary, let them meet as often as they need
meet to work out their problems. The long-range
they will come together as often as it need be to
provide for a long-range planning program and to
provide for a unified budget. On the budget--this
is a nasty thing--right now each dean of his
university comes to us on begging knees for his
budget; this is not a way to conduct business in
the state. If you had a board to go to, they
would go this chancellor or to this board and
work out their budget, then when it would come to
the legislature, it would be on a unified basis.

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Mr. Kelly: There's no telling any more, I don't see any improvement over, in fact I see a regression over the present setup. This is why I would like to see them come with the unified budget presented to the legislature—and don't don't throw your wares out before the state legislature in public hearings; I think this is very bad.

Mr. Gall: Mr. Leithman, I think I have about three questions to—ask for information—on the budget or the series that the state provides L.S.U. in that total amount of monies that you told us awhile ago, does that include any monies that the U.S. system gets either from the federal government or from local governments for the extension program that is provided by L.S.U.?

Mr. Leithman: It includes extension programs. I don't think federal funds are involved.

Mr. Goldman: Well, can you tell me how much of those monies are in the extension program which is not provided by any other school?

Mr. Leithman: No, no, sir, I can't.

Mr. Goldan: Don't have any idea? I mean I'd just like to know.

Mr. Leithman: It's not a very...it's not a substantial amount.

Mr. Goldan: It's not enough to make any difference in the comparison between the other schools in the...

Mr. Leithman: No, sir.

Mr. Aertker: Mr. Leithman, have you really read Committee Proposal No. 7?

Mr. Leithman: Have I...

Mr. Aertker: Have you read it? Well, I just heard you make the statement that there wasn't anything in Committee Proposal No. 7 that would stop that dean from coming to you on that knee and begging to get his budget adopted. If you will read again--isn't it true that if you read it--that in the section dealing with the Board of Regents it specifically states that all budgetary matters will be the responsibility of the Board of Regents and that it will be their responsibility to go to the legislature with it, and that this is one of the powers that is being taken away from the L.S.U. Board of Supervisors along with the programs and the curriculum? Didn't you read that in there?

Mr. Leithman: Well, apparently you indicate that this Board of Regents will appear on a different day than elementary, secondary?

Mr. Aertker: It depends on it.

Mr. Leithman: When asking for their budget.

Mr. Aertker: It depends on how the legis...the question I'm asking is that wouldn't that eliminate the necessity of any dean or president having to come, since it would be presented as an entire budget for all of higher education in the State of Louisiana?

Mr. Leithman: Only on higher education, yes. But, they would be competing with elementary and secondary budgets also.

Mr. Aertker: Well, that wasn't my question, but I'll have one on that in just a while.

Mr. Kelly: Fenny, I think one of the most important things surrounding this area of the law is the formula itself, by which the funds under the present system are distributed. It's by understanding

that one of the factors that is used in that is student credit hours. Is that correct?

Mr. Leithman: Student credit hours is a basic consideration in the funding.

Mr. Kelly: All right. Now, to carry that just a little further, and we've noted our management here concerning medical schools, law schools, professional schools, etc., carrying on the system within this criteria. Within this formula, is it not a fact that there is also what they call a level of student credit hours that is given consideration in the distribution of these funds?

Mr. Leithman: What was the word—and what, sorry?

Mr. Kelly: A level of student credit hours. In other words, you've got to carry credits in a master's program, you've got medical, many medical students--and I meant, I don't think any of us are here to say that it doesn't. At least to educate a medical student in New Orleans, that it does to get an ordinary B.S. or B.A. degree--say on the L.S.U. campus. Is not that a factor in the distribution of these funds?

Mr. Leithman: It is a factor, yes. It is the basic factor.

Mr. Kelly: Could you possibly just for the benefit of the delegates--and you being a member of the legislature and on their Educational Committee--could you explain this formula with a little more I believe so they will understand this and possibly see some of the inequities that you're trying to bring out?

Mr. Leithman: The way the formula--we asked the Coordinating Council to come up with the formula very much as we do for elementary and secondary funding--but let's stick to higher education, if it were financed to the letter of the "IT"...if a freshman is studying business administration on a...it's a three semester hour course, of course, that would go into the number of students at X university. If you have a sophomore studying engineering, engineering is an increased cost you might say, or architectural or medical school. So, the level that a student is in if it's undergraduate or graduate work has a bearing, the degree program has a very important factor.

Mr. Champagne: Mr. Leithman, you explained to us at length about this per student cost. How did you arrive at that?

Mr. Leithman: I wish we could play this tape back; that's just what I was explaining just a minute ago. I'll go through it one more time.

Mr. Champagne: Yes, well, did you divide the number of people into the appropriation; is that what you did? Basically that's what you did, right?

Mr. Leithman: No. Oh, how...I've read to you an article--I don't even have to refer to the state board's article--I can give you from the Southern Regional Education Conference their figures and it's on a percentage basis and this is how it...

Mr. Champagne: No. That's not what I asked you. I asked you...you said that L.S.U. got three thousand two hundred and twenty-five dollars per student. How did that figure arrive? Did that...is that...that is not the distribution per student or what it was, but that's...number of students, right?

Mr. Leithman: This is a...I read to you from Mr. D'Aguin who is on the State Board of Education; these are his figures that I quoted to you and I made that fact known.

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Mr. Champagne Yes, sir, I understand.

Mr. Leithman But, let me read you the official figures to answer your question.

Mr. Champagne That's not the question. I wanted to know if you know how the three thousand was arrived at.

Mr. Leithman No, sir.

Mr. Champagne You just read that out of the book?

Mr. Chehardy Mr. Champagne, you're needling the speaker; that's unnecessary.

Mr. Champagne The next question; this three thousand something, of course, included the experimental stations and such. Are you in favor of cutting out all of those?

Mr. Leithman Very much in favor and if anything, I'd like to see it increased.

Mr. Champagne I see, but then on the other hand when you use this figure as a per student cost, and then you explained that it's not right, correct sir?

Mr. Leithman We can...

Mr. Chehardy Mr. Leithman, your time is up after this one.

You've exceeded your time, Mr. Leithman; however, if there's anyone else from Jefferson who would like to ask a question, we'll permit it.

Chairman Henry in the Chair

[Further suspended to allow additional remarks.]

Mr. De Blieux Mr. Leithman, I notice in Paragraph (B) of your proposal, you state that "the board shall have full power and authority to supervise, coordinate, and have budgetary responsibility for all public education except that the board may provide for governing boards to manage each college and university." Now, you mean that this board in itself will set up boards over each college and university and will name those boards?

Mr. Leithman I do provide that for opportunity. I think each university--let's take Northeast in Shreveport--who's totally a hundred percent behind this concept. If they so desired, they may have their own servicing board, management board comprised of students and what have you and citizens from Shreveport--I mean Monroe, Northeast at Monroe. I think this is a good thing. But, that is my intent that they may have these boards.

Mr. De Blieux All right. How many members would those boards contain? What is your suggested membership of those boards?

Mr. Leithman Oh, I wouldn't want to see this in the constitution. If it's a big area, a geographical area that demands more--let's take L.S.U. in New Orleans--this is a tough area; it services St. Bernard, St. Charles, New Orleans, Jefferson. I would think maybe we would need more members on that board at the university in New Orleans than would, let's say, Northwestern in Natchitoches which is a relatively small community.

Mr. De Blieux Well, I notice that you provide that they shall be appointed, but, you don't say how they will be appointed or from what areas they will come from, anything of that sort. You don't even make provisions for the legislature to set up these boards; you're letting the boards do that.

Mr. Leithman This is by intent and the legislature can do that.

Mr. De Blieux Well, don't you think that they should have some provisions in the law for setting up these boards?

Mr. Leithman No, I really don't. I had an article from Bogalusa that we...the big problem up here is that we're trying to legislate. I think we would be legislating by doing that very thing. I agree with that Bogalusa editorial that this is a big thing that we are doing now...we're attempting to legislate. I think things like that should be done by the legislature and make it flexible and don't tie it down for life in the constitution.

Mr. De Blieux Couldn't we make provisions for that by inserting there "as provided as law," and do it?

Mr. Leithman I would be willing to accept that change, Senator.

Mr. Graham Ken, in your Paragraph (C) on the State Board of Education that is responsible for coordination and evaluation of policies and so forth. Is that on just post or post-collegiate education or elementary and secondary, or is it all education?

Mr. Leithman No, this is all as I say here, the state board is comprised of those twenty-two persons from the Board of Regents and from the Board of Public Education. That is your Board of Education, there's twenty-two people strong, one elected as Chairman which gives you sixteen elected persons and six appointed.

Mr. Graham O.K. But, their function, is it in regard to just higher education or to all public education?

Mr. Leithman No. As I say, it's comprised of the eleven persons from the elementary, secondary board as well as the eleven persons from the Board of Regents.

Mr. Graham I understand that completely, but you're not answering my question. You say that "the State Board of Education shall be responsible for long-range planning, coordination and evaluation of policies and programs, and submission of unified budget requests for the state public educational system." Is that pertaining to just elementary and secondary or to all education?

Mr. Leithman It's all education.

Mr. Graham O.K. Thank you, Mr. Leithman. Now, Mr. Leithman, where you are giving them this responsibility for coordination, if you go up to your Paragraph (B) you're saying with regard to the Board of Regents that "The board shall have full power and authority to supervise, coordinate, and have budgetary responsibility." So, you're also giving them full power and authority. You don't think that that's a conflict within your amendment?

Mr. Leithman No, I really don't. I think that the big problem that we have now, I think it lacks coordination between the two. This is my only purpose in bringing higher education together with elementary and secondary in that small concept. I think career education and the Vo-Tech thing that we're taking upon ourselves now, really, we find a hardship now, because we lack that coordination which I hope to bring about by that unification in Paragraph (C).

Further Discussion

Mr. A. Landry Mr. Chairman, ladies and gentlemen of the convention, I'm here only to deliver a message to the delegates to this convention from a gentleman who served on the same committee of Education, Welfare, and Civil Service for the past

...one month, who is unable to be with us anymore because of illness. We have agreed that I give this message to you. Without further ado, I will begin and will quote the Honorable Joe Silverberg, Ladies and Gentlemen, delegates to the Constitutional Convention. It is a personal tragedy to me that I am unable to be with you today, and to deliver these remarks in person. I have worked hard in this convention, and have spent much time in its deliberations. In so doing, I was afforded a rare opportunity to 'bone up' for the job, and especially for that portion of it dealing with higher education in the State of Louisiana.

A full year before the Convention opened I was privileged to be a member of a lay committee which made an exhaustive study of the governance of higher education in Louisiana and elsewhere. In that capacity I heard testimony from the advocates of every conceivable system of governance: super boards, single boards, multiple boards, no boards. In the course of months I helped to put all these systems under the microscope in an honest effort to determine which type of governance might fit the special situation here in Louisiana. As a member of the Convention's Education and Welfare Committee, I also took part in the more than six months of deliberations which culminated in the adoption of Committee Proposal Number 7. I am convinced that Committee Proposal 7 is the correct course for Louisiana.

By way of review, it provides for a Board of Regents to be responsible for overall planning and coordination of the entire system of higher education, and separate supervisory boards--one to conduct day-to-day management of the campuses of the LSU System, another to perform the same management function for all other state institutions of higher education.

Our committee gave due consideration to a number of alternative proposals. We patiently listened to all sorts of testimony, including even that from a newspaper reporter which later was found to be totally erroneous. I found nothing then, nor anything in some of the Johnny-come-lately proposals which have surfaced recently which would alter my feelings that Committee Proposal 7 is the best plan for higher education in Louisiana.

It has been proposed that all details of governance of higher education be omitted from the new constitution. To my way of thinking no person who lived through the Louisiana scandals of the 1930's could take such a proposal seriously, merely in the interest of brevity. The protection of our colleges and universities must be spelled out in detail, and must be afforded constitutional status so that it will bridge any changes of administration or political upheavals that may occur in the future. In this case, brevity must be sacrificed for the sake of continuity and stability.

It has also been proposed that the total governance of higher education be entrusted to a single board, which would presumably attend to all the planning, coordination and day-to-day management of the 19 units of higher education in the state. Concerning this plan, I can only repeat what I have been saying for months: that it is a practical impossibility. There is undoubtedly something to be said for a single board system in small states where only a minimal number of institutions are to be governed. The overwhelming burden of experience around the nation is that it cannot possibly work with as many institutions as Louisiana now has. Somewhere, some time, something has to give; and the evidence is that in the press of day-to-day housekeeping, it's always the planning and coordination that finishes last.

I am firmly persuaded that the Committee Proposal Number 7 constitutes the last, best hope for higher education in Louisiana. It will enable us to change what is wrong with our system without destroying the continuity of what is sound--and there is much that is worth keeping.

One of the things I like best about this plan is that it does not represent any special pleading

in behalf of any single institution or institution of the state. It recognizes that if we are to have a real benefit to every institution in Louisiana, we must have a system which is not controlled by one institution, but by the state as a whole. It is a system of the state university, and it is a system of the state university, and it is a system of the state university where another state institution is not included.

Let me stress again that this system is a powerful superboard to it. The board of regents is empowered with complete administrative and the power of the purse--budgetary responsibility. It is also mandated to develop formulae for equitable distribution of funds. But it is not to be burdened with the day-to-day administrative problems of any institution. The two supervisory boards will handle the supervisory and management. This is very much similar in practice to what we have in elementary and secondary education today--that is, a State Board of Education to set statewide policy, and 66 local school boards to execute those policies.

It was my fond hope that I would be with you today to follow this job through to its conclusion, because I feel very strongly about what we are doing. Since the condition of my health makes that impossible, I have entrusted my thoughts to my friend and colleague, Abroise Landry, and I hope that you will see fit to support the majority report of the Health, Education and Welfare Committee. It has my wholehearted endorsement.

Thank you for listening to my remarks. Please accept my sincere best wishes for a successful Convention."

Signed,
Joe N. Silverberg

Mr. Chairman, I hope that Mr. Silverberg's remark be included in the official Journal of this convention.

[Mr. Landry added without objection.]

Further Discussion

Mr. Weiss: Mr. Chairman, fellow delegate, I come before you at this time again in a situation where I think there's been much confusion and dispute between the participants who are so anxious to see that we have qualified, outstanding, excellent education in Louisiana; all of us agree to this, I'm sure. But, I think there has been a dispute, as I understand it, between the superintendents, and the principals, and the teachers the selves as to whether there should be an elected or appointed superintendent. There is dispute between the L.S.U. board itself, which I heard last night, for example, that the students at LSU are so displeased with the L.S.U. board that they have voted to change the name of the university in New Orleans to the University of New Orleans rather than LSU@O. I am here to try and understand the attitude of former Delegate Silverberg and those of the young people of the State of Louisiana who have, through Mr. Leithan and this little proposal placed on our desk, tried to express themselves as to what they think is the best system that should be incorporated in our present constitution. After thinking this over, I call to your attention two points. I would like to suggest for those of you that have made up your minds--and I have no intention of unconfusing you with what I consider to be the facts--but those of you, as I, who have been unsettled and uncertain about what step to take, I think I have made my mind after listening to some of the speaker and putting together the two features which I consider highly significant in making a decision on voting on this floor amendment, which I think is favorable. First, an effort to get an endow- ment we have now, as I understand it, for the past several years, the amount of endowment for the State of Louisiana. The original, as I understand it, is for fifty-five million. The proposal on the floor amendment is to increase it to twenty-two

board members. This, as you can see, will cut down the present number of board members in half; it will cut down by two-thirds the proposal of the committee. So, I think from the viewpoint of simple value and efficiency that if the L.S.U. Board of Supervisors can unbound the matter sufficiently to let the students at LSUNO, with fourteen members at this time, certainly the membership of eleven can do the same thing and do just as well if not better. But, more important, the people of the State of Louisiana will be responsible for paying out a sum of one-third to two-thirds less in operational expenses or board members to the State of Louisiana Educational Board members. The second point I would like to point out, concerns the futuristic proposal. It seems from a simple analytical point of view, and I again point out to you that according to this resolution of the Louisiana Student Association, if we're interested in a futuristic approach... Those delegates here present who are interested as I am in the future of Louisiana will listen to what the young people of Louisiana have to say. Two-thirds of them have requested, according to this student resolution, that we incorporate the concept of the floor amendment now before you, in their thinking, rather than the committee proposal. Or, to put it another way, there are sixty thousand students that are requesting this in contrast to the thirty thousand students in the Baton Rouge, Louisiana...L.S.U. complex. I certainly do not feel that we should become involved in figures such as those per student, because there's the medical school, there's the football team at L.S.U. and so on that all are incorporated in this cost per student. Nonetheless, I cannot but feel that the figures Mr. Leithman presented do offend our section by saying that there is twenty-three hundred dollars per student compared to eleven hundred dollars per student at McNeese. Now, this is indeed disturbing. But, when the people in New Orleans--the LSUNO group--claim that they are receiving nine hundred dollars per student in contrast to whatever amount the L.S.U. Baton Rouge student is receiving, then it is indeed disturbing to see that there is inequity in our present system which would be perpetuated and even doubled by a board of sixty-five members in the educational system which is already confounded with forty board members. I ask you, those of you that have not made up your mind, from a simple, analytical point of view, to vote favorably for the Leithman amendment for two very simple reasons: economy and efficiency in the future and for those students of the State of Louisiana that are currently in our system who favor the concept of this amendment and this floor amendment, to vote for this floor amendment--let's get education back in the right direction, equitable, efficient, and at the same time with a futuristic appearance for those students who are in our system in Louisiana.

Further Discussion

Mr. Goldman: Mr. Chairman, fellow delegates, I'm not going to take up a lot of your time. But, I think there are two points here that I believe you ought to know about--you may know it yourselves--they haven't been brought out yet though during this discussion; I would like just to take a minute or so to bring them out: (1) with regard to the fairness of the distribution of funds to both the L.S.U. system and the rest of the schools in...colleges and universities in the state; it's my considered opinion that either one of these will do that, because in the committee proposal the Board of Regents will have budgetary control. I believe that they will be fair about it just as this would be fair about it. The other thing that I would...so that...I think either one would do that job. Now, in this particular proposal in the amendment with the twenty-two members of the two boards--eleven on each board--and the job they would have to do, I believe would take a full time job by these people. If you're going

to... if it's the idea to have these board members work on a per diem and come to meetings several times a year or as they see fit, I don't think it would be efficient for them to do the job that has to be done in this context. I think it would have to be that they would be paid...paid people who could devote their full time to this job. In the committee proposal, I believe it could be done on a per diem basis. I just wanted to bring that out so that you could use...or think about that in making your decision on this.

[Previous question ordered.]

Closing

Mr. Leithman: Mr. Chairman, members of the delegation, I'll just take some sixty seconds. I think this is a critical thing that we are doing, and I think all of you will agree with me. Maybe I get over enthused about it, because I have been working with it now four years on the school board and six, seven years in the legislature. But, when I stand here, I'm not speaking for myself; I read the list of the people, the majority of the State Board of Education, Mr. Bankston, who is your president, just any number of people. The people involved in it are asking you not to regress in the state. Don't come back with four boards, when we've progressed so well. Give Louisiana an opportunity to progress. I think if we were to adopt the seven proposal with all of these people appointed by the governor, I know as a citizen of this state, I certainly would not be for a constitution of that nature where the governor will control fifty-seven names, running education in your state. So, please in closing, do give these things consideration and it's not just me; it's a majority of your legislature and all those persons. I do thank you for your time and consideration.

[Record vote ordered. Amendments rejected: 40-64. Motion to reconsider tabled.]

Amendment

Mr. Poynter: Amendment No. 1 [by Mr. Juneau]. On page 2, delete lines 7 through 32, both inclusive, in their entirety and on page 3, delete line 1 in its entirety and insert in lieu thereof the following:

"Section 4. Educational Boards
Section 4. The legislature shall establish such board or boards as may be necessary to meet the educational needs of the state. The duties and responsibilities of such board or boards shall be provided by law."

Explanation

Mr. Juneau: Mr. Chairman, fellow delegates, I don't believe in rehashing a lot of issues which have been previously discussed, and I certainly don't intend to do that. I would like briefly just to tell you the concept of this particular amendment. As this convention started, we had three concepts--you want multiboards, you want one board, or do you want a short, concise statement in a constitution which would leave the structure of your board system to the legislature? This is the third concept; the arguments obviously against it are that it does not provide for stability in education. I would like to tell you, my own personal view is whether the prior board that was a single board was passed or not, did not affect how I felt about this particular amendment. I still feel that this is the best, most logical, acceptable constitutional amendment that we can put in. You know, as I indicated to you when we started the discussion on this thing--whether you believe it or not--the people in this state feel very strongly about this entire issue. It seems to me that when I ran for this job, as did many of you, we all ran on a platform that

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we wanted to get rid of statutory law. We wanted to get rid of problems that would have to be amended. We wanted to get rid of things which were not constitutional in nature. Well, I think this is what the amendment does. You know it puts me in a unique role of having to advocate something which seems to be not consistent with what is constitutional law, which is not true. Throughout the United States in the fifty States of this Union, the pure predominant, the most constitutional provision that you find is one identical to the amendment you now have before you in Section 4. Now, I would like to read to you. I received a booklet on the seminar which was taken at L.S.U. on to us of '73. This is the statement as I read it--I have never in my life discussed the matter with him--it's my understanding that he ran on this platform. He has made this statement publicly. I think that the people of this state accept this. Governor Edward at that seminar said, simply stated: "I believe that the new constitution, which is to be written, could best serve the needs not of the decade...of this decade, but of the decades ahead if it were limited to merely providing a system of government and guaranteeing the civil liberties due the people in organized society." I do not believe, for instance, that any provision, any provision should be in the constitution about whether you have an L.S.U. Board of Supervisors or a superboard, or a Board of Regents, or whatever kind of board you may want to have regarding higher education. He goes on to say that, "If you want to change it, you're going to have to end up to come to the people ten years later, or twenty years later to adopt an amendment to the constitution." I respectfully submit to you, that when we talk about control of a university, the control with regard to the actual essence and the heart of a university rest with finances and the financing today and tomorrow, and the next day is going to be as it always has been, with the legislature. You've done nothing in this constitution to change that. I submit to you, that the logical, proper, constitutional approach, which I have no qualms whatsoever in advocating before you, is a provision such as this. I have trouble in the area where I am from, in Lafayette, U.S.L. which is adamantly in support of a single board concept, in supporting this amendment. But, I tell you that in all good conscience if I were to back any of you and tell you to write a constitutional provision this is the one you would end up with. As I indicated to you, I don't want to take up a lot of your time, but, I think that you here have a choice. You've been hollering about a constitutional provision, a short concise constitution that doesn't have to be amended. I'm giving you that opportunity. It's up to you whether you want it or not and it's up to you to determine whether or not you are going to isolate fifty percent one way or the other in this constitution. I would be open to any questions, Mr. Chairman.

Questions

Mr. Roemer: Pat, have you done any research or had any done for you that would show us how many other state constitutions have these kind of educational boards locked in their constitution?

Mr. Juneau: The information I have been afforded, Buddy, is that very, very few, very few throughout the country have boards with regard to education locked into the constitution. I think that the overwhelming majority throughout the country--I would say over eighty percent, only twenty I think is the figure--provide in the constitution some kind of structure with regard to boards of education. So, that would be eighty percent providing a statement similar to the article that I'm proposing to you today.

Mr. Roemer: Well, how would...since eighty percent of the other states, if we can use that figure, don't lock all these boards in, how do

their particular educational boards work with our own that don't lock them in?

Mr. Juneau: [I]ll out of this was, I think historically, in all educational states that have been made in this state--and correct me if I'm wrong--is that when there is the subject of education, historically it's marked at the bottom or near the bottom.

Mr. Roy: Mr. Juneau, would you admit, as a matter of constitutional law, that the legislature can abolish and reconstitute boards at will of your own vision pages?

Mr. Juneau: That's right, Mr. Roy.

Mr. Roy: So, that means that if the legislature wanted to exert its influence in a certain area and wanted a board to do a certain thing--that it had created--and the members were not to go along with it, it could simply, by a majority vote, abolish that board and reconstitute another board, and that would be the end of it. Is that right?

Mr. Juneau: That's right, Mr. Roy, and I might further add that today, as has been the history of this state, that the legislature, in each year of appropriations, can appropriate either all or nothing to any university in this state, and in substance, cut it off.

Mr. Roy: Now, how does all the committee proposal, as I read it, simply provide that the Board of Regents will do all the budgetary work, and budget the money for all the colleges and universities. The boards of L.S.U. and the other state colleges and universities will simply administer the day to day affairs of those colleges and universities. Is that right?

Mr. Juneau: As I understand it, Mr. Roy, as the Committee Proposal No. 7 provides that it shall have supervisory...or budgetary supervision over the other two institutions. In further answer to your question, I might tell you that we would end up with Committee Proposal No. 7, that if Louisiana Tech ended up--in fifteen years from now--having 38,000 students, they would still be under the Board of Trustees under this constitutional provision.

Mr. Roy: Right, and, of course, if it ended up that Tech didn't have but five thousand students, the legislature could have a separate board for it altogether. Isn't that right?

Mr. Juneau: That's right, Mr. Roy.

Mr. Roy: Well, that brings up my question: how can you argue that the administrative boards of L.S.U. and the other colleges and universities will slow down the educational processes?

Mr. Juneau: I said, Mr. Roy, that if the system is locked into this constitution, next year, or the next year, or the next year proves unworkable, we've got a bad situation because you can't change it 'cause it's in the constitution. I think that's poor constitutional government. I might add, you changed overnight, apparently.

Mr. Weiss: Delegate Juneau, in keeping with your quotation from our governor, did you know that the Illinois constitution--one of the most recently accepted ones by the people of that state, and one of the more refined and better ones we have accepted as a guide--states that the state Board of Education would be left up to the legislature in its determination and size and as to its effect.

Mr. Juneau: I think that's absolutely correct, Doctor.

Mr. Goldman: Don't you know that the legislature, last year, passed a law establishing a state

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Board or...rather a Super Board which goes into effect by court order, or court edict, or court determination July 1, 1974? Is that true?

Mr. Juneau That act was passed, and as you understand, under pending, the L.S.U. Board of Supervisors has filed a suit to contest that, sir.

Mr. Goldman But, until that suit is settled, this would go into effect on July 1, 1974.

Mr. Juneau That's right, and it's my further understanding that at the time that that act was passed, as you well know, the legislature was faced with existing constitutional boards which had to be merged in a form of substance. I don't think that they had carte blanche authority to structure education in this state at that time.

Mr. Goldman The one...the other question I have in connection with that: if your amendment is passed, couldn't the legislature, if they so felt, just allow that to go right on and not make any other changes?

Mr. Juneau That's absolutely correct, sir.

Vice Chairman Roy in the Chair

Mr. Bollinger Pat, with all the discussions with the...of Committee Proposal No. 7, is it not true that Section 4, as you propose it, has been voted on by the committee in Delegate Proposal No. 54, Section 3, and has been approved by that committee after they voted on Committee Proposal No. 7?

Mr. Juneau Mr. Bollinger, the amendment which is on the floor of this convention was the last favorable vote by the Education Committee. So, in essence, you can call it a delegate proposal which has received committee approval.

Mr. Aertker Mr. Juneau, did I hear you say that eighty percent of the states had no mention of any such boards as this in their constitution?

Mr. Juneau I said that it's my impression. Now, I said I don't have the exact figures, Dr. Aertker.

Mr. Aertker Did you know...

Mr. Juneau I said, in...I said...Let me answer your question. I said, in essence, the overwhelming majority--and I think it would be in the neighborhood of eighty percent--do not lock into the constitution the detailed board structure of education, is what I said.

Mr. Aertker Did you know that that is wrong? That actually twenty states actually have it in their constitution, and that would be, then, approximately sixty percent, right?

Mr. Juneau Well, if you say that, Mr. Aertker, I could take...and I assure there are fifty states in the union, which would mean that thirty would not, according to your calculations.

Mr. Aertker Well, I have it here, I mean, in my hand, of the states that have it.

Mr. Cowen Mr. Juneau, you made the statement that Louisiana Tech could have 38,000 students, and it would still be under the Board of Trustees. This is possible, and I will admit this is true. But, there are provisions--did you know that--there are provisions that the legislature, by two-thirds vote, may create a board for any of the other colleges and universities other than the L.S.U. system? In other words, these can be just exactly what you are talking about--any one of them.

Mr. Juneau What...to identify the problem, would you give me the particular section you are

referring to, Mr. Cowen?

Mr. Cowen I'm referring to...

Mr. Juneau In Committee Proposal No. 7, the authority which you indicated for Committee Proposal No. 7.

Mr. Cowen Well, we are talking about Section 4 of the committee proposal. But, actually, you all are talking about 7...4, 5, 6, 7, 8, and 9. According to the Board of Regents which is Section 7...

Mr. Juneau I have it here, Mr. Cowen.

Mr. Cowen All right, on page 4, starting with Line 19, Paragraph (C), it says, to read: "To study the need for and feasibility of any new institution of post-secondary education, including branches of institutions and conversion of two-year institutions to institutions offering longer courses of study. If the creation of a new institution is proposed, or an additional management board for an institution or group of institutions is proposed, or a proposal is made to transfer an existing institution from one board to another, the board shall report its findings and recommendations within one year to the legislature. Only after this written report has been filed, or if no report is filed within one year, the legislature may take affirmative action," etc. In other words, what I'm saying is these are--and there are nine institutions, including the southern system, that can get boards by legislative action, if it is warranted.

Mr. Juneau That's right, by a two-thirds vote, which I find to be a magical figure to put in this constitution, Mr. Cowen.

Mr. Cowen It is a magic figure of this convention, Mr. Juneau. Don't you agree?

Mr. Juneau I fail to appreciate the philosophy behind a two-thirds vote for an institution which would justify it, Mr. Cowen. I think that's patently unfair, is my answer to your question.

Mr. Cowen Don't you think that if it warrants it, it reaches the point, and there is no reason, I don't think, why they shouldn't be when it reaches that proportion--any one of them, Louisiana Tech, U.S.L., or L.S.U.-N.O.--that these would not be done when they warrant it?

Mr. Juneau I think when they warrant it, they ought to have it, Mr. Cowen, and I fail to see the logic of a two-thirds vote in that connection.

Mr. Cowen Well, I wouldn't quarrel with that, but then it is written in here where they can get their boards. Do you agree now?

Mr. Juneau I agree with what you read from Section (C), if that's what you're asking me; yes, sir.

Mr. Burson Pat, just to set the record straight, I think you indicated that the suit to abrogate the Super Board legislation was brought by the L.S.U. Board of Supervisors. But, wasn't the first suit to abrogate the board--the legislation, rather brought by State Board of Education member, Mr. Roy, the member from the Eighth Congressional District? Then the suit was consolidated--that suit was consolidated with one brought by L.S.U., later.

Mr. Juneau That's right, Mr. Burson.

Further Discussion

Mr. Kelly Mr. Acting Chairman, ladies and gentlemen of the convention, I hate to say this about my friend, Pat Juneau's amendment, but as has been said many times up here, this is a bad amend-

ment--extremely bad. Education, itself, may sound statutory, but the basic structure of an educational system has got to be constitutional. I mean, we have got to have stability in the field of education. The only way that you're going to have that stability is to come forward with at least a basic structure. That's what constitutional law is about. We're not trying to legislate. We don't have to put the details into this constitution concerning all the powers, duties, functions, responsibilities of these respective boards. But, the board itself--which is the basic structure of the educational system--has got to be founded within this constitution. If not, I can only refer you to what might happen on down through the years. I think Mr. Kelly brought this out explicitly in his questions. We may have one board one year--Meese, Northwestern, Southeast might get mad; L.S.U. in New Orleans, or, in fact, L.S.U. here in Baton Rouge--and through the politics of the legislative system come back in the very next year, the entire basic structure of education would be changed. We can't accept that. I'm not for putting legislative material into a constitution, but I am for putting the basic fundamental structure of our educational system into this constitution. There's enough infighting with these constitutional boards as it is...as it exists today. You can only imagine that it would become worse and worse if you had ten, or twelve, or thirteen--and I think all of our colleges nowadays are classified as universities--are down here in the legislature squabbling, fighting, and fussing over which board is going to control the, who's going to have the power over them, who's going to be hiring and firing this particular president, and how much money are we going to get this year? We've got enough of that under the present system, but we can only aggravate and accumulate this chaos by leaving it completely into the hands of the legislature. So, accordingly, I'm going to have to ask you to strenuously oppose the Juneau amendment.

Questions

Mr. Roemer Mr. Kelly, you must have the wrong amendment up there you are referring to 'cause I heard you say that you were opposed to putting legislative matters in the constitution, and here you are opposed to an amendment that tries to do just what you espouse.

Mr. Kelly No, Mr. Roemer, I say that education is basic and the structure of education we need to leave in the constitution. Mr. Juneau's amendment would turn this entire matter over to the hands of the legislature, and we can't do that.

Mr. Weiss Delegate Kelly, isn't it true that the legislature appropriates the funds and therefore, holds the purse strings, and in any event, what the decisions of any board may be, they could be nullified by not appropriating the funds?

Mr. Kelly That's absolutely correct; that's my understanding of it.

Mr. Weiss So, what's the difference between allowing the legislature to handle the matter versus holding the purse strings?

Mr. Kelly Dr. Weiss, the purse strings don't bother me that much. In other words, it's the basic structure, the organization of education. I say that we're going to have to come up with a definite plan; we're going to have to make it a good plan. It's going to have to be flexible to a certain extent, but then we've got to carry through with that plan. We cannot leave the plan to be changed at the whim and whim of the legislature on any given year.

Mr. Weiss It's a degree of flexibility, then, you think. Is that right?

Mr. Kelly I agree with flexibility, but we've

got to have the basic structure.

Mr. Flory Mr. Kelly, under the agreement under consideration, it is possible that if the legislature would deem it necessary to not have any boards at all, there wouldn't be any boards--period--would there?

Mr. Kelly That's exactly right, Mr. Flory.

Mr. Stinson Mr. Kelly, different speakers have said that the legislature--even with this--there--could control it because they would have to appropriate money for a college. Do you think there would ever be a legislature that would say, "Well, Louisiana Tech or Northwestern, etc., we're not going to give you one penny." The people would come down and run them out of office, wouldn't they?

Mr. Kelly Yes, sir. That's not the issue at all.

Further Discussion

Mr. Reeves I hate to follow right behind my friend, Don Kelly, who I am probably as close to as any other person in this convention, and maybe more so than some. But, I definitely, as a friend...but I definitely oppose Mr. Kelly's concept, and am definitely in favor of this amendment. I put this convention into three categories as far as education is concerned--pro L.S.U., pro the other schools in the state, and then some folks that didn't go to any schools. Now, they're the swing vote. What I'm telling you about is that the constitution is not the place--and I'm not...this is not an anti-L.S.U. speech--but the constitution is not the place to lock in a Board of Education for L.S.U., nor a Board of Education for Northwestern, nor for Nicholls State, nor for any other state college, nor university. I think that Louisiana State University is probably the best school in the United States of America, and surely the best school in the State of Louisiana as far as its educational achievements are concerned. I did not attend there, but I do, very strongly, feel that it's a great institution of higher learning. But, I came to the constitutional convention not as a legislator, but as a constitutional delegate. There's a vast difference between those two individuals. A legislator put together, formulates, and conceives legislation. Legislation is something that changes...is a law that may change as the years and times so deem necessary. A constitution is a basic framework of government. It is not supposed to change, strongly. It sets for the framework of a government. That's it. We have, in essence, completed the constitution for the State of Louisiana when we finished Local and Parochial Government. All of the details that this committee proposal, welfare proposal, the civil service proposal, etc., intends to place in the constitution is not constitutional matters. Ladies and gentlemen, I realize, to say the least, that the L.S.U. Board of Supervisors, and the L.S.U. people, and the other colleges, just as well, have lobbied this group to an excess, and you've generally made up your mind which way you're going to vote. So, I'm not going to change it, other than possibly with the swing votes--those individuals that have not gone to any other institution--no college at all. What I'm telling you is we have a great college system and university system throughout this state--Louisiana State University being at the top rank, and I don't think anyone would question that. But, what I am questioning is a simple fact. You cannot write legislation in a constitution, it's just simply something that should not be done. Now, if you favor L.S.U., fine. Run; run hard and get elected to the Louisiana Legislature, and there, stand up for what you believe. But, for God's sake, it doesn't belong in a constitution. A constitution is a framework of government. In setting forth the detailed boards of education for whatever college

or university it happens to be is just not constitutional matters. I hope that you would support this amendment.

Questions

Mr. Kelly Mr. Reeves, you've been expending quite a bit of time talking about L.S.U. and higher education. You realize that there is a lot more involved in this amendment than just higher education? In other words, we're talking about second graders, third graders, fifth graders, and twelfth graders--all of education. In other words, we're not just talking about higher education. We're not even going to have a basic plan for elementary and secondary education under this particular amendment. You do realize that?

Mr. Reeves Don, I think that it's no doubt that there is, but it's also...I feel very strongly that the Louisiana Legislature is just not going to discriminate against second and third graders or anybody else. I think you're going to have a Board of Education that works hard for all the students of the state. I think you're going to have a board, basically, or boards, basically along the lines that we have now as designed by the Louisiana Legislature.

Mr. Goldman Mr. Reeves, before I ask this question, I don't want you to misunderstand me. I think the world of you, as I do of everybody else here. As a matter of being constitutional or legislative, the Federal Constitution makes a simple statement about education--I assume. It doesn't make any statement. All right, now, as a result of the fact that there is no statement, and as a result of the fact of our educational processes over the last two hundred years, the courts have really--in the last few years--decided on what our educational processes are going to be. Do you think that's the proper place for education to be decided?

Mr. Reeves I don't think the courts have decided the educational system. I think it simply said, "There shall be an equal education for all individuals whether they are black, white, pink, polka-dotted or what, and I'm for that."

Mr. Goldman Well, I'm for that, too, but in that process of deciding that it shall be equal, they're also getting into legislative matters in the manner in which education is being managed, don't you think?

Mr. Reeves I don't agree. No.

Further Discussion

Mr. Leithman Mr. Acting Speaker, members of the delegation, I rise in support of this amendment. There was a question raised about what is happening nationwide, and I have the figures here, and I thought they would be of interest. I'll be glad to present them to you. Throughout the United States--all fifty states--there are a total of twenty boards in constitutions--only twenty. Arkansas has nine. So, if you would eliminate Arkansas with their nine boards in the constitution, this means all of the United States--every state except Arkansas--has a total of eleven boards in constitutions. Now, here is progressive Louisiana--progressive Louisiana--about to put four boards in the constitution. This is a sad day, gentlemen. I think California has a good system of education. The State of California, one board--one board in their constitution. I'm not going to bore you and run through all of the states, however, throughout this--and this is not my figures, this is furnished by the Higher Education Commission for the United States. This is their document; this is not written by me or anyone here locally. But, their strong recommendation from these people and all people in education is for good gosh sakes, let's progress, and let's

not regress as we are about to do. Keep those figures in mind. Through all of the states in the United States--there are only twenty--we're about to increase the thing right here, multi-full. So, please bear this in mind. This is something, this amendment that is being offered is very flexible. It can be changed as times need to be changed. I please ask that you give it consideration.

Thank you.

Further Discussion

Mrs. Corne Mr. Acting Chairman, delegates, as I sat in my desk today for a nice, long day of discussion on the subject that is nearest and dearest to the hearts of every citizen of the State of Louisiana, I have been impressed by the sincerity of the people who express their ideas and their hopes for the education system of our state. I think this is as it should be. I do not believe that we can discuss this too long. I think the people of the state will be very well impressed by what will be published about what has been heard today from this podium. For this, my fellow delegates, I want to compliment you. However, I rise in support of the Juneau amendment. The constitutional convention seems to me to be completely undecided as to the number of boards that we ought to have. People spoke of one board; people spoke of two boards; people spoke of four boards; and now, we speak of no board in the constitution. If the delegates are undecided, you can well imagine that the people are undecided as to how many boards of education there should be. If we place one board, or two boards, or four boards in the constitution, we are certain to offend at least some of the people. How can we be certain that the number we propose is sound, not only for tomorrow, but for twenty years from now? Is it not the better part of wisdom when one is uncertain, to permit flexibility for the future? Is it not better to let the legislature decide how many boards of education there should be? The legislature must be reelected periodically. We are elected only once. If the legislature makes a mistake on the number of boards, it will be...excuse me. If we make a mistake on the number of boards, it will be very hard to correct. If the legislature makes a mistake, it will be easier to correct. Why lock a specific number of boards into the constitution? I do not believe the people want us to get so specific when we are so uncertain as to the wisdom of any specific number. If a simple majority of the legislature makes a mistake on the number of boards, the people can change it by defeating the legislators who voted against their wishes. But, if we make a mistake, a minority of one-third of either house of the legislature can probably prevent the mistake from being corrected by preventing a constitutional amendment from being presented to the people to correct it. It is more democratic, more in spirit of letting the majority rule to be silent on the number of boards of education that there should be. Let us let the legislature decide on the number of boards in the spirit of majority rule.

Further Discussion

Mr. Leigh Mr. Chairman and ladies and gentlemen of the convention, I did not rise to oppose the previous amendment, although I was opposed to it because as a former member of the LSU Board of Supervisors, I might well have been considered as being partial or prejudiced in favor of LSU as against a super board. But here, we do not have that clash, possible clash, with respect to this amendment. I rise to oppose the amendment as strongly as I know how to do so. I'd like to endorse the words that was read from Mr. Silverbero. Let's not go back to the pre-nineteen forty days when the boards were under the control of the legislature and the governor, and we had these scandals which most of us would like to forget. This...is a matter that all of these

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board. It should be given, I submit, constitutional status. We're not... I don't know what the other states are doing. I don't know what they have done, or what they have provided in their constitutions. But we are writing a constitution for the state of Louisiana, and a constitutional provision which outlines the general policies or powers of these boards and gives them constitutional status, I submit to you, is the only way that we can suitably protect higher education. I urge you to defeat this amendment and leave the constitutional boards in the constitution as provided for in the committee proposal.

I'll yield to any questions.

Questions

Mr. Grier Under this particular amendment, Mr. Leigh, don't you agree that the legislature could establish not only one board, but it could, in fact, establish one to a dozen boards of education? Isn't that true?

Mr. Leigh There would seem to be no limitation on what the legislature could do under this... under this amendment... under the proposed amendment.

Mr. Grier Mr. Leigh, in reference to the flexibility that the legislature could afford, don't you think that this would lead to instability in education?

Mr. Leigh In my opinion, Mr. Grier, the only way that we can insure stability and permanence in our institutions of higher education is to give constitutional status to the administrative boards which will control them.

Mr. Grier Mr. Leigh, do you agree that the... when we come... when it comes to the time that we vote on this constitution, that the forces of education in this state will not approve this constitution if they're going to a blank wall not knowing what the future governance of education is? Wouldn't you agree to that?

Mr. Leigh I don't agree to that, and I would like to add to that this observation, Mr. Grier. When the LSU Board constitutional amendment was adopted in 1947, since that time there have been at least three occasions in which constitutional amendments have been proposed to change that in some way. The people have uniformly voted that down. I think the people of the State of Louisiana want constitutional stability to their administrative boards, the administrative boards that will govern higher education.

Mr. Grier Mr. Leigh, you do agree that education is long-ranged planning...

Mr. Leigh No question about it.

Mr. Grier ... should not lend itself to political patronage system?

Mr. Leigh That is correct... one other thing. With respect to the appropriations. The appropriations as outlined in the committee proposal would be the budgetary control as placed with the Board of Higher Education. It would be a constitutional board which, in itself, would direct how the money is to be spent. The legislature would not, under that proposal, be able to say I'm not going to give money to Tech, or I'm not going to give money to Southwestern because the Board of Regents is the one that exercises the budgetary control over the money that is to be spent. by all of them.

Mr. Juneau I wonder if you could clarify one point. I think you indicated that you thought it was absolutely necessary for education in this state to administrative boards have constitutional status. Is that right?

Mr. Leigh I think that's my opinion, Mr. Juneau.

I think they should have constitutional status.

Mr. Juneau All right. Then let me ask you the question. Since we do not have, in the constitution, have not provided for a legislative board of Northeast Louisiana University, and the only way it can get in is by legislative act, you would admit that Northeast University would not have constitutionally protected status whereas the LSU system would. You agree with that?

Mr. Leigh No, I don't agree with that because I think Northeast would have constitutional status, that is the administrator of Northeast University would have constitutional status through the board that would be controlling all of the colleges.

Mr. Juneau I'd like to ask one question if I could, Mr. Chairman. If... it was the desire of Northeast University under this provision, as brought out by Mr. Cowan, that they wanted their own board, Mr. Leigh, you will admit that they have to go to the legislature and get a two-thirds vote. Isn't that correct?

Mr. Leigh That is correct.

Mr. Juneau All right. Then... would that board have constitutional status which you say is absolutely necessary for the governing of education?

Mr. Leigh I would say that if Northeast University preferred to have legislative status to constitutional status, that would be matter for Northeast Louisiana University to decide.

Mr. Juneau So... so...

Mr. Leigh But as long as they stay in the present setup, they would have constitutional status.

Mr. Juneau So, in other words, they would have to take the guillotine approach. If we don't stick in the big conglomerate of the board of trustees, we have to subject ourselves to the legislature.

Mr. Leigh If that's what they want to do.

Further Discussion

Mr. Champagne Mr. Acting Chairman, ladies and gentlemen, I rise with heavy word that I could possibly use in opposition to this amendment. We have had some bad amendments before this constitutional assembly before, but I honestly believe that this would rank among the very worst. I have adequate proof by having been there myself in an era that I could spend several hours or days to give you reasons why the people of the state of, the great State of Louisiana, should not be subject to this kind of possibility, of discrimination. I submit to you that it is not distrust of the legislature, but I submit that education in this great state is far too expensive and too great a proposition to submit to the changing whims of the people who represent the State of Louisiana. I feel that without boards in the constitution, that we are submitting to year-to-year and month-to-month, and every four years, a complete change of the educational system of the State of Louisiana. We have in the past, and I can give you utmost examples, that these people would be subject to the total wishes of the authorities in charge in the legislature, and they would have no freedom in conduct of their activities, and yours and mine, and the future of our children and the citizens of this State of Louisiana. If I could speak to you in any language permissible, if I had the authority to do so, or if I had the power to do so, I'd do whatever it takes to convince you that this is one of the worst amendments ever offered to this body. I urge you, and I request of you, and I plead with

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you, to allow me the opportunity to join with you in defeat of this amendment.

Questions

Mr. Arnette Mr. Champagne, in other words you don't think that we ought to leave this thing up to the legislature at all?

Mr. Champagne I don't think that we should leave complete education up to the legislature. No, sir.

Mr. Arnette In other words, you don't like the idea of the forty-three man superboard they've got proposed now?

Mr. Champagne Frankly, I think the idea of a forty-three superman board in which we have no changes for the next...something like seventeen or twenty years, is impractical.

Mrs. Warren I...just want to ask him a brief question.

Mr. Leigh mentioned the fact that he thought that it would be very important to have these schools in boards in the constitution, but at present, it seems that we are only trying to put one board in there. Would you go along with saying that we will put each house, or each university's board, in the constitution?

Mr. Champagne Mrs. Warren, I think there should, too, be one superboard, or Board of Regents. I like the Committee Proposal No. 7 with some variations. I give you an example. If, for instance, I...you are the president of the company and I'm the vice-president, you are riding around in a Cadillac and I'm riding around in a '63 Chevrolet. I don't think it right that in order to get justice, that I should force you to ride around in a '63 Chevrolet, also. I think instead, that it would be more equitable that we ride each in our own automobiles, but somewhat of the same vintage.

Mrs. Warren I think...I think you've got a fine idea in the event that we're going to buy these automobiles ourselves. But if the state's going to buy them, that's a different story, huh? If the state's going to buy you a Cadillac, it can buy me one, too.

Mr. Champagne That's correct, and that's what I advocate. That's what I advocate--that they do the same for all systems.

Further Discussion

Mr. Graham Mr. Vice-Chairman and fellow delegates, as a former member of the legislature, let me say that I have the highest regard for our legislature now. I have the highest regard for the legislature in which I served. But I personally think that the worst thing we could do regarding the entire concept of governance of education for the children of our state, and for the people of this state would be to completely leave in the hands of the legislature all facets concerning education. I think that it is very important that we do provide some basic framework in our constitution--a framework that cannot be changed each year with each session of the legislature. I don't say that this will be done. But I do say that it definitely can be done if you leave the entire concept of education within the hands of the legislature. A board that has been established by the legislature, that has members who were elected by the people in some particular district, can be abolished by the legislature. It can be amended and recreated by the legislature which is tantamount to abolition, which removes the people from their service on that particular board. I think that the educational systems in this state are too important to leave them entirely in the hands of the legislature without some basic framework in the constitution.

To go a little further, I think that the approach that has been taken by Proposal No. 7 does provide the stability that we must have, yet at the same time, provides for some flexibility in our educational system. It does provide for the governing of the systems of higher education, of elementary and secondary education, and for the coordination of our educational systems by another board that is not made up by a composite of any two boards that are also charged with one system of education. The main problem we have had with regard to coordination has been in the area of curriculum within the campuses. In this proposal, the board that is granted the authority for coordination and for budgetary matters, does have that authority for total coordination of curriculum, including the fact that it must approve any new curriculum. It does have the authority to abolish curriculum. This is the concept of the so-called superboard. So I think that we are providing for that at the same time we are providing administrative boards for our college systems. I certainly hope that you will join me in defeating this amendment, and would encourage you to do so, then, at the same time, would encourage you to support essentially the concept that is proposed to you by Proposal No. 7. Thank you.

Further Discussion

Miss Perkins Ladies and gentlemen of the convention, I rise in opposition to the amendment currently on the floor. The problem with this particular amendment is that we could feasibly end up with more boards than we currently have proposed in the committee proposal. In addition, as Mr. Buzzy Graham pointed out, the structure of education could, in fact, be changed every year, or possibly every four years, depending on the administration and/or legislature. I'd like to make some comments with reference to the committee board plan. As you realized, the State Board of Education has been established for primary and secondary education. With regard to higher education, we have the Board of LSU Supervisors, the Board of Trustees. Over these two boards, the Board of Regents. Some people are opposed to this in that they do not feel that all colleges and universities are being treated equally. As you all realize, as law exists today, the Board of Supervisors governs LSU. The other colleges and universities are currently under the State Board of Education, which is indeed unfair because the State Board of Education is dealing with the higher education while they also are attempting to deal with primary and secondary education. So, in fact, we are elevating all colleges and universities to the same level under the committee plan. The board of trustees of colleges and universities will represent all colleges and universities, and the LSU Board of Supervisors will represent LSU. As you realize, this is just in things of an administrative type nature. If you fear the fiscal problem, as most of you are aware, the Board of Regents will have submitted to them a budget of the LSU Board of Supervisors, and a budget as proposed by the Board of Trustees. Therefore, you have one single board determining the financial issues of each separate board. I think that one of the major concerns, as most of you realize, LSU is unique in its problems--not only because of its enrollments; not only because we need one state university--but in addition, it's an agricultural and mechanical college. This means that the extension service is within the LSU system. Under this particular provision, LSU controls all county agents and Home Ec. agents throughout the State of Louisiana. Their problems are unique. They also control the experimental stations located throughout the State of Louisiana. So if we are talking about administration, if we take LSU and these unique problems and put them under one administrative board, and we take the other colleges and universities that have more similar problems and give them a board and let the Board of Regents determine the financial affairs for both, then we

truly have failed their obligation, either they are not fair. With this particular provision, what we are doing is avoiding a problem that is going to be re-occurring. This issue would come up in legislation, ladies and gentlemen. As Mr. Kelly pointed out, the structure of education is so important that I think it is implicit and it is the duty of this convention to attempt to set out such a structure. Therefore, I oppose the amendment of Mr. Jackson.

Further Discussion

Mr. J. Jackson. Mr. Chairman, ladies and gentlemen of the convention, I rise in support of the Juneau amendment for several reasons. The first reason is that it does not give, in my estimation, equal constitutional consideration for all the other state colleges as such. The second reason is that we talked about university systems--we've talked about university systems. I'd like to, as a delegate, to inform the delegation here that there is another university system. The Southern University system which has three branches; one in New Orleans, one in Alexandria, one in Shreveport; that has, in addition, extension courses, they do have research projects. Yet and still we have not recognized, and Miss Perkins mentioned the fact of the board, we have not even recognized that there ought to be, maybe, some consideration for acknowledging that there ought to be a board of supervisors for a system as large as the Southern University system. I also rise in support of the Juneau amendment because as you look at the board of trustees in colleges and universities which has the responsibility for management of the other colleges, and then still denotes the step-child concept the other colleges, and other state colleges and universities, if so elected in such a manner as to really provide for the same system of governance that we have with the exception that the State Board of Education, it would be that the State Board of Education would somewhat be synonymous with the board of trustees of colleges. I suggest to you very seriously that either way, if we adopt fully the concept as written by Committee Proposal No. 7, it implies to me very seriously--which I do have a vested interest in all our universities--but no one has been able to convince me yet, outside of budgetary and fiscal control cause I do recognize that that's in the Board of Regents, but in terms of the administration of the various colleges, nobody can suggest to me why you've got one board of supervisors for one system, and you've got a board of trustees for another system and all the other state colleges. It seems to me that that's another inequity that we are going to possibly have to be living with for the next fifty years in this constitution. I feel that that problem could rightfully be solved by the legislature.

I suggest to you that if the committee amendment prevails as written, I am obligated as a graduate of a system, which is very comparable to that of the LSU system--and I'm not anti-LSU because I did attend LSU--but to suggest to you that that's another inequity and that I'm obligated as a delegate to consent before this convention for your consideration, to allow another system to have a board of supervisors. So I ask for your favorable adoption. I assume that I'm going to have to... I will at that point provide you with the necessary information to justify why another system, and I want to say in quotes, "system," ought to have a board of supervisors. I yield to any questions.

Questions

Mr. Velazquez. Delegate Jackson, don't you think it is very important for this convention to be completely aware of the fact that we have two systems of education in Louisiana, and several independent institutions, that what we must continue to have is equality of the two systems, and equality for the independent institutions which

totally comprise the higher education system in Louisiana.

Mr. J. Jackson. It would seem logical to me, particularly when I've talked to persons on the why we don't have the all-order are board, the fact has been pointed out to me that Louisiana system because it has branch colleges across the state... it has extension programs. I wanted to just make it for information purposes that there are independent colleges. At the same time there's still another system. So I agree with you.

Mr. Velazquez. Delegate Jackson, do you think it is commonly known that the Southern University system is also a system of agricultural and mechanical colleges?

Mr. J. Jackson. Yes, and it's a land grant college, too.

[Mr. Jackson's question was answered by Mr. J. Jackson.]

Closing

Mr. Juneau. Mr. Acting-Chairman and fellow delegates, I would normally pass. But I consider this a very important issue. I am sure that the delegates have made up their mind. But I would like to leave this one parting statement with you. It's been brought out, and there's no question but in Committee Proposal No. 7, you're going to have, if another institution merits or needs a management board, it can get it by legislative act. But for some magical reason which is unexplainable to me, that it can't have constitutional status. As Mr. Leigh says, that's absolutely necessary. I'm just telling you in all sincerity, and as strong a feeling as I can tell you, I came down here to write a constitution. I think that this is a constitutional provision. I think if you do not adopt such a provision, we are going to legislate. We are legislating in favor of certain institutions and not in favor of others. So very simply, I ask you to consider what I think is a constitutional provision and one which would merit your favorable consideration. Thank you very much.

[Record vote ordered. Amendment No. 7, 70-80. Motion to reconsider failed.]

Amendments

Mr. Poynter. Amendment No. 1 [by Mr. Shannon]. On page 2, line 20, after the word and punctuation "Terms," delete the remainder of the line and delete lines 21, 22, and 23 in their entirety, and at the beginning of line 24 delete the words and punctuation "to be determined by the legislature." and insert in lieu thereof the following: "The board shall be composed of one member elected from each congressional district and one member elected from each public service commission district."

Amendment No. 2. On page 2, line 26, after the words "shall be" delete the remainder of the line and delete lines 27 and 28 in their entirety, and insert in lieu thereof the following: "fixed by law."

Explanation

Mr. Shannon. Mr. Acting-Chairman and fellow delegates, this is a very simple amendment. This amendment makes all of the members of this board elected. I'm not mentioning any numbers here because of the possibility that your Public Service Commission districts may change in number. By reapportionment, up or down, your Congressional Districts may change. So my amendment calls for membership to be elected, one from each Congressional District of this state, and one from each Public Service District of this state. That is the effect of Amendment No. 1.

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Amendment No. 2 would delete a lot of language which I do not understand, and I have not been able to get anyone to explain it to me because they didn't understand it; and merely says "fixed by law." Just added the words "fixed by law." I don't believe it needs any elaboration because I think it is clear. But in case there isn't, I will answer any questions.

Questions

Mr. Burson Mr. Shannon, I really have two questions. First of all, don't you think that the Public Service Commission District is an unwieldy district for an education board? That is, you're talking about such a large area that it's very difficult for a member representing an area that wide to get to know the people he's supposed to be representing?

Mr. Shannon Mr. Burson, that may be true, but at the same time that portion of the state will have another representative on the Board of Education, whereas it's possible that they could not have.

Mr. Burson My second question would be--in all truthfulness as a man who's been in politics--don't you think that very few people could tell you, if you asked them today, who the representative on the State Board of Education was from their Public Service Commission District?

Mr. Shannon I disagree with that, because I think in my area the people know.

Mr. Chatelain Delegate Shannon, as I appreciate your amendment, we now have three public service commissioners in the State of Louisiana, and a proposal is coming up where we may have five. In other words, your amendment provides if we have five, then you'll have two extra members; is that correct?

Mr. Shannon That's correct. We would have thirteen members instead of eleven as it presently is aligned.

Mr. Chatelain Thank you, sir.

Further Discussion

Mr. A. Jackson Mr. Vice-Chairman, ladies and gentlemen of the convention, I rise in strong opposition to this amendment, because I think it precludes fair and proper representation of the people on any and all of the governance structures that are being suggested by way of this amendment. I think there is no question in the minds of individuals who are concerned about the future of higher education, and the direction that it must take, that it is important to have input from all of the people of this state. There is no way that minority representation is going to be elected if we adopt this amendment, and I don't believe that any individual in this convention would want to have any governance structure without proper representation from the minority sector; and so I would urge that you would vote against it. I am in favor of the people deciding on a majority of the individuals to represent us on governance structures. But, to say that all of them must be elected on the basis as suggested by this amendment certainly is inconsistent with what I believe to be in the interest of higher education in this state; and so, for these reasons, I would ask that you would vote against this amendment.

Questions

Mr. Velazquez I hate to say this, Delegate Jackson, but don't you think this looks like a return to the bad old days of segregation?

Mr. A. Jackson Well, I think that it's not a return, but it's a retrenchment of the present system in which we have all of the governance

structures in this state that control higher education inly white, and it's not in the interest of higher education for this to continue.

Mr. Velazquez Don't you think that in the public education in Louisiana almost forty percent of all the students in the public school in Louisiana are black; and by passing something like this, what we are saying is that from now on we want one hundred percent white control?

Mr. A. Jackson I think that this would lock into the constitution that situation, and I think it's bad.

Mr. Velazquez Don't you think this is the most racist single amendment we've had come before this convention?

Mr. A. Jackson Well, I'm not going to accuse V.C. Shannon, my colleague from Caddo Parish, of racism. I simply point out to us that we have a problem here, and I know that the intention and the motivation for this amendment is not racist, but I simply think that we have to point out that the results of it would preclude proper representation.

Mr. Burns Mr. Jackson, I'm asking you this question in all sincerity and for information.

Mr. A. Jackson I know, Mr. Burns. You could never be anything but sincere.

Mr. Burns Why...I can't understand and I want you to tell me, why should such questions as Mr. Velazquez suggested just now...where does that enter this particular picture? I'm going to vote against this amendment, but...

Mr. A. Jackson Well, you know, I defend Mr. Velazquez's right to ask any question that he desires. I simply tried to point out in my answer that I did not believe that any racism motivated my colleague and fellow House member--who serves with distinction in the House of Representatives--to draw this amendment. I think that he had in mind here that we ought to have the people decide who is going to represent us on the governance structures, and I know that his intentions are well-meaning and well motivated. I simply think, though, that in light of the fact that we are a minority--that I am a minority, and I have the responsibility for representing the minorities--and the way minorities are situated geographically in this state, that it is impossible for a minority member to get elected to a governance structure if we adopt this amendment. That's the only thing that I was trying to point out. I want to emphasize that I do not believe that there is any racism here, and I do not believe that this was ever intended.

Further Discussion

Mr. Cannon Mr. Chairman, and ladies and gentlemen of the convention, I'd like to just point out a few things and to try to put things in perspective of what really exists. Mr. Shannon's amendment merely places the State Board of Education for Elementary and Secondary Education into the same structure as presently exists for the State Board of Education. The three Public Service Commission Districts, and the presently existing eight Congressional Districts. Now, I contend that people being responsible...that elected people are responsible to the people who elect them, and I think that there is absolutely nothing wrong with being responsible to the public and the electors of this state. I'm not afraid of elections, and as far as minorities participating in elections, they certainly do. They participate very strongly in elections and I think influence elections to a great deal, and I think that this is good. I personally can't support this concept where part of a board is elected and part is appointed. For

whatever value there is in appointing members, if you appoint one, you should appoint them all; if you elect one, you should elect them all. What the eight elected members and the three unelected members—three appointed members—will do is say to the citizens of this state, I'm sorry, citizens of Louisiana, you can elect your membership but they will not have a one-man-one vote representation. They will merely have eight-elevenths of a vote, which is the ratio of eight out of eleven members. I can see some merit to the New York plan which has an appointed superintendent and an appointed board, none of which are elected by the citizens of the State of New York. Louisiana may be the only state with an elected board and an elected superintendent. There is personally nothing wrong with this because if we like it, that's fine for us, and I think that the voters will decide, when they approve this constitution, that we should have elected policy makers as well as elected administrators of our public education system. I am certainly more inclined to go with elected representatives when they are dealing with the policy concerning the elementary and secondary and special schools for our children. I think there is probably more merit for appointing members to higher education boards, rather than having them elected, because of the myriad of problems and the amount of matters dealing with higher education which comes before the State Board of Education right now. I think this is really an unworkable situation, and personally, I cannot see this idea of three elected members...of eight elected members and three appointed members with these elected members having eight-elevenths of a vote. I just can't see it.

Questions

Mr. Kelly Harvey, wouldn't you agree that by allowing the governor three appointments, say, on to at least a paraprofessional board, that it would give him the opportunity to appoint three professionals within the field of education? That would allow them to grace their input into the field of education as opposed to all politicians?

Mr. Cannon No, sir, I'm not opposed to all politicians, because I've been elected three times to various political positions. But, professionally, I am an educator, and I think that since 1642 when the concept of public education first arose in this United States in the State of Massachusetts--excuse me, in the colony of Massachusetts--that the concept that layman boards making policy has worked well, and has served us well. It has brought us a mighty long way in the history of this country.

Mr. Kelly Would you not agree that a little professional input wouldn't hurt anything though, would it?

Mr. Cannon Well, I strongly object to professionals making policy which concerns their activities within that profession. Now, they can govern their own activities in their profession; but certainly in the matter of school children, I'd say that since 1642, layman boards elected by the public has worked very well in the United States, and I would hate to see that concept strayed from.

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Further Discussion

Mr. Jenkins Mr. Chairman, there is not much that can be added to the words of Mr. Cannon, because I think he very well and adequately described the merits of this amendment, and the demerits of the way the committee proposal stands. I want to sort of jog your memory and refer you to some remarks made by Mr. Burton Willis some months ago. It dealt with judges, and he talked about

equal judges and unequal judges on all sorts of things. I think that's the same situation we're talking about here, we're talking about a half million people being represented by one elected member from the congressional district, and another one man in the governor's cabinet being represented by three votes on that board. That's not a one man, one vote concept, there's a little bit of inequality there. Now, my good friend, Mr. Kelly said, well, the thing to do is allow these three appointees, because we might get some professional quality people. Well, don't let me remind you about the composition of the LSC Board of Supervisors. Those are all appointed, and I don't see many professional educators on there. In fact, the most political thing you're going to have is an appointed board, because you're going to have people appointed who did something for the governor in his election--a contributor, a worker, or somebody like that. Now, that's by and large--there are exceptions to that--but, by and large, that's true. But, I'd a lot rather see this State Board of Education for secondary and elementary purposes all appointed, than some appointed and some elected, because that deceives the public. It makes it have a semblance of democracy when it's not democracy at all. A majority of the elected members of that board, five out of the eight can be all for something, and yet they can be outvoted by a minority of the elected people and all of the appointees. Now, that doesn't make sense. That's not fairness and justice, and I'll tell you something I resent, is some of the remarks labeling this amendment racism, as though we can prejudice what the people of this state are going to do in the election process--if they're going to vote against people solely because of race. I think we're entering a time of a lot more enlightenment. I think we're talking about a constitution that's going to last fifty years or a hundred years, or maybe a lot longer if we do our job right. I'm not about to label the future actions of the voters of this state in any manner unfair. I believe in elections. I think that it leads to accountability. I think when the people elect somebody--whether it's from a Congressional District or a Public Service Commission District--that those people elected are going to be a lot more responsible and responsive to what the people want who elected them, than some appointees might be. Let's don't give a semblance of democracy, a false front indicating democracy which is really somewhat appointed, somewhat democratic, a sort of illogical concoction, a politically composed board. Let's leave it with the people. There's few things closer to the people than their elementary, junior highs, and high schools. They need to have a way to direct and control what happens on a statewide basis in those schools. The only way they can really do that is if they have control over this state board, and the only way they'll have control is if they elect the members. So, I urge you to adopt this amendment. It's fair and it makes sense.

Questions

Mr. J. Jackson Woody, would you suggest that this convention is--and this constitution--is as equally important as us constitutionalizing education? If you do, how do you account for the fact that this convention itself is made up of one hundred and five elected delegates. I think about twenty-seven appointed delegates, and are you suggesting that in any form or fashion that appointed delegates to this convention are not responsive?

Mr. Jenkins Well, I certainly think this: I think that the distinction can be made between this convention and this state board, because this convention is first of all advisory in nature. It submits something to the people that the people can accept or reject, whereas this board strictly has the final say-so in things,

and it's not submitted to the people at all. Secondly, I don't favor appointed delegates to this convention. I voted against it in the legislature. It was the governor's idea to appoint these people, and, no, I don't think that appointed delegates in general are as responsive to anybody in particular as elected delegates, because I think when people are elected to something, they are more responsive because they have some sort of mandate from the people. I have to be real truthful with you.

Mr. A. Jackson Mr. Jenkins, would you concur with the idea that the quality of the decision would be improved by having representation from all of the people on the governance structure.

Mr. Jenkins Yes, I do, Alphonse, and I think the way that we have representation from all people is through the election process, because everyone gets to participate in the election process. Everyone gets to campaign, everyone who wants to gets to run, everyone who wants to gets to vote, everyone who wants to gets to question and interrogate candidates. I think the election process is the way to include everyone. That's the way that it works, and, you know, to have this concept on the State Board of Education would be like saying that we're going to have a hundred and five elected members of the legislature, and twenty-seven appointees. No one would say that that's justice or fairness. Why should it be any more just or fair on the State Board of Education?

Mr. A. Jackson Mr. Jenkins, using your philosophy here as the rationale, how do you suggest that minorities can elect representation to either of the governance structures as proposed by this committee's article?

Mr. Jenkins Alphonse, there are no guarantees in an election at all, except we can guarantee that the process will be fair, and that everyone can run and express his views, and everyone can vote. Now, that's the way to insure fairness. That's the only fairness I know in the election process.

Further Discussion

Mr. Burson Mr. Vice-Chairman, fellow delegates, I rise not so much in opposition to the amendment, as in favor of the committee proposal, which I believe to be well conceived. Since this amendment would change the conception upon which the committee proposal rests, I must oppose it. Now, you have heard me from this podium ad nauseam enough to know that I am basically very conservative in my political philosophy. However, my conservatism is tempered by experience, and I think in the area of boards of education, particularly boards of education dealing with integrated schools systems, I may have more experience than just about anyone at this convention. The circumstances have been such, it's been my privilege to serve on the school board in St. Landry Parish from 1969 on. In a public school system and situation in which we have about fifty percent white and fifty percent black students, we have about fifty percent white and fifty percent black faculty members. Practically speaking, ladies and gentlemen, let's forget about the philosophy and whether we like elections--of course, we're all for elections in a democracy--practically speaking, we had some real serious difficulties in our educational system until we did two things that were very wise. In one case we formed a biracial committee. My colleague, Mr. Walter Champagne, is now the chairman of that committee in St. Landry Parish. The second thing that we did was appoint as assistant superintendent in our system, a very able and experienced black administrator, Mr. Charles Lowe, who, because he is assistant superintendent, gets to sit in on all of our executive sessions on the school board, because our school board--an elected board--is all white.

Now, if you will stop and think about it for a minute: If you were one of those people who represented fifty percent of a group involved in a particular system, but everytime an important decision was made involving the destiny of that system and an executive session was called, you were left out, you would probably feel some suspicion and some doubt about whether or not the decisions made in that system were for your best interest. I think, again, that practically speaking that what this committee proposal has done--and they don't say in there that the three appointees have to be members of a minority group--but, they leave open the possibility that those people who are in our public university system, who are in our public school system in an even greater number, will have an avenue of representation on the State Board of Elementary and Secondary Education. Paraphrasing, I think the idea of a separate board for elementary and secondary education is a good one, because it's too big a job to relegate to what time you have left over after running the state college system.

Questions

Mr. O'Neill Jack, on the Board of Education that you serve on, or the school board or what have you, are there any appointed members on that board?

Mr. Burson No, sir, there are not. The point that I was making was that that was one of the sources of our problems until such time as we had appointments and a committee sufficient to establish a line of communication that we badly needed to establish as a practical matter.

Mr. O'Neill Well, Jack, a further question, do you think that any of us could consciously, in good conscience, support an appointed superintendent of education with an elected-appointed makeup of the board?

Mr. Burson Well, I think that's a separate decision. I don't happen to agree with those who have said that if we have an elected board that we necessarily have to have an appointed superintendent, although, personally, I do favor it. I don't think that our system of education in this state has been all that great a tragedy or a disaster as some of the people who have spoken here seem to think. The implication in a lot of remarks that are made is that our system has just been a total failure, and, therefore, we need to change everything about it. I don't think that's necessarily true at all. I do think that this committee proposal makes certain changes, or proposes certain changes that are good, and I think that the system that they propose for the governance of elementary and secondary education is one of those changes.

[Previous question ordered.]

Closing

Mr. Shannon Fellow delegates, I will not burden you with too much conversation here. I don't believe any amount of conversation would change a vote in this room, but I would like to make a few remarks. This elective or appointive board is one of the reasons I voted not to pass over Section 3 and come to Section 4. I thought we should have determined how we were going to elect our superintendent of education, whether we're going to elect or appoint our superintendent of education, and then come on to the board. I am only trying to hedge here in what we might have come back in Section 3. I want an elective here if we have an appointive superintendent, for sure. So, that was my reason this morning for voting to pass over Section 3 and go to Section 4. Now, we've had a comment here about there would be room for professionals if they could appoint some members to this board. Ladies and gentlemen, this board can have at their fingertips, all of

...or falsified that they need. They can hire that kind of staff, so I see nothing there that would interfere with the passage of this amendment. If I remember right, in some of the remarks that were made here that there was a school board in this state that I presume was all white, and their schools were about fifty-fifty black and white. I'll say this here and now if that be the case, it seems to me that someone is derelict in their duty, by not redrawing the lines whereas minorities can have representation. Well, I say to you in all fairness, I believe in elected officials, and that is the purpose of this amendment is for elected officials. I want to vote for the people who represent us in all the phases of government that I can possibly have, and I believe that it is the consensus of this delegation here that they want the same. So, I would ask for your favorable vote on these amendments.

Questions

Mr. Gravel: Mr. Shannon, you haven't said anything at all about Amendment No. 2, which I think is really a clarifying amendment, although it does have some substantive provision in it. I wish you would say that, because I believe if we do dispose of Amendment No. 2 favorably, that we would thereby dispose of at least two other similar proposals to a end.

Mr. Shannon: That's correct. In my opening remarks, I did mention Amendment No. 2 as deleting a lot of words from here that I couldn't understand and I could not get explained to me, Mr. Gravel, and that was the reason for Amendment No. 2.

Mr. Gravel: Mr. Shannon, do you have any objection to dividing the question so that we can vote on the amendment separately?

Mr. Shannon: No.

[Division of the Convention: Division of the Convention, Record of the Convention, Amendment No. 2, Motion for Amendment No. 2, Motion for Amendment No. 2, Motion for Amendment No. 2, Motion for Amendment No. 2.]

Vice Chairman Casey in the Chair

Motion

Mr. Riecke: Mr. Chairman, this morning in answer to some of the questions of the delegates, Mr. Jackson made some remarks that I asked be put into the daily record. Mr. Jackson, I understand, has prepared those answers to our questions, and I would like to move now, sir, that those remarks be put into the daily Journal.

Mr. Casey: Have you submitted your remarks already?

Mr. Riecke: Mr. Jackson has.

Mr. Casey: Mr. Riecke now moves that the remarks of Delegate Alfonso Jackson referring to... was it the Preamble?

Mr. Riecke: The Preamble, yes.

Further Discussion

Mr. Riecke: Mr. Chairman, as a result of Mr. Jackson's answers to some questions that were put to him from the floor, many of us voted for his motion, for his amendment. We asked at the time that, as a result of that, that his remarks be put into the record; and I see no reason why we shouldn't put it in the record, and I hope that you will go along with us. Thank you.

Questions

Mr. Roy: Mr. Chairman, I think it was... the remarks are in the Journal, I understand, and as a part of the record of this convention. So, what we're talking about really... the difference.

Mr. Casey: I would like to have the... the remarks that we asked for about... the... in order that it go in to the... we would, put in the records, and I don't see why... should object to that, Mr. Roy.

Mr. Roy: No, I have no objection. But I... we also, as a... have a... of every statement that he made... to that.

Mr. Riecke: That's right, but I would like to see it put into the Journal. Thank you.

Further Discussion

Mr. Roy: Mr. Chairman, ladies and gentlemen, I hate to get up here and do that. I just... I hate to give up standing in there. I like... I hate to oppose Mr. Riecke because he is a fine gentleman. But, no, I think we're... some real bad precedent when we start... specific comment that a speaker makes into the Journal, and especially when we... that this would only be a preamble. The other thing is that I understand it... the staff... not griping, I don't want everybody to say, "Well, to heck with the staff--but it just... the staff an additional amount of... that would be obviated, and as Mr. Flory pointed out, there's no need to have this going into the Journal every time. It's on tape; it's a preamble... subsequent to Mr. Riecke's suggestion, the... came back and adopted Mr. Conroy's amendment, which changes that whole section to a preamble. A preamble, as you know, is a hostility; it's got no real meaning. I hate to take up your time. I hate to object, but I was more or less... and I submit it to you, and you can do what you want with it.

Questions

Mr. Riecke: Mr. Roy, you're not setting any precedent. We've put remarks of the speaker in here before. We've put remarks of Mr. Willis in here, and several other times, we've done that. Now, you're not setting any precedent. I can't for the life of me see why you object to it. Is there some particular reason why you don't want them in there?

Mr. Roy: I just told you. I told you... of them. You needn't take it so personal. It's not anything that's a personal matter. Mr. Willis's remarks were put in the record because he made a great flowery speech, and all that. I don't know that it was necessary, but the convention voted to do that at the time, if you recall.

Mr. Riecke: Well, maybe some of us think Mr. Jackson made a flowery speech.

Mr. Roy: Well, I don't think it's necessary, and I think it's surplusage, if you want my opinion. I'm not going to yield to any other questions because I'm not trying to play the big, bad wolf. Do what you want.

Mr. Jack: I was going to ask this, hadn't he heard about those Watergate Tapes. You know, they can fade away.

Further Discussion

Mr. Anzalone: Ladies and gentlemen of the convention, if you will recall earlier this morning when we talked about the adoption of this particular article, there were two things that were first and foremost in a great number of the delegates' minds. That was the treatment of the word "shall", the second thing was the fact that we wanted to

be absolutely sure that if this was going to be a preamble, that it would not form a portion of the substantive law of this constitution. Now, in the interpretation of this article at some later date by the courts, let us look at what would happen if you were to hide the intent of this convention--and I say "hide" because that is exactly what you would be doing with it--and sticking it into one hour's tape out of a possible fifty or sixty thousand hours or more, or less, or whatever the number is, to seek the true interpretation of the article, as was meant by this convention. I think that it would be a great deal easier for the court to find something like this in the Journal, which is a relatively short and concise statement of what this convention has done in one given day, and I agree with Mr. Riecke that it is of major importance. It was of major importance this morning to a great number of the delegates, and I do think that it deserves the position of being placed in the Journal.

Questions

Mr. Dennery Joe, are you aware that all of the remarks that are made from the podium are actually transcribed, and not only kept on tape, but that there is a complete typewritten record of everything that takes place in this convention, which is done daily? There is a daily transcript; it is marked by days; and I don't believe that we should get the idea that we're only recording this on tape. I think the convention should know that all of this background information will be easily available by, first, review of the Journal, and then going into the actual transcript if the case ever arose.

Mr. Anzalone Mr. Moise, in answer to your question: yes, to the first. You didn't ask a question the last fifteen seconds that you talked.

Mr. Dennery Yes, I did. I inflected.

Mr. Anzalone The tapes that are being taken in this convention are not going to be indexed as to subject matter. I'm sure that they are going to be done by days. I say that if I had to try a case to interpret what "equal" meant and the fact that the preamble was not going to form the basis of this constitution, I would much rather have it in the Journal because I could find it a lot quicker than I could in looking at over seventy... a hundred and forty days of convention time. So, it's not the standpoint of anything, but this was something of major importance to a number of delegates this morning. This is going to make it just a little bit easier to find these things when the time comes to look for them, if necessary.

Mr. Dennery Well, I will agree with you that it will make it a little bit easier. I just wanted to be sure that you were aware that all of these remarks are actually typed up. You don't have to go through tapes. Are you aware of that?

Mr. Anzalone Yes, sir.

Mr. Dennery O.K.

Mr. Bollinger Jody, isn't it true that when Representative Jackson made his comments with regards to Section 1, that they were not a preamble, and that subsequent to his remarks, Mr. Conroy offered an amendment which made them a preamble?

Mr. Anzalone Yes, sir.

Mr. Bollinger So, wouldn't having his remarks in the Journal rather show that this was not meant to be a preamble?

Mr. Anzalone In part, you're...the point that you're trying to make is true, but in part the point that you're trying to make is not true be-

cause we also dealt with the word "equal" this morning. This, of course, is one of major importance. Mr. Avant asked several questions about it. Mr. Riecke got up and said based upon that interpretation was the reason that he would vote yes for the amendment. There were several other delegates who did speak on the subject, and I've forgotten what their particular interest was, but they did so state it at that time.

Substitute Motion

Mr. Derbes Ladies and gentlemen, I know the hour is growing late, and I'll be very brief. Since July 5, I've been sitting slightly behind and to the left of Mr. Gravel, and in that period of time, I've learned a great deal about compromise. So, what I'm going to suggest is, by way of a substitute motion, taking in all the best parts of Mr. Riecke's motion, I then move, by way of a substitute motion, that the remarks of Delegate Jackson be included in the daily Journal and, furthermore, that the remarks of Delegate Roy in opposition to the inclusion of those remarks be also included in the daily journal, in the hopes that on that basis Mr. Roy will withdraw his objection, and we can get on with the business at hand.

[Substitute Motion withdrawn. Motion to table the subject matter. Record vote ordered. Motion adopted: 64-30. Motion to revert to other orders adopted without objection.]

Chairman Henry in the Chair

Report of the Secretary [1 Journal 779-783]

[Adjournment to 9:00 o'clock a.m., Saturday, November 9, 1973.]

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Saturday, November 10, 1973

ROLL CALL

[11 members present out of 14 members.]

PRAYER

Mr. Roemer: Dear Lord, please give us the wisdom to change those things which we can and should change. Please give us the grace and the courage to accept those things which we cannot change. Please give us the understanding to know the difference. Please give us the perseverance to see our task through until the end and please give us the brotherhood to work together with each other until we finish. Amen.

PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Plynter: Committee Proposal No. 7, introduced by Delegate Aertier, Chairman on behalf of the Committee on Education and Welfare, and other members of that committee.

A proposal adding provisions for education and necessary provisions with respect thereto.

The status of the proposal to date is the convention has adopted the first two sections of the proposal as amended, the first section becoming the Preamble, voted to pass over for the present time Section 3 of the proposal, and presently has under its consideration, Section 4.

Amendment

Mr. Poynter: Amendment No. 1 [to Mr. Stovall], on page 1, delete lines 7 through 32, both inclusive in their entirety and on page 3, delete line 1 in its entirety and insert in lieu thereof the following: "Section 4. Board of Education. Section 4. There is created a body corporate known as the Board of Education. The Board shall supervise control and have budgetary responsibility for all pre-collegiate public education. The Board shall have such other specific powers, duties and responsibilities as are provided by law, but shall have no control over the business affairs of parish and municipal school boards or the selection or removal of their officers and employees. The Board shall consist of eleven members. One member shall be elected from each of the congressional districts into which the state is divided and the additional number of members shall be appointed by the governor with the consent of the Senate from the state at large. All members shall serve overlapping terms of six years following the initial terms which shall be determined by the legislature in a manner as to effectuate this purpose."

Explanation

Mr. Stovall: Mr. Chairman and ladies and gentlemen of the convention, this returns us to the basic substance of Section 4 as presented in Article VII with certain, what I would consider, minor changes and changes which I think will be helpful. The first is, it changes the title from the State Board of Elementary and Secondary Education simply to the Board of Education which is the traditional title which has been used and I think that it can carry with it elementary, secondary and vocational education. I think if we tried to include all three of these terms in the title it would simply be too much. The other change is that instead of having different single member districts it places the election of the members in the congressional districts, and I think that there is value in using the congressional districts rather than turning to what would be established as new districts. I am mindful that there may be variation in this over the years, but the changes would be very minor.

The other thing which this amendment does is that it eliminates parish which has to do with parishes, and the reason for this is that the matter of parishes is covered in the Executive Article and I don't feel that it is necessary to include it as part of this point. The other point to that title is a matter of elementary and I think to more constitutional, that the material included in Section 4. Now, having noted those changes, let me say that this committee provides a separate board for elementary, secondary and vocational education, and I think that provides quality education for these age groups. The second point is that this, I think, is a democratic approach to make it provided for the election of members to the Board of Education from each congressional district. The third point that I would like to make is that this will be a representative board. By this I mean that it provides for eight persons to be elected and three to be appointed, which guarantees a democratic representative board of all of the segments of our society. I encourage your education of this amendment. Are there any questions?

Question

Mr. Roemer: Rev. Stovall, you just said that the election of eight of these members and the election of three will guarantee the democratic process or the democratic representation of all of the people. Now, I want to know how the election of three men or women is going to guarantee the democratic process for all of the people.

Mr. Stovall: Mr. Roemer, we had discussion on this yesterday, and I think that the points were well-taken which were made. I think what this does is to recognize the reality of the social circumstances under which we live in this state. You're a realist. Let's face up to it.

Mr. Roemer: But, there's no guarantee that the governor who does the appointing is going to recognize the social realities, is there?

Mr. Stovall: The other point, Mr. Roemer, is that somewhere along the line you have to make a decision to trust people. I don't think we're going to elect a vicious, unreasonable man as governor of this state. We're going to elect one who is going to try to see that the appointees would be representative of the total population of the state.

Mr. Roemer: Well, Rev. Stovall, do you know that I trust that governors will do what's in their best interest?

Mr. Stovall: For him to act in his best interest and the best interest of the state is not necessarily contradictory. It might be.

Mr. Stinson: Rev. Stovall, don't you think the most precious thing that we have in the state is our children's education? Next to your delegation in your Methodist church. One of the most important, then.

Mr. Stovall: Well, go ahead with your question, Mr. Stinson.

Mr. Stinson: Well, answer it. Don't you think it's important to education and the rearing of our children?

Mr. Stovall: Yes.

Mr. Stinson: Well, why do you think one man who may be the governor...and you say we haven't had or you said we wouldn't have, I don't know which...but we have had, and I know we will have, people that are not primarily interested in the welfare of the children, don't you agree?

Mr. Stovall: I didn't get the question.

Mr. Stinson: Don't you think that it's a possibility that some governor might not be primarily interested in the welfare of our children?

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Mr. Stovall I think so, Mr. Stinson, and I think that the electorate of the state might also act against the best interest of the state which often times they have done, and I think this gives to us a balance. It gives to us the democratic process, electing members to the Board of Education, and also it provides for some to be appointed, and I think this is a good balance.

Mr. Stinson But under this committee proposal on this Board they are not all elected and the other Boards they are all appointed, so aren't we in reality giving the governor the entire control of our educational system?

Mr. Stovall No, absolutely not.

Mr. Stinson You don't think so?

Mr. Stovall No, sir. The governor himself...

Mr. Stinson Are you that well informed on everything else that you're going to speak on up there at the podium?

Mr. Stovall I beg your pardon.

Mr. Stinson Are you that well informed on everything else that you're going to say in presenting this?

Mr. Stovall Mr. Stinson, I don't think of myself as being well informed. I think that...

Mr. Stinson Well if you're not well informed, do you think you should present it? Maybe we should have someone present it that is well informed.

Mr. Stovall I didn't get the question, Mr. Stinson.

Mr. Stinson I say that if you don't think you're well informed don't you think someone should present it that is well informed on something as important as this?

Mr. Stovall Well, I don't mean to suggest that I don't have some understanding of it, but I do not propose to have all the answers. I'm hopefully like you, Mr. Stinson, searching for the best answer and the best approach, and this simply seems to me to be that kind of answer and that kind of approach.

Miss Wisham Rev. Stovall, in your amendment you made no mention of filling vacancies which our proposal does. How do you intend to handle this in your amendment?

Mr. Stovall That is covered already in the Executive Article, Miss Wisham, and I do not feel that it is necessary to be repeated at this stage. It's covered already and is therefore not necessary.

Mr. Aertker Mr. Stovall, as I've indicated to you, I didn't find too much wrong with the amendment except that I...

Mr. Stovall Say that again a little louder, Mr. Aertker.

Mr. Aertker I said, as I discussed with you, I don't find too much wrong with this amendment as far as ours is concerned, however, I still ask you the question, what does happen here if our population...if your congressional districts get to change to where you either go to seven or nine, then you actually would end up doing violence to the content of the proposal of eight elected, three...and you might end up with four appointed or two appointed if you had to change that. Would you consider still giving the representation according to the single member districts to where that authority would still be within the province of the state to create geographical areas and then we wouldn't have to worry about changing population areas, but it would be a state responsibility?

Mr. Stovall Mr. Aertker, that's a possibility and I can certainly see values in whichever approach we take, and I think that this is a decision for the convention to make. It's simply my feeling that it's good for people to have, as Mr. Landry said yesterday, to move from the known to the unknown. Congressional districts are established. They are known and I simply feel that it would be better to follow the lines of the congressional districts rather than to establish new districts for this one particular purpose.

Mr. Aertker Well, Mr. Stovall, did you know that the reason I had this concern is, frankly I think you say exactly what our article says, except it is a little bit more concise, but that's the only change in the entire matter and that's the concern that I had.

Mr. Stovall Yes, that's the main substantive change, I think, Mr. Aertker.

Further Discussion

Mr. Stinson Mr. Chairman and fellow members of the convention, I wish to rise in opposition to this. If the entire plan of the Education Committee goes through, the governor has plenty of appointees. He has all appointees. He appoints all the members. Why should the people of the state of Louisiana turn over to one man the right...and it's going to result in the control of this elected board, if they are all elected now? You know, the basis of our government, the reason we came here from England and other palces...we didn't want dictatorship by a king. Are we going to vote in this convention to set up a dictator in a governor? Now, I'm not talking about any governor. I'm talking about the human flesh...it's weak. Everybody inherently wants to be a dictator. Everybody inherently says, "If I could run the show, it would be a much better show." When they say "run it" they mean run it. Let's don't turn the education of our children over to an appointed board, appointed setup with a governor at the head of it. If the governor was all powerful and all knowledgeable, we don't need the legislature. Let him appoint the legislature. We're going to come up here...and I guess say "well, if we have 105 members of the legislature...the governor will appoint 50 more." There is no reason for the governor to appoint anyone on this, the only elective board in connection with our education. Why does he need to appoint any? We have our elective processes. If there's anything wrong with our right to vote, I don't see anyone abolishing it other than giving it away. I urge you, let's vote this down. There's no reason for the governor to appoint anyone. If we are not qualified, intelligent and dedicated enough to our children to elect those the same as we do our local school boards we are neglecting what we are supposed to stand up for. Let's vote this down. We don't need the governor to appoint any. Let the people elect them. That's the basis of our government. You say it's a democratic process. That's democracy. Well, I think that we're sort of going a little astray from our democracy.

Questions

Mr. Leithman Mr. Stinson, I'm somewhat confused with your position. Are you for the Committee Proposal No. 7?

Mr. Stinson I am not for any appointive...we're speaking now, understando, on the amendment of Mr. Stovall's...that he has appointive, too.

Mr. Leithman All right. No. 2, because yesterday I noticed you voted against an elected form of educational system, and in rejecting an elected form yesterday, I got to assume you accept 57 appointments by the governor which is...

Mr. Stinson What elected system did I vote against yesterday?

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Mr. Leithman On the amendments.

Mr. Stinson I didn't vote against anything that's elected.

Mr. Leithman There were some people that people to run education in this state and you voted no. In rejecting that I've got to assume you're accepting 17 governmental appointments.

Mr. Stinson I did not vote against it on that reason. I don't recall all of it, but there might have been some other reason that were involved. That wasn't the sole issue in that amendment.

Mr. Leithman Thank you, you answered my question.

Mr. Stovall Mr. Stinson, you are opposed to the committee recommendation as well as to this amendment?

Mr. Stinson As so far as the governor appointing anyone, yes, sir. If the people are not qualified to elect them, let's don't have the Board...don't have any elected; let them appoint all of them. If the people are not intelligent enough to elect who they want to run their schools...the governor is elected to be governor, not to handle our educational program.

[From the subject on records.]

Questions

Mr. Stagg James, I read your bill yesterday when it came out. Is not the Stovall Amendment of today, word for word of Section (A) of the Leithman proposal that we considered yesterday with the exception that you have left off the last sentence of the Leithman Paragraph (A), is that not correct?

Mr. Stovall There are some similarities. The title is changed, but also there are many similarities as I said a moment ago to the committee proposal, Mr. Stagg.

Mr. Stagg But, my question was, "Isn't this word for word of the Leithman amendment, Paragraph (A) that we rejected yesterday except that you've left out the last sentence of the Leighman Paragraph (A). Is that not correct?"

Mr. Stovall No, there are several other changes, Mr. Stagg, including the change of the title. The change in the title is that the Board of Education might also have vocational education under its jurisdiction as well as elementary and secondary education, which I think is of great significance. It's not really academic.

Mr. Stagg Rev. Stovall, I don't want to quibble with you, but the title of yours is Board of Education and the title of Mr. Leithman's is Boards of Education, and other than that there's not one word different.

Mr. Stovall Well, I think that the differences have been set forth and I think it is simply an approach that I think merits our consideration.

[Amendment reported: 10-64. Not on the recommender table.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Perkins and Mr. Aertler], on page 2, line 20, immediately after the word "of" delete the word "three" and delete lines 21 and 22 in their entirety, and insert in lieu thereof the word "eight."

Miss Perkins, I don't believe that second amendment is needed, in light of the Shannon amendment adopted on yesterday. So, she's just offering the first amendment.

The second Shannon amendment was adopted, Mr. Stagg.

Legislation

Miss Perkins Mr. Chairman, I don't understand the effect of this amendment. I believe that Mr. Shannon's attempt to make the members of the State Board of Education elective... The only difference is that this amendment provides for only eight members of the State Board of Education, all members of which would be elected. That's all I have.

Questions

Mr. Roy what are you going to do with the 132 four-fours?

Miss Perkins Well, I assume, Mr. Roy, that we will have a chairman of the State Board of Education. Therefore, he would normally not be a voting member and could vote to break a tie. I don't feel that that's complicated.

Mr. Roemer Well, Lynn, wouldn't we do the same things there that we do with ties here? We have 132 members here which happens to be an even number. I see no problem with that.

Miss Perkins Yes, sir. You are correct.

Mr. Chatelain Miss Perkins, do you know that I agree with you. You have a fine amendment.

Miss Perkins No, sir. I didn't know that, but thank you.

Mr. Stovall Miss Perkins, why is it that you feel that all the people of the state should not be represented on the Board of Education, a board which is going to determine the destiny of their children?

Miss Perkins Rev. Stovall, first of all you're making an assumption which I believe to be incorrect. You're assuming that I don't want all the people of the state to be represented. I thought that's the reason we had an elective process, and when the people elect the members of the State Board of Education then they in truth and in fact are represented. So, it is my contention that all people will be represented.

Mr. Aertler Miss Perkins, do you realize that at the present time we have eleven members and that to my knowledge we just have representation from one race on our elective process right now, and the...

Miss Perkins Yes, sir. I realize I have also cut down and that I have not included the three public service people elected from the public service districts. I'm of the basic philosophy that I like elected officials. I also believe that the people of Louisiana have come a long way just like...do you have any women on that board, sir?

Mr. Aertler No, but that would probably be a way that they could get...could possibly get on by being appointed.

Miss Perkins Yes, sir. Well, I went in and got elected. I'm not trying to discriminate against anyone. So, don't use racism with me, please.

Mr. Aertler No, I wasn't using...I was really trying to point out the fact that the committee felt that this would allow the minority representation on there where they felt that the numbers were slim, or none, or getting it through the elected process. This was the philosophy. I wasn't trying to state that this was your purpose, because I know it isn't.

Mr. Stinson Miss Perkins, isn't there only one race in Louisiana and that is the human race.

Miss Perkins Yes, sir.

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Mr. Weiss Lynn, I think you have an excellent amendment here, and I believe that you've hit the nail on the head. When it comes to racism and minority groups, don't you think that's simply an interchange and play on words depending on what side of the fence you're on?

Miss Perkins Yes, sir.

Mr. Weiss You could also use the same for women and men, minority and majority groups?

Miss Perkins Yes, sir. I do.

Mr. Weiss I think you have an excellent amendment.

Further Discussion

Mr. Roy Ladies and gentlemen of the convention, I knew that my honeymoon with Lynn wouldn't last but maybe one vote and that was yesterday with L.S.O. I rise in strenuous opposition to this amendment. I think we considered it yesterday. I know Lynn is in good faith when she believes that the democratic process is only and best served by the people voting for their particular representatives. I disagree with this. I think some of the other people who are making comments about it are speaking more in terms of some type of demagoguery. We do know that there have been appointed boards throughout these United States on many, many occasions and the membership there has been excellent. So, to say that you have to have a board elected by the people to have an effective board is not correct. Now, as a practical matter and Rev. Stovall has been discussing it and you can say what you want. You can put your heads in the sand like a bunch of ostriches if you want. As a matter of fact, no black nor minority group will be represented on these boards unless he happens to be from a district that is overwhelmingly black in population. That is not right. If you consider the make-up of this Constitutional Convention, you would have to agree if you're any way objective that this is a great body because the governor got to appoint a bunch of different people who represented different viewpoints and could offer different expertise in different fields. Now, where would we be without somebody like Gordon Flory if he were not here? Where would we be... I don't know if Bob Aertker was elected or not... we need experts in the different fields. There's nothing wrong with a governor appointing the make-up of a board to some extent to insure some type of representation. You can say what you want. If you were black you would not feel like some of the people are arguing. In the final analysis I can't speak too strongly about it because if I speak too much more I kind of get a little upset, but all you have to do when you really think about it... all you have to do to really come to a decision is to throw out this notion about saying that if you elect members you've got a better member. That's not true in any way, shape or form. When I come to a decision as to whether something should be done or not, I finally put myself in the shoes of the person or the people to whom the issue is addressed and what we're seeking to accomplish, and if I were black, if I were in a minority group I would not like the notion of complete and only elections through the democratic process because I know that I would never be represented. This convention is better for the Alphonse Jacksons, for the Johnny Jacksons and for other blacks in here... the J. K. Haynes and what have you... it's better because of the different groups we have and the Board of Education will be better for that reason. Anybody that argues contrary to that is giving you some poppycock. You just and you should remember that it's very easy to be in the majority. It's very easy to feel secure and to say "let's run on our record" but you show me one black that's been elected to this convention outside of an area that is predominantly black and I'll withdraw my opposition to this amendment. Blacks are not elected because

they are the best qualified and you know that. I urge you to defeat this amendment and all others like it.

Questions

Miss Perkins Mr. Roy, do you consider women a minority group?

Mr. Roy Yes, I consider women, especially... not in a minority because they have the majority of votes. No, they are not in a minority.

Miss Perkins Do you know that we have ten women out of 132 delegates to this convention?

Mr. Roy Yes, but I bet you don't have any black women elected from predominantly white areas.

Miss Perkins You do admit that we are a minority?

Mr. Roy No, I don't admit to you. I say that the women in this country are in the majority for they are the majority of the voters. As a matter of fact, they are.

Miss Perkins Well, Mr. Roy, you may consider this convention better off without this woman, but nevertheless we are a minority group.

Mr. Roy I think we're better off with people like you, Lynn.

Mr. Bollinger Chris, is it not true that since the beginning of this convention through the Executive, Legislative and all articles that you favored appointments for vacancies and appointments wherever possible over the election, and that your stand on this amendment is consistent with your stand throughout the convention?

Mr. Roy No, I was not for appointment to every position.

Mr. Bollinger I didn't say for every position. I said favored them in many instances for filling of vacancies.

Mr. Roy Yes, I favor appointment for vacancies.

Mr. Bollinger So, don't you think this is really an issue of election vs. appointive, and not black vs. white?

Mr. Roy No, I don't, and I think that anybody that thinks that it is not facing the issue head-on. I think that what we're trying to do here is to insure that there is minority representation on these boards.

Mr. Lanier Mr. Roy, did I understand you correctly to say that you feel the democratic processes, are not always best served by elections?

Mr. Roy Well, if you say that democracy necessarily means elections, then that would be inconsistent. I say that the best results are not always served by elections.

Mr. Lanier Well, do you think perhaps we should go back into our legislative Article and provide that a certain percentage of the legislature be appointed rather than elected? Would that be consistent with your philosophy?

Mr. Roy No, that's not the same thing. We do have districts that are broken down so that minority groups can be elected to the legislature. Would you be interested in making sure that the State Board of Education would be created so that a particular single district comes from blacks, then I'd go with you?

Mr. Weiss Delegate Roy, would you help me on your emotion and reasoning and define for me "racist" please, sir? What is a racist?

Mr. Roy What is a racist?

Mr. Weiss Yes, sir.

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Mr. Roy A racist is a person who discriminates against another because of a condition over which that person discriminated against has no control. His color, his looks, his size, his articulation.

Mr. Weiss All right. Would you say then that the talk concerning blacks is a racist discussion? Are you discriminating? Either favorably or unfavorably, but are you discriminating against one particular race at this time?

Mr. Roy No, I'm not.

Mr. Weiss You're talking about all races, then? Then, why use the word "black."

Mr. Roy I didn't use the word "black."

Mr. Weiss You said they had to be represented on a board.

Mr. Roy Yes, I said for the best, most effective type of representation of all of the people...

Mr. Weiss You are discriminating though by using that term, in your own definition. Is that not correct?

Mr. Roy Well, no, because I'm not faulting anybody. I'm not trying to take away anything from anybody because of that.

[Previous discussion resumed. Amendment read: "1-cc. Motion to reconsider tabled."]

Amendment

Mr. Poynter Amendment No. 1 [by Ms. Perkins, et al.]. On page 2, line 31, place a semicolon ";" after the word "governor" and delete the remainder of the line, and insert in lieu thereof the following: "; however, if at the time the vacancy occurs the unexpired portion of the term is more than one year, the vacancy shall be filled by election as provided by law."

Explanation

Ms. Perkins Ladies and gentlemen, the purpose of this particular amendment is to assure that we do not have a Board of Education composed predominantly of appointees. It provides that if the unexpired term is more than a year then the vacancy will be filled as provided by law which would mean that it will probably be filled at the next general election. This was to cover the point that was brought up by Mr. Roemer yesterday or day before where if we have three appointees on this board, and we have illness of several of the elected board members, we could feasibly end up with basically what would be an appointive State Board of Education. I urge the adoption of the amendment.

Questions

Mr. A. Jackson Delegate Perkins, would this include the terms of the individuals who are appointed to the board also? As I appreciate your amendment, this would require that individuals appointed would also have to run.

Ms. Perkins Mr. Jackson, you're probably right, however, that was not my intention, and...

Mr. A. Jackson Yes, I understand, because it was drawn to your old amendment. I think to clear that up, maybe we should take a look at it, don't you?

[Amendment withdrawn and resubmitted with correction.]

Mr. Poynter The change is affected by in the text--in the second line of the text--after the words "portion of the term" inserting the words "of any elected member." So, it reads as follows

however, if at the time the vacancy occurs the unexpired portion of the term of any elected member is more than one year, the vacancy shall be filled by election as provided by law." Insert the words "of any elected member" after the word "term", fourth word in the second line of the text of the amendment.

Ms. Perkins I think this takes care of the problem raised by Delegate Jackson.

Question

Mr. Roemer Lynn, aren't what you're after here is to insure that if the six year term of elected people that after serving just a few days or a few months of a six year term that we are, whether it be the legislature or the governor, would have the right to appoint a person for five and a half year or five and three-quarter years, is that correct?

Ms. Perkins Yes, sir. That's correct.

Ms. Zervigon Lynn, isn't this the general fact we've taken in most other articles that the governor's appointive powers are cut, and he has them mainly to fill vacancies on an emergency basis, but we want elected officials on a regular basis?

Ms. Perkins Yes, Ms. Zervigon, that's correct.

[Previous discussion resumed. Remarks were ordered. Amendment read.]

Closing

Mr. Aseff Mr. Chairman, delegates, it has been traditional throughout our work, we did it in the Executive Article, we, I think, we've done it for local government, we have consistently provided that for an elected official if the vacancy is more than one year that the vacancy shall be filled by election. Either we are going to elect our public officials or appoint them. It's my understanding that the committee has no objections to this amendment, in fact, I believe Mr. Aertker has stated that it was the intent of the committee to provide this. I urge that you adopt the amendment. Thank you.

Questions

Mr. Stovall Dr. Aseff, could you give us some idea of how much it might cost to have an election for one person in a...

Mr. Aseff Mr. Stovall, may I also ask you when you supported these proposals on the Committee on the Executive Department, did you consider the cost? I think that the cost is immaterial where a principle is involved, and I may remind you, Mr. Stovall, that you supported what you now are opposing. I have spoken the truth and the record will show it.

Mr. De Blieux You realize that we have a provision in our law now that would allow the election of these people at least every two years, because therefore it would not be any additional extra expense.

Mr. Aseff Correct, and we have left it to the legislature, Senator, so that the legislature can make it coincide with the next regularly scheduled election in the area in which the vacancy occurs, so I don't think...

Mr. De Blieux Don't we also have that provision in the Executive Article permitting this type of elections?

Mr. Aseff Consistently, and, in fact, Mr. Stovall was one of the strongest proponents of it.

Mr. Aertker Dr. Aseff, did you know that what you stated is correct, it would be by evaluation

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that this was the intention of the committee that these members would stay appointive, and the others that were elected would remain elective and not revert to an appointive.

Mr. Aertler Yes. Thank you, Mr. Aertler.

[11:00 AM] [11:00 AM] [11:00 AM]

Amendments

Mr. Myrter The next set of amendments is sent up by Delegate Morris.

Amendment No. 1. On page 2, line 16, at the end of the line, after the words "provided by" delete the word "law" and insert in lieu thereof the word "the constitution or by law."

Amendment No. 2. On page 2, delete lines 20 through 30, both inclusive, in their entirety,-- and Mr. Morris, we need to add "including all Floor Amendments thereto" and on page 3, delete line 1, in its entirety and insert in lieu thereof the following: "(B) Membership; Terms. The Legislature shall provide for the membership, manner of election or selection, and terms of the office of the State Board of Elementary and Secondary Education; provided, however, that not fewer than two-thirds of the members of the board shall be elected by the people should the office of superintendent of education be made appointive. (C) Vacancies. Vacancies occurring for any cause prior to the expiration of the terms of members of the State Board of Elementary and Secondary Education shall be filled by appointment by the governor for the remainder of the unexpired term; members shall serve without pay except for such per diem and expenses as shall be fixed by the Legislature."

Mr. Morris had this amendment prepared earlier, and he wants to make a technical change to it, Miss Perkins, which would, in effect, keep your previous amendment. So, we need to come and I will have it retyped here to insert in after the word "term" put in a section 1; and add the text of your amendment, because he wants to keep the effect of your amendment. So, on the second to last line of the text of the amendment being offered, after the initial word "term" change that period to a semi-colon and add the text of the Perkins, Asseff amendment just added into his amendment, so it would not effect, in essence, the deletion of that amendment, but rather incorporate it into his amendment.

Explanation

Mr. Morris Mr. Chairman, ladies and gentlemen of the convention, the first amendment is technical. Our attorney felt that it should say, instead of "by law", it should say "this constitution or by law". That amendment is a very simple amendment and of course, Section B is changed completely. Section C adds... just states the terms of members of the State Board of Elementary and Secondary Education, adds that to the section. The substantive change that this amendment would attempt to do would be to change the memberships in terms, and in essence, it leaves it to the legislature to set the membership, the manner of selection, and the terms of office, provides that not fewer than two-thirds members will be elected, and that's exactly what the amendment does. I'll answer any questions.

Question

Mr. Flory Mr. Morris, I call your attention to the last line of the first Paragraph (B), where you say "should the office of superintendent of education be made appointive." I assume that you mean in accordance with Article IV, Section 23, that has already been adopted by this constitution... this convention.

Mr. Morris That's the Executive...

Mr. Flory Yes, that's the Executive Article.

Mr. Morris Yes, sir.

Mr. Flory Would you have any objections to withdrawing your amendment and adding that language in accordance with Article IV, Section 23?

Mr. Morris I wonder if we could just stand at ease long enough to insert that or something. I have no objections, but I hate to withdraw my amendment. I think maybe this is the last amendment--I don't know--but, I have no objections in... although I don't say that.

Mr. Flory Well, I'd like to support the amendment, and I thought you had... at least was inferred that based upon the actions of the convention up to this point that when you were talking about the possibility of being appointive, was in accordance with Article IV, Section 23, already adopted by the convention.

Mr. Morris That's right, Mr. Flory.

Mr. O'Neill Mr. Morris, do you know if you did that that I'd surely be against your amendment then, because that article will allow the superintendent to be appointed by the governor at some future date?

Mr. Morris By two-thirds vote of both houses, I believe, Mr. O'Neill.

Mr. Arnette Jimmy, I don't think you'd like to put that language that Mr. Flory suggested to you in there for one simple reason. Suppose the superintendent of education were made appointive some other way, say, by a constitutional amendment or something like that. I think we need this guarantee in there no matter how he's made appointed. If he is appointed by any way, don't you think that you ought to have this guarantee in there?

Mr. Morris Well, I know that somewhere down the line, it's quite possible that the constitution would be changed. I really hadn't considered what you're saying, Mr. Arnette. I have no objections to this being restated another way, but I would like to keep the language of it pretty much just like it is.

Mr. Jenkins Mr. Morris, under this amendment the legislature could make this board all appointive, so long as the superintendent is elected, is that correct?

Mr. Morris Yes, sir.

Mr. Jenkins Then if the superintendent is elected the board could still be made up of one-third appointees so that the appointees together with a minority of the elected members of the board could choose the appointed superintendent, is that correct?

Mr. Morris If we have an appointed superintendent, two-thirds of the members shall be elected, Mr. Jenkins. I may not have understood your question.

Mr. Jenkins What I'm saying is, we have several situations we have to consider. One is that this permits the legislature to make this board appointive, so long as it does not change the requirement in our other article that the superintendent be elected past '76, that's the first point. The second point is that if the board is appointed because the... I mean, rather if the board is made up of two-thirds elected members, and one third appointive, and the superintendent is appointive, then the appointed members of the board, plus a minority of the elected members of the board will be able to choose that appointive superintendent, is that not correct?

Mr. Morris That is correct, and let me hasten to say that I support an elective superintendent, and I hope that we have an amendment that I had hoped would get up ahead of this section.

Mr. Jenkins Well, another question I'd have is, don't you think that we could make a better argument... Mr. Morris, don't you think we could make a better argument either for an all elected board, if we're going to have appointed superintendent, or an elected superintendent, and an appointive board? But, if the superintendent is appointive, surely the board should not be made up of one-third appointees, should it?

Mr. Morris Mr. Jenkins, the board can be a hundred percent elective if the legislature so choose.

Mr. Aertker Mr. Morris, you realize that this does destroy the only check that we had in on the appointment before these members whereby the governor appointed, and it was relying upon the confirmation by the Senate, and this just gives the legislature the complete power to do that. You recognize that this does that?

Mr. Morris Yes, sir.

Mr. Aertker You also realize that this could create a real problem as far as recommendations to the legislature that you could actually probably end up having five or six names being banded [banded] about for appointment on this, whereby if you would put it into the hands of the governor, he certainly would just come in with one name, and would not cause perhaps possible embarrassment to someone or possible popularity contest ensuing.

Mr. Morris Mr. Aertker, I realize what you're saying, but perhaps some validity in it. That happens today on all appointive boards, I'm sure.

Mr. Aertker I know, but we were trying to eliminate that by letting the governor just have that and coming in with one name.

Mr. Abraham I simply wanted to ask that in the event that the superintendent of education is elected, well then this appointive board might only be three people--there's no number fixed--was that the intent that it would be flexible? You could have three people or fifteen people?

Mr. Morris Yes, sir, that's exactly... I have a basic trust of the state legislature who are elected representatives of the peoples of their districts, and if they choose to have a three board, State Board of Education, then somewhere down the line they have to be responsible for their actions. The people have often... have the opportunity to vote on their elected representatives, and I have a basic trust of that sort of system. I am basically for all sorts of elected officials rather than appointed officials.

Mr. Lanier Mr. Morris, you indicated that you favor an elected superintendent. Do you favor an elected board?

Mr. Morris Mr. Lanier, there's been some criticism of the present system where we have an elective board and an elective superintendent. I haven't been one that found that much fault with it. I stand on the statement that I support an elective superintendent. Really, the management board is supposed to be a legislative board itself, and in an executive board that runs the State Department of Education and handles... I think there's a lot of folks have different concepts of what should be... what the State Board of Education's duties really should be. I think perhaps a lot of people think that the state board is the administrative branch of the educational system, and I never have visualized it like that at all.

Mr. Lanier Well, by part of it if we're going to have an elected superintendent who is appointed and get elected by all of the people of the State of Louisiana, really, why do we need a board at all?

Mr. Morris Well, you have a point, Mr. Lanier.

Point of Information

Mr. Kean It seems to me that, this amendment, and perhaps others that may be coming with respect to this section are all tied up with the question of whether we're going to elect or appoint a superintendent of education, and I don't know why we got into 4 in the first place, but if we're to do that it would be in order to go back to 3, and find out what we're going to do with the administration of education, and then we can deal intelligently with this section.

Mr. Henry Well, yesterday the delegates to the convention voted to take just the reverse course gentlemen... Mr. Chairman, let's hold it down. They've turned down this razor-maker that really stays on in here and it's going to take it extremely difficult to hear and anyway, but, I'll ask you to just bear with us.

Mr. Kean, the delegates yesterday, voted to have over Section 3 and... at such time as we dispose of this amendment or it's withdrawn, a motion would be in order to revert back to that.

Why do you rise, Dr. Weiss?

Mr. Weiss Mr. Chairman, could you give us two minutes recess? I think we might be able to resolve this in some way in combining Sections 3 and 4 at this time for consideration of the convention.

Mr. Henry Well, I'm not opposed to a recess if it's going to accomplish anything, but, you know... I don't mind giving a two or three minute recess if maybe we can make some hay with it, so we'll stand at ease for about two minutes.

Recess

[Quorum call: No delegate present... a quorum.]

Further Discussion

Mr. Weiss Mr. Chairman, fellow delegates, again we're in the midst of a turmoil. Based upon confusion, I think of the experts themselves.

Those of you that have made up your minds, if you would allow the others to listen, I would appreciate it. I think some of us are still confused by the experts. The experts who say that we should have an elected superintendent. The experts who say we should have an elected board. The experts who say we should have an appointed superintendent, and those who say we should have an appointed board. I question the floor amendment by Delegate Morris in light of the amendment that might come up on Section 3 which would dovetail with the Morris Floor Amendment. The Morris floor amendment with the proposed amendment for Section 3, which I would present later, would allow for either an elected or an appointed superintendent of education based upon the two-thirds vote of the legislature in the manner provided for by Article IV, Section 23 of this constitution passed by us in weeks gone by. I therefore would suggest to this group that we are in the midst of a very complex problem which may change from year to year, depending upon the style that the legislators, and the style that the educators would like to see; that is, an elected superintendent versus an appointed one. For example, it's confusing to me, and I'm sure to you, that we have today an elected superintendent of education that says this position should be appointed. Now, what are we going to do? At the same time, we are trying to write a basic document, and I propose to you that the floor amendment by Delegate Morris is a good amendment which should be accepted and dovetailed with a future amendment to Section 3 allowing the legislature by two-thirds vote to select whether the superintendent of education be elected or appointed. This will allow for an elected board and an appointed superintendent, or an elected superintendent and an appointed board. Of course, the appointments to the board will remain three by the governor in and out of the section of the state is designated by the constitution.

sional district, as has been voted already by this convention in the past two days. So, I would propose to this convention at this time that you seriously consider the Morris amendment favorably, and consider the proposal which I will make as a floor amendment to Section 3 allowing the superintendent to be either elected or appointed, depending upon the two-thirds vote of the legislature in accordance with Article IV, Section 23 already accepted by this convention. I therefore suggest to you that we create a flexible document at this time which is not a political move, but rather, I think, a sensible move and allow flexibility that this confusion deserves at this time.

Further Discussion

Mr. O'Neill Ladies and gentlemen of the convention, if you'll read this amendment carefully, you'll see that it's really a poorly drawn, poorly drafted amendment. It leaves many things up to the imagination as to what's going to take place in future years. Just because it provides so much flexibility is the reason I'm against it. Though I may not agree with appointments on the board--and I think it should all be elected--I do feel that whatever we have, we should know what it's going to be. I don't think that it should be left to the whim of the legislature from year to year, and election to election to decide what the makeup and composition of that board is going to be. I point out for instance that the last clause in the first paragraph that not fewer than two-thirds of the members of the board shall be elected by the people should the office of superintendent of education be made appointive. Well, this presupposes that if he's elected, the entire board can be appointive. Part of the board can be appointive, it could all be elective, or whatever. It does not provide that those members elected would have to be from any sort of single member district which has been provided in the committee proposal as already drafted. I think the reasoning of this convention has been, and whether we disagree on the composition of the board, I think the majority of us want to know what the makeup of that board is going to be, how many people there are going to be, and how they're going to get there. I think once the composition of this board is solved, then we can go back and we can decide how the superintendent of education will be elected or selected. I ask you to kill this amendment, not just because I disagree with it, but because it is a bad amendment to start with in the way it's drawn, and let's stick with whatever we come up with in the committee proposal that will at least leave the formula set so that we will know how the state board is going to be composed, and we will know in the future how things are going to be. I ask you to help kill this amendment.

[Discussion of the Question Order. Amendment No. 1 reread. Revote ordered. Amendment No. 1 adopted: 74-26. Motion to reconsider tabled. Amendment No. 2 reread. Revote ordered. Amendment No. 2 rejected: 23-77. Motion to reconsider tabled. Motion to revert to Section 3 previously passed over. Substitute Motion for the Previous Question on the entire subject matter.]

Point of Information

Mr. Chatelain Is this debatable, sir?

Mr. Henry No, the latest motion is not. It's a substitute motion which is nondebatable...

Mr. Chatelain Well, we have some amendments pending, Mr. Chairman. I know I have one that's fixing to come up.

Mr. Henry Well, Mr. Chatelain, I know that as long as you've been here you are abundantly familiar with the rules and that the Chairman is required to

announce what, if any, amendments are pending and what speakers there might be. I know you are familiar with that rule.

Mr. Clerk, who has the amendments? I believe we have some, do we not?

Mr. Poynter All right. We have amendments still pending by Delegates E. J. Landry, Conroy, Alphonse Jackson, and Shannon, respectively. The Shannon amendment to (B), the E. J. Landry amendment to (A) and (B), the Conroy and Alphonse Jackson amendments both propose the addition of further paragraphs.

[Substitute Motion withdrawn. Motion to table the Motion to revert to Section 3 rejected: 44-52.]

Further Discussion

Mr. Avant Mr. Chairman and fellow delegates, I just think that the purpose of my motion, I believe that we're in a thicket. We've got the cart before the horse, and that what we do on this section depends so much on whether or not there is an elective superintendent of education that we're just not going to make any progress proceeding in the fashion that we are. I think we need to go back and resolve that basic question before we will be able to move on the question of the board. The purpose of my motion is to save the time of this convention and to get this thing moving so we can make some progress. I leave it up to you.

[Motion for the Previous Question. Motion for the Previous Question withdrawn.]

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, as I stated yesterday, these two issues of superintendent of education and board of education are so entwined with each other that it's pretty hard and difficult to discuss one without the other. If we go back to Section 3 and we decide we are going to have an elected superintendent, which I think that the body has already decided in the vote on the executive department, it looks like to me the only thing to do logically is to have an appointed board of education. So, therefore, you are going to lock out even, you might say, the discussion of whether or not you'd have an elected board because I know, as a member of the legislature, and as an observer of education, that that has been one of our problems in the past with the setup and makeup of our educational system. I certainly don't feel like that we have made very much progress in that respect. Whether or not we can resolve it in the legislature, if you say, "let the legislature decide it," it's going to be just as hard and difficult as it is for this body to decide. Just remember this, the legislature is composed of people, just like you and I here. They have to try to make a decision. Many times those decisions, just like the decisions here, are political decisions. Many times those decisions are without foresight as to what may happen ten or twelve or fifteen years from now. But there's one difference between that body and this body. When the legislature makes an error, at least they have the opportunity of coming back the next year and changing that decision and correcting their error. When this body makes an error, we've got to live with it for a time until we can get the constitutional amendment, and the people to change it. I'd just like to throw this out to you. Why not consider, and that's the reason I voted for the Morris amendment because I thought it might be somewhat of a compromise to this situation, why not consider what we are going to do with the board and then go back and see if we can make some sort of a measure with reference to the superintendent. We...if we have an appointed superintendent, we've got to go back and change the Executive Article. I thought that that...the Morris amendment would give us that alternative of letting the legislature

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decide when the board of education would become effective and when they decide when the superintendent would become appointive. I think that in that particular category, maybe we ought to consider the exact... what we are going to do with the board now before we can decide how we're going to handle the superintendent, because if you're not going to make up your mind you're going back to the executive article and change the elected superintendent to an appointive superintendent, we are wasting a lot of time.

Therefore, I think we ought to stick with what we've got right now, keeping in mind Section 3 until we finish it.

Further Discussion

Mr. E. J. Landry: Mr. Chairman, ladies and gentlemen of this delegation, don't... don't have your minds closed. I've had experiences over and over again where I became enlightened as we went along. I told you yesterday that two young men in our group had shown us the way to cut across all kinds of barriers and confusion and language that a good many of us thought was important and necessary. I've learned in administration a long time ago, in simple language that you can understand, and I've made this statement to you, and I'm going to repeat it, that we do well many times, many things that we have no business doing at all. Now in Louisiana over the last fifty years, I want to make you aware of a fact that I have seen and experienced and been with the conflict that existed between a board of education and an elected superintendent of education. I tried to tell you yesterday in strong language that the first thing to do, since we know a fact that we are going to have an elected superintendent of education, we should start from that point. Well, you chose otherwise. I knew that you were going to run into this problem that has no solution. Really and truly, the State of Louisiana can operate, and has operated in spite of a board of education. Now listen well. The key people in the administration of the affairs of this state have been the superintendent of education, the superintendents of your local bodies; those are powerful people who have given you an educational system in this state that is worthy, and not, as you've often been told by the Public Affairs Research, as the last in the nation. I don't believe it. I believe we have much evidence to show that we have many, many wonderful attributes of this system.

Now, giving you a simple amendment, I've given you an amendment that I've tested on the floor with some of the key people--some of the people who represents the people--this amendment, if you take it word for word, analyze it slowly, will make it possible to administer the affairs of this state in a way that they've never been administered before. Let the legislature decide on a supervisory group to define the definitions and responsibilities of the superintendent. Those people are the representatives of your people and my people. They will define the responsibilities of the superintendent. They will be chosen--that is that supervisory group will be chosen by the Senators and the Representatives--eliminating completely the board of education. Now Mr. Aertler yesterday told us definitely that the board of education had only used about ten percent of its time. Well, that proves beyond the shadow of a doubt that we could administer the affairs of the schools of this state without a board of education. You will eliminate many problems. Think about this and work on it.

Further Discussion

Mr. Aertler: Mr. Chairman, ladies and gentlemen, we reviewed this matter yesterday, and we went over all the points of why 4 should be considered before 3. I've heard all these comments about the cart before the horse, etc. As I look at this, I still look at it and see the horse as being No. 4 and the cart No. 3.

I think the problem that we have here is that

we recognize that by creating a board and determining the manner in the election of it, we could have some bearing on how we deal with it. I think that it is necessary for us to know it, but I will tell you what the problem is about this whole matter. That is that we fail to realize that whichever way we go, whether the superintendent is elected or appointed, whether the board end, as a proposed, et., to you, there is one missing factor that I don't believe we've given enough attention to. That is the fact that it will be the responsibility of the legislature to delineate and fix the specific duties, responsibilities of both of the superintendent and this board. I think that with a better understanding of their particular powers, really, as I appreciate the operation of the superintendent and the State Board of Education right now, it looks to me like both of them are up there figuring that they both have all the power and just at each other and wonder just who really has, and sometimes wondering who should try to exercise the power. As a result, they end up really not doing anything about it because really, none of them understand where they are. I really believe that the matter can be simplified if we get through and resolve this one way or the other--come what may--I think education in Louisiana is going to exist, whether the superintendent is elected or appointed. I think it's going to exist whether we have this board or not. But, I do believe that we have got a structure in Committee Proposal No. 7 for all of education that will be a vast improvement over what we have. I would recommend that we vote down the present proposal before you.

[Previous question asked. Motion to revert to Section 3 previously passed over adopted: 56-40.]

Personal Privilege

Mr. Chehardy: Mr. Chairman, fellow delegates, I have just been handed an article out of the Shreveport Times, some more of the trash that Mr. Stagg, from time to time, passes around that is published by the Shreveport Times.

Now, I for one, as a member of this convention, have sat back, read that trash because I'm used to reading such trash in the Times-Picayune for many years, but we have to stand up and be counted because this is not a reflection on myself as an assessor, or any other assessor, it's a reflection on every one of us. Now, I want to say to the... whoever wrote this, whichever editor wrote it, because apparently he's to yellow to print his name and claim title, so he hides behind the facade of the whole newspaper. Now what I want to say to whichever editor of the Shreveport Times wrote this trash, that they are lying to the people of Shreveport, and to the people of this state. The exact opposite of what they imply is what would be the result if we did what they ask us to do.

From No. 1, and they are following the same type of pattern and the same type of lie as the editorial staff of the Times-Picayune. This has to be said. This is not being said out of anger, because it's through their hatred, through their propagation of the vested interest that they represent, the ends that they want to suit, that I have over nine years brought a message to this state, and that the truth has come out despite this type of trash that the Shreveport Times prints.

Now if you will just examine carefully what has been said. They say that industry has been hurt. Now let us examine the biggest lie of all. They actually say in this article when you read it, that what we have done in this convention will drive all industry out of the state; that we have shown contempt for outsiders; and that as a consequence, all of the losses that they suffer will be passed on to the people of the state. They paint a picture of a state gone bare and desolate by our actions. Yet it is the action of this convention which will prevent what has happened throughout about eighty percent of the United States today in those areas where they listened to the ilk of the Shreveport Times. Now, remember

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this, today industry, under the plan we have proposed, will never have to pay over fifteen percent. Mind you, that in my parish, which they attack above all, the present rate is sixty percent on...merchandise and inventory, and twenty-five percent on machinery and equipment. That is going down to fifteen percent. I know of no area in the state where industry is less than fifteen percent. So, if you take that one premise alone, how can they tell the people that read their filthy, yellow, journalistic mess that they sell, that this group has hurt industry, when industry today will have a limit of fifteen percent, when industry enjoys the most beneficial industrial exemptions of any...state. We give more than any state. Industries have been permitted to rape Louisiana. When they are through milking us, when they are through taking our oil and everything else, and they've taken our natural resources; and when they have polluted us completely, they'll leave. Then the Shreveport Times will jump on the other side of the fence, as will the Picayune, and they'll lament dead industry. But I will not sit back and take this type of trash sitting down. I challenge, I challenge the editors of the Shreveport Times, and so that they'll have company and it'll be a fair shake, the editors of the States, and the editors of the Picayune to meet me in debate on this floor, if you all will permit it, on a statewide hook-up, and if not here, on a statewide hook-up anywhere. I am issuing them a challenge that they are lying to the people of this state. On the area...in the area of industrial exemptions, they have lied. If you don't think they've lied, then we are fools to have gone ahead and did what we did. If what they said is true, then we are contemptible as a convention. We are unfit to put out a constitution, if we are what they say. So if you disagree with me, then we are what they say. But if we take what they have said, and it is not true, then we are fools. They don't tell you that Shreveport has a millage of maybe thirty mills. Thirty dollars on a thousand at twenty percent, is totally unequal to an area where you have eighty mill...--eighty mills--eighty dollars a thousand to multiply times twenty percent. The end result is the dollar taxes that people pay. These...this is the most self-serving, selfish, exploitation of newspaper that I have ever witnessed. It equals the Picayune, but it does not...and almost surpasses the Picayune in their greatest moment of demagoguery. But they are not attacking me.

Now, let's go back. My plan...my plan personally was the local option plan...And Peg Mire can tell you that. This is the assessors' plan of every assessor in the state, give or take three or four assessors--or maybe five at the outside. So, again, Mr. Shreveport Times, Mr. Stagg delivers your filth and puts it on our desk. I, for one, take exception, you are wealthy beyond compare; you and the Picayune and the States. This is your challenge. I defy you to meet me publicly in debate--myself against all of you--and we will explore the issues to prove that you all are full of deceit, unfair to the people of this state, and unfair to the members of this convention.

Mr. Henry Mr. Stagg, now before you get started... before you get started, I don't think that we want to waste a whole lot of time on this. Certainly you are entitled to a rebuttal. But insofar as the names, anybody has been allowed to pass out just about anything at this convention that they wanted--including little funny things. I don't propose for us to get into a name-calling contest this morning. I'm not knocking anything anybody said or might say, but let's keep it within reason.

Personal Privilege

Mr. Stinson Mr. Chairman, we're speaking of finances, if they don't accept this debate, why couldn't we challenge them to a wrestling match and charge and help the state finances?

Mr. Henry Mr. Poynter had suggested a three out of five fall match, but I don't know whether... Mr....

Personal Privilege

Mr. Stagg Mr. Chairman, fellow delegates and Mr. Chehardy, I am not an apologist for Stanley Tyner who is the chief editorial writer of the Shreveport Times. What he said is what he believes. Whether you believe with him or not is simply up to you.

As to Mr. Chehardy's remarks, I would like to thank the gentleman for his generosity towards the Shreveport Times because I have heard his remarks about the Times-Picayune before.

Mr. Henry Would like to add that there's been a secret committee up to this point working on deciding who has made the outstanding speech of the convention for a specific award. Mr. Chehardy, I have received the results of that committee, and you've been nominated. The award is a year's subscription to the Shreveport Times.

Now let's...come ahead...let's get all of this stuff out of our system because we don't have much to do and we've got a lot of time to do it in.

Personal Privilege

Mr. Winchester Fellow delegates, I agree with Mr. Chehardy's remarks. I take exception to this editorial. But I'd like to call the particular part that I take exception to, it's on the last column and it says, "It should be made clear at the same time, that Caddo Parish Assessor, and most north Louisiana assessors have not contributed to the taxation problem that plagues this state."

I certainly take exception to that. I was assessor for thirty-two years. I did a wonderful job along with a lot of south Louisiana assessors. I can certainly cite them. I think this is irresponsible editorial writing, and I'd also like to... I can't debate and can't argue, and don't have the money for an hour long T.V. appearance. But I do resent the facts that were stated in here...not the facts, but the erroneous reporting.

I thank you.

[Motion to take up other orders adopted without objection.]

Amendment

Mr. Poynter Amendment sent up by Delegates Flory, Avant, Morris and many other coauthors.

Amendment No. 1. On page 1, delete lines 28 through 32, both inclusive in their entirety and insert in lieu thereof the following:

"Section 3 (A) Term.

There shall be a state superintendent of public education for elementary and secondary education who shall be elected for a term of four years. He shall be the ex-officio secretary of the board and shall serve as its chief executive officer."

Explanation

Mr. Flory Mr. Chairman and delegates, the amendment before you is very simple in nature. It's a very clear-cut issue to whether or not this convention wants to submit to the people of this state the issue that the superintendent of education shall be elected and shall head the Department of Education in this state.

There's been a great deal said during the discussion on this article about the governance of education. We talk now about the administrative head of one of the departments of this state that spends a great deal of the finances, the budget of this state. We're talking now, perhaps, of one of the most responsible positions of state government.

Questions

Mr. Burson Mr. Flory, isn't it correct that we have pending after your amendment an amendment which would make it plain that whatever we adopt here today would be subject to the earlier provision in the executive article that we adopted which would give the two-thirds of the legislature an option in future years?

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Mr. Flory That's absolutely correct. If I had a privilege, I'd be happy to expander such in amendment because it's not my intent to disturb what this convention has already decided. Nor is it my intent to get into a lengthy debate in attempting to interfere that what we have already decided in Article IV, Section 23 of the Executive Article of this state.

But I would say that while we have 60 or 65-odd members on this amendment, I believe, as I said earlier, that we are talking about one of the most responsible positions in state government. Whether you agree or disagree with the person, that have occupied the position of superintendent of education, at least they represented a majority of the people of this state, having been elected by that majority of the people of this state. I believe that we ought to continue that. As I said yesterday, if I'm convinced of anything as to what the majority of the people of this state want, it's to elect their state officials. It's in that spirit that this amendment is offered to continue the election of the superintendent of education subject to, of course, in my judgment, Article IV, Section 23, which is the Executive Article which we said that the legislature after the next regular election, by a two-third vote, could make that appointed.

Mr. O'Neill Mr. Flory, did you know that I appreciate you presenting your amendment as it was drawn, without the exception in the Executive Article so that you will give us a chance to vote on it like it is and not make us conflict with previous votes that we've cast in this convention? Several others of us feel this way.

Mr. Flory I appreciate that Mr. O'Neill. I discussed it with some of the coauthors when I asked them to sign the amendment. I told, I believe, all of those that I spoke to that it was not my intent to disturb what the convention had already decided. But some of them believe that it ought to be elected, period. Therefore, I would not agree to put it in this amendment. But I do agree to support an amendment which would do identically that, because it was never my intent to disturb what we have done in the Executive Article. I would ask your support of this amendment.

Mr. Tobias Gordon, I'm reading the amendment. I'd like to know the second to last line, you say, "of the board." Which board are you talking about because this proposal provides for a number of boards? You do mean the one for secondary...?

Mr. Flory Elementary and secondary education.

Mr. Tobias O. K. The other question is...my other question is, you say "state superintendent of public education for elementary and secondary education." You do mean that to be the same person which we call the "superintendent of education" in the Executive Article.

Mr. Flory That is correct.

Mr. Lanier Mr. Flory, in connection with what Mr. Tobias asked you, what type of board do you envision this being--an elected board or an appointed board, or a combination thereof?

Mr. Flory I envision it as being whatever this convention decides that it shall be.

Mr. Lanier Well, but what I'm getting at is if we adopt your amendment, that locks us into a concept of an elected superintendent and some type of a board. Is that correct?

Mr. Flory Yes. I would say yes. That's true, because I don't believe that there has been any proposal that was considered by the Committee on Education. I did not serve on the subcommittees on elementary and secondary education nor higher education. But all of the proposals that were presented to the overall committee had at least some type of board structure with the exception of

one which was discussed by the committee, which was, in effect, turning the entire matter of education over to the wisdom of the legislature.

Mr. Lanier Well, by that amendment, I would like to have an elected superintendent of education who cuts off the road to power to the people of this state, who would like the responsibility to have some type of a board to work with him.

Mr. Flory Because I believe, as an individual, that that is certainly the much greater authority to place in the hands of one individual when you talk about determining not only the administrative matters of his department, which I consider to be a full time position, but also, then, determining a one individual the curriculum that goes to the schools for the elementary and secondary level, I don't believe there's anyone individual in this state who has the wisdom, in my judgment, to determine by himself what the curriculum ought to be for all the elementary and secondary schools. I think that is one of the basic responsibilities of a board, that is to determine curriculum, qualifications for parish superintendent, and policy matters, such for elementary and secondary education. Yes, I would, as an individual, support some board on a board. What that will be, I don't know, as what has been presented as yet. As it stands at this moment, I can tell you that I support the committee's proposal as far as the elementary and secondary board is concerned.

Mr. Willis Mr. Flory, your amendment presupposes a board, of course. Many of my questions have been somewhat answered, though not satisfactorily. But then, I looked to the last word in the third to last sentence and it says, "he shall be ex officio secretary of that board and shall serve as its chief executive officer." Now my question is, this, usually you have a secretary on the one hand, and a president or a chairman, which is the executive officer on the other. So the superintendent will be both. Now if he's the executive officer, then he executes. Why should there be a board?

Mr. Flory He executes the policies of the board.

Mr. Willis Well, there's a provision here for a board to be partially elected and partially appointed. If there's a conflict between the two, he's an elected official. He has to do his duties. By the way, where are his duties set forth?

Mr. Flory If you'll notice, in, I believe it's in Subsection (C) on page 2, "the powers, duties and responsibilities and salary of the State Superintendent of Public Education shall be prescribed by law".

Mr. Willis Well, then, don't you have a conflict where there...are the duties of the board prescribed by law or by the constitution? I'm trying to delineate that twilight zone between the jurisdiction of the superintendent and the board. I own the view and take the position similar to Mr. Lanier, that if you have a superintendent which is elected, you don't need a board. He can get other advisors.

Mr. Flory Mr. Willis, I think if you read both Sections 3 and 4 in the same context, you'll find that both sections have ordered or given specific instructions to the legislature to define both the powers, functions, duties and responsibilities of the superintendent of education as well as the board of elementary and secondary education. Perhaps this has been one of the problems in education in past years in that the board's and the superintendent's responsibilities have not been set forth in the law. It's my judgment that the legislature will acquiesce in that authority mandated by this convention and prescribe those duties for both which should clear up the situation as to whose responsibility is what and where.

Mr. Chatelain Delegate Flory, aren't you, in fact, trying to cure a problem that now exists,

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whereas the elected superintendent goes before a board and he's...there's not any...authority that he can sit on the board or be secretary. Aren't you trying to cure that problem?

Mr. Flory Well, it's my appreciation of the present law that he now serves as a secretary of the board. But it does not mean that under the present law, I do not believe that he is the chief executive officer of the board, where as far as the carrying out of the policies of the board.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I know that Mr. Flory has stated that he would support an amendment to make this conform to the Executive Article of the constitution which we have already voted. But suppose that amendment does not pass, then we've got two conflicting provisions in this constitution. So I say if we are going to conform to the provisions of the Executive Article and still continue with an elected superintendent and change the provisions of this particular article, we ought to do it in one and the same amendment to be sure that the provisions of the constitution are not inconsistent with each other.

Now I understand that we have an amendment that would do exactly that. I certainly think that they ought to be, the two ought to be put together now. Let's don't have inconsistent provisions in our constitution. Unless you want to go back and change that particular article of the constitution executive department, you ought not to vote for this particular article. Now if you want this one, we're going to have to go back and change the other one. If you want the other one, you ought to vote this one down. Now that's just the dilemma we've put ourselves in. I ask you to give serious consideration to this. Until the provision is put into this particular amendment, that it will not be in conflict with the article we have previously adopted, and the section on the election of the superintendent we have previously adopted, we should not adopt this amendment. It's just as plain and simple as that. We can't put one provision in, we're going to do one thing in one article of the constitution and then turn around and put a different article exactly contrary to that in another and have a constitution which is workable. You know that as well as I do. So let's...if we're going to do it right, let's put it together. Let's don't try to do it separate and have conflict in provisions. I just can't see the rationale of having something that's absolutely contrary to something we've already done. I just ask you to be consistent.

Questions

Mr. Lanier Senator, would you agree with me that right now in the Department of Insurance we have an elected commissioner and an appointed Rating Commission, and that hasn't worked too well, has it?

Mr. De Blieux It certainly has not.

Mr. Lanier Now, presently in education we have an elected superintendent and an elected board. That hasn't worked too well, either, has it?

Mr. De Blieux It certainly has not.

Mr. Lanier What is your feeling if we have an elected superintendent? Do you think we need to have a board if we have an elected superintendent?

Mr. De Blieux If the superintendent of education is going to have control of secondary and elementary education, then I think he ought to be allowed to run it. I don't think we need a board.

Mr. Flory Mr. De Blieux, do you believe that if I told you tomorrow is Easter you could go home and dye your eggs?

Mr. De Blieux I didn't understand your question, Mr. Flory. I'd like to ask you to repeat your question.

Mr. Henry I don't think...Mr. Flory asked one of his typical happy questions, Mr. De Blieux. I don't think you'd want to hear it. We're going to give him the friendship award during the convention.

Further Discussion

Mr. Arnette Well, ladies and gentlemen, I guess tomorrow might be Easter and maybe I ought to go home and dye my eggs, because I agree with Senator De Blieux. I agree. I don't think that an elected superintendent of education and an elected board works. I don't want an elected superintendent, however, without a board because you'd be creating a czar of education. So in either case, I oppose an elected superintendent of education. I realize that this amendment will probably pass so I'll be brief. I just want to state my reasons.

First of all, on the local level you have an elected board of education; you have an appointed superintendent. In my parish and in most of the parishes, if not all of the parishes--I really don't know--but it works very well on the local level. Why couldn't it work on the state level? There's absolutely no reason. We also know that the present superintendent of education ran on the platform that he was going to abolish that office as an elected office. We say the people want an elected superintendent of education? They voted last election for a man who said he didn't want an elected superintendent of education; said he was going to do everything in his power to do away with the job. That's what the people of this state want. They voted that way. If you want a mandate from the people, there it is.

But the thing that really disturbs me about this convention, and I've noticed it more and more and more, the longer we go. That is, I think the delegates to this convention are voting more and more, and more, on what they think the people want to hear rather than for what is for the good of this state. That really worries me, ladies and gentlemen. Maybe I've waited too long to get up here and say it. But that really worries me. We are perpetuating something in this state that is bad because we think the people back home want it. If you just examine in your heart, think about it. Think about it. Think about it. You know the situation that we've got presently is not a good situation. Everyone has said it's a bad situation from the superintendent of education and all the members of the board agree it is a bad situation. But yet we want to perpetuate the same thing just because we are doing what we think the people want to hear. I think that's very bad.

If anyone wants to ask me questions, that's fine. But I think it will probably be a waste of time because I think the vote has already come out on this particular amendment.

Thank you.

Further Discussion

Mr. Aertker Mr. Speaker and ladies and gentlemen of the convention, I rise in opposition to the amendment, and I rise in opposition to it because from my personal observation of the operation of the State Department of Education and the superintendent of education over a period of some thirty-five years has firmly convinced me that we will never get a consistent, quality-type of person in as superintendent as long as we leave it up to the elective process. I am firmly convinced that unless we tie down some qualifications and some certainly professional requirements of the person who is going to run the professional process of education in this state, that we are going to continue to flounder. I know from personal experience that it is a complete impractical thought that a person is going to run for a state office and not make certain commitments to certain groups in certain sections in order to get the backing, in order to be elected.

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Now all of you are knowledgeable enough about the process of playing politics in this state to know whereof I speak. So I don't have to continue to elaborate on that. I feel that there is a need for a person to be in education who understands the philosophy about education. It is not a cold business proposition. It does require understanding and a knowledge of what this whole process is about.

[Unintelligible]

Mr. Aertler: I...feel compelled to make these remarks to you because I feel strongly about this matter. I tell you that in my judgment that when you continue to elect the state superintendent of education, that you are putting a stumbling block in progress for educational growth in the State of Louisiana. I recognize that my remarks, and the remarks of anybody else in this convention, are probably not going to influence anyone any further in this matter. I think that we have even more serious things to get to and that is the structure of education, and on that basis, because the structure of education can live whether we appoint or elect a superintendent, the process will go on. It will be a good one. So, I would, at this time in order to expedite this, move the previous question.

Further Discussion

Mr. Burson: Mr. Chairman, fellow delegates, it won't take me long to say what I have to say on this matter.

I am for an appointive superintendent because I think you can secure a more professional type of individual to fill this important position. However, in all candor, I think that this issue was decided back when we decided the Executive Article. So I'm not going to waste your time with that. I would like to address myself to what I deem to be a misconception and logic that has been repeatedly uttered in the debate on this question. That is that somehow or other, if you have an elected superintendent, that you must then, at all costs, not have an elective board and that indeed, maybe, you should have no board at all. I deem that to be a gross misconception for this basic reason. Any conflict that may exist under the present system, between the jurisdiction and duties of the superintendent and the State Board of Education exists purely and simply because those duties have not been adequately defined by the law. The conflicts do not exist because of the manner in which the individuals involved assume their office. I submit to you, if you could appoint a board of education, and have just as much conflict between an appointed board and the elected superintendent, if the law did not adequately define the duties of the individuals involved. So I think that it is a misconception to talk in those terms. I would certainly join Mr. Flory in his fear that if you were to reside all of the power for running the entire education system in this state in one man--however he be picked, whether by election or by appointment--that you would certainly be creating a czar of education, it seems to me, with the practical patronage considerations involved that you would have created in one fell swoop, a position much more desirable in political terms than the office of governor. I think that would be most unwise, indeed.

Vice Chairman Roy in the Chair

Questions

Mr. Anzalone: Jack, you would agree that we've got to start somewhere with all this mess?

Mr. Burson: Yes, sir.

Mr. Anzalone: We tried starting with the board

...and that didn't work. ...I would like to know what the superintendent is doing to go to be elected or not. ...there will be some from there.

Mr. Burson: Yes, sir.

Mr. Aertler: Well, if you think it would work well in your effort to have an elected superintendent of schools to go with the school board, that you serve on?

Mr. Burson: Well, I'm very glad you asked that question. There seem to have been the questions engaged in by most people in this debate, that we have you have a superintendent appointed by the elective board that you have a very board appointed situation. I've had the experience of seeing a situation where, let's say, a minority member board, seven members support the incumbent and six would like to change him. If you want to see a really interesting political situation, get involved in one like that. You can't have the politics out of politics. You are going to have politics involved in that situation regardless of who you employ. As far as I'm concerned, the benefit of an appointive superintendent would be in having adequate professional qualifications. I don't think you would lessen the political considerations in any manner. You may increase them in some senses.

Mr. Zervigon: Jack, you were saying that you thought the question of whether there is an elected board or an appointed board, or no board at all is not necessarily related to whether we have an elected or appointed superintendent. Don't you think that this elected superintendent, should we have one, if we have a board whose duties are defined by law, might find himself in the same anomalous position that Sherman Bernard found himself in when he got the job he had fought so hard for statewide, and it didn't have the power he thought it did?

Mr. Burson: Well, Mary, I don't think the proper analogy to draw is to Sherman Bernard. The proper analogy to draw is between the present State Superintendent of Education and the Board he's been working with. Despite the complaints that I've heard some people voice from up here, after all, that has been the system that has operated the system of education in this state for quite a number of years. I don't think it's been a total disaster as some people, apparently, seem to think.

Mr. Zervigon: Jack, if you have a superintendent whose powers are defined by law, and a board whose powers are defined by law, might the legislature not define all the powers away from the superintendent at some point--if they got angry at him or something like that? Might he not find out he didn't have the powers he thought he had just because he was elected?

Mr. Burson: Well, Mary, I think that possibility exists regardless of how you select either one. That's the point that I'm trying to make. As long as the powers are defined by law, the process of selection really is moot.

Further Discussion

Mr. E. J. Landry: Mr. Chairman and tired delegates, let me...get your attention a moment. I'm trying, like you, to solve a problem that's difficult. I think I'm more aware of it than many of you because I've lived in it and have been affected by it over a long period of time. I see here a wonderful opportunity to do something that will benefit the children of this state. I am with Mr. Flory. I've a cosigned. I've been a coauthor on many things that have been proposed by all of the people who have signed this amendment. But I don't want you to destroy my opportunity of presenting to you my amendment later on. I want to do this, and my amendment will follow.

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Notice the second part of our amendment. That's all I'm trying to do is to make it possible to improve on something that we're all doing together. Now notice the second part. The second part says "He shall be the ex officio secretary of the board and shall serve as its chief executive officer." In other words, you're mandating ahead of time my proposition that I think you should consider. So I would like for you to think of my amendment that says this in place of that, it would say "the powers, the duties and responsibilities and qualifications of the superintendent shall be fixed by law. Now that makes for a lot of leeway in having the representatives of the people--your people and my people--to devise some kind of a supervisory setup that would do just what you and I want to do, and would avoid all of the conflicts that you've run into with all of these different kinds of boards that you'll never agree on, but you...you do know that you will have a board of supervisors elected by the people of this state, and your Senators and then your representatives, who will be close to this elected superintendent of education who will be in the executive position representing all of the people. So, can't you see that here you have a wonderful opportunity to streamline, to make very effective a proposition that will improve the educational system of this state.

Please give me an opportunity to get this amendment in, and vote for my amendment which will not in any way affect the amendment that we all co-authored together. For that, I'll be very grateful.

Questions

Mr. Stovall Mr. Landry, do you feel that the primary concern of the people of Louisiana is for quality education or for an elected superintendent?

Mr. E. J. Landry Sir? Repeat it, please.

Mr. Stovall Is the primary concern of the people of the state for quality, good education for their children? Or is it for an elected state superintendent?

Mr. E. J. Landry I don't think the two propositions fit. I believe that all of us are for quality education, and that's why we are involved right now, and that's why I'm pleading and asking...

Mr. Stovall All right. Mr. Landry, let me ask this question, then. If a man is elected, if he is elected, would he not have to spend about half of his time either building or mending political fences rather than being concerned for good quality education for the people of the state?

Mr. E. J. Landry I'm glad you asked the question. It's a friendly question--I'll make it a friendly question because...

Mr. Stovall Please don't.

Mr. E. J. Landry ...the superintendent of education, by his appearance before the people of this state, being known, and in his campaign finding out what the problems are throughout the state, makes a very responsible leader for the people of this state in matters pertaining to education.

Thank you for asking me the question.

Further Discussion

Mr. Sutherland Mr. Acting Chairman and fellow delegates, I have avoided taking this microphone in the past as much as possible, so that I could conserve my time before this convention to this particular article on education because for the past nine months I have been really involved in listening to people concerned with education. I might say that in regard to this particular problem we had had before our committee, the superintendent of education, and members of the State Board of Education. Both of whom supported the position that the superintendent of education should be appointed by an elected board. I realize full well that

you've got an amendment out there with sufficient coauthors to pass, but, I think that I still have to come before you to explain what they have urged to us and perhaps make some changes in other areas that we are going into. The superintendent of education and the State Department of Education, the State Board of Education, both admitted that there was a problem with the present setup of both being elected. Now, I heard Mr. Flory say that the legislature would be able to define the duties. Well, I think the legislature has had that opportunity and has not performed it. Therefore, to say that the legislature has the opportunity of defining the duties of the superintendent or the State Board of Education will probably result in the same thing that we've had in the past. We will have conflict. We will have the continuation of the problems that have existed. So, if you're going to have an elected superintendent of education, and if you're going to have a Board of Education--whether it be elected or appointed--it seems to me that we have to, in this constitution, define the duties of both or you're going to be right back where you were before, and we're going to have a problem. Now, I'm not trying to persuade you one way or the other. I personally, from all the conversations that I had from all the people who appeared before our committee, I personally believe that the best setup is an elected Board of Education and an appointed superintendent by that elected Board of Education. But, be that as it may, you have a right to vote your convictions on it. All I'm telling you is if you vote to have an elected superintendent, and you vote to have an elected board and you do not define the duties in this constitution, you're right back where you were. I'll answer any questions.

Questions

Mr. Stinson Do you know that the people in my area, the only...the main concern that they've had and only recommendation they've given to me is, "Please don't take away the rights of the people to elect their officers." You haven't found it so in your area?

Mr. Sutherland Pardon.

Mr. Stinson Have you found that so in your area?

Mr. Sutherland No, sir, no, sir. In my area the people that I've spoken to have said that they would like to see the appointed superintendent by the elected Board of Education.

Mr. Stinson Do you also know that my school board unanimously went on record as being in favor of the elective superintendent?

Mr. Sutherland No, sir. But, I assume that's the reason you're supporting this amendment, Mr. Stinson.

Mr. Stinson No, sir. That is not the reason. Don't you know the reason I'm supporting it is because I feel sure, personally, it's the best thing too?

Mr. Weiss Is it true that your opinion after sitting many months with your committee is the same as the letter we've just received from Governor Edwards, also the State Superintendent of Education, Louis Michot, from Public Affairs Research Council, and other people who have studied this problem and that is an elected board with an appointed state superintendent is the most desirable and most effective in their mind?

Mr. Sutherland That was the information we had in our committee.

Further Discussion

Mr. Cannon Mr. Chairman, ladies and gentlemen of the convention, I would like to raise one great big question before your eyes right now. Whose

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superintendent, the people's superintendent or the board's superintendent? The people are going to be the judge of his qualification, and they are also held responsible for the quality of education in this state and to express themselves every four years. I think it's the people's right. I'll certainly fight for that right as long as I have a vote, both in the ballot box and in this convention. I say this, that the superintendent has to show leadership and responsibility. But, ask the question--to whom? He's a professional leader-- he should be a professional leader-- but, his professional qualifications should be the judge of the public. He should recommend policy to the board. But, the board should make that policy; this structure has been followed continually through the years from the 1820's when we first started education in this country to the present. Now, the question really of responsibility to whom, to the people or to the board. I say it should be to the people and that this superintendent can go to the legislature and speak with some authority, because he will have a base from the whole state--a political base. If he is wrong, he's going to have to answer every four years. I would say if the governor or the legislature acts to the detriment of the school children of this state, he can and should go over their heads and go to the people. He can speak with some authority and with responsibility knowing that he's going to have to go back and stand reelection four years from now. The question of problems...if there are problems which exist, I submit to you that they are wrapped up in the personnel and the personalities involved rather than the board or the superintendent itself. I think I would like to take a little exception with something Mr. Arnette said a while back. I think that we know what the people want, because we are attempting to represent them and their views. This is the people's constitution, not ours. I think this is...we should try to represent the views of our constituency as well as the total electorate of this state. The thing that has really bothered me so much about the committee proposal is that the appointment method to me is a contempt for the democratic process, to say that the people are not qualified to judge the...or not suited to judge the qualifications of who they choose as their leaders whether it be in the educational field; you can say the same thing for the governor, he has to go to the same people for election. Well, certainly I do not hold contempt for the democratic process having been elected at various times and even defeated. The comment about commitments being made or the commitments [commitments] which would have to be made to get elected. I would say that more commitments are going to have to be made to gain the appointment. Where are these commitments going to be made? I say that they will be made behind closed doors with the public having nothing to say about it. I say that the stability of the position of superintendent over a known four-year period is better than the board being able to override the professional...well, they certainly should override the professional recommendations. But, if this particular appointee should happen to fall out of favor, regardless of all the good things that he may have done, then he could be booted the next day and someone else hired who will do the individual...and answer to the personal whims of the board. I would like to point out one thing that I don't think has been brought to you, that in approximately half of our states, the state superintendent is appointed and approximately half of them are elected. Illinois, in recent years, changed from an elected to an appointed superintendent. The State of California as recent as about fifteen years ago amended their constitution to move from an appointed to an elected superintendent. So, here are two of the three largest states in the Union, of course, New York is a different situation with both the board and the superintendent being appointed.

I would say that in our attempt to represent the people of this state and the people who sent us here to draft this document, that we should attempt to represent their views as best we can. I think in

doing so, we will come to a general consensus that we want, for the benefit of the state of Louisiana, with an elected superintendent. Thank you.

Further Discussion

Mr. Abraham: Mr. Aertker, did you not mention, I simply want to say that the people in my area like the setup at the parish level, where they have an elected board and an appointed superintendent. They would like to see the same setup at the state level. Now, this includes teachers and everyone else that I've spoke to in my area. However, we fought this battle in the past and we've already, here we are fighting it all over again. I see no need to continue this argument. I, therefore, move the previous question. I would like to ask any speaker who would like to follow, to waive, so we can move on with our business.

Further Discussion

Mrs. Corne: Mr. Acting Chairman, delegate, re-elected superintendent of education and an elected board need not cause any conflict at the parish and responsibilities of each are clearly defined, and I certainly believe that this is possible. I would also feel that I'm reminding my duty if I didn't remind the delegates here that the teachers of the LTA, twenty-eight thousand of them who were represented in convention in Lafayette last November--this is a matter of record--voted almost unanimously for an elected superintendent of education. They do not want to take away from themselves the privilege of electing their superintendent of education. Please all of you delegates be reminded of this--this is a matter of record--twenty-eight thousand teachers, the representatives of twenty-eight thousand teachers in convention, voted to retain unto themselves the right to help elect the superintendent of education. I thank you.

Questions

Mr. Goldman: Mrs. Corne, can you give me the rationale for the difference between wanting to elect a superintendent of education and not wanting to elect the president of each college and university, or the principal of each high school, or grammar school?

Mrs. Corne: If the duties of these people are clearly defined, Mr. Goldman, I certainly think that the people who are responsible for the appointment of the presidents of the colleges and universities, and the principals of the school can take care of their responsibility.

Mr. Aertker: Mrs. Corne, did you know that a member of that group that you stated that voted for it, that you failed to mention that one of them didn't, because I'm a member of that group, and I voted against that? Did you also know that the teachers that I have spoken to in East Baton Rouge Parish that I find that the majority that I have spoken to feel just the opposite of what the delegates at the convention represented? Did you know that?

Mrs. Corne: Mr. Aertker, I will remind you that I said "representatives of the teachers." I think these representatives were elected by the teachers in a democratic way.

Mr. Aertker: Well, did you know the reason I asked you that is because I didn't want the delegates here to get the impression that this was a unanimous feeling of the teachers throughout the state on the issue.

Mrs. Corne: This was the unanimous feeling of their representatives that they elected to the convention.

Mr. Abraham: Mrs. Corne for the record now, how many people were at that convention who voted in this proposition?

Mrs. Corne: We have a system by which the members

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of our teacher association from each parish elect a number of representatives to represent them according to one hundred members...one delegate is appointed to represent each one hundred members. Now, these delegates are elected by the teachers of the different parishes. This was done by the House of Representatives two days in succession at the convention and then in open session all teachers who had attended then could also vote on the same... very same resolution.

Mr. Abraham But, my question is, actually how many people were there? Out of twenty eight thousand teachers, how many people were there?

Mrs. Corne I would say that the House of Delegates of the Louisiana Teachers' Association comprises about between two hundred and fifty and three hundred members who are representing their teachers, who were elected by their teachers.

Mr. Abraham So, actually you only had two hundred and fifty people and not twenty-eight thousand there, is that correct?

Mrs. Corne These are representing twenty-eight thousand teachers.

Mr. Abraham But, that's not the number at the convention now. What was the vote whenever they voted? Was it a unanimous vote or what was the count of the vote?

Mrs. Corne I'm under the impression that the vote was unanimous. But, I wanted to be very sure and when I said almost unanimous; I am under the impression that the vote was unanimous; the records can show this, I'm sure. But, I haven't got the...but there was...if any opposition, very little.

Mr. O'Neill Mrs. Corne, do you happen to remember what the vote in here was in the Executive Department Article when we discussed this?

Mrs. Corne I don't remember what the vote was, Mr. O'Neill.

Mr. O'Neill Wasn't it sort of overwhelming though?

Mrs. Corne Yes. I would say yes.

Mr. O'Neill I understand, too, that at this convention you're speaking of that it was the superintendent of schools, I believe there were two there, who voted for the appointed superintendent, yet, the nonsuperintendents voted overwhelmingly in favor of an elected superintendent.

Mrs. Corne You have a much better memory than I have, Mr. O'Neill.

Mr. Stinson Don't you think sometimes the parish teachers might agree with the superintendent or maybe tell him something they really don't mean?

Mrs. Corne I can't conceive of that, Mr. Stinson.

[Previous question ordered.]

Closing

Mr. Flory Mr. Chairman, delegates, I'll be very brief. But, there are two or three things that I think ought to be answered: One, I heard many years ago when I was a child, one of the Presidents of the United States, at that time, said that "To be a leader, a man ought to know the needs of the people and to be able to put it to them in a manner that's acceptable to them." I suggest to you, that that's what we as convention delegates ought to be doing. Secondly, I believe that the people of this state do have the intelligence with which they can make a wise decision as far as to whether or not a man should be elected and the quality of individual that they would elect. I trust the intelligence of the people of this state to do just that. Now, the final point that I would like to make, and make

and call to your attention, is this simple fact. A great deal has been said about the parish superintendents and an elected board. One of the basic reasons that I believe that we ought to have an elected superintendent is simply that if you have a staggered board elected, that superintendent who is appointed spends the greatest portion of his time politicking to get the people elected to that board. You just stop and think how many parish superintendents have ever been discharged and how many of them retire as superintendents of education? I ask for the adoption of the amendment.

[Record vote ordered. Quorum Call: 96 Delegates present and a quorum. Amendment adopted: 71-25. Motion to reconsider tabled.]

Amendment

Mr. Poynter The next set of amendments sent up by Delegates Graham, Chatelain, Flory, and Gravel: Amendment No. 1. On page 1, line 28, in Floor Amendment No. 1 proposed by Delegate Flory and adopted by the Convention today, at the end of the line 1 of the language added by that amendment at the beginning of the line after the word and punctuation "Term." delete the word "There" and insert in lieu thereof the following: "Subject to the provisions for appointment, in lieu of election, as set forth in Article IV, Section 23, there".

Explanation

Mr. Graham O.K. Now, Mr. Chairman, fellow delegates, the amendment itself is being passed out and since it's an amendment to the amendment that was just adopted, perhaps some of you don't have it yet. But, this amendment is clearly and simply just to clarify the amendment last adopted and make it consistent with the provisions of Article IV, Section 23, that were previously adopted by this convention. I think that this would give those persons who do favor the concept of an appointed superintendent the opportunity to have some safeguard and at the same time, and more importantly, would bring about consistency between these two articles of our constitution. If you have any questions, I'll be glad to answer them if I can. Otherwise, I would appreciate your adoption of this particular amendment.

Questions

Mr. Bollinger Buzzy, in your explanation, I understood you to say that the amendment will cause the new section not to conflict with Article IV, Section 23. In other words, the legislature can by a two-thirds vote change the office of state superintendent of education to appointive or consolidated. Is that correct?

Mr. Graham I won't say "or consolidated but subject to those provisions that are in Section 23 of Article IV, "which does provide for changing it to appointive.

Mr. Jenkins Buzzy, really what we're doing here, kind of, if we adopt this amendment, is endorsing the concept that after 1976 the superintendent ought to be appointive, aren't we? Since, if we don't adopt this, there will be a conflict between this and the Executive Article and we'll later have to vote on resolving that conflict.

Mr. Graham Woody, I wouldn't necessarily say that either. I wouldn't say we are endorsing the concept. We are providing that if the concept that is authorized and adopted by this convention, or on the basis of an appointed superintendent as opposed to an elective, if the elective does not work, then the legislature will have the opportunity to make that change.

Mrs. Zervigon Mr. Graham, this applies only to the office of superintendent; it wouldn't affect any board or boards that we might establish in

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this constitution.

Mr. Graham Now, Mr. Zervigon, it would be my understanding that it would apply only to the superintendent as provided for in Article IV, Section 23.

Mr. Zervigon Thank you.

Mr. O'Neill Mr. Graham, that article which you're wanting to go back and refer to, it would allow the legislature to have the governor appoint the superintendent of education. Would it not? It wouldn't provide that the board...it would allow the governor...it could allow the governor to appoint the superintendent of education.

Mr. Graham Mr. O'Neill, this was, I'm sure, discussed in detail at the time that that particular section of Article IV was adopted by this convention. I don't think that we can afford to go back and start fighting the old battles all over again. It was rejected at that time. I'm sure after considerable discussion. I was not here at that time. I was not a delegate. However, I do maintain that when you fight the battle, you should have to live with the results. I don't think we can afford to go back and start fighting it all over again.

Mr. Stinson Buzzy, this is just sort of doing away with what we just did, isn't it, or at least letting the legislature say, "Well, later on you're going to have more knowledge about it than we do, so you can do it without even submitting it to the people." Isn't that so?

Mr. Graham Mr. Stinson, this is just doing what this convention did at the time that Section 23 of Article IV was adopted on the basis of a vote of this convention, we just, I feel, should and must be consistent between the various articles of this constitution.

Mr. Stinson But, that was done after a number of...quite a bit of manipulating and voting, wasn't it, and after the Farm Bureau left us and deserted us?

Mr. Graham Mr. Stinson, it was done subject to a vote of the delegates of this convention.

Mr. Bollinger Buzzy, without your amendment wouldn't the provisions of Article IV, Section 23 still prevail? Isn't this just a technical amendment to clarify the language of the Flory amendment?

Mr. Graham I would say that in that regard it is a technical amendment. However, I think it is quite important that we do have consistency between the various sections of our constitution.

Further Discussion

Mrs. Zervigon Mr. Chairman and delegates, I rise to speak in opposition to this motherhood amendment. I think that what we've been saying all along is that the boards and the superintendent are related. If we choose to have an elected superintendent and an elected board, then that's our choice but it ought to stay that way. I'm not sure we ought to put the people of the State of Louisiana in a position where the relationship between that board and that elected official, or appointed officials could change every four years on the decision of the legislature even though it is by a two-thirds vote. Now, let me make something very clear to you about my feelings in this matter. I favor the appointed superintendent of education. I've spoken that way in the Executive Article more than once. I voted that way today. The overwhelming majority of the people here favor an elected superintendent of education. I don't believe that we can reverse that here. I'm not sure that we should leave it to the legislature to be able to reverse it. It seems to me that since we have made that decision, we ought to set up a board structure that complements it, that relates

to it some way so that the people will not nullify the totality of the constitution. We should not set up an intricate and convoluted board structure and a fluctuating appointment or an elected superintendent of education. There is no reason why we should not at the beginning of this session, not withdrawing any other provisions of this constitution. No, why we should not, Article IV, not valid on the table, go back and amend that matter of the Executive Article. One of the reasons we haven't been saying these articles on the table is that we may, at some time, want to go back and change them to some extent in light of our action here on the floor. So, I urge you, let's defeat this amendment, let's settle once and for all what the structure is going to be. Let's see how the party interrelate, let's make all of them firm or none, since we're going to make the board firm, let's make all of them firm.

Further Discussion

Mr. Cannon Ladies and gentlemen, I would like to urge the defeat of this amendment. I think we've spoken fairly loud and clear on this issue. If there would be any backsliding from this issue at all, I say put it on the ballot as a yes or no vote to the public to say whether or not they want an elected superintendent or have the legislature vote by a two-thirds to appoint or not. But, I think everyone pretty well knows my feeling, that I am for "elected" all the way. I've got complete faith in the democratic process, and I don't want to see it diluted or in any way infringed upon. That's just my feelings, and I wanted to express them. Thank you.

Further Discussion

Mr. Bollinger Mr. Chairman and fellow delegates, I rise in support of the Graham, et al amendment. When we were discussing Article IV of Section 23, I was one of the opponents of that amendment because I thought it was a sloppy way to draft a constitution; I still think it is. But, this convention spoke with over seventy delegates voting for it and I accepted defeat. In my questioning of Mr. Graham when he was at the microphone, I think it is obvious because of the organization of the Executive Article which says in Section 3 that the state superintendent of education is going to be elected; then, in Section 23 that the legislature by a two-thirds vote can make that office appointive, that the provision in Section 3 of this article would still pertain and be subject to the provisions of Section 23 in the Executive Article. I think Mr. Graham's amendment is strictly technical. However, I think for clarity's purposes it should be included to let us know that with a two-thirds vote of the legislature this office would become...would come under Section 23 after 1976. Therefore, I move the adoption of the amendment.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen of the convention, I'm surprised at the delegates who have risen in opposition to this amendment. I'd just like to ask this particular question. What are you going to accomplish by having inconsistent provisions in the constitution? What are you going to accomplish by defeat of this particular amendment? Are you going to throw the constitution into a court battle for the court to decide when nineteen, if the legislature should see fit, under the provisions of Article IV, Section 26, to say that the superintendent will be elected. Then whoever might be superintendent who wants to still continue to elect that superintendent say that is a conflict if they should...if the legislature should decide that they want an appointed superintendent, where will we be? Are we going to go ahead and reargue Section 3, Article XX...that is Article IV, Section 26 all over again? We will never get through with this constitution if we do that. Now, just like Mr. Bollinger stated, I was one of those for an appointed superintendent. I still believe that's the best road to follow, but this convention has spoken, and I accept

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that verdict. But, until we can get enough people who will say that they want to change the whole thing, let's don't go back and argue it all over again, but at least, let's be consistent. I ask you in all good conscience, let's go ahead and approve this amendment and go on to something else.

Questions

Ms. Zervigon Senator De Blieux, are you aware of that portion of our rules that says that if we pass two inconsistent provisions, Style and Drafting should instruct us of the inconsistency and then we should act thereon?

Mr. De Blieux The only thing that Style and Drafting will do is call it to our attention, and then we decide which one we want. Well, we already know what the inconsistencies are right now, so let's correct it. Let's don't go ahead and have to reargue those particular provisions all over again.

Ms. Zervigon But, weren't you implying that if we pass inconsistent provisions as of now there was absolutely nothing we could do about it except throw it into the courts later on?

Mr. De Blieux Well, they're supposed to do it, but suppose they can't do anything about it and this delegation don't want to do anything, let's don't get into that particular provision? That's why I ask, let's correct it now while we've got the chance and opportunity to do so?

Mr. Avant Senator De Blieux, I want to make sure that I understood you correctly, I may have misunderstood you. Did you say you accepted the verdict until you thought you had enough votes to change it?

Mr. De Blieux No, I say let's accept it until you know that you have enough votes to change it to something else, and if the delegation wants to say we want to change to two things and have another different section on it if Style and Drafting come up O.K. But, let's don't do...and argue the whole...

Further Discussion

Mr. E. J. Landry Mr. Chairman, members of this delegation, you'll have to forgive me for appearing as many times as I am appearing, but this happens to be in my area now. I listened to you in your area, please give me your attention a moment. I have to be against this amendment for this reason. I realize that I'm not a technical expert, I'm not a lawyer like Senator De Blieux. I haven't had the experience that many of you have had, but I can see here that it is possible by the amending process to continue refining until we have what we want. Now, we did do something back there in consideration with Article IV, Section 23, but this body has spoken loud and clear in my estimation as to what they want. Now, we weren't as aware then of what the situation is at present. We know now something that we did not know at that time. Now, this amendment would prevent me--would cut me off completely as I see it--from proceeding, with something that needs your consideration. Now, I've moved pretty well. I tried to alert you the other day as to the involvement of the situation and to nail down one of the important issues. You have done it; you have done it today. Now, let me...let me come with my amendment or destroy this amendment--give me an opportunity--you will not do violence to what we're trying to do together. So, I'm going to ask you to vote against this amendment and give me a fighting chance to present something to you that I know you will want to consider.

Further Discussion

Mr. Asseff Mr. Chairman, delegates, it's very simple to say that we will close the door on an issue. It is my personal opinion that our method

of selection of our public officials may well determine the success or failure of this constitution. The convention did not speak in a convincing manner on Section 23. I opposed the adoption of Section 23, I still oppose it. Fifty-nine delegates are recorded as opposing it. I have introduced an alternate proposal to submit to the people an alternate to Section 23. We will not close the door because that alternate proposal is now in the Committee on the Executive Department. If it is an unfavorable report I shall bring it to the convention floor on a minority report. We are going to discuss it again. I think it is extremely important. Under Section 23 I would not feel so badly about it except under that section the legislature could authorize the governor to appoint the superintendent while the state board is elected by the people which will be a more impossible situation than we have now. Personally, I prefer the appointment of the superintendent by the board. I voted for election because I am convinced that that is what the people want and I am their representative. I urge you to defeat this amendment. I don't see that it will serve any useful purpose--we're going to debate it again. I'll be glad to answer any questions, Mr. Chairman. I know this, that I am unwilling to adopt...to accept Section 23, and I may have to oppose the adoption of the constitution on that basis alone. I would be willing to accept it more if we gave to the people the final determination of an alternate proposal. But, I do not see how we can keep Section 23 and the election of the superintendent by the people. I therefore, urge you to defeat the amendment.

Further Discussion

Mr. Weiss Mr. Chairman and fellow delegates, I don't see how there can be so much confusion at a time when we have an opportunity to finalize this section and go on with our business. This is an excellent amendment. It simply spells out what is to be said and has been said by this body, and that is that we are giving the constitution the flexibility that the people of the state deserve. You may have an appointed superintendent or elected board or vice versa depending upon two-thirds vote of the legislature. Now, we have given the legislature a two-thirds vote for our taxes and many other important issues, why not allow them to handle this matter as they see fit in the years to come? From this podium many people have said that Illinois has changed their mind; California has changed their mind; we are uncertain--this is an excellent amendment--it simply states and clarifies what has been said in the past with what we have to say today on the Committee Proposal 7. I suggest and if there are no other speakers, that the question be called, and that you vote favorably for this floor amendment.

Further Discussion

Mr. Anzalone Ladies and gentlemen of the convention, the only reason I get up here is to reiterate with what another speaker has said this morning which is probably some of the best thinking that's come out of this convention this morning. You are freezing into the constitution if we adopt the remainder of these articles, a State Board of Education which can only be removed by the people by a constitutional amendment. But, yet, you are saying on the same time that two-thirds of the legislature can remove the superintendent of education. Now, as you all know, when we were discussing the Executive Article this was somewhat of a compromise to get us out of the doldrums that we were in at that time. I'm not saying that we're not going to have to resort to something like this at a later date in this particular article; I don't know because I don't know how the convention is going to vote. So, Mr. Graham, I would say to you that not necessarily is your amendment ill-advised because it may be a point to where this convention is going to have to rally to get something passed. But, I think that what you should do is wait until such time as this convention will decide as to

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whether we are to have an elected board and an elected superintendent or some other elected procedure for these people. If we are going to truly compromise this situation at a later date, then let's do it not only on the elected superintendent, but also on the elected board. This is merely the point that I wanted to make, it just...it's a good compromise if you're on the other side, but it's a bad compromise if you're for an elected superintendent. It's not...it's not the question that it's not a good move I just think it's slightly unfair at the present time.

[*Unintelligible question (re: time.)*]

Closing

Mr. Graham: Mr. Chairman and fellow delegates, I find it hard to believe that there's so much controversy over this. This convention cannot afford to go back and start considering the Executive Article all over again. We have got to take our lives as they come. I lose votes, you lose votes. When you lose, you lose and you should go on from there. All in the world I am trying to do is to provide some consistency with something that this convention has already done in the interest of time and in the interest of consistency. I can understand where there are those who feel very strongly that we should have an elected superintendent. I can understand where there are those who feel very strongly that we should have an appointed superintendent. However, I feel very strongly that we should not have two articles of our constitution that are in total conflict. Those who favored the provisions in Article 23 won. So, let's just go ahead now and provide in this article those same terms that are provided in Article IV, Section 23. I would appreciate your concurrence in this amendment.

Questions

Mr. Anzalone: Buzzy, have you got that amendment already prepared that when we elect a State Board of Education that you're going to do the same thing to them?

Mr. Graham: No, I don't, Mr. Anzalone.

Mr. Anzalone: Are you anticipating preparing such an amendment?

Mr. Graham: I do not anticipate anything until we get to that point. However, if the inconsistency applies there I think that we should at that point be consistent also.

Mr. Anzalone: Do you think that a consistent philosophy would dictate however, that one would come if we would elect the State Board of Education.

Mr. Graham: I'm sorry, Mr. Anzalone, I didn't understand your question.

Mr. Warren: Mr. Graham, you were not here you mentioned in August 2, 1973, the Journal states it. On page 5, of the Journal, Mr. Derbes submitted an amendment to make the superintendent of education elected. Would you like to know the vote?

Mr. Graham: Mrs. Warren, I...if you would care to give it, but I don't see that makes any difference.

Mrs. Warren: Wait a minute, the vote was 22 for and 26 against.

Mr. Graham: Thank you, Mrs. Warren.

Mrs. Warren: Twenty-four absent. So, if you believe that when the people speak once, they should not have a chance to speak twice then, we should have stayed where we were. Now, if they had a chance to speak once, and then had a chance to speak twice, then they have spoken a third time. So, one, two, three, do you think it's out? Why

do you keep talking?

Mr. Graham: Mrs. Warren, I believe that that particular article was adopted by this convention.

Mr. O'Neill: Buzzy, I'm not so sure that there's provisions if we adopted Mr. Flory's amendment and it is, are not clearly in conflict. I'd like you to address yourself to that point because we hardly provide here that he should be elected. We provide in the Executive Article he should be elected yet, Section 23 still says that by two-thirds he can be elected. I don't think it's necessary to mention that in here, and I'm asking you to address yourself to that point.

Mr. Graham: Mr. O'Neill, that has been brought up previously and where it might not be in conflict then in that event this is purely and simply a technical amendment to clarify the provisions between the two articles.

[*Quorum called. 30 delegates present was a quorum. Roll call completed. Amendment adopted: 27-34. Motion to recess considered.*]

Amendments

Mr. Poynter: Amendment No. 1 [*By Mr. E. J. Landry*] On page 1, line 23 in floor Amendment No. 1, proposed by Delegate Flory and just adopted, on line 4 of the language added by that amendment at the beginning of the line after the word and punctuation "years," delete the remainder of the line and delete lines 5 and 6 both inclusive, in their entirety and insert in lieu thereof the following:

"The powers, duties, responsibilities, and qualifications of the superintendent shall be fixed by law."

Amendment No. 2. On page 2, delete lines 1 through 6, both inclusive, in their entirety.

Explanation

Mr. E. J. Landry: Mr. Chairman and delegates, please forgive me for appearing so often but it's very necessary in my opinion. You're tired, I'm much younger than you are, and I don't have the energy that you have. But, this is a very simple amendment that gives me an opportunity to present to you later without any consideration of any type of board. I talked to Mr. Flory about this, he told me he'd have no objections. It simply states the powers, the duties, the responsibilities and qualifications of the superintendent shall be fixed by law. In that way, your hands are not tied, you're free when we come back Tuesday, to consider, when you're fresh, an opportunity to organize properly the educational system of this state. There's a lot of flexibility allowed here and in view of the elected superintendent, it gives you an opportunity to start fresh with the consideration of a proposition that is unique that certainly will lend a great deal to the effectiveness of this new type of organization as I see it and I think as many of you will see it. So, I thank you for consideration on this proposition.

Questions

Mr. Chatelain: Mr. Landry, you know I'm for your amendment, but I have one request of you. You say the powers and duties. We have consistently used the words "powers, functions and duties." Would you have any objection to putting the word "of powers" after the word "power" function in there? Would you have any objection to that, sir?

Mr. E. J. Landry: None at all. Anything that will help to strengthen your argument. The fact is I am convinced by your argument, delegates, that this is really what you want to do. All I'm trying to do is fix it or help you in doing the work that you have set out for me.

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Mr. Chatelain Well, if the chair would permit it...you would temporarily withdraw it and come back and put the word "power" and put "functions" between the word "power and duties" I think it would be consistent with the other things that we've done, but you've got a good amendment, Mr. Landry.

[Amendment withdrawn and resubmitted with correction.]

Questions

Mr. Hayes Mr. Landry, did you know that I'm in favor of your amendment? In fact it deletes the amendment I had proposed--that was to delete lines 1 through 3. But, why did you in the "powers, duties, responsibilities of the superintendent shall be fixed by law," why did you have to include qualifications? Why did you include that?

Mr. E. J. Landry Because we...if you notice in Amendment No. 2, I should have spoken on Amendment No. 1: they are joint. On page 2, you delete lines 1 through 6, both inclusive, in their entirety because we had spoken to that point at that...in that place--if you notice in your proposal--so it was necessary to do that.

Mr. Hayes I'm trying to say this, that you're deleting the qualifications of the superintendent in 1 through 3?

Mr. E. J. Landry Yes.

Mr. Hayes Now, O.K. You're saying then that the Legislature can go back and set qualifications--that means that they could go back then and require...doctor's degree in order to run for the superintendency--or something like this. So, this is the objection I have to your amendment is that you have qualifications in it. You see which means they could go back and say that you must be a superintendent or hold the title of superintendent in order to run, or hold at least the qualifications of superintendent in order to run. This is what I'm objecting to because I was deleting that from it in 1 through 3. That's what my amendment was going to do. You're deleting it, but at the same time you're putting it back.

Mr. E. J. Landry Well, we're leaving it to the legislature. We know now that we should not set those qualifications for this elective office really and truly.

Mr. Hayes Let me ask you this. Would you agree then that the qualifications should be that of an elector like that of the governor, etc., for the superintendent?

Mr. E. J. Landry We leave that to the judgment of the elected officials of...that is the elected officials in the Senate and in the House who represent the people of this state.

Mr. Hayes But...it's not left to the Senate for their own qualifications. It's provided for in the constitution. But, you're not leaving it that way for this position of superintendent--you follow me now--you're leaving the qualifications up to the legislature, see. I'm telling you there's a difference.

Mr. E. J. Landry That's right, and this important function I think we should do that. I think we should.

Mr. Hayes Would you be willing to delete the word "qualifications from the powers, duties, responsibilities of the superintendent shall be fixed by law." Delete the word "qualifications"?

Mr. E. J. Landry See that's a broad provision when you say that the powers, the duties, responsibilities, and qualifications...

Mr. Hayes Would you want to delete the word "qualifications" out of it?

Mr. E. J. Landry ...shall be fixed by law. I will do what this convention wants to do.

Mr. Graham Mr. Landry, as I see it, the only thing really that you're doing with your amendment is removing the provision that the superintendent shall be ex officio secretary of the board and shall serve as its chief executive officer. You are removing the provision that's in the proposal that says that the state superintendent shall possess the qualifications required of parish school superintendents. Otherwise, you're saying as set by law, as does the proposal as it is right now. Is this doing anything other than those two items that I just mentioned?

Mr. E. J. Landry What's the last part of your statement; I didn't catch it?

Mr. Graham Well, where there's a provision in the proposal itself that the superintendent shall possess the same qualifications required of parish school superintendents that part is being deleted although the proposal also says "and such additional qualifications as may be fixed by law" you are just saying "such qualifications as may be fixed by law." Does this do anything other than that?

Mr. E. J. Landry That's right. I have a strong feeling that should be removed because the representative of the people of the State of Louisiana should be...his qualifications should be set or determined not in this constitution, but by the people who elect him--to their representatives.

Mr. Graham So, apparently...apparently then do you object to the provision that he should have the same qualifications as a parish superintendent?

Mr. E. J. Landry Yes, I do.

Vice Chairman Casey in the Chair

Mr. Flory Mr. Landry, isn't your purpose really in deleting that Section (B) and incorporating that in your amendment because at the present time the qualifications for a parish superintendent are established by the State Board of Education?

Mr. E. J. Landry That is one of the basic reasons. Yes, sir.

Mr. Flory Secondly, isn't it also true that if the board were a mind to, just prior to an election for superintendent of education, the board could call a meeting and set the qualifications to meet the criteria of a particular individual?

Mr. E. J. Landry That is so true.

Mr. Chatelain Mr. Landry, as one of the men who are strong for your amendment, I think that you ought to leave it as it is because there are provisions that we could either be elected or appointed...in fact if he is appointed, then you would want to know--have some control over his qualifications--wouldn't you, sir?

Mr. E. J. Landry I think you're speaking correctly.

Mr. Chatelain Well, let's leave it in there sir.

Mr. Aertker Mr. Landry, when you say we know that this is the best thing. Who is "we" that you are talking about? I mean who...is "we"?

Mr. E. J. Landry We know what...what are you referring to?

Mr. Aertker When you say that we know that this is what should be done, and that the legislature should have this power. I heard you say that the legislature should be given this power and that we know that that's the best thing. Who is we?

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Mr. E. J. Landry. I, as one member of this delegation, have as full right as any other member to establish me to write a provision for the consideration of this body. You would do it.

Mr. Aertker. All right. Then, my second question is that...we I presume then is I'm in that...in the state. But, my second question is: you are saying that you don't believe that a person who is going to govern and be the superintendent of education should have any requirements to know anything about education, is that correct?

Mr. E. J. Landry. No, I trust the judgment of the people of this state and also the legislature. I trust that when a man presents himself to be superintendent of this great state that he'd better have the kind of qualifications and the people will have the decisions.

Mr. Aertker. Don't you think the...in the judgment of the people of this state that they...the majority of the people of this state would like to have somebody that know something about education to be guiding education?

Mr. E. J. Landry. They will have him because he will not appear on the scene unless he's got those qualifications.

Mr. Aertker. Well, I don't quite agree with that statement, but we'll let it go.

Mrs. Brien. Mr. Landry, do you really think the state superintendent should have less or more qualifications for the parish superintendent?

Mr. E. J. Landry. You see the people of the State of Louisiana, Mrs. Brien, have become enlightened. We have many people in our state who recognized just what you've said and they will see to it that the right kind of man is advanced. You will see educational groups who will sponsor the type of man who has all of those qualifications. I trust the system. I know that the best man will come out.

Mrs. Brien. I don't agree with you, Mr. Landry.

Mr. E. J. Landry. Oh, it'll happen.

Mrs. Brien. Now, if you have the state superintendent really elected I think the qualification of him should be spelled out, otherwise he should be appointed.

Mr. E. J. Landry. You see, Mrs. Brien, in answer to your question--the governor of the State of Louisiana has many more responsibilities than the state superintendent of education--and we trust the electorates and we also trust the legislature.

Mr. Weiss. Delegate Landry, would you believe that the people of the State of Louisiana feel that there is a very complicated mechanism to the insurance system of our country, and our state, and they elected a house mover for the commissioner of insurance?

Mr. E. J. Landry. Well, I wouldn't judge him. It could very well be that he's trying to do his level best to reform the insurance system in the State of Louisiana. I wouldn't judge him.

[10:00 AM]

Closing

Mr. E. J. Landry. Ladies and gentlemen of this convention, I haven't asked you for very much during my stay here with you, but give me an opportunity at this time to prove to you later that you will have an opportunity to make a change in the educational setup for this state that will help aid our teacher.

[10:05 AM]

Amendment

Mr. Flory. On page 1, of File Amendment No. 1, proposed by Delegate Flory, et al, and adopted by the convention on today, (and etc), following the word and our function officer in the last line, insert in lieu thereof the following: "Now, we're going to have to change the instructions to make that 'follow the language just inserted by Mr. Landry's amendment.' The additional language would read:

"In addition, he shall be the administrative head of the Department of Education for the implementation of the policies of the State Board of Elementary and Secondary Education and the laws affecting the schools under its jurisdiction."

Explanation

Mr. Sutherland. Mr. Acting Chairman and fellow delegates, when I spoke to you this morning about the appointment of a superintendent of education, I stated that if we had an elected superintendent and an elected board that we should have some duties specified so that we would not be in the same position we are in now. This amendment is an attempt to do that--to define that the State Superintendent of Education will be the administrative head of the Department of Education, and he will implement the policies as set by the State Board of Elementary and Secondary Education.

Questions

Mr. Roy. Mr. Sutherland, I think this is a good amendment, and for the benefit of everybody else, we could find ourselves in the position that if we don't have something of this nature in the constitution, then the legislature could turn around and deny to the State Superintendent of Education the right to administer the policies and what have you and have him some type of lame duck. Is that right?

Mr. Sutherland. I think so.

Mr. Flory. Mr. Sutherland, I have difficulty in understanding what you mean in the last portion of your amendment, "and the laws affecting the schools under its jurisdiction." Let me tell you why. If you recall, in our proposal, in its entirety,--and I'm now addressing myself to vocational-technical--I believe that we have put those under higher education, the Board for State Colleges, etc., that, as it relates to career education where there is divided responsibility. My question to you, Mr. Sutherland, is: Would it not be better to go with the language that Mr. Landry has proposed, and this convention has adopted rather than confusing it by saying, "and the laws affecting the schools under its jurisdiction," particularly where we have divided authority and responsibility in the career vocational-technical areas?

Mr. Sutherland. I would think, Mr. Flory, that this amendment, as I said, has the effect--and what I intend for it to have is the effect--of setting forth the clear distinction between the Board of Education and the superintendent of education to say that the board is the policy-making body. I want that spelled out.

Mr. Tate. Mr. Sutherland, we're back on the chicken and egg argument again--which came first? I understand that Mr. Landry, one reason he wished to delete any reference to the Board of Education and the superintendent is to wait until we go to the board and determine whether we'll have a constitutional board, etc., and then in that article, perhaps, spell out the duties of the superintendent. I think that's--I may be speaking for Mr. Landry--but I think that was his intention to separate the superintendent's relations to the board until we get to the board. So, some of us...if some of us vote against you, you will understand that

Why? I have to make it a question.

Mr. Sutherland Well, Judge, all I can say to you: I agree with you as to chicken-egg proposition. But, we've gone on both sections of this thing, and I think that when we wind up, we may wind up with nothing, you know--be caught in between and nothing gets passed. I'd like to see this passed now, and then if it's necessary, we can come back and amend it--take it out.

Further Discussion

Mr. E. J. Landry Mr. Chairman, ladies and gentlemen, don't give up. Even though you and I are tired, sometimes some of our best works are done in weariness. You remember at the beginning of this convention I told you about the second wind. Well, that's what you need right now. You do your best thinking and you do your best work when you have a blocked urge. I'm going to ask you to defeat this amendment. As I said--I'll repeat it several times--give me a fighting chance to bring to you when you are fresh, a proposition that I think deserves a tremendous amount of merit. So, please defeat this amendment, and let me have a chance, as I told you before.

[Mr. Landry's Amendment No. 1, Referred to the Committee. Amendment adopted: 12-11. Mr. Landry's Amendment referred to table.]

Amendment

Mr. Painter Amendment No. 1 [by Mr. Jenkins]. On page 1, line 28, delete Floor Amendment No. 1 proposed by Delegate E. J. Landry, and adopted by the convention on today, and insert in lieu thereof the following:

The powers, functions, duties, and responsibilities of the superintendent shall be fixed by law."

Explanation

Mr. Jenkins Mr. Chairman, the only difference between this amendment and Delegate Landry's amendment is that it removes the word "qualifications" from his amendment. The way his provision is written "the qualifications of the superintendent shall be provided by law." Now, I want to refer you back to Article No. IV, the Executive Branch. Section 2 deals with the qualifications of statewide elected officials, and let me read that to you. "A) To be eligible for any statewide elective office, a person must have attained the age of twenty-five years by the date of his qualification as a candidate for office, be an elector, and be a citizen of the United States and of this state for at least years immediately preceding the date of his qualification as a candidate for office. He shall hold no other public office except by virtue of his office during his tenure in office." Now, I honestly and sincerely believe that any person meeting those qualifications--the same qualifications that you have to meet to be governor--any person meeting those qualifications who is approved by the people of this state has a right to serve as superintendent of education. Now, you will recall the committee proposal which we just deleted said that in order to be a superintendent, you would have to meet the same qualifications that a parish superintendent now has to meet. We deleted that, but we left it up to the legislature to impose similar qualifications. Now, my problem with that is this: suppose the legislature came along and imposed those qualifications. Those qualifications would be the first, that a person would have to have a master's degree in education with at least some hours in administration and management, plus he would have had to have been a teacher for five years. Now, I don't think that any sort of set of qualifications like that would be fair or just to our people. In the first place, it simply rules out too many well-qualified, well-educated people who could do a superior job for the people of this state. Consider, for example, the fact that the Bay Professor at L.S.U. would not meet those

qualifications because he doesn't have a master's degree in education. He has a master's degree in something and he has a Ph.D in something--science or philosophy, or English, or something--but not in education. The president of most of our colleges and universities in this state could not run for that job because they don't--in most cases-- have a master's degree in education. They have other qualifications. Well-qualified and distinguished persons--attorneys, physicians, and others--could not run for such a position. Look at this convention. Look at some of the best educated people, both in terms of schooling and real education--and I refer you to people like Mr. Willis, and Buddy Roemer, and Kendall Vick, and Mr. Champagne, and a number of other people in this convention who are well-educated, capable people. They could not seek this office under such qualifications because you have to, under this, be a professional educator if such standards were adopted by the legislature. Now, education in this state--public education--is run by professional educators. We have professionals in parish superintendents, every principal is a professional educator, many of our school board members are professional educators--or at least formerly were--some of our state board members are, etc. But, I don't think that we should have any provision that would allow the legislature to lock into our law a requirement that a person be a professional educator before he could be state superintendent of education. In fact, I think it would be healthy, many times, if we had none-educators in this position to give a different viewpoint--maybe a business viewpoint, maybe someone with legal background. But, we should keep this office open to any qualified elector in the state whom the voters of this state choose to elect and put in that office. In the last election, they chose not to put in a professional educator. Now, it's been said here that the people want a professional educator. Well, then why did they elect someone who is not a professional educator when some of his opponents--in fact, virtually all of his opponents--in both the primaries and the general election were professional educators? So, that doesn't hold up. There's no demonstration that the people necessarily want a professional educator. So, let's leave this open. Let's say that these qualifications apply: that if you are a voter, you are twenty-five years old, you've been in this state for five years, you can run for office, and if the people of this state want you, you will be state superintendent of education. So, I urge the adoption of this amendment.

Questions

Mr. Roy Mr. Jenkins, didn't Mr. Landry's amendment knock out the constitutional requirement of some type of educational background?

Mr. Jenkins He knocked it out, but he left it up to the legislature to impose such similar requirements or even more stringent requirements.

Mr. Roy I understand. I take it, then, that if an illiterate person ran and was elected as superintendent of education of the state, that would be all right with you?

Mr. Jenkins Well, I can't foresee an illiterate person being elected, Chris, but if that's who the people want to choose, yes, I would abide by it, and I would live in this society and this government and abide by the people's will. But, I see no chance that that will happen.

Mr. Roy Well, why not?

Mr. Jenkins Why not? Because the people aren't going to elect an illiterate person to be state superintendent of education.

Mr. Roy Suppose a qualified man was running and an illiterate, and the qualified man died right before the election. Wouldn't the illiterate get the nomination?

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Mr. Jenkins Well, as I appreciate the law, if he dies before the general election, they have to open up qualifying again.

Mr. Roy I know, but suppose he died before the Democratic primary, Mr. Jenkins?

Mr. Jenkins Well, there'd still be an opportunity for independent candidates to qualify under our law up to just a short time before the election. That's no problem, though, Chris.

Mr. Willis Well, Woody, Chris...your answers to Chris' questions has just about knocked me out of the ball park. But, isn't it a fact that the assessing of qualifications vis-a-vis a person is parallel to the assessing of specifications on a bid by a public body whereby the specifications can include only one bidder?

Mr. Jenkins Well, that's correct. There are very few people in this state who meet these qualifications, and I certainly don't want to limit it to a few hundred people that the people of this state would have to choose from under some qualifications. We don't know what those qualifications might be.

Mr. Willis The legislature could--if they had the superintendent of education they wanted in office could--by specifications, knock out any opponent, couldn't they?

Mr. Jenkins Well, that's correct, and that's why...

Mr. Willis They could say that they had to have a certain color of eyes, a certain age, a certain length of hair, etc.

Mr. Jenkins I think that in every other case we have spelled out qualifications of public officials. We've established it here in the constitution; we shouldn't leave that up to the legislature, I don't think, in this one instance.

Mr. J. Jackson Mr. Jenkins, I voted for Mr. Landry's amendment, but in...and I'm going to vote for your amendment. Is it not true that within--let's say if you did not have a professional educator as the superintendent of education, that as presently exists within--the State Department of Education, that the normal practice is that the supportive assistant--your assistant superintendent; you have a superintendent over a particular curriculum--are usually people who have been...people who have been educated and who are qualified. These are the person who, in essence, run the education aspect of the Department of Education, did you know?

Mr. Jenkins I think you are right, Johnny, and the point is that the superintendent is more a manager of this big organization--our State Board of Education, our State Department of Education--and he doesn't necessarily have to have all the technical skills. He couldn't anyway. He has to have professionals with special expertise to do it.

Mr. O'Neill Woody, Mr. Roy asked you a question that would have us believe that an illiterate could be elected state superintendent of education. Well, in the Executive Department Article we could elect an illiterate for governor if he was twenty-five years old and an elector of the state. Couldn't we?

Mr. Jenkins I'll take my chances with the people of this state on that point.

Mr. Timmon Mr. Jenkins, do you know that a few years ago before you were in the legislature, before our Education Committee, the then state superintendent of education came in with qualifications and they were drawn up that only his assistant in the State of Louisiana met those requirements? Of course, it was voted down, but that attempt was made, and it is not unforeseen in the future.

Mr. Jenkins Well, certainly the requirement could be placed that a person would have had to have been an assistant superintendent of education or something like that. If you had a really powerful person in office who had a lot of pull with the governor, perhaps they could pass something like that. We don't know what we're buying if we leave it like this.

Mr. Kelly Woody, under the provision as it now read with Mr. Landry's amendment, it just simply says that the legislature, now or here, can remove certain qualifications if they desire. Is that correct?

Mr. Jenkins That's correct.

Mr. Kelly All right, now you're taking out "qualifications"?

Mr. Jenkins Right.

Mr. Kelly All right, now, can the legislature, assuming that we take out "qualifications" under your amendment, could the legislature still come in and attach some qualifications to this office?

Mr. Jenkins No, because of the provision of Article IV of the executive branch which sets the qualifications for statewide officials. If you look in Section 2 of that article, it says that those qualifications are: twenty-five years of age, an elector, a resident of the state for five years, and you can then run for any statewide office. So, those are constitutional qualifications, and it would not be left to the legislature.

Further Discussion

Mr. Hayes Ladies and gentlemen of the convention, I rise in support of the Jenkins amendment. This is exactly what I was trying to argue in the Landry amendment--one word, that of "qualifications." We had one problem with that amendment, that was: we were trying to delete people from running for the office of superintendent by sticking in the word "qualification." You were turning it back over to the legislature to set up qualifications that would delete a lot of people from running for state superintendent of education. We had people to get up here and argue for an appointed superintendent. Their argument did not prevail. Anyone who wanted to set up qualifications for superintendent should have listened to the people who were arguing on that side. Then, at that point, we could have set up the qualifications for superintendent. Once you decided you wanted an elected superintendent, then you should not prevent an elector from being elected. I rise in full support of the Jenkins amendment, and in no way should we attempt to deny the electors of this state from being elected to an office that we have open for an election. Thank you.

Further Discussion

Mr. E. J. Landry Mr. Chairman and members of the delegation, I'm made more aware now than ever that all of us know more than any one of us. This is an improvement. Mr. Jenkins has made an improvement. Mr. Hayes has made a contribution. This is a good amendment.

Further Discussion

Mr. Avant Mr. Chairman and fellow delegate, I rise in opposition to this amendment. Now, I'll tell you why. We have been fit in this convention--and it's my conviction that we provided that a judge must be a lawyer, that the attorney general must be a lawyer, that the district attorney must be a lawyer, that the governor must be a doctor. Now, I think we did that because I think we all know that that's true. That those are offices that require certain peculiar qualifications and that that's one of the qualifications--a certain degree of professional education or training.

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Now, I do not know and would not want to sit here and have to vote on any particular qualifications for a superintendent of education because I don't know what they should be. But, the only thing that I want to do--and I think that we should do--is to leave the door open so that the legislature, someday, say, in its wisdom, decide what certain of those qualifications may be, and would then be able to prescribe them as a matter of law. If we adopt this amendment, then the only qualification that will ever be, will be that he be an elector, and be a certain age, and the same qualifications that we have for all of the statewide elective offices. I think we must leave that door open. This doesn't mean that the legislature is going to have to prescribe qualifications. They may feel just like I do, that they are not competent to prescribe them, and that those broad, general qualifications that are set forth in the constitution are good enough for them and for the time being. But, I don't think that we should close that door, and I don't think that we should be afraid of the legislature acting in some willy-nilly or arbitrary fashion and telling some qualifications to fit one particular individual because I just don't think that's going to happen. So, I ask you to vote this amendment down so that we can leave it open for the elected representatives of the people, in the future, if they, in their wisdom, so see fit, prescribe some minimum qualifications for this most important office.

Questions

Mr. Roy Do you agree that education, and particularly schoolteacher, are...

Mr. Avant Mr. Roy, the microphone is not working or something...

Mr. Roy Do you believe and agree that education and schoolteachers are of a professional status and a professional area that requires some type of expertise to engage in?

Mr. Avant I most certainly do, Mr. Roy. I think it's very definitely a profession--one of the professions.

Mr. Roy Don't you find it totally inconsistent that we would require school superintendents on a parish level to maybe have some qualification with respect to professional training and background and expertise, and yet the guy in charge of the whole works could be nothing more than a ditch digger who happens to be twenty-five years of age?

Mr. Avant I think it would be a strange situation if we permitted the legislature to prescribe qualifications for schoolteachers and permitted them to prescribe qualifications for the parish superintendent, yet forbid them to provide any for the state superintendent. I just think that would be a strange and unrealistic situation.

Mr. Hayes Isn't it true that you can run for all federal offices just by being an elector? That you are not prohibited...

Mr. Avant I don't know...I don't know whether that's true or not, Mr. Hayes.

Mr. Hayes Do you know any prohibited offices that you cannot run for because of any provisions that we've put in here like we did in the Judiciary Article?

Mr. Avant I don't know of any, offhand.

Mr. Hayes Did you know that I disagreed with the Judiciary Article for that reason?

Mr. Avant What, that a judge should be a lawyer?

Mr. Hayes No, no, that they had to practice five years--the attorney general had to practice five years and had to hang out a shingle. I thought

that was any office that was an elected office, an elector should be able to run for it. I'm in the teaching business, and I still think that an elector should run for superintendent.

Mr. Avant Well, Mr. Hayes, we're not saying that that is not necessarily going to be the case. All we would be doing would be leaving the door open for the legislature to, perhaps, prescribe otherwise.

Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I rise in support of the Jenkins amendment. It seems to me that we have set, in other articles, minimum requirements for statewide elected offices. I suggest to you that although I do have a priority in education; I do have a priority on who runs this state; I have a priority who's going to be the attorney general. I think if you recognize the fact, if you understand how various operations work, you'll find that in the Department of Education, particularly when someone is the head of the department, he is primarily an administrator. If he likes certain expertise in a given area or he is not...he does not possess what I understand people who here are concerned about being an educator, then, again, he has a whole department of civil service employees who are the bulwark of the Department of Education. He has numerous unclassified positions where he can appoint qualified educators to assist him in the operations of the Department of Education. In addition, I found out that it has been a practice to set up several boards and commissions on education which is composed of educators, persons with various expertise to assist a superintendent of education. I suggest that at the level where the people vote at--a man is elected, I would like to believe, on his qualifications. It appears to me that a candidate who presents his platform to the voters are going to suggest that he does have some positions on the direction of education--whether he be an educator or he be someone who is concerned about the direction of education. I suggest very strongly that you're going to find variations, and that what Mr. Jenkins's amendment does is allow that a person--just as he may run for governor, or attorney general--can very well run for the state superintendent of education. I'd like to say to Mr. Landry that I did support his amendment, and I feel strongly that, you know, the legislature ought to be able to define the powers, duties and functions. I supported Mr. Sutherland's amendment. But, I do believe that with this amendment it means that someone who is not an educator could run, and someone who has been declared by various degrees and educational accomplishment could also run. I suggest that Mr. Jenkins' amendment affords us that flexibility. In closing, I just want to say and just remind you that most departments of government, whether he is the attorney general, or the state superintendent of education, or the governor, reinforces the department heads with, as I appreciate it--and we may disagree with--qualified persons in unclassified positions. Civil service mandates certain qualifications for the workers that work within the Department of Education that are not under civil service. I suggest to you to remember about the boards and commissions that normally accompany most departments.

Questions

Mr. O'Neill Johnny, how many people across the state do you think there would be who would come up to the qualifications that even a parish superintendent has to come up to? Do you think there'd be very many?

Mr. J. Jackson I would think that you have a significant percentage of people who would meet those qualifications. That doesn't concern me as much as to suggest that--I think we're talking about a statewide elective office, and that--the minimum qualifications for statewide elective office for the state superintendent of education

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ought to apply for the attorney general to advise we're talking about the law.

Mr. Neill: Well, look, man, I'm on your side. I just don't think there'd be that many that would have a master's degree in education plus so many hours and all this other stuff. My other question is: Did you know that members of the United States Supreme Court do not even have to be lawyers to serve on that court?

Mr. Goldman: Well, I do know that when the education budget comes before the legislature--I'm not necessarily a professional educator, but do you get a chance to vote on that, so we might could make this the point to go, that only those legislators who are educators can vote on an education budget, you know.

Mr. Goldman: I have several questions. Mr. Jackson, do you agree that a superintendent...state superintendent of education has to make decisions?

Mr. Jackson: I do.

Mr. Goldman: Do you agree that some decisions or many decisions he has to make, he has to make by himself, regardless of how many advisors he has available; how to make that decision?

Mr. Jackson: Right, I've got to agree with that.

Mr. Goldman: All right, do you also agree that to make decisions, a man has to have certain qualifications in order to be able to make decisions--whatever those decisions that he has to make entail?

Mr. Jackson: Right, and I think the voters take that in consideration, too, when he runs.

Mr. Goldman: Well, do you think the voters know a man who runs for office--if he doesn't have any qualifications at all--do you think the voters would know what qualifications he has in order to make the many decisions he might have to make?

Mr. Jackson: I just assume it's the normal practice that a voter attempts to find out what the qualifications of a candidate are.

Mr. Goldman: I have a last question: Don't you think the arguments in the last two days are really proof of the fact that we should have an elective board and the superintendent ought to be appointed?

Mr. Jackson: Not necessarily, Mr. Goldman. I think that question has been decided on this floor.

Further Discussion

Mr. Morris: Mr. Acting Chairman, ladies and gentlemen of the convention, I rise in opposition to Mr. Jenkins' amendment. I concur in what he said to start with. Mr. Willis, Mr. Roemer, any numbers of people in this hall would make a mighty fine state superintendent, and they are well-educated. However, we adopted another amendment that made the article this morning in Section 3 agree with Article IV, Section 23 of the executive order which says that the state superintendent's office can be an appointive office in the future. If it is, I believe many people agree with the concept if you have an appointive office or an appointive superintendent, he should meet minimum qualifications. As long as we were sure that we would have an elective superintendent, I couldn't be happier with the qualifications that the governor has to have to run for public office. But, we might be in a situation where we have an appointive superintendent, and I would hope that if we do have that it's someone with some basic knowledge of education, of school and schoolwork. Consequently, I have to disagree with my friend, Mr. Jenkins, and appear in opposition to his amendment.

Further Discussion

Mr. A. Jackson: Mr. Vice-Chairman, ladies and gentlemen, I rise in opposition to this amendment we are to fire next to individuals of an individual at the chief state school officer, who is knowledgeable about the teaching and learning experiences that are so vital for this state, and for the future of this country. We are suffering in this state, not because of the lack of a proper level of educational finance, as it relates to secondary and elementary schools, but we are suffering because we have not had proper training, and we have not had a qualified educator. Now, you can talk about the general experience of individuals for other structures and for other enterprises in this state, but when you talk about the whole business of providing educational experience and providing for it, you've got to have somebody that at least knows something about what education is all about. I am not willing in the light of a part of the problems that we have, in the light of the fact that we are on the bottom of the ladder, as it relates to educational experiences, and the measure thereof, I am not willing to leave to trust this vital and important position. We need creativity; we need experience; we need someone that is a trained educational administrator that will be able to look into the future and provide for the flexibility and provide for the creativity to insure that youngsters will have the kinds of experiences that will allow them, not only to be competent in the basic tool areas, but they will allow them to become humane, and will allow them to learn how to live and get along with the people in this state and in this country, and in this nation. So, I would urge you to vote against this amendment because it is fraught with danger.

[Previous questions ordered.]

Closing

Mr. Jenkins: Mr. Chairman, I don't know that having a professional educator as school superintendent of the state is necessarily the cure to all our ills. I think if you look back at history, you'll see that before the present state superintendent of education was elected, virtually all of our state superintendents have been professional educators. So, if you want to blame the educational progress of the state on something, you might blame it on professional educators being superintendent. I don't presume to do that, but I certainly think that that fact ought to refute the concept that we have to have a professional educator as state superintendent, else we'll be last in the nation. The point is, really, that the people of this state have a right to choose who will be their state superintendent, and it shouldn't be limited to a handful of people, a few hundred or a few thousand people who might qualify. Now, that's a simple question: whether or not we're going to have a right to choose who will be our state superintendent of education. So, I urge you to adopt this amendment.

Chairman Henry in the Chair

Questions

Mr. Singletary: Woody, under your amendment, suppose, just supposing that the superintendent were made an appointive office, should he have qualifications or what would your amendment do in that situation, if it were adopted?

Mr. Jenkins: Well, I think under those circumstances, the state board would elect the superintendent, and the board, of course, then would have the opportunity to impose any standards it might want because it's going to choose among many applicants, and if it wants to choose someone who meets certain qualifications in their discipline, they could do that, but they would not be bound by law necessarily to do that.

Mr. Singletary: So, under your amendment if it were adopted, if the office were made a appointive,

they wouldn't have to take someone that was qualified...

Mr. Jenkins Yes, I think they would have to get somebody qualified. I think politically, in the best interest of the state, they would have to get somebody qualified, but to me, being qualified to be state superintendent of education doesn't mean having a master's degree in education. You know, you might have seen this commercial--public service commercial they run on television--Abe Lincoln walks into this employment office, and he sits there and the employment counselor shakes his head and he says, "well, no formal education, no executive experience, no real job training, we don't see to have anything for you, sir;" and poor Abe just sits there and kind of nods with a little tear in his eye. You know, the fact that someone has a degree in education, doesn't mean that he's the most educated person in the state or would be able to do the best job for the people.

Mr. Singletary Thank you.

Mr. A. Landry Woody, for the last question that was asked, is it true that under Section 23, in the event that the legislature would make these jobs appointed, is it correct that the legislature shall prescribe qualifications and methods of appointment?

Mr. Jenkins Is that what it says? I wasn't aware of that, Mr. Landry.

Mr. A. Landry It's in there.

Mr. Stinson Mr. Jenkins, if he's going to be appointed by these appointed boards and all that, it doesn't make any difference whether he knows anything about the job or not, does it?

Mr. Jenkins Well, I'm afraid you might be right because under some of these plans we have, these boards are going to be part appointed or all appointed, and then maybe they'll do the appointing. I fear that our people might be losing control of our education system.

Mr. Stinson In other words, a deadhead really is just a deadhead, isn't he?

Mr. Jenkins Well, I don't know. I hope not.

Mr. Stinson You know, it might be best to have a dead person; then he couldn't cash his check, and we'd be economizing, couldn't we?

[The speaker reads Amendment re-section 23--(A). Motion to reconsider tabled. (Voice question raised on the motion.)]

Reading of the Section as Amended

Mr. Poynter Section 3. State Superintendent of Public Elementary and Secondary Education.

Subject to the provisions for appointment in lieu of election is set forth in Article IV, Section 23--I forgot the term; it starts 'A' term--there shall be...all right; I'll start over.

"Section 3 (A) Term. Subject to the provisions for appointment in lieu of election is set forth in Article IV, Section 23, there shall be a state superintendent of public education for elementary and secondary education who shall be elected for a term of four years. The powers, functions, duties, responsibilities, and qualifications of the superintendent shall be fixed by law. In addition, he shall be the administrative head of the Department of Education for the implementation of the policies of the state board of elementary and secondary education, and the laws affecting the schools under its jurisdiction."

[Quorum call: 90 delegates present and 10 quorum. Question put: 77-1. Motion to reconsider tabled. Reading]

Amendments

Mr. Poynter Mr. E. J. Landry sends up amendments as follows:

Amendment No. 1. On page 2, delete lines 7 through 11, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 4. State Superintendent of Public Elementary and Secondary Education; Function Section 4. (A) Function. The state superintendent of public education for elementary and secondary education shall supervise, control,"

Amendment No. 2. On page 2, line 15, after the word "The" and before the word "shall" delete the word "board" and insert in lieu thereof the words "state superintendent of public education"

Amendment No. 3. On page 2, delete lines 20 through 32, both inclusive, in their entirety, and on page 3, delete line 1 in its entirety--and you want to delete all amendments on that 20 through 32.

Explanation

Mr. E. J. Landry Mr. Chairman, ladies and gentlemen, in order to properly diagnose what happens here, you have to look at your proposal. You have to take this amendment; take a good look at it. Look at page 2, and delete lines 7 through 11. In order to do justice to this concept, you'll have to work at it, just a bit. All right. You've deleted lines 7 through 11. Now, Section 4 becomes State Superintendent of Public Elementary and Secondary Education. There's a replacement there. Think about that just a minute. Section 4 defines the functions. The state superintendent of public education for elementary and secondary education shall supervise control. Find that in your amendment. That's on line 11--I mean, on your proposal. Look at line 11 in your proposal, and have budgetary responsibility for all funds appropriated or allocated by the state for all public elementary and secondary schools and special schools under its jurisdiction. "As provided by law, the superintendent shall have such other specific powers, duties and responsibilities as are provided by law, but shall have no control over the business affairs of the parish and municipal school boards or the selection or removal of their officers and employees." Ladies and gentlemen of the convention, you have an opportunity to have incorporated into the committee's proposal a spelling out of the duties, responsibilities and functions of the superintendent of education in liaison with the elected representatives of the State of Louisiana. Now, on Amendment No. 2, take a look at it in your proposal. On page 2, line 15, all we do there is to before... "the" before the word "shall" delete the word "board," and insert in lieu thereof the words "state superintendent of education." Now, this is what you've been doing all day. In Amendment No. 3 look at page 2. Delete lines 20 through 32, both inclusive in their entirety and on page 3, delete line 1, in its entirety. Now, that, ladies and gentlemen, streamlines this constitution and gives you a modus operandi that will allow you to have the superintendent function as the administrative officer of the affairs of this state with no board, with the legislature providing by it...by law a program of supervision defining the responsibilities of this superintendent. That's the amendment.

Point of Order

Mr. Weiss Mr. Chairman, I request a ruling of the Chair or a vote of this convention. This seems to be a point of information that I'm asking; isn't this out of order? This is entirely dealing with the state superintendent of public elementary and secondary education which is the section we have just completed, and I think this is entirely out of order. If Delegate Landry had desired to put in other articles referable to this, he should have done so at that time. This is converting this into procedure which, I think is entirely out

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that I don't believe anyone who is involved in education could live comfortably under, and the people of this state would not have very much voice in what goes on in education, and I don't think they'd have much of an opportunity to ever get a chance to speak to anybody about a problem in education, and I urge your rejection of this amendment.

Questions

Mr. De Blieux Mr. Aertker, do you agree that the governor has a pretty responsible position?

Mr. Aertker I certainly do.

Mr. De Blieux Does he have a board to help him?

Mr. Aertker Yes, sir.

Mr. De Blieux What board is that?

Mr. Aertker He's got a Senate and a House of Representatives.

Mr. De Blieux Don't we have the same function though, as superintendent of education?

Mr. Aertker Under this setup? Under this setup it would be difficult for me to figure out how often they'd be able to go in that direction, Senator.

Mr. De Blieux But, we'd have the same jurisdiction over the superintendent of education we'd have over the governor, wouldn't it, except that the superintendent doesn't have veto power? Wouldn't we?

Mr. Aertker Well, that would be your interpretation of...that isn't a body that to me would be looking at the day by day operation of the superintendent in his operation. I think that that superintendent could operate for several months before you in the Senate or some other people in the House would ever be aware of what he was doing.

Mr. De Blieux But, it would still be the same way with the board if you don't give the board some control over him. If he's going to be elected, he's responsible to the people so his actions are just as responsible to the governor, isn't he?

Mr. Aertker Well, Mr. De Blieux, the only way I can answer that is: I doubt seriously, for instance, that since you are serving in the Senate that you really know what the state superintendent is doing and the reason you don't is because you have a board there that you have confidence in that is going to check on just what his operation is.

Mr. De Blieux I'm just wondering if we're not going to give that...have a board that has authority over them, there...

Mr. Henry Senator, if you have questions, ask your questions, but don't make a statement.

Mr. Fulco Mr. Aertker, wouldn't this set up the most powerful public official in the State of Louisiana?

Mr. Aertker Yes, sir, Mr. Fulco. In fact, I think the man would be so powerful that I probably would have to go through the governor to get to talk to him.

Mr. Fulco Wouldn't we be furnishing him the money and the organization if he so saw fit to really form a dictatorship, he could very well do it?

Mr. Aertker Absolutely.

Mr. Lanier Mr. Aertker, as I read this, this fellow would only have jurisdiction over the elementary and secondary schools. Is that correct?

Mr. Aertker That's the way it reads, yes, sir.

Mr. Lanier He would have no authority whatsoever over higher education?

Mr. Aertker That's right.

Mr. Lanier Does forty percent of the state budget go for elementary and secondary schools?

Mr. Aertker Probably so, maybe even more.

Mr. Lanier Isn't it more than that that goes for higher education?

Mr. Aertker Yes.

Mrs. Zervigon Mr. Aertker, have you ever gone down the street and asked your neighbors who their member on the State Board of Education is?

Mr. Aertker I haven't asked who their State Board of Education member is, but I know this: that ninety percent of my neighbors know that we have a State Board of Education member...

Mrs. Zervigon But, you've got two of them and most people don't even know that...that they've got two representatives on the State Board of Education. Don't you think that makes it a little bit less effective as a representative arm of government, than perhaps, the legislature?

Mr. Aertker I don't know whether they know them by name, but I'm sure that...the majority of the citizens of this state know that they have some representation that they can go to, and that's, incidentally, who they do go to very often.

Further Discussion

Mr. Cannon I'm not going to speak for or against this particular amendment because I don't think I've quite made up my own mind myself. However, there are some things that have been said that I think need to be brought into perspective. The budget of the State Board of Education includes higher education as well as elementary and secondary. All right. It's obvious that...well, with the committee's recommendation and other general feeling of this convention that higher education is going to be separated from the State Department of Education. Therefore, a sizable portion of this budget is going to be deleted. Now, again with what is remaining in this State Board of Education budget, a lot of it...I'd say ninety percent of what is left is mandated by the legislature through either equalization formula or minimum salary schedule for teachers, some way through legislative act, to be...and what other special programs that the legislature wishes to accomplish and has approved in the education budget, they have mandated that this money be passed through the superintendent's office, the State Department of Education, on to the parishes or the various places that they wish it to be spent. So, what you're really talking about is his administrative budget will be much, much smaller than what is... people say when they say a seven hundred million dollar budget. Now, I think that that needs to be brought into the right perspective. Another thing that I'm...you know, the thought that's running through my mind: does the commissioner of agriculture have a supervisory board, of farmers, or people in the farm area? The...does the secretary of state to supervise his...to formulate policy for his carrying out of the corporate charters and the business policies of this state, does he have a board elected or elected and appointed or appointed to supervise him, or to make the policy for him to carry it out? No, I don't think so. Again, you're talking...I would generally say that in this idea of the state superintendent of education's supervisory role, his budget would be approximately the size of that of the secretary of...the commissioner of agriculture or the secretary of state. I'm just not convinced that the big figure of seven

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... budget... the state department of education.

Questions

Mr. Weiss: Could you tell me if you were the state superintendent of public, elementary, and secondary education and were elected, and you had a difference with the governor on a particular matter--he who supposedly represented the feeling of the people of the state--how would that matter be resolved? Something similar to the insurance commissioner now, who's elected, and our present governor, in that the way they'd resolve it, or would resolve it?

Mr. Lanier: Well, I would say this, that as your present insurance commissioner has shown, he will go above the governor and go to the people with what he feels is just or unjust to the public.

Mr. Weiss: And then what happens in the legislature with these problems?

Mr. Cannon: Sir?

Mr. Weiss: What happens in the legislature with this conflict of opinion...

Mr. Cannon: He either prevails or he does not prevail. But, if the heat is brought from home upon the legislature, they will act responsibly, I feel sure.

Mr. Weiss: But, in the meantime, the state superintendent's wishes would probably prevail throughout the state in any decision that would involve the children of this state, no doubt. Is that correct--rather than the governor who might represent...

Mr. Cannon: That is correct, and he must also go back... he'd better act responsibly, or he's going to be in trouble come next election time.

Further Discussion

Mr. De Blieux: Mr. Chairman and ladies and gentlemen, I support this amendment because I think it amounts up to what I've been talking about all the time. If you're going to have an elected superintendent of education, you don't need a board. If you're going to have an appointed superintendent, of course you need a board. Suppose you have a board--what is the board going to do? Is it going to set policy? If you attempt to do that, the superintendent of education as an elected individual can say, "I represent all of the people of this state, not just a certain segment. You can go to and stay put. He can do as he pleases, because he is the elected superintendent. The governor doesn't have a board, the commissioner of agriculture doesn't have a board, the secretary of state doesn't have a board; yet, they operate their various departments. Then you've got someone, as the elected person representing the Department of Education, to pin the blame on; he can't pass it on to a board or somebody else. Insofar as the qualifications, duties and functions the legislature can decide that. If they think he's stepped out of line, they can correct that. Furthermore, a large portion of your education is administered by your local school boards in your parishes and in the two municipal systems that we have. You certainly, in my opinion, do not need a board of education with your elected superintendent of education. It's just as simple and plain as that, and if you want to create more conflict, just like we have in the commissioner of insurance office now and just like we have in the board of education and the superintendent of education now, go ahead and go against this amendment. If you want to bring some order into your system and let the superintendent of education run the system for elementary and secondary schools, as he should do as an elected member, you ought to vote

for this amendment... you've got to vote for it.

... time.

Mr. Aertker: Senator De Blieux, do you have any idea of the amount of money that comes into this state from federal funds--200 million dollars? Title I, Title II, Title III, IV, V, and VI, and all the different titles--that would come to the state and come directly to the state department of education. If doesn't come by the legislature, and it doesn't come by the senate, and it doesn't come by the governor, it goes directly to the state department of education. Do you have any idea of what it amounts to?

Mr. De Blieux: As a member of the Finance committee, and taking these matters into consideration, Mr. Aertker, yes, I do.

Mr. Aertker: Then you recognize that it is a considerable amount of money, and that much of it comes in here without anything to get that is the responsibility of the state department to disburse these funds. Do you think it's a wise thing to have one man responsible for the disbursement of this, without any other body working with him in the direction of finding out what programs we have going and seeing to it that it is disbursed properly and without...

Mr. De Blieux: Do you recognize the fact that if he doesn't like what the board tells him to do, that he doesn't have to follow their advice?

Mr. Aertker: I don't agree with that, Senator De Blieux. I think that we have found out in the past that he does have to follow their advice.

Mr. De Blieux: Well, that's where you and I differ on that particular thing. You've got two people trying to do the same job; it's going to be most difficult.

Mr. Lanier: Senator, the proposal that we have here only gives the state superintendent authority over funds appropriated by the state. Is that not true?

Mr. De Blieux: That's correct.

Mr. Lanier: So the legislature would be free to make whatever disposition it wished with reference to federal funds and their disbursement in the state, of course, subject to the federal law.

Mr. De Blieux: And those federal funds have to be spent the way the federal government wants them to be spent anyway, so the board wouldn't have much discretion over that.

Mr. Weiss: Delegate De Blieux, could you envision the legislature setting a set of rules and regulations that the state superintendent would have to adhere to similar to what the commissioner of insurance is now bound by, and therefore, his office would be a figurehead only and controlled more by the legislature and the governor than anyone else?

Mr. De Blieux: Well, you know, Dr. Weiss, the legislature is pretty responsible to the people and their wishes and desires, and they're not going to set rules which they think the people would not approve of, and if they set any rules...

Mr. Weiss: Are they responsible to the people when they don't give the commissioner of insurance the authority he deserves?

Mr. De Blieux: Well, the commission is appointed by the governor; that is, those other members of the commission appointed...

Mr. Henry: You have exceeded your time, Senator.

[*reading... ordered.]

Closing

Mr. E. J. Landry Mr. Chairman, members of this delegation, this is one time I'm sorry that the Chairman is in a hurry, because this is such an important issue. I'm weary, and you're weary. I asked him a moment ago; I said, "Mr. Chairman, isn't there some way that I can figure out a way to come back fresh and present this all-important thing, and he shook his head, and he said "there is no way." So, I'm making that statement to let you know that I'm tired, and you're tired, but I'm not going to give up, because I'm encouraged now more so than ever by the evidence that's been presented by Mr. Cannon, by Mr. De Blieux, and by Mr. Aertker himself, in his mention a moment ago, of this tremendous amount of money that's handled by the State Department of Education at present. Really and truly, the State Department of Education has been handling--by law, by federal regulation--a tremendous amount of money that needed no board, even to approve. The fact is it's written in the national laws. They've done it well under the supervision of the superintendent of education. It was mentioned a moment ago that the minorities would not be helped. Really and truly, we've created a problem in the board situation in trying to help the minorities. If there ever was a problem of dissention, it was in committee in the board concept for the minorities. I submit to you--as many people have said, and I'm beginning to learn the language--the representatives of the people have a much better chance of providing for the minorities of this state. Point number two: I've tried to give you the facts in the history of the conflict between the board and the superintendent of education. I can't repeat that often enough. You have the opportunity now. You have a curtailed kind of situation where you can let the superintendent of education operate the elementary and secondary schools of this state through the legislature. I'm not all this worried about all of the problems that are going to come about. Some of you are afraid, I think, of your own shadow. I'm not afraid of all of these bugaboos that you have introduced into your provision. Don't you realize that you have been told here just recently that the State Board of Education only gave ten percent of its time to the operation of the elementary and secondary schools of this state, by Mr. Aertker himself? He made a wonderful presentation in my favor on this floor just recently. The power structure for the elementary and secondary schools of this state have been and are now and will remain under your provision--the superintendent of education, the superintendents of the schools, who go directly to the school boards for all of their appropriations. I want to make you aware of that. In addition, we have a strong, powerful lobby of teachers who have the interest of the children of this state. Really and truly, there is no dictatorship here. There's a wonderful opportunity for you, for the first time, to provide for a unique type of education that will streamline and eliminate...

Mr. Henry You have exceeded your time, Mr. Landry.

[Record vote ordered. Amendments rejected: 23-65. Motion to reconsider tabled. Motion to take up other orders adopted without objection. Motion to adjourn to 1:00 o'clock p.m., Monday, November 12, 1973. Substitute Motion to adjourn to 9:00 o'clock a.m., Tuesday, November 13, 1973 adopted: 50-39. Adjournment to 9:00 o'clock a.m., Tuesday, November 13, 1973.]

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because I had to get them off of my back, and I did get them off my back. I criticized them, and complained they didn't know what they were talking about, had never said anything nice about this convention, and they hadn't. All of a sudden they said something nice, Mr. Chehardy. You didn't do anything wrong; you simply defended your position, nothing that any other delegate hasn't done. We voted for the homestead exemption, you did not. I may have caused it because I called their hand, and I pulled twenty names out of the book that they couldn't afford to ignore, Mr. Chehardy, and again, I know one of the owner's and I told them I'd go to the air and issue my challenge to a debate. They won't debate anything, so don't worry about it. Mr. Gravel, I will make this brief comment--and Mr. Chairman, because I didn't speak--now this will wind it up, Mr. Chairman. As I said the constitution should be basic and a limitation of power, not a grant of power; that's why I'm opposing it. Additionally, either a provision should be clear, specific, and complete, or leave it entirely to the legislature. I do not believe in a halfway measure, and I don't like incorporation by reference or freezing into the constitution undefined terms and variables and that type of thing. Again, Mr. Gravel, as many of you know, Governor Edwards publicly said that I could write the constitution alone, so did former Governor McKeithen. I will lay the convention a bet. You submit your draft, this one; let me and the governor prepare an alternate, and submit it, and I will bet you ten to one the people will take my draft and the governor's, and will reject yours. I'll start now, and work six or seven days a week--that's all, until January 1--that's all. I won't need but a couple of people to help me; I'll do my own work, my own drafting, my own everything. I won't want any pay, just the pittance the convention pays me. I think very highly of the governor though I do not always agree with him, but I seldom agree with anybody anyhow, except me. It is ironic for an independent who was not supported by the governor to say it, but together, delegates, we can sell a constitution to the people of Louisiana. The governor caught it for saying it; I'm saying it, so I don't care what I catch, because it's a statement of fact. My people will back me, and that's all that interests me. I shall return to my people on what I have done in this convention, and I will win without campaigning, as I did before. Thank you.

Mr. Henry Thank you, Dr. Asseff for those stirring remarks. Dr. Asseff, I'm sorry I didn't recognize you. Most of the time, I thought you were scratching your head rather than raising your hand, and I just forgot it otherwise, but I will take care of it from now on. Thank you, sir. I beg your pardon, and I apologize to you.

Personal Privilege

Mr. Sandoz Mr. Chairman, fellow delegates, as some of you are aware I have been maintaining a fairly accurate record on the number of times that the delegates speak on the various subjects, including questions that they ask other delegates. I trust that the remarks that I will make will not be offensive to any delegate, because this is not the reason for which I appear before you this morning on personal privilege. As you all know, there is a relatively short time to complete our deliberation, and submit this proposed constitution to Governor Edwards. There are 132 delegates to this convention, and the vast majority of them have appeared at this microphone on only a small number of occasions. I thought you might be interested in some of the statistics on the delegates who have monopolized the microphone. One delegate has appeared before you--and this doesn't include the education proposal--at least a hundred and seventy-three times; in second place, there's a delegate with a hundred and sixty occasions; third place, a hundred and thirty-three appearances; fourth place, a hundred and twenty-four appearances; and in fifth place, a hundred and eighteen appearances. I submit to you that if the delegates who are

monopolizing these microphones continue the same procedure which they have followed up until now that we will not be able to do our work in the time allotted. We've had a number of instances where a delegate will speak from the floor on a particular amendment, and at the outset will declare that his remarks will be brief. However, frequently the Chairman has been compelled to cut the speaker off because he has exceeded the allotted time. I have several recommendations to make to you, and I hope that they will be taken in the same spirit in which I am giving them. First, I urge each of you before sponsoring floor amendments to discuss these amendments with several of your fellow delegates, and if possible, with members of the committee on the proposal under consideration. We have wasted considerable time of the convention with delegates who sponsor floor amendments, and after considerable discussion either withdraw these amendments or only obtain a small number of votes in favor of the amendment on final consideration. Secondly, I would urge delegates not to make an appearance at the "mike" simply because they are in favor or against a particular proposal after other delegates have expressed similar arguments in favor or against the same. Third, I urge each of you before appearing for or against a particular proposal to ask yourself, "Is this trip necessary?" In conclusion, it is my opinion that the delegates of this convention possess sufficient intellect to intelligently vote on the issues without the necessity of being compelled to patiently sit at their desks and listen to extensive repetitious arguments. Thank you, Mr. Chairman.

UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 7. Introduced by Delegate Aertker, Chairman on Behalf of the Committee of Education and Welfare, and other delegates, members of that committee.

A proposal making provisions for education and necessary provisions with respect thereto.

The status of the proposal, Mr. Chairman, is the convention has adopted as amended, the first three sections of the proposal. Of course, the first section was amended...becomes the preamble. It presently still has under its consideration, Section 4, and in particular, I think there's still three amendments at the desk relative to Section 4. There are four now.

Amendment

Mr. Poynter The first amendment is sent up by Delegate Morris.

Amendment No. 1. On page 2, at the beginning of line 15, after the words and punctuation "as provided by law." and before the words "The board" insert the following: "In the event the office of State Superintendent of Public Elementary and Secondary Education is made appointive, such appointment shall be made by the State Board of Elementary and Secondary Education."

Explanation

Mr. Morris Mr. Chairman, ladies and gentlemen of the convention, this amendment just delineates who will make the appointment as state superintendent in the event that it should ever become an appointive office, and it says it will be the responsibility of the State Board of Elementary and Secondary Education. I couldn't find any place where it was delineated, and I offer this amendment for that reason.

Questions

Mr. Bollinger Mr. Morris, without this language, isn't it true that possibly the legislature could provide that the governor would make the appointment rather than the state board?

Mr. Morris Mr. Bollinger, that's true or they

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would have the support of themselves, suffered by both having to do, multiple situations that I would think of which may not be bad, but I thought it is best as well as that of the good situation.

Mr. Morris: Sir, do you think it would be possible for the State Board of Education to appoint the superintendent, to appoint the superintendent from among their own ranks of elected members of the board?

Mr. Morris: Yes, sir. It also might be possible that whoever did the appointing could also do the job.

Mr. Morris: Thank you, sir.

Mr. Aertker: Mr. Morris, the purpose of this really is to have the superintendent of education actually appointed by some people other than those who would perhaps be more familiar with the problems of education in the state than perhaps some other body or any other individual, is that correct?

Mr. Morris: Yes, sir, Mr. Aertker, that's exactly the reason I would like to see it handled like that.

Mr. Aertker: Mr. Morris, I think you know that that was the reason why the committee actually came out with an appointed superintendent, because they felt that that was, and should happen that the person should be appointed by people who are involved in education.

Mr. Morris: I assume that to be the case, Mr. Aertker. Yes, sir.

Further Discussion

Mr. Leithan: Mr. Chairman, and fellow delegates, I don't think really we have any opposition to an amendment of this nature. If you read it carefully, it's just in the event the state superintendent is an appointive position. All this amendment says is that it will be done by fellow educators, and not by the governor, lieutenant governor, what have you, and if there are no other persons to be heard...Question? I'll yield to questions.

Question

Mr. Flory: Mr. Leithan, the only problem I have with the amendment is we have not decided yet whether the board will be elected as we have it in the proposal. What happens if the board itself is appointed--as I see some amendments that have been distributed calling for an appointive board--what happens then?

Mr. Leithan: Well, I can't project what will happen, Mr. Flory, but if anything at a later date superseded this, of course, that becomes the guiding factor. But, at this stage of the ballgame, we don't know just what the situation will be. All this amendment says, in the event, "in the event," and that will assure that the appointed superintendent will be done by educators. If there's no other question, I ask the support of this amendment, and I call for the previous question.

[Unintelligible question or remark. Answer: Unintelligible. Amendment adopted: Unintelligible.]

Vice-Chairman Casey in the Chair

Amendment

Mr. Plynter: The next set of amendments offered up by delegate Shannon, Mr. Vice-Chairman.

Amendment No. 1. On page 2, delete lines 20 through 22, both inclusive, in their entirety and insert in lieu thereof the following: "(B) Membership; Terms. The board shall consist of fifteen. Strikes lines 20 through 22, inserts in lieu thereof

Mr. Morris: Sir, do you think it would be possible for the State Board of Education to appoint the superintendent, to appoint the superintendent from among their own ranks of elected members of the board?

Unintelligible

Mr. Aertker: Mr. Morris, the purpose of this really is to have the superintendent of education actually appointed by some people other than those who would perhaps be more familiar with the problems of education in the state than perhaps some other body or any other individual, is that correct?

Unintelligible

Mr. Roy: Mr. Shannon, I don't... I haven't seen the amendment lately, but do you provide any appointed or strictly fifteen member districts?

Mr. Shannon: I cannot hear you, Mr. Roy.

Mr. Roy: Does your amendment provide that there will be fifteen member - elected members only?

Mr. Shannon: Fifteen member elected only, from single member districts, yes.

Mr. Roy: Well, I take it then that your amendment is also directed against the notion that we discussed the other day and voted on twice, to that we would have appointed members to insure some type of equal representation, in some way or another, or some type of expert advice. Is that right?

Mr. Shannon: Mr. Roy, I don't consider this amendment contrary to anything we voted on already. I think the people here have expressed their desire for elected officials. We have gone to electing the state superintendent of education and in other areas have desired...this delegation has desired to elect their officials, so that's all it's pointed at is electing officials--where you can vote for them.

Mr. Roy: Didn't you have an amendment several days ago that would have omitted the appointed three members that somebody would have appointed to that particular board?

Mr. Shannon: Yes, but in that amendment, why, it was not as good as this one because it would call for the election of three from the state, divided into three districts--which I considered in drawing this one--whereas everybody would have an equal opportunity in this one to be represented.

Mr. Roy: Didn't Miss Perkins have an amendment subsequent to yours that would have essentially done the same thing--in fact, provided only for the election of members to the board?

Mr. Shannon: Mr. Roy, I don't remember. There's been so many amendments to this section here that I can't remember all those amendments.

Mr. O'Neill: Mr. Shannon, I remembered those amendments. But, your amendment is substantially different in that you increase the number of members on the board, don't you?

Mr. Shannon: That is correct.

Mr. O'Neill: Now, if you take fifteen and you require that they be elected from single member districts, doesn't it work out so that each member is elected from seven representative districts as a whole--seven equal representative districts?

Mr. Shannon: That could be the method that would be accepted under that thesis, yes, sir.

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Mr. Aertker Mr. Shannon, if we had fifteen single member districts, wouldn't that be rather unique? In fact, wouldn't that be the only type of district setup that we would have to elect that particular style in the entire State Convention?

Mr. Shannon Well, we have public service districts that divide the state up. I understand that there is in the proposal we are going to increase that from three to five. We have a hundred and five legislative districts throughout the state. We have numerous districts that have more than one little area.

Mr. Aertker But, this would add another group of different districts, in addition to what you said--the legislative districts, the congressional districts, the public service commission districts, so forth--this would be another fifteen more.

Mr. Shannon Yes, it would. But, at the same time, there would be no problem in establishing this district because we already have a hundred and five legislative districts established, and fifteen will go into a hundred and five seven times, if my arithmetic is right. So, we could combine seven legislative districts into one district for the election of the State Board of Education.

Mr. Aertker But, it would get itself involved into the mechanics of setting up elections for a different type of district that what...a new district other than what we presently have. Isn't that correct?

Mr. Shannon Oh, yes.

Mr. Lanier Mr. Shannon, if we review the rest of the proposal on education, it's not unusual to have a fifteen or seventeen person board, is it? In fact, is it not true that the Board of Regents that's proposed has seventeen people?

Mr. Shannon That's correct.

Mr. Lanier ...and, in this Board of Regents, they have two from each congressional district. So, that really means it's no longer a single member district. Isn't that true?

Mr. Shannon That is correct, and that's the reason that I saw that my last amendment was perhaps bad.

Mr. Lanier Then, don't you feel that this convention has spoken rather loudly on its feelings about single member districts?

Mr. Shannon Very definitely.

[Proceedings resumed in ordered. Record vote called. Amendment rejected: 13-72. Motion to recess deferred.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. A. Jackson]. On page 3, between lines 1 and 2, add the following: "(D) Minority Representation. A proportionate number of citizens from the predominate minority race of the state shall be included on the State Board of Elementary and Secondary Education. For the purposes of this Article the term 'proportionate number' shall be a number equal as nearly as practical to the proportionate number of members of that race in the total population of the state."

Explanation

Mr. A. Jackson Mr. Vice-Chairman, ladies and gentlemen of this convention, I would ask for your attention for a few minutes to discuss a rather serious and important question as it relates to educational governance in this state. I ask for your attention because I believe that there are a lot of fallacious arguments about this floor as it relates to this amendment. Secondly, I ask for

your attention because I know of the interest of all of the delegates in education in this state. Thirdly, I ask for your attention because I want to suggest that this is a rational and rather plausible solution to a rather serious problem that we have in this state, and that is, of how we assure that first of all that the quality of the decision made about education is as broad and as sensitive and as relevant as it ought to be. I know that part of the question in your mind is whether or not we are talking about quotas here. I know that that does not meet with the will and the wishes and some of the principles of democracy that some of you hold. So, I want to address myself to this. I want to address myself to the whole question of quotas. I do not believe that this is a new venture, when we talk about representation for all of the people, because we do have a rather recent precedent for this kind of language in a legislative act of this state, Act 712, which establishes the Board of Regents will say very clearly and pointedly that there ought to be proportionate representation on the Board of Regents, the reason being that the legislature wanted to assure that everybody would have something to say about what is happening in higher education in this state. There is no possible way that we can ignore the fact that although the decision might be good, and although the decision might be proper, and although the decision might be in the interest of all of the citizens of this state the fact that a large segment of this state is denied the opportunity to sit there and be a part of the deliberative process, as it relates to the decision, simply means that the decision is going to be held in suspect. Secondly, it simply means that a large segment of the higher education population will feel left out and will not feel that there is someone that they can turn to. Now, you would possibly say "Well, we have moved beyond this." But, I would hope that the day would hasten to come when we could say that with the full reality and honesty that all of us would want to say it. But, I say to you today that it is not...that is not the case; people do hold suspicions about decisions that are made when they are left out. Now, I'm not suggesting at all that an all white board cannot make proper decisions; I'm not suggesting that at all. I am suggesting that I think that the decision made will have a better chance of being accepted. I am suggesting that people will work for it and fight for it and abide by it if all of the people are there as a part of the decision. Now, one day, I hope that I can stand here and say that there is no need for this kind of guarantee in the constitution. One day, I hope that I can stand here and say that we don't need to be mindful of this kind of language in an act or statute of this state. I think that that's the hope and aspirations of all of us. I want to hasten that day to come in Louisiana. But, I say to you that if we include all people and guarantee them some sort of representation, that people will become accustomed to being with each other. They will get to respect each other and know each other. They will see that education is better because all people are there, and then we will not have to be mindful of this kind of language and we can talk about full democracy and true representation for all people without regard to race. Ladies and gentlemen, this is a rather serious question. I don't want to be emotional, but, I want to leave this as a parting thought. If there had been just one black Louisianian on the State Board of Education--just one--during the recent crisis at Southern University, there is no question in my mind that that individual would have been able to add immeasurably to the solution that would have been a part of the State Board's decision, and the lives of three young, resourceful Americans could have been spared. So, I say to you, I don't want to be emotional. I hope that you would regard my last statement as simply part of the information that I think that you have to have to make a grave and important decision like proper representation on the educational governance structures for education in this state. Ladies and gentlemen, I ask for your favorable vote on this amendment.

Question

Mr. Roemer: Alphonse, you and I go back a number of years—we've fought several battles together. You know I respect you a lot. I do any man. It just so happens that you're black and I'm white, and we've argued that in our past relation ship. I don't think however, you ignore that in this amendment. I want to ask you: do you think that black men or black women can represent white people, or that white men and women can represent black people? There seems to me to be a basic distinction that we might need to draw in this amendment. Don't you think that people can represent people, regardless of their color?

Mr. A. Jackson: I, Mr. Roemer, in the days ahead, hopefully, I want to let the kind of Louisiana as a part of the new South where that kind of philosophy can prevail. I'm not suggesting at all that white men can't represent black men, and black men can't represent white men. My concern is beyond that. My concern is having the kind of image, the kind of role image, that will say to black Americans who are a part of the system of higher education that you are a part of this as much as is anybody else. I think that that's just one of the problems that we have; it's one of the serious problems that we have to face. At this moment, black Americans do not feel that they are part and parcel of what is happening in higher education in this state. I regret that; I regret it deeply—more than you will ever know. But, I do believe that this is a way, a direction toward the kind of Louisiana that both of us want so badly for all of the people of this state.

Mr. Roemer: Well, let me ask you one final question then, Alphonse. You say a proportionate number of citizens from the predominate minority race of the state. What is the percentage of black people in Louisiana at the moment?

Mr. A. Jackson: About thirty-six percent.

Mr. Roemer: So, a little better than one-third? If this was an eleven man or eleven person board, and only three of them were appointed, then perhaps at some date we might have to require that one of the elected members of that board also be from the minority race. How would that work, Alphonse?

Mr. A. Jackson: Well, I think that if you will look at the language closely, Mr. Roemer, you will see that we ask, and we try and describe what we are talking about when we say that "nearly as practical as possible. I certainly wouldn't quarrel over, you know, hairs. All I'm trying to do is to be sure that black Americans in Louisiana can look to that board and say that "I am a part of that decision. I'm going to respect it. I have a responsibility to respect it, because I was a part of it."

Mr. Roemer: I understand that, and I applaud that. But, I'm just trying to get for the record—you're not suggesting that the elected...any elected person be required to be either white or black.

Mr. A. Jackson: No, I'm not.

Mr. Burn: Mr. Jackson, the only thing that concerns me is the word "predominate." In other words, if we want real democracy, we have a number of other races in the State of Louisiana. I don't know why the word "predominate." I have Indian living in my district.

Mr. A. Jackson: Mr. Burn, I certainly appreciate your observation. But, I think that there is no question that what we are talking about here—and I don't mean to sound like a racist—but, we are talking about black and white. I mean, there are other minorities, but the two minorities that represent only a small percentage of our population. I'm talking about the thirty-six percent in the general population and about forty percent in

the higher end of the population of some universities that ought to have someone that can represent just as a role marker, that they can see, will represent their feelings, that will give respect to them, that they can go to and respect their interests.

Mr. Tobias: Mr. Jackson, I'm asking the committee proposal, and it provides that "the committee consist of three members who shall be appointed and eight members who shall be elected." Now, I'm concerned about in your amendment, by something along the line, with what Mr. Tucker was referring to that is, how could that be interpreted as not with respect to the appointed member of the board?

Mr. A. Jackson: Well, that is precisely the manner in which it would be implemented, Mr. Tobias. If someone would come up with some sort of amendment where we could elect a black to the educational governance structure in this state, I would be the happiest man around, and you would have my full support. I've thought about the question. There is just no way that you can divide in an equitable basis a voting district or seat across this state, in the large geographical area that just be represented, where a black could be elected. Now, we would have to turn to the appointed sector of your board to fulfill the requirement, and the spirit of this amendment.

Mr. Tobias: But, my problem is this: I believe there are thirty...the black population of the State of Louisiana is thirty-six percent...that about right?

Mr. A. Jackson: That's approximately correct.

Mr. Tobias: That's approximately it. Well, anyway I figured thirty-six percent of fourteen members of the board, it works out that at least one of the elected members would have to be...

Mr. A. Jackson: If you will look at the last sentence, it says as practical as possible. So, I think that this provides a means for us to eliminate the requirement that one of the eight would have to be elected.

Mr. Duval: Alphonse, don't you think that the fact that there are three appointments would give minorities an opportunity to be represented?

Mr. A. Jackson: Well, I would hope so, and that is the reason why we put the language in—because we wanted to be able to say to young Americans, and black Americans, that the system can work and the people want it to work.

Mr. Duval: Another thing, I think that one of the reasons the convention voted to keep the appointments. But, don't you think that by specific proportions you're really...that's right in the face of the democratic process. Don't you think that's...

Mr. A. Jackson: Well, I think the whole democratic process is designed to serve people. As long as we have hesitation, as long as we have doubts in the minds of people, then democracy isn't working well. All I'm suggesting, by way of this amendment, is that we ought to find an apparatus that we ought to implement a procedure to make it work—not for a small segment, not for a large segment, but for all people. I'm appealing to you to fulfill that responsibility to the people of this state.

Mr. Abraham: Alphonse, I'm not questioning the merits or the desirability of the amendment, but Section 17 does provide for minority representation for all the boards—the Executive and Legislative Board and the others also. Would not this amendment be more germane to Section 17?

Mr. A. Jackson: Well, I certainly think that it is a place where we can address ourselves to that question. But, I think that that is the heart

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we're talking about board structure. In my mind, the whole business of representation is certainly germane to the structure; so, therefore, we are offering this amendment.

Mr. Velazquez Delegate Jackson, in reference to the three-eleventh of the board as compared to approximately one-third of the population of Louisiana that is black, isn't it true that the United States Supreme Court, in the one man one vote rule and the single member district rule, has allowed for reasonable amounts of variance?

Mr. A. Jackson That is true. I think the whole concept of the one man one vote principle is based on the philosophy and rationale that we ought to have proper representation from all groups. These groups are improved, I would add; the state legislature is a better place because--is a better deliberative body--because you have representation from all people. Local school boards are finding that their problems are being minimized by the fact that they have representation from all people.

Mr. Maybuse Alphonse, first of all, I want to say that I do agree with you most sincerely on this amendment--first, because I am a black. But, I have to say this--and I offer no apologies; I'm very proud of it, the fact that I am--but, I must say that being a woman and being in a movement in the national women's political caucus, where we regard all races in terms of the Chicano and the Indian. I would like to see, if possible, that you could add that, instead of--add to this a proportionate number of citizens from the minority races, and, of course, somewhere also to include women.

Mr. A. Jackson Well, I certainly can't quarrel with your represent...the female sector of this state. I don't think that there is anything in this amendment that precludes the appointment of a woman to the educational governance structure. I applaud it; I support it; I think it's in the interest of higher education, and elementary and secondary education, that we have women on the board.

Further Discussion

Mr. Leithman Mr. Acting Chairman, members of the convention, I rise in support of Representative Jackson's amendment. We deliberated Act 712 for a considerable time in the legislature. All of those present, and the majority of the House of Representatives, agreed that this...that it is imperative that we have representation from the black community on our State Board of Education. The year now is 1973; it isn't the eighteen hundreds. We feel that...in the legislature that the color of a man's skin, as Mr. Roemer mentioned, means nothing. Nonetheless, I feel that we have a very substantial segment of our population that to themselves feel that they have no representation on the State Board of Education. I'd venture to say we could have another twenty years of elections, and it's quite possible that we would not elect a black to the State Board of Education. These are some of the arguments that were advanced in the legislature. I certainly support Act 712 and with this verbiage--which calls for representation from the black community. There are some things in this amendment--and I'm the first to agree--that leaves some questions as to a predominant minority race, but I feel that, realistically thinking of this, the predominant minority race is the black race. It will be for another hundred--two hundred years. There is further question advanced as to proportionate representation. I feel that proportionate representation means just as it indicates in this amendment. If there are one hundred people and they are ten percent black, you will have ten percent representation of the black community on the State Board.

So, gentlemen, I don't think--and I don't want to advance this as a black, white or purple issue--but I do feel that a community, representative of

a certain segment of our population, should have representation for the good of the entire state. I ask that you endorse and support Representative Jackson's amendment.

Thank you.

Further Discussion

Mr. Jenkins Mr. Chairman, I rise in opposition to this amendment for a lot of reasons. But I guess the first and most important is, from our standpoint, that it directly conflicts with the Bill of Rights, and the principles set forth therein, that we've already adopted in this convention.

If you would look back at Section 3 of the Bill of Rights, the right to individual dignity, you would see that racial discrimination by the state is outlawed--outlawed in all its forms and variations. You remember we didn't say "unreasonable, arbitrary, or capricious discrimination" when we dealt with race--We prohibited all state discrimination. Let me read you the comment to Section 3 of the Bill of Rights that was prepared by the Bill of Rights Committee and this was part of our official report found in the July 6 edition of the Journal of this convention. "The purpose of this section is to prohibit direct state action which unreasonably discriminates against any person because of birth, race, sex, social origin or condition, or political or religious beliefs. It does not interfere with the right to discriminate in private affairs, nor is it intended to prohibit harmless state action." Listen to this sentence: "Rather this provision is intended both to prohibit forced segregation and to outlaw new forms of reverse discrimination, such as the imposition of quotas." Of course, that is exactly what this proposed amendment would do; it impose a quota on the State Board of Sec...of Elementary and Secondary Education. If you look at the amendment, you see a discussion of predominant minority race. Over the weekend I thought a lot about that term and it raised some distasteful questions and problems in my mind--questions that you have to go back to the 1930's to get some answers to--questions about racial purity. Who is a member of the predominant minority race? What does your racial makeup have to be? Then there are questions of racial identity, too. It seems to say that above all things a person's race ought to be the deciding factor when he is appointed to a state board. I thought that's exactly what we wanted to get away from in this country and this state. A person's race is only one aspect of his individuality--one small aspect--a minor aspect. Think of the things that are so much more important about a person than his race, such as his personality; such as his philosophy; such as his intelligence; his experience; his education; his skills; his acquaintances; and even more important than race, you have to certainly say age and sex. Yet, this amendment would isolate one aspect of a person's individuality--his race--and have people appointed to a state board on that basis. Now I want to recall for you the problems that the Democratic Party faced last year when our party attempted to establish racial and other quotas in the selection of delegates. I happened to be a delegate to the Democratic National Convention in Miami. The strange thing was that a delegation of people chosen--supposedly the most representative group of Democrats in the history of the party--turned out to be about as unrepresentative of Democrats as any group could have been. The results were shown at the polls. You can't isolate physical characteristics of people and think that by doing so you are going to have a representative group, because physical characteristics are small parts of a person's individuality.

One thing that we'll be doing if we adopt such a provision here, or in Section 10, is locking into this constitution a basic contradiction. On the one hand, in the Bill of Rights, we said we're not going to discriminate. Here we would say we are. Now, consider the precedent we are going to be setting for our educational system if we adopt such a provision. If our Board of Elementary and Secondary Education is to have a racial quota, it

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follows: basically that every aspect of our educational system, right or down the line, ought to also have racial quotas. We already have in this state a racial quota in the assignment of teacher to school. In every school there is a racial balance between whites and blacks. We have had here and in other parts of the state of appointing homecoming queens on the basis of equal racial quotas. We have quotas in student organizations. You can certainly expect that taking of students to a private racial balance, and solely for that purpose, could certainly be the logical result of putting a racial quota in the governing board for elementary and secondary education. After all, if it's good for the governing board, it ought to be good for every aspect of our educational system.

Now, the problem of racial discrimination in the past has certainly been a terribly problem--one that we have to deal with now and in the future. But the only valid approach to this question is not to continue distinctions based on race; the only solution is to go back to the idea that there is but one race, the human race. People have got to be dealt with as individuals based on their individuality,--not just one aspect of their individuality,--not all aspects of it. That's the only way we'll ever have a society where there's really no racial built into things.

I think that there are other alternatives, too, that could be used to, in fact, assure representation of different groups on this board, but at the same time not doing away with our principles. I have an amendment that has been passed out--perhaps it's not the answer, but it's certainly one approach to the problem--to provide that the three appointees on this eleven-member board that we are talking about, would be nominated by presidents of some of the colleges around our state--nonpublic colleges--in virtually the same manner that the Civil Service Board is now selected. If you have that amendment, you'll see that it mentions several black colleges, white colleges, Catholic schools, nonsectarian schools, etc., all of which are out of politics. I think from that we are going to get a more diverse group if we adopted some such plan as that. But we're not going to be locking into this constitution a form of reverse discrimination which, in the long run, is going to do more to bring about more racial consciousness and identity than we could ever do by leaving out such a provision.

So I urge the defeat of this amendment.

Questions

Mrs. Warren: Mr. Jenkins, I know you don't know that I hold in my hand the racial balance of teacher--white/black teacher--ratio in the city of New Orleans and in the city of Baton Rouge. Now, your ratio here is sixty-five/thirty-five as far as teachers are concerned. Am I right?

Mr. Jenkins: That's correct.

Mrs. Warren: In New Orleans, it's a fifty/fifty ratio. Could you tell me the difference in how we have one ratio in one place and one in the other?

Mr. Jenkins: I think it's based on the population of the place.

Mrs. Warren: Population of the place? Then it could be a fifty/fifty all the way. We have a fifty/fifty white/black ratio in the city of New Orleans. You have a thirty-five/sixty-five here. I'm trying to find out the difference why...

Mr. Jenkins: I think the school population in East Baton Rouge Parish is thirty-five percent black, sixty-five percent white, whereas in New Orleans it's fifty/fifty. I think that's the way you wish these figures are chosen.

Mrs. Warren: I think you have answered my question.

Mr. Jenkins: The problem that I have found in...

...of racial discrimination in our government and administration... result of that situation... of about five black teachers who have come to my office trying to get a job... Black quota was filled in our district, they were unable to get employment... They suggested quotas in various districts, and they were turned away... courts when there were openings for white teachers... We really have racial discrimination, and we just as had a kind as ever, I think.

Further Discussion

Mr. Jenkins: Mr. Chairman, ladies and gentlemen of the convention, it's somewhat of a long-winded lay--a biased opinion that I prefer myself with reference to the amendment. I took somewhat part I did in the 1945 and '46 revision of the constitution when the segregation bills were defeated. I have been in this fight for a long time against discrimination. I don't think we should discriminate. I don't believe we should write discrimination in our constitution. If for that particular reason I feel constrained to oppose this amendment. I know that right would strike to some of you. We have made all waxes for the appointment, other than the elected member of the board. I think that's sufficient to take care of it. I do not believe that a person in a position such as this should represent race, creed, or political beliefs. I think he should represent people, or she should represent people. As you well know, we have more females than we have males in our population. But do we guarantee that the female will have their equal proportion of representation on the board? We do not. A certain percentage of our population is Catholic. But do we make provision for the Catholic representation on the board? They have a certain philosophy. We do not. We have a certain portion of our population which is of the Jewish race. They have a definite philosophy. Some of the things that the Christians do are not in accord with what the Jewish believe. Do we make representation for the? We do not. I would go on down the line insofar as national origin is concerned. So why should we write this type of provision into our constitution? We have made allowances for some of this in the appointed members, which I think is sufficient. We certainly would try to strive for working together as human beings without regard to race, creed, color, religion, or national origin. I certainly think that we would be perpetuating some of the inequities of the past if we wrote this into our constitution, which is supposed to be a document for future governing of our society. We can't solve all of our problems in this Constitutional Convention. That is left to the legislature. So I ask you, let's don't put something like this into our constitution. I certainly feel like that it's the wrong step, even in spite of the fact that some of my very close friends of the black race may not agree with me. But I think this is a definite step in the wrong direction.

So, I ask you to oppose the amendment.

Questions

Mr. Alexander: Senator Jenkins, I'm asking you this question in sincerity, and I hope you don't joke with me. Now, is it not a fact that you know in your heart that women in this state have not suffered the kind of discrimination that blacks have suffered, and that women have not been excluded from the total political scene in Louisiana as blacks have. It was illegal for blacks to participate. You know that because you have even participated at times in some attempt to a levelling that condition. Isn't that a fact?

Mr. Jenkins: Reverend Alexander, I might say, this is that I don't think that the blacks have been discriminated against any more than women, the female have. I've seen a lot of discrimination insofar as the female are concerned. I might tell you that I was born in North Louisiana, and

the only way... in our community of people, who did not have the chance of associating with other people. I know what discrimination means; I know what it means. I can tell you this I have been fighting it all the days of my life, just like I'm fighting it here. I feel like I'm fighting discrimination by fighting this amendment, because we should not write discrimination into our constitution. That's what I feel like we are doing. I want everybody to represent people--not races, creeds, colors, or religion, or national origin, or political beliefs. That's not the idea.

Mr. Alexander: Well, Mr. Senator De Blieux, though, if you're going to recognize it on one hand and not on the other, how you going to fight it?

For example, if you're going to legislate that it be done, as has been done in the past--how are you going to correct it--How are you going to ever--you know, for the next thousand years are you saying

Mr. De Blieux: We are going to correct it by doing just as I'm doing right here, Reverend Alexander...

Mr. Alexander: Oppose it.

Mr. De Blieux: ...fighting it...fighting it.

Further Discussion

Mr. Abraham: Ladies and gentlemen, while I understand the purpose of the amendment and while I understand the intention of it, I have to agree with Senator De Blieux and with Mr. Jenkins that what we are doing here would be simply be writing discrimination right back into our constitution. Under this particular amendment, with three appointed members and with a ratio of thirty-six percent, we are going to be establishing quotas, which means that a majority of those members would have to be of the black race at this particular time.

But, aren't we freezing out other minority races at the same time--what about the Indians and the oriental race, and other people? The Mexicans are the predominant minority race in Texas. When we start talking about race, or minorities, what are we really talking about? Are we talking about color or skin? Are we talking about national origin, national ancestry? I think we'd be simply setting ourselves into a lot of trouble and ask for a lot of problems in the future, because you are never going to know where to draw the line. What we are doing in here, by writing this type of language in here, we are perpetuating the concept of segregation, if you will. I think we need to get away from this. If we're going to be one state--one people--then we can't keep writing language that keeps calling attention to this fact. Now, I don't disagree. We still have a lot of problems, but we've come a long way in the last twenty years. It's going to take many more years before this problem is ever solved. But, we can't really do it by legislation. We can't legislate people's feeling. As soon as we get this problem solved, there's going to be other problems of a similar nature that are going to come up from somewhere else.

The only thing I object to here is that when we start trying to write this type of language into the constitution, we are in contradiction of other language we have already written. I think that we're going to be looking ourselves into a problem here in the future.

Questions

Mr. Rachal: Mr. Abraham, I certainly respect your opinion. But, do you honestly believe that the time has come that we can rely upon the noble principle of democracy to take care of the representation we're talking about?

Mr. Abraham: The time will never come that you can always eliminate people's feelings toward one

another. I say to you, though, that the...we've made a lot of progress in the last twenty years...

Mr. Rachal: That was not my question.

Mr. Abraham: ...I don't think that you can do it by...through this means here, Anthony.

Mr. Rachal: Yeah, but that was not really my question. Let me ask it another way, or ask another one?

You stated, and it has been stated by many others at various times, that you cannot legislate democracy or you cannot legislate people's feelings. But, do you realize that I feel that the majority of people's feelings have been legislated down through the years? That, in fact, the forced segregation of my people in this state and in this country has been legislated until recent years?

Mr. Abraham: I don't necessarily agree with that. If you are talking about the black race now, I don't think any race has been more discriminated against than the Indians. What are we doing for them?

[Motion for the Previous Question reported: 3-44.]

Further Discussion

Mrs. Warren: Mr. Acting Chairman and delegates, I had planned to sit in my seat after I heard one of our delegates speak this morning about time. But, as the conversation went on and the debate went on, something within me would not let me stay seated. I say to you, "His eye is on the sparrow, and I know He watches me. His eye is on the sparrow, and I know He watches you." I think the thing that really drove me to this microphone was when Mr. Jenkins appeared. I had read this amendment. I didn't believe it was going to pass; and what I'm saying to you, I don't believe it's going to change your mind one way or the other. It was just something that I felt that I had to do. You know the truth, and the truth will make you free. I can remember in the city of New Orleans we have a human relations committee. I could have offered you that formula in the form of an amendment. We had representatives running from different districts--one black and one white. It's not that I don't think that a white could represent me or a black could represent a white. If I stood here and talked, I could tell you why, but I really don't have time. The point is that it would really make better communications if we hired all of the minority groups on there, even the Indians. I think that they have a right to be represented as much as anybody else. Then, why do we debate this thing? I asked Mr. Jenkins what was the teacher ratio in Baton Rouge. He said it was sixty-five, thirty-five. He said his answer was because they had a sixty-five percent white student and a thirty-five percent black. In the city of New Orleans we have more than a thirty-five, sixty-five ratio, and it's in the greater number that we have black students. Now, what does it really boil down to? We have one city with one ratio and one with the other. In this particular instance, we don't have the students integrated to the extent that we have the teachers. It plainly boils down to an economic situation. In the city of New Orleans, we are recruiting teachers from out of the state in order to get the fifty-fifty ratio. I don't know if you have that problem here, but I want to say to you: all of us have come a long ways, and we have got a long ways to go. I'm going to conclude like this: "I would rather see a sermon than to hear one any day. I'd rather one would walk with me, than merely show the way. For the eye's a better pupil and more willing than the ear. Fine counseling is confusing, but examples are always clear. I can soon learn how to do it, if you'll let me see it done. I can watch your tongue in action, but... your hands in action, but your tongue too fastly

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man. And the amendment you deliver may be very well and true. But, I would rather get an opinion by observing what you do. I say to you: vote your own convictions. I'm color-blind, but I want you to think about it. All of us would be better off if we had a little more amount of love. Thank you.

Further Discussion

Mr. Smith: Mr. Acting Chairman, delegates of the convention, I recognize that I rise at a very difficult time for me to make any point that I wish to make. I rise, too, because I'm probably the most conservative person here, which may seem contradictory because of my background, but I could not sit any longer without expressing, in respect to some of the people whom I have watched during this convention and whom I've admired for their logic and their pronouncements of righteousness, but, then when I hear them on issues like this one—who begin to sing the virtues of all of the things that we have talked about, but which we all know have never come into fruition—it disturbs me. We can talk about other articles in this constitution are taking care of matters. Well, if they are, why not repeat them? A good thing is worth repeating. We talk about democracy, and I have lived for and looked forward all my life to the time when democracy would live for what it preaches, or practice what it preaches. Democracy was born of fine parents, but it has been undernourished since its birth. Throughout the time of democracy we have given it various interjections. They've called for interjections by the court buildings, by the nurses in our communities, by the clinics of justice, but it is still not what it is pronounced to be. I wish as much as anyone in this delegation that, in fact, such an amendment were not necessary in Louisiana in 1973. But, I'm sorry, my fellow delegates; it is necessary. To say to me that you cannot legislate people's feelings is a gross misrepresentation of what has happened in this country. The majority of the people's feelings have been legislated. Otherwise, democracy would have had them turned around. We were told this years ago, that you couldn't legislate. It is not accidental that the progress that has been made in this country and in this state came after presidential executive orders on equal opportunity, under Eisenhower and Johnson and Kennedy and under the present president. Progress came after the Civil Rights Act of '64 with Title 6 and Title 7. It came, increased voting came, after the Voting Rights Act of 1965, and you're going to tell me and the people whom I represent that you can't legislate their rights; and to make democracy real for them, there is no other way it could have been done until this day. As much as I wish that it were not necessary in this state at this time in this year, fellow delegates, it is most necessary. I mention here but a feeling; it is necessary...if we get away from either politics or representation, some have spoken about the practicality of the issue. I think that if we are concerned about developing an educational system in this state which is second to none, we need to have all of the kinds of input and the expertise that we can gather. I do not see how state boards--this has nothing to do with the fact that one race cannot represent another--I do not see now, either, we can deny one race that it be represented--that the input and the sensitivities are not necessary, not needed, or cannot be helpful--when we talk about an educational system which has forty percent of the persons of a different heritage and background, and people who have been denied. So, you say: look at the progress we've made, and it is not necessary. Believe me...let me give you an example. It is very difficult, if you can imagine, to have been stooping for considerable length of time--of being held in that position--and have someone suddenly let you go and say, "stand up and run." It's a physical impossibility without some adjustments of the muscles to the previous condition. It has only been in recent years that there's been any

help through education that people would be represented. It would be some time to come before you lots of this background with us going to gather the expertise and the resources that we, the other things that are necessary to bring about that representation. Now, it seems to me if there is to be a compromise or this amendment, it would have to be one that with such language that would state that the amendment as it is written is necessary until such time as democracy is truly alive and nourished and strong and ready to survive. Until that time, we need the kind of program that was put into the Executive Article, in which we talked about persons being elected until such time as they may be appointed with the consent of the legislature. But, I say to you, fellow delegates, that now is not the time to leave the future of education and representation of the people in this state to democracy. It needs a little more nourishment; it needs a few more interjections of righteousness. Many of you have talked about, and proudly about, your background as farmers. Let me say that, if you are from the farm, you know that even the pump doesn't flow sometimes without unless it is primed. So, I say, let us continue to prime the pump of democracy so that all of its virtues and virtue will flow to all of the people of this state. I urge and I suggest to you that now is the time for individual decision and for reflection upon all those pronouncements of righteousness that you talk about so that in fact we can interject and nourish democracy so that in fact it will live and become what we say it is today.

[Laurum Cullis: 37 sets during program and a 30 rum.]

Further Discussion

Mr. Smith: Mr. Chairman, fellow delegates, I don't intend to talk but a minute. I'm not going into the merits or demerits of this amendment, which has many on both sides, perhaps; but as an attorney that has been practicing over forty-three years in active practice, there's no question in my mind--and I think most lawyers--that this amendment is unconstitutional on its face. You don't need to but read it; it's patent on its face. So, I think if we adopt it, it will be thrown out as unconstitutional. Of course, I've said as many things as you can say on both sides; but, for that reason alone, I think that we should go ahead and defeat this amendment to the constitution, and go ahead with the other business of the convention.

At this time I now move the previous question.

[Previous question withdrawn.]

Closing

Mr. A. Jackson: Mr. Chairman, ladies and gentlemen of this convention, I rise to ask you to vote for this amendment. I do so in the fullness of knowledge wrought into all of the reservations that you might have about it. But, I do so because I believe that you are interested in this state in which we live. Someone a few seconds ago suggested that this amendment might be unconstitutional. The same language now appears in Act 71, that is a statute of this state in which we live. That Act is now before the court, and there is no question relative to the language in that statute now before the court relative to its constitutional validity. Someone else suggested that we ought to forget about the fact that we have people in this state of different colors of skin. Oh, how I wish that the day would come when we would no longer have to be mindful of that, and I know that a great American once said that he wanted to see the day come when we would no longer have to judge men by the color of their skin, but rather by the content of their character. But, that was a dream, and that dream is not now a reality in these United States of America. Neither is it a reality in Louisiana. What I want to suggest is that we find a way, together, that we can have a structure that would make that dream a reality. Thank you.

also suggested that he ought not to vote for this amendment because it is in contravention of the section in the Bill of Rights that's numbered Section 3. If you, ladies and gentlemen, will recall this section, it is an equal protection clause--a clause designed to insure that all people in this state would have full opportunity, that all people in this state would have the right to plan and think together and to have something to say about their destiny, some control over it. I would suggest that this amendment is designed to take the equal protection clause work, and this amendment is not in contravention. Certainly, we ought to be logical; but if we are going to decide the fate of this amendment on cold logic, then those of us who dream, those of us who hope, those of us who want to see us have the kind of Louisiana which would say to all of the children of all of the people that you are a vital and important part of it, those of us who believe that ought to go home if we aren't going to tender our hearts and make it a part of the decisions that we make as it relates to writing this constitution. Then, finally, somebody said that you can't legislate feelings, therefore, we ought to vote against this. I would suggest to you that that is correct, but I would also hasten to add that the only way that you change attitudes is that you change the structures that regulate the behavior of people who participate in these institutions; and if they behave in a manner that's humane and divinely long enough, their attitudes would change. All I'm suggesting is that this amendment will change the behavior of people in an important structure that is responsible for education in this state. Ladies and gentlemen, I want to make the dream of Martin Luther King become a reality. I want to be in a state that has insured a structure where all people will feel a part of it, where all people will participate in the plan, where all people will slug it out in the interest, not of white children, not of black children, not of red children, not of brown children, but of all children. When that day is here, I think we can all stand together in one magnificent, divine effort of true community and stand all men on level ground.

[Remarks by Mr. Poynter, Amendment No. 1, Section 3, Article 1, Constitution of Louisiana.]

Amendment

Mr. Poynter: Mr. Conroy sends up amendments as follows:

Amendment No. 1. On page 3, between lines 1 and 2, insert the following:--this amendment was passed out on Saturday---(D) The preceding provisions of this Section relating to the State Board of Elementary and Secondary Education shall take effect only if the office of state superintendent of education ceases to be an elective office. So long as the office of superintendent of education is an elective office, there shall be a department of elementary and secondary education headed by the state superintendent of education with the powers and duties provided in paragraph (A) of this section for the State Board of Elementary and Secondary Education."

Explanation

Mr. Conroy: Mr. Flory and others, I'm going to withdraw this amendment. I wanted to explain very briefly what had happened. This was drawn last Friday at a time when the concepts in these two sections, 3 and 4, were far from clear, and I had thought it might be necessary at that time to delineate between the board and the superintendent. Since that time, however, the Sutherland and Riecke amendment was adopted to Section 3, which now provides that the state superintendent of public education is the administrator, subject to the... to carrying out the policies established by the board. In addition to that, I was confused about the wording of Section 4; but as I understand it from Mr. Aertker and from Mr. Sutherland, on behalf

of the committee, that the second sentence of Section 4 properly says that the board has the supervision and control of all public elementary and secondary schools and, in addition to that, has budgetary responsibility for the funds. I had been concerned as to whether that "supervise and control" related only to the funds or to the educational system under its control, and I'm assured that the language here does say that the board has the supervision and control of education...of the educational institutions under its control and that the superintendent is only the administrator. Now, with this delineation of respective authority, I feel that the amendment which I had prepared last Friday is no longer necessary, and move to withdraw it.

[Amendment withdrawn.]

Chairman Henry in the Chair

Amendment

Mr. Poynter: Next amendment sent up by Delegate Jenkins as follows:

Amendment No. 1. On page 2, delete lines 20 through 23, both inclusive, in their entirety, and on line 24 delete the words and punctuation "to be determined by the legislature," and all amendments thereto and insert in lieu thereof the following: "(B) Membership; Terms. The board shall consist of eleven members, eight of whom shall be elected from single-member districts to be determined by the legislature, and three of whom shall be appointed by the governor, with the consent of the Senate, from the state at large. Each member appointed by the governor shall be chosen from a list of three nominees submitted alternatively by the presidents of the following colleges as provided by law: Oillard University, Centenary University, Xavier University, Tulane University, Loyola University, Louisiana College, and St. Mary's Dominican College."

Mr. Jenkins wants to make one change in it before he introduces it. On line 7, it says "three nominees submitted"; strike out the word "alternately" and insert in lieu thereof the words "in turn"--"submitted in turn by the presidents of the following colleges".

Explanation

Mr. Jenkins: Mr. Chairman, this is really an attempt to work out, what I hope will be, a satisfactory compromise with regard to the three appointed members of this board--an attempt to try to put these board members, to a great extent, above politics and yet, to assure some sort of equitable representation from various groups in the state. As you know, right now, under the proposal of the Education Committee, the Civil Service Board will consist of five members to be chosen in this very same way--each member to be chosen from panels of three names submitted by presidents of private colleges and universities in the state. In addition to those five, I've added two additionally: one black university and one woman's college. The civil service method of selecting people to serve on the board, even though it has not proved satisfactory in all respects, has certainly brought about the appointment of a high quality person to that board. I think that this will do likewise. It is a proven method of selecting people. Now, why should these people for this Board of Elementary and Secondary Education be nominated by presidents of colleges? The reason, of course, is not that the persons nominated are going to come from these colleges; I don't expect that at all. I expect, rather, that the persons nominated will be high quality individuals nominated by people who understand something about education and the needs of it. Some of these colleges and universities have schools of education--maybe someone from those schools of education who are selected. There may be other knowledgeable people who might be chosen. But, in any case, three names would be

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submitted by each of these colleges, universities, and then one of them would be chosen by the governor. At any one time, there would only be three appointees, and the legislature, undoubtedly, would provide that the first three would be from Dillard, Centenary, and Xavier. Then, as the first vacancy occurred, the next one would be from Tulane, and as the next vacancy occurred, the next one would be from Loyola, and so forth. Now, why private colleges and universities? It certainly is felt that public college and university presidents have to be at least to some extent politicians. Those who are familiar with our college and university presidents in this state--we certainly respect them, but we know that they are politicians, and they have to be politicians in order to get their position and maintain them. Why not have other groups, maybe the School Boards Association or someone like that, nominate people? The reason, again, is the fact that there are political considerations that each such group--as long as they're within the public system--political considerations that they have to be borne in mind. But, here we have a group of people, the presidents of these private colleges and universities, who really have nothing to gain or lose by the selection of these people on this board. Their only interest, I think, will be one of getting the best people they can in the same way that civil service has operated in the past. Now, one of the problems with civil service in the past is that there have been no black universities represented there. We provide that there would be two here. We also provide that there would be a predominantly woman's college. I'm not suggesting that the nominees of those colleges will in any way represent the particular racial or sexual makeup of those campuses. I certainly don't know whether they will or not, and I don't really care. I want them to submit the best people that they have available. Of course, we're not taking anything away from the governor because the governor will still have the final say along with the members of the Senate, who would have to confirm any appointment. Of course, if they refused to confirm the appointment, well, then, there would have to be other nominees submitted. So, I urge the adoption of this amendment. I think it's a fair compromise.

Questions

Mr. J. Jackson: Mr. Jenkins, Mr. Fulco would like to know which one of the amendments are you using? Are you using the one with St. Mary's Dominican College added?

Mr. Jenkins: Yes. This is the longer amendment. We had some technical amendments...technical changes in that other one that had to be made.

Mr. J. Jackson: Could you, for my benefit, give me a demonstration as to how this process would work, because I notice you took out the word "alternately and substituted in turn". So, could you just briefly tell me what's the effect of that?

Mr. Jenkins: Yes. I will. You might look...you're going to have to refer to the committee proposal because lines 25, 26, 27, and 28 are still in there, amended. It provides that the terms of members shall be for six years, and that initial terms shall be determined by law. Now, I suspect what will happen is this: if this...and of course, it's going to depend on our schedule too, but assuming the schedule of this constitution provided that this would go into effect in 1974, then I assume that the first member of the board--perhaps, he would be from Dillard; I don't know, it would depend on where the law established the rotation would start--would have a two-year term, from '74 to '76. The next one from Centenary would have a four-year term, from '74 to '78. The third one, from Xavier, would have a six-year term, from '74 to '80. Then, the person from Tulane would take up when the term of the person from Dillard ran out in '76. The person from Loyola would take up in '78, when the person from Centenary's term's

expired, and so forth, and the rotation would be set in motion when the first ran out. Now, of course, we'll be provided that the legislature would provide that initial terms could be longer. They might actually say that initial terms could be six, eight, and ten years, and that would certainly be fine with me. I think that what we can do better than, the rotation would start at the two-year term. But, that would be provided by law--at any one time, you'd only have three people serving in these appointed capacities from the member colleges mentioned. Truly, if you all want to offer this amendment, to make it clear that the initial terms will be six and who would have three, or to make change or additions in the language listed, that's not my concern. I'm just trying to come up with a particular plan that might work out a compromise, and I certainly would be open to changes like that, if you don't feel that it's equitable to just leave it up to be provided by law."

Mr. Ginn: Woody, I want to know why you repudiated "determined by the legislature," replaced that with "determined by the legislature,"--those eight members?

Mr. Jenkins: Well, I just assumed that there might be going to overlap the congressional districts, but it would provide that if, at some time in the future, we lost a congressman or gained a congressman, it wouldn't necessarily change the districts. But, I'm not tied to that, David, if you want to change that. Our population projections show that there's no expected change in the number of congressmen we're going to have--certainly not by 1980.

Mr. Ginn: One more question. I'm a little bit concerned that you have the presidents of some of these private schools to be on this public school board. Would you elaborate on that just a little bit?

Mr. Jenkins: Yes. As I mentioned before, this is the way that the Civil Service Board operates now--their appointments--from the same private colleges, with the addition of Xavier and St. Mary's Dominican, under the committee proposal, anyway. The purpose, of course, is to take it out of the hands of anyone who's subject to political influence like, unfortunately, some of our public college and university presidents have to be, and are, because they have to be worried about, first, keeping their jobs, they've got to be worried about budgets; they've got to be worried about all sorts of things that these people in private education aren't subjected to.

Miss Wisham: Mr. Jenkins, I think you answered my question, but I'm concerned. A president, say of Dillard University, does not necessarily have to select alumni from that university; he can maybe select someone from the community, or maybe from Southern University, or elsewhere?

Mr. Jenkins: Oh, absolutely. In fact, I just assure that in most cases you won't have someone tied to the university in question because they could name anyone--subject, of course, to the governor's appointment and a confirmation by the Senate.

Miss Wisham: Good. That was my only concern because I thought in terms of laymen who would probably serve well on this board.

Mr. Lanier: Woody, I believe that five of these universities are in New Orleans, one is in Pineville; and one is in Shreveport. Would you happen to know where the president of these schools live

Mr. Jenkins: No, I don't, Walter. I do know, though, that the student bodies and the faculties of all of these institutions have a statewide makeup, and I think the orientation is generally statewide rather than more parochial or local.

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So, I don't think that there's going to be a predominant metropolitan area, here. But, certainly we could go back with an amendment saying that as to the three serving at any one time, no...not more than one, say, would be from the same congressional district or something like that.

Mr. Larier: Well, what I'm getting at is assuring that the presidents live where these colleges are--that would give five in New Orleans, one in Pine Bluff, and one in Shreveport--do you think that would really be fair for a place like Lafourche Parish like where I live?

Mr. Jenkins: I think it would, Walter, and, of course, we don't have one in Baton Rouge where I'm from, I wish we would have a good private college or university here, but it just so happens that your four-year institutions, by and large, are in New Orleans. I think they have a statewide outlook, statewide student body, and I don't think it's going to lead to an unfairness.

Mr. Aertker: Woody, if the Board of Regents ends up having some appointed members on it--or any of the other boards of higher education--would you be in favor of then having people from elementary and secondary education make the nominations to the governor for them, or people that represent elementary-secondary education like L.E.A., L.T.A., school boards association, etc., because this is what disturbs me about this is we've got...you've got a proposal here that has people in higher education recommending people to the...for appointment to the governance of elementary and secondary education? I just wanted to know whether you would be inclined to reverse that in case we had the opposite condition existing.

Mr. Jenkins: Well, if we could find someone who was first, out of politics and second, who knew something about education, I wouldn't object to it.

Mr. Aertker: Do you think that the president of a university is completely out of politics?

Mr. Jenkins: I think the presidents of the private colleges and universities to a great extent are, yes, sir. I don't think that...they're not tied to politics in any way.

Mr. Aertker: Don't you think, then, if you start putting them in there to make nominations and recommendations to the governor, that you might be putting them into politics, then?

Mr. Jenkins: Well, I don't think that we've had that in the past under the Civil Service Commission. I think that it's worked very well. I don't think that it has involved these college presidents in politics--the private college presidents--and I just don't think it would in the future, Bob, because this is...I mean, this is not exactly going to be a patronage thing for them. It's not going to be something that benefits them one way or the other, so I don't see that.

Mr. Aertker: You don't think serving on a board that's going to pay per diem is a sort of a patronage?

Mr. Jenkins: Well, remember, as to any given college president, it's going to be one appointment that a college president is able to meet...make in about a fourteen year period--once every fourteen years. It's going to be a different person every time. It's going to be such a dispersed thing--a decentralized thing--that I can't see how it's going to really be a great political plum for anybody. Now, if we had just three colleges mentioned instead of seven, I could see it might be some, but it's not.

Mr. Aertker: What happens if--for instance, I've noticed that Louisiana College, to give you a case in point, has got a steadily declining population...school population--what would happen, for instance, if they suddenly closed down that opera-

tion? Then, where do we stand?

Mr. Jenkins: Well, I think you'd just have to read the rest of this article if you did, because if it doesn't exist, then they're not going to be able to make an appointment, and it's going to go down to the next one.

I urge the adoption of the amendment.

Further Discussion

Mr. Stovall: Mr. Chairman, ladies and gentlemen of the convention, I'm going to speak very briefly on this amendment, and then move the previous question because I feel that we've already made up our minds concerning this particular amendment. Let me say that I rise in opposition to the amendment because I think that it is not clear as to how it will function. I think that it unduly complicates a very simple matter. I think the governor is the... is elected by the people; he is the democratic representative of all the people throughout the state. He is the chief executive of the state, and I think somewhere along the line we have to have trust in the person who is elected. This may mean that our concern would be to elect a person in whom we can have trust and confidence, recognizing that he will have these responsibilities. Also, if these persons are appointed by the chief executive, it means that the full power and authority of the state is behind the Board of Elementary and Secondary Education. Therefore, I encourage you to reject this amendment and to proceed with the section. I move the previous question.

[Previous question briefly. Amendment rejected: 23-72. Motion to reconsider tabled. Previous question carried on the Section.]

Closing

Mr. Aertker: Mr. Speaker, ladies and gentlemen, this section that we are about to vote on is, of course, the very thing that we have heard throughout this state from everybody who is involved in elementary and secondary education. This is what is needed. This is the answer to progress in elementary-secondary education for the State of Louisiana, in my judgment. I ask your favorable consideration of this section.

Question

Mr. Tobias: Mr. Aertker, on line 32 on page 2, it says, "members shall serve without pay except for such per diem and expenses as shall be fixed by the legislature." I was not the intent of the committee that that only apply to those members of the board when there were vacancies. It was intended to apply to all members, was it not?

Mr. Aertker: That's right; it wasn't.

Reading of the Section as Amended

Mr. Poynter: "Section 4. State Board of Elementary and Secondary Education

Section 4. (A) Creation; Function. There is created a body corporate, known as the State Board of Elementary and Secondary Education. The board shall supervise, control, and have budgetary responsibility for all funds appropriated or allocated by the state for all public elementary and secondary schools and special schools under its jurisdiction, as provided by law.

In the event the office of state superintendent of public elementary and secondary education is made appointive, such appointment shall be made by the State Board of Elementary and Secondary Education. The board shall have such other specific powers, duties, and responsibilities as are provided by this constitution or by law, but shall have no control over the business affairs of parish and municipal school boards or the selection or removal of their officers and employees.

(B) Membership; Terms. The board shall consist

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of three members who shall be appointed by the governor, with the consent of the senate from the state at large, and eight members who shall be elected from single-member districts to be determined by the legislature. All members shall serve overlapping terms of six years, following the initial terms which shall be fixed by law.

At variance with an election occurring for any cause prior to the expiration of the term shall be filled by appointment by the governor. However, if at the time the vacancy occurs, the unexpired portion of the term of any elected member is more than one year, the vacancy shall be filled by election as provided by law. Members shall serve without pay except for such per diem and expenses as shall be fixed by the legislature.

[The clerk pronounced the title of the motion to amend the constitution.]

Reading of the Section

Mr. Poynter Section 5. Qualifications and Certification of Teachers

Section 5. The board shall prescribe and provide for the qualifications to be met by teachers and for the certification of teachers of public elementary and secondary and special schools.

Explanation

Mr. Aertker Mr. Chairman, ladies and gentlemen of the convention, I think the section that you've just heard read is really self-explanatory. The committee felt that this should be included in the constitution that the board should have that power to prescribe and provide for the qualifications to be met by teachers and for the certification, and they felt that this should be a part of the constitution. I think the matter really addresses itself to a question of whether you feel that this should be included in the provisions of the constitution or whether this matter should be excluded. The committee felt that it was of enough import that they felt it should be definitely put in the constitution so that this power would be clear and specific. I recommend the adoption of the section.

Questions

Mr. Newton Mr. Aertker, I assume that there's going to be another board for the colleges, other than U.S.L., in this proposal here. Isn't there a great potential for conflict between the Board for Higher Education and the Board for Elementary and Secondary Education?

Mr. Aertker It's my understanding that both boards have been authorized to, of course, develop their standards. There would be a possibility of conflict if the board of Regents came in with some of their certifications. However, I think you recognize the fact that the State Board of Education, if they are going to require certain course work in certain areas that they have to take, that they would be in a position to just about demand that these... that the universities provide that type of training for these teachers in order to be certified, in order to be qualified.

Mr. A. Jackson Superintendent Aertker, is it your opinion that this section would preclude input and knowledge from in-service teachers as it relates to the fixing of qualifications and certification? I think that what I'm really getting at is the whole question of professionals controlling their own destiny. Does not this preclude teachers from participating in the licensure for the teaching profession?

Mr. Aertker I don't quite follow you, Mr. Jackson.

Mr. A. Jackson Well, you said the board... this amendment, if I understand it--I mean this section--calls for the board to "prescribe and provide for qualifications." I'm asking. Does this preclude

or preclude teachers from having an input in the certification requirements?

Mr. Aertker I wouldn't know, Mr. Jackson. I would think that the board, certainly, would be asked by the legislature to provide for the certification of teachers. I would think that the board would have the right of what to do with the state dealing with matters of certification and the membership of the committee of that committee is teachers. As I would have to presume that there's no problem.

Mr. A. Jackson I'm aware of that, but in the provision in the constitution now that requires, by way of language as we have here, for the board to be solely for the board to draw their membership.

Mr. Aertker No, I think that this states that the board has this responsibility, doesn't it?

Mr. A. Jackson No, I'm saying it's not in the present constitution, is it?

Mr. Aertker That's correct.

Aeridment

Mr. Poynter Aeridment set up by delegate Juneau as follows.

Aeridment No. 1. On page 1, delete lines 1 through 6, both inclusive in their entirety.

Explanation

Mr. Juneau Mr. Chairman and fellow delegates, the amendment is simple to the extent that it deletes Section 5 in its entirety. I, frankly, have checked with representatives and individuals on the committee and people in the educational field, and they find no necessity for putting in a provision in the constitution. It is my belief that if there is no compelling absolute necessity to have language in the constitution, that it ought to be eliminated. I think that the points raised by Mr. Jackson are valid. I would be glad to submit to any questions.

Questions

Mr. O'Neill Pat, this section as it's written would have this board certify teachers for private schools as well, wouldn't it? Is that your interpretation of it?

Mr. Juneau I would assume so, Gary, 'cause it just says teachers. It's not limited one way or the other.

Mr. O'Neill Well, that was my impression, Pat, and that's why I'm going to vote for your amendment.

Mr. Juneau I just think that the language there is, itself, too confining for the future in words, as this.

Mr. O'Neill Well, don't you feel like this is more a matter to be handled by the legislature or by the board itself?

Mr. Juneau Unquestionably.

Mr. Cannon Mr. Juneau, obviously you didn't talk to all the educators that were here on the convention because I have no fear, as an educator, of this board functioning in this manner, and I think it is very definitely a proper role for the state board to play--to set teacher certification--because after all, they are the ones--in the area of elementary and secondary--who just see to it that quality education... this service is rendered to the children of this state, whether they be public or private, did you note?

Mr. Juneau That's right, and if I was in the legislature, that's probably exactly what I'd do.

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Mr. Cannon. The point that I'm making: I see no compelling necessity to have such language in a constitution.

Mr. Cannon. I'm sorry you feel that way, I do.

Mr. Roy. Pat, if your amendment is not adopted, what could happen is that the colleges and universities who are training and educating teachers, and the board could reach some impasse, and the board would actually govern the certification of all the teachers coming out of all of our universities, and notwithstanding the real professional educators at the college level would feel that teachers should be taught a certain way, the board could stymie it; and there'd be no referee like the legislature that could intervene, could it?

Mr. Juneau. That's...it would be an absolute prohibition. That's correct.

Mr. Roy. But, if your amendment is adopted, if this fight developed between the board and the colleges and universities, then the legislature could step in and decide how certification would be. Isn't that true?

Mr. Juneau. That would be my understanding, yes, sir.

Mr. Burns. Mr. Juneau, you answered a question by Mr. O'Neill which indicated that this section would apply to private schools, also. How can you read that into this Section 5? There's no punctuation there. It just said, "the board shall prescribe and provide for the qualifications to be met by teachers and for the certification of teachers of public elementary and secondary and special schools." It specifically confines it to public schools.

Mr. Juneau. Well, my answer was this, Mr. Burns. He asked me if I thought that conceivably a problem could be raised in that regard. My response was, as I read it, I think there could conceivably be a problem. I would admit that what you say may be correct.

I'm merely saying that there could be a problem in that connection. I'm not taking a position one way or the other. Just in further answer: aside from that, Mr. Burns, it pretermits the question as to whether or not the entire section or the language itself ought to be in the constitution.

Mr. Sutherland. Mr. Juneau, are you aware that Article XII, Section 7 of the present constitution provides for similar certification and qualifications?

Mr. Juneau. That's right, sir.

Mr. Sutherland. But, you don't think this should be in the constitution?

Mr. Juneau. No, sir, and I'm also aware that our constitution is over five hundred and eighty pages, and if we adopted everything that was in the prior constitution, we might as well go home.

[Previous question ordered. Amendment adopted: 66-28. Motion to reconsider tabled.]

Recess

[Quorum Call: 74 delegates present and a quorum.]

Reading of the Section

Mr. Poynter. "Section 6. Approval of Private Schools; Effect

Section 6. The Board shall approve private elementary, secondary and proprietary schools whose sustained curriculum is of a quality equal to that prescribed for similar public schools. The certificates issued by private schools so

approved shall carry the same privileges as those issued by the state public schools."

Explanation

Mr. Landry. Mr. Chairman and ladies and gentlemen of the convention, we shouldn't have any trouble today. This is Section 6 as you know. It has to do with the approval of private schools which is in our present constitution...in the present constitution, Article XII, Paragraph 7B. We have authorization for the state board to approve private schools and colleges whose sustained curriculum is of a grade equal to that prescribed for state public schools and institutions. It further provides that the certificates and the degrees issued by those private schools or institutions shall carry the same privileges as those issued by state schools and institutions. Now, the proposed constitution requires that the Board approve the private, elementary, secondary and proprietary schools whose sustained curriculum is of a quality equal to that prescribed for similar public schools and the certificates so issued by the schools...so approved...carry the same privileges as those issued by public schools. I think something ought to be said though about three facts in connection with schools that are not public...all other schools. I want to remind you of a fact. The history of education in our state has been one of a partnership between the public and the private sector. One-eighth of the children in our state are in nonpublic schools. The second fact...historically education in the United States started with various sectarian bodies. Fact three...the first school in the state of Louisiana was established by the Ursaline nuns in the city of New Orleans to care for the creoles and the mulattoes too poor to send their children to France to be educated. Ladies and gentlemen, you might ask "Well, what are some of these proprietary schools?" Well, those are supplementary schools that enhance the total educational program of this state. Welding schools, electric schools, business schools, commercial schools, physically disabled schools, schools of nursing...all of these are supplementary schools that help to supplement both the parochial schools of all denominations and the public schools. You should have no trouble diagnosing this section. It's not as controversial as the ones that I presented Saturday. All we need to do is adopt it a hundred percent. Any questions?

Amendment

Mr. Poynter. Amendments sent up by Delegate Flory as follows:

Amendment No. 1, on page 3, line 10, at the beginning of the line, immediately after the partial word "lum" insert the following: "or specialized course of study."

Explanation

Mr. Flory. Mr. Chairman and delegates, this is in the way of a technical amendment. What the committee has done, and the committee approved this amendment in another proposal, and we had already reported this one out when it was brought to our attention the need for this amendment to cover the specialized courses of study. We've had in this state as well as some of our sister states private schools move into the state charging tremendous fees for courses of study and the promises of jobs after they completed those courses of study. Once they have collected the fees in these private schools then they have left the state without administering the actual training or the courses of study, and what this does is to merely provide that they must have the sustained curriculum, and the special course of study in order to be licensed, and have accredited schools whose degrees etc., will be the same as the public schools. Now, sometime back the legislature did move into this area in a beginning and tried to license to provide for the state board to license private schools of this type. It is extremely

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who says well, they are not qualified to enter a university, or public college and they would be denied the right to enter unless they had to research and study and pass examinations." Don't you think there would be that danger?

Ms. Zervigon Mr. Stinson, I think that they would be able to pass the examination anyway. I really don't think that's a problem. I don't think we do children any favor to let them into a university and have them flunk out after the first year rather than to stop them from going in, but I really don't see that as a problem. I don't see legislators, of which you are one, saying "there shall be no private education in this"...don't bite off the top of the microphone... there shall be no private education in Louisiana." There will be private education. There always has been. It's a laudible tradition. I'm not opposed to it. I'm a product of it myself, but I'm saying that these kids will be let into L.S.

Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, I'd just like to call your attention to something. At the present time we have on the statute books a statute allowing the Board of Education to approve these schools...these private schools. I didn't raise a protest at the time the Jenkins' amendments were presented. I thought maybe somebody else could do that, but under his amendment these schools would be approved only upon application of the school itself and therefore you have the effect of nullifying your present legislation if you adopt this amendment, because it's going to allow these schools that we want to outlaw to exist because they are not going to make application, and I think this is something that ought to be left to the legislature to take care of as it is presently doing. I think for that particular reason I want to concur with Ms. Zervigon and say that we should reject this amendment and let the legislature and the Board of Education take care of these matters as they have been doing in the past. We shouldn't put all of this matter into the constitution. We don't need it, and I certainly ask you to reject the section.

Question

Mr. Jenkins Senator, do you realize that approval by the State Board of Education and the right to exist are two different things...that there are many private schools that are not approved by the State Board of Education just as there are public schools which are not approved by the State Board of Education, but they are nevertheless legal. There is legality, there is approval and then there is accreditation which are three different things, and we are not by this section requiring...setting standards for legality at all...just for State Board approval.

Mr. De Blieux Well, you make this only on application, Mr. Jenkins, of their approval, and I can tell you that there are a lot of those schools that haven't been approved that should not exist. The only thing that they are doing is taking student's money for something they are not giving them the education for.

[Previous question ordered on the section.]

Closing

Mr. Landry Ladies and gentlemen, I'm going to trust your judgment. You've heard all sides. There is a very good reason for having a mandated kind of situation in the constitution to give supervision over these schools. You realize the importance. It's necessary in order that we have control. It's as simple as that. It helps to standardize. It helps to set high standards for your schools, including the private schools. It has been done in the past. It has worked well and we should continue

the system in the new constitution.

Questions

Mr. Comar Mr. Landry, isn't it the present application of the law that nonpublic schools are approved upon application?

Mr. Landry That's the purpose of it...

Mr. Comar Now, isn't there also a provision in the compulsory attendance laws of the state of Louisiana which also sets up quality standards for those schools which may not wish to apply as Mrs. Zervigon implied?

Mr. Landry That's very correct and they go together...the two questions that you asked.

Mr. Tobias Mr. Landry, would you please explain to me the reason that this is necessary in your opinion...why does this have to be in the constitution. Why can it not be handled by statute?

Mr. Landry Well, there are many things that could be handled by statutes, but I think reason and judgment almost suggest the fact that these five lines should be in the constitution.

Mr. Tobias But, that doesn't answer the question. That's just saying it ought to be there because it ought to be there. There's got to be a reason.

Mr. Landry Well, I mean the substance of what you are reading. I mean, you've read it. You understand it, and it's self-explanatory. It provides a vehicle to continue the answer...it provides a very necessary vehicle in this constitution to regulate, to see to it that all schools are properly supervised, that they all have standards and they meet regulations and the state should do it. We don't...this is not a laissez-faire proposition. We mandate this.

Point of Order

Mr. Planchard Mr. Chairman this may be in the form of a point of order...are we closing on the Jenkins' amendment?

Mr. Henry We're closing on the section. The Jenkins' amendment has already been adopted.

Mrs. Warren Mr. Landry, you said something like this would be a mandate for them to be...in the constitution to be a mandate for them, but Mr. Jenkins' amendment said "upon application" so if they don't apply for it, it could be either way.

Mr. Landry No, I'm speaking of the fact that we put it in the constitution, and not leaving the section to the legislature.

Mrs. Warren Well, I mean what is the mandate there?

Mr. Landry The fact that we have the provision for approving schools in the constitution.

Mrs. Warren If they want it?

Mr. Landry Yes.

Mrs. Warren So, it's really not mandatory...it could go either way?

Mr. Landry Well, it mandates that the state will do this.

Point of Information

Mr. Riecke No, Mr. Chairman, I want to ask you...did Mrs. Zervigon make a motion to eliminate that and this section and if she did, are we voting on that?

Mr. Henry Well, Mrs. Zervigon had, I believe...

said in effect that he was trying to write the bill relating to a school. He was speaking against the adoption of the section and, at the end of the session, he had advised them, in effect, that what he intended, but he didn't have a precedent. He was lost, as I remember it, composing the adoption of this section.

Mr. [Name], we will be voting for or against the section.

Mr. [Name]. The sections that I support.

[Reading of the section]

Reading of the Section

Mr. [Name]. Section 7. Board of Regents. Section 7. A Board of Regents, established here, it created a body, corporate known as the Board of Regents. The Board shall plan, coordinate and have budgetary responsibility for all public higher education and shall have such other powers, duties and responsibilities as are provided in this Section and by law.

Board Membership; terms. The members of the board shall be appointed by the Governor with the consent of the Senate for overlapping terms of six years following initial terms which shall be fixed by law. Two of the members shall be residents of each of the congressional districts into which the state is divided...

[Reading of the section]

Explanation

Mr. [Name]. Delegates, this is the first of five sections dealing with higher education. I'd like to explain Section 7, but I'd also going to go into 8 and 9. I feel that these three sections come as a package and to understand one, you must understand all of them. Section 7 establishes a powerful Board of Regents. We've been talking about superboards as one board. This is a superboard in every respect. It gives to the board the responsibility for making all of the important policy decisions in the areas of mission control, budget, capital outlays, curricula and degrees. In fact, the Board of Regents is the one agency to be charged with statewide planning of post-secondary education. This section proposes to give to the Board of Regents full powers to determine the goals, mission and the orderly development of public higher education in Louisiana. It does not, however, propose that the regents will have to spend valuable time on the routine, day-to-day problems which arise at the institutions of higher learning. These matters are to be handled in Sections 8 and 9 of this article. The relationship of lay management boards to the Board of Regents is similar to that, I think, which exist between the local school board and the State Board of Elementary and Secondary Education. In other words, there is a statewide board to make overall policy decisions. There are subordinate board, which supervise the day-to-day operations. I want to repeat, these are to supervise the day-to-day operations. As I said, the board of Regents is to be powerful. It will prevent the unnecessary duplication and proliferation of curricula throughout the state and will in the long run save tax dollars. For example, if there are too many colleges of agriculture in the state, the Board of Regents can eliminate those that are not necessary. If there are too many schools of engineering, they can take those that they think are the most important...leave those in and take out the others. This board can control the expensive curriculum where a curriculum has only three or four students registered. The regents will have the power to approve or disapprove new programs. It must have the authority if it is to be effective. It will make these decision after study and without political pressures. This is true in relation to the creation of new institutions.

...of the... [The text continues with a detailed explanation of the proposed Board of Regents, discussing its powers, the appointment process by the Governor and Senate, and the role of the board in planning and budgeting for higher education. It also touches upon the relationship between the Board of Regents and other educational bodies like school boards and the State Board of Elementary and Secondary Education. The speaker emphasizes the board's independence from political pressures and its focus on long-term educational goals.]

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board members can be balanced not only by race, sex and age but also by vocation and profession. It would be helpful, I feel, to have doctors, engineers, farmers, laboring men and so forth on these boards. Only the appointive process per its very kind of balance which higher education boards need. Now, why do we need the managing boards? First, we need a powerful Board of Regents to make statewide policy to coordinate and to plan. If it is to do its job effectively it must have the time to study these matters carefully, but if a sizeable delegation of parents is out in the hall hollering about some particular reason or other, or raising Cain about dormitory regulations the regents will naturally stop what they are doing and take care of the hot issue that is being raised at the moment. Students are hollering for a due process hearing. If you don't take time to listen to them and try to solve the problem you might have some serious or even disastrous consequences next week. These regents should not have to spend their time on things such as this. They should be trying to figure out how many dental technicians, for example, Louisiana will need in 1975, how to produce them where to produce them and where to find the money for them. Now, it is very important that the regents remain impartial towards all institutions. If the regents become closely involved with the internal affairs of a particular college he will almost let his closeness lead to a partiality which will cloud his judgment. Now, it is very very important, as I said, that regents remain impartial. When regents begin playing politics with each other over the hiring and firing of presidents and deans and coaches they will be neglecting their most important task of policy and planning. That brings up another point. Some people say "well, leave management and supervision to the presidents of the colleges." I think that you will admit that in America a long standing policy in business and government and even our churches has been that we always wanted a lay board looking over the shoulder of the chief executive officer. There have been too many occasions when an individual will abuse his office and will misuse his power to the detriment of the institution. I think people believe in lay boards and they want lay boards. This means no disrespect to anyone and no one should take it personally. It is simply that a lay board can only be of assistance in an advisory capacity and also serves the public as a watchful guardian against administrative abuses and practices. I move the adoption of this section.

Questions

Mr. Anzalone We have heard many, many arguments over the past few months from all of the literature that has been passed out, both pro and con, on this question of the Board of Regents. But do you think that really, that if someone were to happen to vote against this thing, which I doubt, that this would really prohibit LSU from ever winning the national championship again?

Mr. Cowen I doubt that seriously, Mr. Anzalone.

Mrs. Zervigon Mine is in the nature of a technical question. I don't really understand the section. You say on line 20 of page 3, "the Board of Regents shall have powers, duties and responsibilities as are provided in this section, or by law...and by law", excuse me. Then you, on page 5, speak of the powers not vested in the Board of Regents and say that they all--as I understand that paragraph--without exception go to the lower boards, as I guess you could call them. So, how can powers be given to the Board of Regents by law when all the powers not vested by this section in the Board of Regents, go to other boards? Is that a conflict?

Mr. Cowen Because, I don't think...no, ma'am. I don't think it is a conflict. The law would take precedence, I think, over that which happened to be on twenty-five on page 5.

Mr. Zervigon Well, how can a statute take precedence over the constitution? I thought that was what the constitution was all about?

Mr. Cowen It would have to deal with this particular section, Mrs. Zervigon. If by law this would change, or anything were added to it, then naturally in this, this would take the precedence over the...on page 5.

Mrs. Zervigon That would not be considered one of the powers not vested?

Mr. Cowen I don't think so. No, ma'am.

Mrs. Zervigon Have you had legal advice on this question...this particular question?

Mr. Cowen We think so.

Mr. Duval Mr. Cowen, I have several questions. The first question is the coordinating responsibilities of this Board of Regents with the State Board of Education--exactly what does that mean? What...are coordinating responsibilities?

Mr. Cowen Between the regents and the State Board of Education?

Mr. Duval Yes.

Mr. Cowen In curricula only, Mr. Duval.

Mr. Duval Well, it doesn't say that. Are we supposed to know what that means--coordinating responsibilities? I...it seems rather vague to me. I...what would one think and one reason? I don't know what it means at all.

Mr. Cowen Well, we have reference...to curricula only.

Mr. Duval I see. You say, "as it relates to elementary and secondary educational curricula." Does that mean that the Board of Regents would have the ultimate say--so as to what the curricula will be in the elementary schools?

Mr. Cowen I can assume that if they wanted to assume that authority in their collaboration with the State Board of Education, this could be true.

Mr. Duval What I was wondering...if they could assume this responsibility, as you say, you would have a board that is appointed have ultimate supervision over a board that is elected by the people and a superintendent who is elected by the people. Doesn't it seem--what I'm asking--doesn't it seem rather empty to have an elective board and an elective superintendent that can be superseded by an appointed board?

Mr. Cowen It's really not the authority, I think, in the sense that you are looking at it. We sat down and discussed this thing, and with the curricula only we can imagine that there must be some type of coordination between the high schools, let's say, and colleges and the necessary foundation.

Mr. Duval Well, isn't it...of course I didn't...have the benefit of sitting on this committee. But isn't the curriculum one of the...is the heart and soul of the educational system?

Mr. Cowen It is.

Mr. Duval What I'm wondering, is it the intent of the committee to give the Board of Regents the ultimate supervision over the State Board of Education insofar as curriculum?

Mr. Cowen Insofar as curriculum and coordinating and planning only, Mr. Duval.

Mr. Duval But, if there's a conflict, who wins?

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Let me put it that way.

Mr. [unclear] ... that if there is a conflict between the Board of Regents, would win.

Mr. [unclear] ... the question is, what if a college disagrees with the budget submitted on its behalf by the Board of Regents to the legislature. What does it do? What remedy does that college have under the present plan?

Mr. Cowen ... if a college disagreed with what the Board of Regents on budget presented to the legislature?

Mr. [unclear] ... Right.

Mr. Cowen ... the Board of Regents a powerful board that will certainly, in depending upon the people, will be fair with the colleges. I don't suppose the college will have any recourse other than appeal to the legislature and to their particular representative.

Mr. [unclear] ... a little concerned about the one year term. There has been no provision put in here for overlapping terms. Conceivably and very probably, you are going to have one governor elected for two terms who will have almost virtual control over this board by virtue of appointment. Would you address yourself to that question and tell us whether you all considered staggered terms?

Mr. Cowen ... I think it says the members of the board will be appointed by the governor with the consent of the Senate for overlapping terms of six years following the initial terms. Now, you will have on the Board of Supervisors, for example, you will have those that will go on over into the Board of Supervisors set up here. On the Board of Trustees, you will have those who are now presently on the Board of Education--will have the choice of going from (1), to the Board of Trustees, or (2), to the Board of Education. These who have to be overlapping, and those of the Board of Regents, naturally, will receive those members of the Coordinating Counsel onto the Board of Regents. These will be overlapping so there will not be an initial term of all starting off the same.

Mr. [unclear] ... well, are you sure then that no governor will be able to appoint all of the members of this board?

Mr. Cowen ... As certain as I think it is possible to be certain under circumstances such as this. No, I don't think practically that one governor will have authority over all of them at any one time.

Mr. [unclear] ... Thank you, Ralph.

Mr. Shannon ... Mr. Cowen, I'm trying to understand this committee proposal.

Mr. Cowen ... what are you referring to, Mr. Shannon?

Mr. Shannon ... For the State Board of Education, you all have recommended a board of eleven people--eight elected and three appointed.

Mr. Cowen ... yes, sir.

Mr. Shannon ... during the course of events, I've suffered a good deal to in reduce that to fifteen members, and I had a howl from the people here that that's a large board. Not getting over a little further in your own proposal here, you are proposing three boards of seventeen people each. Can you give us some of the committee's thinking or reasoning for this?

Mr. Cowen ... originally, the Board of Education had fifteen--seven or eight elected, and seven appointed--and in a meeting later on, we talked

them to eleven, more or less, depending with the present State Board of Education which has twenty members. If you had representation throughout the state, we want to Commission... of course, we would have gone to one from each Congressional District. But we thought that three boards would stand as many as five--two from each Congressional District, and one at large.

To answer your question directly, and to say by you, Mr. Shannon, we just thought that there was a good number, and a workable number, and a number that was not too large. They could work together.

Mr. [unclear] ... just one from each Congressional District makes that two.

Mr. Cowen ... It was discussed, but we thought that this would be better.

Mr. Shannon ... can you give us your reasoning for that? The reason you thought it was better?

Mr. Cowen ... It was... a fair number. We thought that maybe eleven would be a little too small--seventeen would be alright.

Mr. Shannon ... Do you know what the vote was on this particular session?

Mr. Cowen ... No, sir. I don't recall. I don't think there was great objection to this.

Mr. Burns ... Mr. Cowen, just exactly what is the authority, if any, of the Board of Regents over the Board of Supervisors of LSU?

Mr. Cowen ... What is the authority?

Mr. Burns ... Yes.

Mr. Cowen ... Mr. Burns...the Board of Regents has the power for all planning and board rating of all the schools in the state--LSU as well as all other colleges and universities.

Mr. Burns ... In other words, if the Board of Supervisors wanted to do one thing, and the Board of Regents wanted to do something else, the Board of Regents would prevail. Is that right?

Mr. Cowen ... So far as actual planning of curriculum and starting new institutions, Mr. Burns...

Mr. Burns ... How about budgeting...

Mr. Cowen ... they will have the authority over the Board of Supervisors. Yes, sir.

Mr. Burns ... In other words, the Board of Supervisors of LSU would be completely infernal and subservient to the Board of Regents.

Mr. Cowen ... Insofar as course and curriculum concerned, yes, sir.

I'd like to add--and this is why we think it is so necessary to have the new board for the day-to-day management of the school.

Mr. A. Jackson ... Delegate Cowen, your... how did the plan of the committee prevail over your representation? You made a statement to that effect. How... how is this to come about?

Mr. Cowen ... well, I think it was... delegate Jackson, it was.

Mr. A. Jackson ... Yes... I've had a long talk with you... but we are on the line... you seem to be firm... it says an appropriate number and that has no meaning... would it you agree?

Mr. Cowen ... Anything definite would be a definite percentage number, we think would not be appropriate for a constitutional reason. We think that is really adequate, Mr. Jackson.

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Mr. Jackson: ...the guarantee

Mr. Cowen: I don't suppose there is a guarantee I think it will be done

Mr. Jackson: ...but there is no guarantee. Is that your answer?

Mr. Cowen: There is no guarantee.

Mr. A. Jackson: All right. I have one other question. Under Section (E)--(a) under Section (E)--it says "to revise or eliminate any existing degree program. It would not allow the board, without any consideration of whether or not the program is an overlapping program, to arbitrarily eliminate degree programs, department of instructions divisions, or similar subdivisions. It doesn't say whether it is in conflict or not, or whether it's overlapping, or whether we don't need it or not. It simply says "to revise or eliminate." It would seem to me that we need some language in there to clarify that. Would you agree?

Mr. Cowen: Perhaps, Mr. Jackson. But, no, I cannot...

Mr. A. Jackson: Did the committee consider that language carefully?

Mr. Cowen: I don't think it is necessary because what we are trying to do is give the powers that this Board of Regents will need to coordinate all institutions in the state.

Mr. A. Jackson: Your...isn't your aim, by way of authority to this board for the sole purpose of coordinating, elimination and to eliminate programs where they are not needed. Isn't this...?

Mr. Cowen: This is correct.

Mr. A. Jackson: But, the language does not say that. That's my question.

Mr. Cowen: well, maybe you read it a little differently than I do. I think it's alright.

Mr. Stinson: With reference to the six year terms--in answer to Mr. Stinson--didn't you say that no one governor would appoint all of them?

Mr. Cowen: It is unlikely.

Mr. Stinson: How...you mean it is impossible for one not to, isn't it? How are you going to do it? It is only for six year terms. All of them have got to expire when the governor is elected for eight years, aren't they?

Mr. Cowen: I can understand your thinking on this, Mr. Stinson. But if we go back and take each one of them in turn; let's take your coordinating council...

Mr. Stinson: No, let's stay just on the Regents. I'm not concerned about the other. We're just on the Regents.

Mr. Cowen: You'll have one of them, or a certain group of them, that will be overlapping into another term...

Mr. Stinson: I'm talking about just...my question is directed, please, sir, only to the Board of Regents, which is the most powerful, isn't it?

Mr. Cowen: Right.

Mr. Stinson: Now, if you appoint them for six years, whether it's every two years or every one year, etc., their term has to expire at the end of six years, doesn't it? Each one.

Mr. Cowen: Right.

Mr. Stinson: If a governor is elected the total of

eight years, he has got to appoint every one of them.

Mr. Cowen: No, sir. This is not true.

Mr. Stinson: Well it--why? Would you show us... your figures.

Mr. Cowen: That's what I'm trying to do. Your Coordinating Council--at the beginning, Mr. Stinson--your Coordinating Council will be...members of the coordinating will go over into the Board of Regents. There are overlapping terms that will start there. I'm not familiar with how each one of them will go.

Mr. Stinson: I'm only talking about the Board of Regents. That's all that's up here at this time, please, sir.

Mr. Cowen: Well, the Coordinating Council members will go into the Board of Regents, Mr. Stinson...

Mr. Stinson: They will be promoted to the...

Mr. Cowen: At the beginning--at the time--they will go into--by election, by themselves, not by election--but they can elect to go into the Board of Regents if they choose.

Mr. Stinson: So the governor has to appoint the Board of Regents, doesn't he?

Mr. Cowen: If you will read...go back and look in...look at Section...Committee Proposal No. 30, Mr. Stinson, you'll get the answer to that.

Mr. Stinson: Committee Proposal No. what?

Mr. Cowen: Thirty.

Mr. Stinson: That's not what we are considering.

Mr. Cowen: ...Yes, it pertains to this very question.

Mr. Stinson: Well, why wasn't it included in this?

Mr. Cowen: It came later. But it had to do with the grandfather clause, Mr. Stinson--providing for those members who are now on the Board of Supervisors, and the college of...the Board of Education, and the Coordinating Council--to provide for their going on over into another board.

Mr. Stinson: Do you know, without in any way being disrespectful, your explanation is just as clear as mud to me. I hope it's clear to everyone else.

Mr. Roemer: Delegate, in...on the Board of Regents, on Section (E), Powers of the Board...

Mr. Cowen: Yes, sir.

Mr. Roemer: ...that power No. 1 that's enumerated beginning in line 7, "the board shall have coordinating responsibilities as it relates to elementary and secondary educational curricula". Does that mean that this appointed board can overrule the elected state board on matters of curricula?

Mr. Cowen: I suppose, if it is necessary. I cannot envision them having to override it. I can only assume that the two boards will collaborate on curricula. There must be someone with the authority for curricula and to...

Mr. Roemer: All right. I understand that. But let's assume there is a debate over curricula and that there is a difference in opinion between that held by the Board of Regents and that held by the State Board of Education. Who wins for the benefit of the students in this state?

Mr. Cowen: I figure--as I told Mr. Duval--I can assume that the Board of Regents must win.

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Mr. Roemer: Yes, then, the answer to my question, the question being for this appointed state board of regents, arrange the elected state board of education, the answer to that is yes.

Mr. Lower: Yes.

Amendment

Mr. Winter: Aendment would delete the whole of it.

Amendment No. 1 [see Mr. Stinson], on page 3, delete lines 14 through 22, both inclusive in their entirety.

Mr. Leithan: I'm sorry. And on page 4, delete lines 1 through 32, both inclusive in their entirety. On page 5, delete line 1 through 25, both inclusive in their entirety.

[Amendment withdrawn.]

Amendment

Mr. Winter: Delegate Stinson sends up a amendment at this time.

Amendment No. 1. On page 3, line 18, place a comma immediately after the word "education" and add the following:

except Louisiana State University and Agricultural and Mechanical College."

Explanation

Mr. Stinson: Mr. Chairman, members of the convention, I did not want to introduce this amendment first, but we have to take them in the order in which they are presented. This ties in with an amendment that I have on page 6. Mr. Chairman, may I briefly refer to that amendment in explaining this one?

Mr. Henry: Yes, Mr. Stinson. Go ahead.

Mr. Stinson: My amendment that will be presented later merely continues Louisiana State University as it is in the present constitution, with certain corrective provisions. Now we might say, "Why should Louisiana State University be excepted from the control of the Board of Regents?"

In Louisiana, there are a number of people that love LSU. There are a number of people that do not like LSU--maybe because of...it could even be, maybe, because of the football teams that we've always had. But, the reason that I think LSU should be excepted from this provision is that LSU is different from any of the other universities or colleges in Louisiana. Now if you do not feel that LSU should be the system that it is, let's let some other university be it. But, don't kill the system--whether it be LSU or Southwestern, or Northwestern, or Northeastern--LSU has to be different, or whichever the university with this system is, has to be separated from the others. We've heard about LSU appropriation; I think it's been explained. We have the medical school; we have the veterinarian school; the law school, along with Southern and the experiment stations, and so many other things that only one system in the state can have and run it as it should.

Now, as I say, if LSU is not the one that should do that, well let's say someone else and except them from this provision, because if you put the system under this board, in my opinion, you are ruining the system, and we are going back many, many years in our education in Louisiana. So I merely ask at this time that we except Louisiana State University from this board. Later on we'll set up the board as at the present time with these provisions which, through the years in the legislature, we have tried to get changed. That is that at least--I'm referring now to my amendment that will be offered on page 6--that each congressional district shall have at least one appointment on the board. In the past, it is said, with a fourteen year term, a lot of the appointees were too old and feeble when they had reached the end of term. Mine provides for a twelve year

term over a six-year term, and that would mean that you could be appointed to a twelve-year term at the end of the term. An appointee over a six-year term would be able to serve.

Now, at this time, I urge you to let us keep Louisiana State University, and the system that it represents, out from under the board, and let it operate as of this through the year. Now, there's been some discussion already, as to why Louisiana State University, and why it should be in the constitution, was or was not to serve in the legislature in 1945. I was privileged to be a student at LSU during the thirties. I want you to know that when we were in the constitutional order Governor Jim Jordan, in 1945, it was needed. Some of you were not born then. You don't know--other than history--what was happening at that time. After 1945, to my knowledge, there has not been one suggestion of anything wrong at LSU. It was rampant in the 1930's. In the constitutional amendment, you might say, "Well that didn't save it." But, there hasn't been anything wrong since it was put in. So don't throw it out. But, for this amendment, I would like to urge you, let's take Louisiana State University out. As I say, if there are those here that think that we should not be the one that is in charge of the system that it is, offer an amendment and put another university. Of course, I would be for keeping LSU. But, I pledge you that, if you put anyone else to be in to take over their duties, I would still be for not having that university under this Board of Regents. If we do, then...all the universities...that system is going to be destroyed and will not be the example of excellency that it is at the present time. So, I'd like to urge you to please adopt this amendment and let LSU continue--or, if the amendment is offered and LSU is voted out--I'll be behind whatever you say should be in charge of the system. But, at least one--it cannot be divided--if you divide this system up, it will be ruined. We will take a step backwards, backwards in higher education in Louisiana.

If there are any questions I will be happy to answer them.

Questions

Mr. Roemer: Ford, of course, I wasn't there in the thirties and the forties and I'm trying to understand the thrust of your amendment. You said now, just a few minutes ago that if we didn't put this in the constitution that we would leave ourselves open to what happened in the thirties at L.S.U. Well, how do you draw that conclusion, Ford? My question is: by putting something in the constitution, how is that going to just by itself ordain that there shall be no graft and no corruption and no disruption?

Mr. Stinson: Well, one thing before, Buddy, there was no fixed terms, the legislature could change it from time and time and one governor could appoint all. That's one provision. We put in fixing a fixed term so no governor could control the L.S.U. Board. There were any other thing--I don't know, but Governor Edwards when he ran he said if he could rewrite this constitution, he would have everybody in government honest, and I guess that's the same reasoning that he used in his campaign; the people believed in it.

Mr. Roemer: But, you know I'm confused...

Mr. Stinson: The proof is in the pudding. It hasn't been anything in these thirty-five years, and L.S.U. was almost ruined in just a few years in the 1930's when it was not in the constitution.

Mr. Roemer: Well, I just don't see the value of putting something in the constitution unless there's graft, there will be no corruption. I see that in our constitution today, and they seem to be pretty corrupt to me whether you're talking about the President of the United States or the National Congress.

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Mr. Stinson: The precedent of the United States is not in our constitution, I don't believe.

Mr. A. Jackson: Mr. Stinson, how does your amendment affect the whole concept of coordination in higher education?

Mr. Stinson: It would not affect it in any way as to these universities other than L.S.U.

Mr. A. Jackson: Well, is not L.S.U. a part of the system of higher education in Louisiana?

Mr. Stinson: Yes, it is.

Mr. A. Jackson: But, then we would not be able to coordinate all of higher education if your amendment is adopted, is that correct?

Mr. Stinson: That's correct. As I say if L.S.U. is not the university to be in that category, let's decide who is. Don't tear down because maybe your university--your favorite university--is not there. If you want Southern, or if you want Northwestern, or whoever, or Southwestern, let's say that that is the one and get behind. We can't have eleven systems that are comparable with L.S.U., or this one system has got to be. Louisiana can't afford eleven systems.

Mr. A. Jackson: Mr. Stinson, would you agree that if we had let's say one board then in effect we're talking about one system?

Mr. Stinson: Have one board you have one system--well, there are different kinds of systems--but what I have reference to was the educational system that L.S.U. is in charge of and is heading up at the present time.

Mr. A. Jackson: You made reference to the constitution, I have your handbook that suggests that at the same time when you...when it was the creation of the... system that at least there is another system along with...I assume some of the other colleges that are also mentioned in the constitution. Should we have that as a basis of argument for the separation of those systems too?

Mr. Stinson: If they have the same importance, but I don't know those that you are referring to.

Mr. Lunau: Mr. Stinson, what concern re--if we would adopt your amendment--we in essence have no way of controlling duplication in curriculums on higher education in the State of Louisiana, isn't that correct?

Mr. Stinson: No, I think under that the legislature would have a control over that if they'll exercise that authority.

Mr. Lunau: Well, you have said that the L.S.U. Board of Supervisors is excepted from curricula the Board of Regents. In other words, if they'd want to adopt a master's course in this, and so would Louisiana Tech, we would have a duplication then at the whole concept of a Board of Regents?

Mr. Stinson: The legislature itself could say that...provide that. This says that it will not be under the Board of Regents, but still it's under the legislature.

Mr. Lunau: Well, don't you agree that if we would adopt your amendment, we might as well just go ahead and get a deletion amendment and knock out the Board of Regents?

Mr. Stinson: No, sir, because that will be under...over the other universities. Mr. Lunau, as you know, it only should be in the constitution because I was happy to serve with your father in 1940 when we put it in.

Mr. Rachal: Mr. Stinson, you mentioned L.S.U.,

first let me say that that was an impassioned plea you made for Louisiana State University, but in mentioning it as a system, would you not agree that the committee's proposal is one which suggests that L.S.U. be a part of a total system in the state?

Mr. Stinson: That's what it is, and that's what I'm worried about because when you say a total system then you start taking the body and dismembering it, you give the arm to one university and another arm and so forth, and you end up with a cadaver that doesn't have anything to offer anyone.

Mr. Rachal: I'm going to get a little confused because I...this morning...it was suggested to me that we should all work within the system and now we begin to talk about a separation of it. But, let me bring...ask you about another system that's also in the state and that is the Southern University System. Would you also suggest that it should have a separate board outside of the Board of Regents?

Mr. Stinson: At the present time, it is under the state board.

Mr. Rachal: Regardless to where it is now.

Mr. Stinson: Well, if we did that, we'd have to say all of them, but mine is because L.S.U. is unique in the fact that it is under its separate board at the present time. As I say if this body votes to give that system to Southern well, I'd say certainly it should be out and be in the same category, and L.S.U. should be placed under the Board of Regents.

Mr. Burns: Mr. Stinson, with L.S.U. considering its size, and the extension departments, and the medical school, its different...so many different departments, do you think it's physically possible for a Board of Regents composed of businessmen with their different businesses to look after could possibly have the time to take care of all of L.S.U.'s present operations together with all the other universities throughout the State of Louisiana?

Mr. Stinson: No, sir, Mr. Burns, that's what I'm afraid of--exactly that point. We're going to end up I'm afraid without any criticism of who may be appointed to this board, we're going to end up with more disunity...disorganization than has ever been in the history of Louisiana in higher education.

Further Discussion

Mr. Avant: Mr. Chairman and fellow delegates, I rise in support of Mr. Stinson's amendment. I think that what we have to do is to consider some hard facts, and not emotions in any degree. The first fact that I think that hits us right square in the face is that this state cannot, and for the foreseeable future will not in my humble opinion, be able to afford but one great state university. We just don't have the money to have a proliferation of universities here, there, and yonder all over the state. I don't know if we ever will, and because of the investment that is there already because of the high standard of excellence that does prevail at L.S.U. already in particular, the professional and graduate schools; I think that we have to accept the fact that if we're going to have a great state university that it's going to have to be L.S.U. Now, I have watched over the last--I don't know how many years--at what appeared to me and what I see to be an attempt to--I won't call it decentralized but to scatter the educational dollar in this state insofar as higher education is concerned, and to create what you might call universities all over the state. I don't think we can afford that. I don't think that we will be able to afford

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parade completely. We have a Board of Regents for planning, and coordination, and budgetary responsibilities that would be completely destroyed we would really, then be back in the old position that we are right now that sustains so much criticism. We must have coordination of all colleges and universities in this state. We must have a formula for which they will work and that there shall be—and by the result of—there shall be equal funding for all colleges and universities in this state. For as I support—and I think all of you know how strongly I do support—the Board of Supervisors just as strongly right now, I support the Board of Regents as the all powerful board, the superboard that has all power over all other colleges and universities.

Questions

Mr. Aertker Mr. Cowen, it is a fact that when we met with the representatives from all of the other universities and colleges that we did point out to them that under the committee proposal that we were going to make educational opportunities and funding for education equal throughout this state, and that the only way that could be done would be to give the Board of Regents the power over budgetary financial matters, and over curriculum, and over programs. We did tell these people that we would do that?

Mr. Cowen That is true, Mr. Aertker.

Mr. Aertker Then, even though you, of course, certainly are, I know, in favor of the L.S.U. Board of Supervisors, it would be a breach of trust then if we turned around then now, and changed that committee proposal and included this amendment in it, wouldn't it?

Mr. Cowen Ain't no way.

Mr. Aertker All right, sir.

Mr. Graham Mr. Cowen, it's been suggested that this is an amendment that the L.S.U. people support. Is it not true that both the L.S.U. Alumni Federation and the L.S.U. officials appeared before the committee and neither of the representatives of either of these groups insomuch as even requested this type of provision.

Mr. Cowen They did not request it, nor will they support it in any way, Mr. Graham. This...the committee report is the only report or the only program that the L.S.U. people will buy.

Mr. Avant Mr. Cowen, you mentioned some deals, or compromises, or adjustments, or cards, or whatever you want to call them that resulted in this committee proposal. I just want to ask you first this question: Jack Avant didn't have anything to do with any of that, did he?

Mr. Cowen He certainly didn't. No, sir.

Mr. Avant All right. Now, I want to get to my next question: L.S.U. has the sea grant program which is a multimillion dollar research program in connection with our wet lands in this state. All of the agricultural research that is being done in the state are practically all of it is being done under the L.S.U. system or throughout the L.S.U. system. Now, let's just envision putting all of this under this board we're talking about of Regents--structured as it's supposed to be structured--I envision this happening. What's to prevent State College A from deciding you know--we'd like to have that agricultural research program so we'll do a little political log rolling--and because they got the votes they'll take that and somebody else will take this, and when all of the political deals are through L.S.U. will be wrecked. Now, what's to prevent that?

Mr. Cowen Mr. Avant, I must say that this is a very remote possibility to answer your question,

I guess nothing could be done to prevent if the Board of Regents wanted to do that, and that is why we so strongly support a Board of Supervisors for L.S.U. to preserve the very integrity of the university and the state university and all of those parts of it that you have mentioned.

Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I think it's a matter of fact that there exists within the State of Louisiana impracticality three system. You have the L.S.U. system, you have the Southern University system, and you have a system of independent separate colleges and universities. The committee proposal says in effect that provides for a proliferation of higher education. I tend to strongly agree with them. You've heard arguments said that the state can only afford one system. The problem is we don't recognize that when you have a Board of Regents and everybody is under that Board of Regents that that is one system, and that when you separate one university whether it's a system or independent college then you result in fact two different systems. Now, someone mentioned about research--now I'm concerned about wet lands--and I'm concerned about farming, but I suggest to you, I can show you a list of research programs in excess of seven million dollars by the Southern University system that is subject to the same kinds of pressures of the same kinds of...as I understand people have said, the same kinds of politicizing. But, I suggest to you very strongly that these programs deal with urban problems. These programs deal with farming problems. I think that the amendment as proposed by Mr. Stinson in effect brings us back...not bring us back to our present system, but bring us even further than that because as Mr. Jackson has mention presently when it comes to curriculum as such that's under the council for the coordination of higher education. I say to you very strongly, that I'm not against L.S.U., and I'm not against McNeese, and I'm not against U.S.L. or any university. I believe that if you're going to treat one system based on certain criterias--and let's be real about it--most of the reasons why in the past and historically that we have not, and when I say we, I'm talking about the Southern system. I'm talking about McNeese and U.S.L. that we have not been able is because of the same kind of politicking--the same kind of politicking--so I...it just amazes me when somebody says that we're opening the door to politicking. I suggest to you if we're really committed to the taxpayers and talk about one system of ed...one system in the State of Louisiana, then I'm suggesting to you that the committee proposal as it refers to the Board of Regents provides for that. How can you justify going back to your individual parishes and say that in the future we're continuing to adopt a philosophy of treating other universities and colleges as stepchildren. I don't necessarily...I'm not necessarily prepared to say that L.S.U. has a course...a grade of excellency that's greater than that of McNeese. I got to know what you're talking about. I suggest to you that there is a system that also has additional colleges--we have a school of law--does that mean that we ought to be allowed to have the same sort of even consideration. I'm not here to preach against any university as such, and I, like every delegate, will be out here pushing for one: effective use in coordination of higher education and particularly the interest of the various colleges. But, I wanted you to notice that the priority that we're here about is to provide for effective coordination of higher education in this state, and no one to this very day has answered the question other than said "we've got more campuses and we've got more research projects that we are entitled to be a separate entity by ourselves; I think it goes beyond that. I suggest to you that there was one in the area of Shreveport--there was one college designed to serve the people of their community--and it was until recently because of

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pointed out that we wanted another branch in there. It was not the question that we were asking. It was the question of whether we were saying why create that when we could have succeeded if we had said to you that I understand what you're saying.

[Mr. Poynter: (murmuring)]

[Mr. Poynter: (murmuring)]

Mr. Poynter: fellow delegates, I'd like to answer a few questions here. This is not an amendment. When I introduce anything I introduce it because I thought and I do believe that it is the best bet. I can assure you this if the end by other amendments are passed and accepted by this year, you will not close the door in mourning for a week, but I'll guarantee you there will be a holiday there because this is what they want, and this is what I needed. Now, Mr. Kelly was speaking of the step children, I wouldn't classify any university in Louisiana as the step child because every university and every college in Louisiana has certainly gone forward in the legislature as provided for them. Northwestern is better, larger and growing all the time, and nothing has gone against any of those. As to the southern at brevport, I think it should be a four year college that's what it would be if I was in the legislature I would have fought for that, it should be there. Now, as I say L.S.U. did not get me to introduce this amendment, they didn't even know I was going to introduce it. It's my thought because I love L.S.U., and I think it's needed. If this committee amendment goes through I predict the same as Mr. Avant, we are finished--and when I say so, I don't mean that L.S.U. is better, and excels, I mean it covers more territory in education. Everyone knows that Northwestern supposedly, in my opinion, is best for a teacher's college. Louisiana Tech University for engineering, and such and different ones. Northeast with the--no wonder L.S.U. didn't try to get the pharmacy school--Northeastern is doing a wonderful job there. So, I don't see how any of the universities has been hurt under the present system; they've all prospered; they've all grown. The legislature has helped way beyond the call of duty and there hasn't been any discrimination or denial in any way. Now, as to a breach of trust, now this is no breach of trust as far as I'm concerned, and certainly not L.S.U. or whoever speaks for L.S.U. No one asked me to introduce this as I said before, and I introduced it because I know and I feel one hundred percent that this is best for L.S.U. and also for the other universities. So, I would like to say in closing, as I pointed out before if this group doesn't feel that L.S.U. is the one that should be in charge of the system, let's ballot and say who will be. But, we've got to have the system that is headed by L.S.U. at the present time. If L.S.U. is not the college to do it or the university, say who will do it, but don't tear down what we have by abolishing it, which you're going to do if you accept the committee under this. So, I urge you, please, let's vote this in...this amendment and keep what we have. If there's any reason anyone else puts someone to head it up, I'll be for that university or college, or whatever it may be, because we've got to have one system to perform this and not be torn down--experience station or the river being given to Southwestern and Northeastern getting that in Claiborne parish and such as that--it's got to stay together to go forward and advance.

[Mr. Poynter: (murmuring)]

[Mr. Poynter: (murmuring)]

Mr. Poynter: Amendment No. 1. On page 3, delete lines 21 through. This is the Chatelain, Janner, Roemer, Kelly, Ginn and Reeves, six authors.

[Mr. Poynter: (murmuring)]

[Mr. Poynter: (murmuring)]

[Mr. Poynter: (murmuring)]

Mr. Chatelain: Mr. Speaker, the new proposition that I have just directed to be read is a compromise of about twenty-five different people's ideas. I guess I just got so tired with several others, starting with a list of ten, I decided to go back and do it. I guess I've been with you a long time, I know how authentic it is. I don't know how to write it all about, but after reading it over, it kind of informed with some things that I will read the first part of the first paragraph. I'm not going to believe the two long, because it is a confused situation that we now have in the state. But, I think it will be a good thing if it is our considered subject of government of the state of Louisiana, and as to the improvement of education that the interest of good citizens will be to be served, the establishment of a single board to govern education in this state. That's the thing that I have in mind, a single board. What we have done here is to have a compromise--to read myself, that is a compromise of several different feelings. I guess Kelly has an amendment on your left, Mr. Roemer, Ginn, and others; Walter Carter and several other ideas on the other things. So, we want to go with this one, because what it simply does is that it elects eight members from different single member districts. There was some confusion, some discussion--why not through the single member districts since we have eight. Well, it seems that we might change those in time and decided we want to have eight single member districts. All right, you're going to have three of those that that would be appointed by the governor and what that would do, it would provide for certain problems we now have, so far as minority groups. So, that's the reason why we have gone with this amendment. I hope that you do look favorably upon it, because it does have some merit. It's somewhat of a long shot and they try to make a compromise out of an awful position we find ourselves in. I believe that if you will look at another amendment that has been your desk since early this afternoon, that you will notice I was trying at the first to come with an amendment that would take care of the L.S.U. and little else all at one time which would have a single board concept and would involve several members. After discussion with my colleagues, we decided to go with this amendment now before you. I would certainly try to attempt if I were able and capable of answering any questions you might have. But, I urge that you adopt this amendment.

[Mr. Poynter: (murmuring)]

Mr. Poynter: Mr. Chatelain, if I read this amendment, it would then provide for electing the same method of election as is presently provided for the state board of elementary and secondary education. Is that correct?

Mr. Chatelain: Right.

Mr. Poynter: (murmuring) the same?

Mr. Chatelain: Right, sir.

Mr. Poynter: But, is it your intention that these would be the same and the same years or would there

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still be two boards, one for secondary and elementary, and one for higher education?

Mr. Chatelain Well, of course, my ultimate would be one single board. But, we're only dealing with the section (B) now, and then maybe later on we could discuss that further. But, my intention would be for Section (B) only under...

Mr. Roeber E. J., just to follow up on what David brought out, you're trying to make this Board of Regents in composition be exactly like the State Board of Education, in effect, right?

Mr. Chatelain Right, sir.

Mr. Roeber ...and, you're changing the present committee proposal which has seventeen appointees to read: eight elected, one from each of a single member district and three appointees. Is that not right?

Mr. Chatelain It's exactly right. Thank you.

Mr. Avant Mr. Chatelain, does this amendment stand alone or is it just a prelude to some more amendments to do away with the other two boards for higher ed...for the colleges and for the universities?

Mr. Chatelain It stands alone at the moment, sir.

Mr. Thompson Do you think it's entirely possible to get four members from one district?

Mr. Chatelain Well, I would say the legislature... if you'll read ahead in (A)...it ties in...this (A) and (B) works together at the moment and you will find that the legislature shall appoint the single member districts.

Mr. Thompson I know, but your three at large... it doesn't say where they will come from. They could all be from one district.

Mr. Chatelain Well, they could all come from Colfax, sir. It won't make any difference.

Mr. Thompson Do you think that's a good idea?

Mr. Chatelain No, sir. But, I don't think it's logical that they are going to appoint them all from the same district.

Mr. Lanier Mr. Chatelain, don't you think that the present situation of 17 appointed persons having authority over the whole system including an elected board is not a very desirable policy set-up for our educational system in Louisiana?

Mr. Chatelain This is right, Mr. Lanier. I full well realize as many of you do that we have a grave problem here, and I'm attempting to try to straighten it out.

Mr. O'Neill E. J., you've led the fight for single member...for one superboard and what have you. If you do pass this amendment, will you attempt to take out the L.S.U. Board of Supervisors...or will you be in favor of that?

Mr. Chatelain I'd rather not comment at this time. I don't really know; it's so complicated.

Mr. O'Neill I think that you're just trying to get your foot in the door.

Further Discussion

Mr. Stagg Mr. Chairman, fellow delegates, Mr. Chatelain was so evasive about what he wants this board eventually to do, that I'm attempted to rise in stringent opposition to his amendment. He requires that the Board of Regents be eight elected members from single member districts. Let's think about that for a minute; think of the map of Louisiana. We're going to have three or maybe five dis-

tricts into which we have to divide for Public Service Commission. We've got four districts for courts of appeal. We've got seven districts for the Supreme Court. We're going to have eight single member districts for the Board of Regents. By the time the next census comes out in 1980, we may have nine districts for Congress and the map of this state is going to be awfully hard to figure out as to who is in what district for what purpose. There is an amendment on your desk in keeping with the committee proposal for there to be a seventeen man Board of Regents. I have proposed in an amendment on your desk, that there be two members elected from each congressional district and one appointed by the governor. Now, this may be seventeen members now and it may later get to be nineteen members. But, what I would like to say in favor of either Mr. Chatelain's amendment or mine, is that the Board of Regents has a tremendous responsibility. If you will just look on page #4 at the powers of this board--the powers of this board--the powers, duties and responsibilities have to do with degree programs, with departments of instruction, with feasibility for new institutions, for the ability or the necessity for making a report to the legislature with a formula for equitable distribution of funds. All of these things are going to be critically necessary if we are going to have any meaningful coordination of higher education in Louisiana. I am for the Board of Regents; I am for the Board for L.S.U.; I am for a board for the other colleges; I'll make that plain now, in case my understanding...I mean your understanding of my position is not clear. I do not agree with Mr. Chatelain that there should be single board. When you look at the matters that a board of a college has to take up in a normal board meeting--and I went to the trouble to do that--I got the minutes of the meetings of the Board of Supervisors of L.S.U. for their last four meetings. In those four meetings, they took up a hundred and eight, a hundred and eight agenda items that had nothing to do with education as such. If you multiply that by the considerable volume of dormitory regulations, campus security, athletic grants, ticket distribution, and all the things that a college board has got to deal with, a single board can only founder in such a mass of necessity for its attention. So, let's submit at this time that we need a Board of Regents. One, we need an elected Board of Regents and we need to have it on the basis of congressional districts. I would like for us to defeat Mr. Chatelain's amendment and move onto the amendment which I have written that puts two members elected from each district and one member appointed by the governor. If I've got any time left, Mr. Chairman, I would be happy to answer anybody's questions.

Questions

Mr. Kelly Tom, aren't we basically agreeing on concept? So, as far as...

Mr. Stagg Conceptwise, correct.

Mr. Kelly All right, elections, that's right. Now, you mentioned the fact of single member districts. What if something should happen that four or five years from now we would go...and you would want to put congressional districts or something? What if we go to nine congressional districts, or what if we drop back to five? Also, don't you think that the legislature in setting up these districts in that we have eight congressional districts at this time, will establish those as the districts for these candidates to run in too.

Mr. Stagg That would be unquestionably what they would do, Don.

Further Discussion

Mr. O'Neill Ladies and gentlemen of the convention, I rise very briefly to ask you to vote against this amendment. I asked the man who sponsored this amendment if this wasn't the prelude

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designed by the Education Committee has the requisite powers to do the job. It has so much...I believe that the powers to be exercised by the Board of Trustees are of such magnitude that it is necessary that we consider as a convention that that power be reposed in people elected to exercise those powers. They will virtually hold the life and death power over all of the colleges of this state, but at the same time, they may bring out of the chaos that we have some order, some coordination, and hopefully the saving of the taxpayers' money. They alone will handle the budget and the appropriation appearances before the Legislative Committees at appropriation time. This is necessary to do do, and I think a proper thing to have happen. An elected board, too, from each congressional district can accomplish that and have the support of the people from within the district. All colleges will be represented; all facets of the population will be represented; all segments of education will be represented. I fully consider that an appointed board by the governor having these powers would not be to the best interest of the people of this state. Therefore, I urge, Mr. Chairman, that the delegates do consider this amendment. I move its adoption, calling for the election of the members of the Board of Regents and...

Questions

Mr. Stagg I'll yield to a short question because we're running out of time.

Mr. Hayes Mr. Stagg, I wanted to know that is if you...did you intend to have eight multi-districts, instead of single member districts? Is that what you have here now?

Mr. Stagg Yes, Dewey, it says two people will be elected from each congressional district.

Mr. Hayes Which would be a multidistrict?

Mr. Stagg A district at large; correct, sir?

Mr. Womack Mr. Stagg, my question was the same as the gentleman just asked you a minute ago, would you anticipate that there would be four people in a runoff and the two getting the two highest votes would be elected; or, would you have Division A and Division B within the district; or, how would you propose it; or, would you propose that it be...that it be set it by law?

Mr. Stagg I think that belongs in the legislation and not in the constitution.

Mr. Womack It's not provided, though, in this amendment that you have.

Mr. Stagg That's correct, sir.

[Previous question ordered. Quorum called: 103 delegates present and 3 quorum. Roll call vote ordered. Amendment rejected: 39-75. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendment No. 1 [by Mr. Kelly]. On page 3, delete lines 21 through 27, both inclusive, in their entirety and insert in lieu thereof the following:

"(B) Membership; Terms. The board shall consist of eleven members, three of whom shall be appointed by the governor, with the consent of the Senate, and eight of whom shall be elected, one from each of the congressional districts into which the state is divided. The members shall serve overlapping terms of six years, following initial terms which shall be determined by the legislature."

Explanation

Mr. Kelly Mr. Chairman, ladies and gentlemen of the convention, as Mr. Stagg stated earlier, I will not take a great deal of your time. So that it will not be misleading, this is almost identically the same amendment which Mr. Lanier and Mr. Chatelain, Mr. Roemer and others ran with earlier. The only difference is that on about the third line it says "and eight of whom shall be elected, one from each of the congressional districts into which the state is divided." The other simply caused the requirement for a single member district. This is the change in the two amendments. There was a very close vote earlier, and I don't know that I can say anything that hasn't already been said. I can't harp enough, however, on going back on page four of the committee proposal and reminding you of the powers and the duties that this Board of Regents is going to have. I just...I can't believe that this convention is going to turn such powers and duties into the hands of seventeen people who are going to be appointed, as opposed to allowing the people of this state a definite voice in the election of these particular officials. This is an all-important board, this Board of Regents. This is...I mean I look at it as a hybrid superboard, that's just the way I read the committee proposal. I just can't see these people all being appointed. Now, we are adopting the same thing that this convention...or attempting to adopt...have adopted the same concept that was adopted by this convention in Section 4 on the State Board of Elementary and Secondary Education, the exact same makeup, three appointive. This will give the governor the choice of making some appointments to represent...to have minority representation, to have professional representation on this Board. Yet, eight of them will be representatives of the people; they will be accountable to the people of this state. I ask that you give this amendment you favorable consideration.

Further Discussion

Mr. Burns Mr. Chairman and fellow delegates, I must admit to you that I'm a little confused about this present amendment. We voted last week by, I think, a substantial majority to elect the State Board of Education--eight members and three to be appointed by the governor to take care of the minority group. Here we are now with exactly the same system--eight members to be elected and three members to be appointed by the governor--on a much, much more important board--one that has authority over the board that we voted on last week. What has happened in the meantime? Nobody has explained to me why we should vote differently on this. I submit to you in all sincerity that this is something that the people of the State of Louisiana are vitally interested in. I say that if we voted to make the State Board of Education elected, we certainly have to be consistent to vote to make this board elected.

[Previous question ordered.]

Closing

Mr. Kelly I won't...I'm going to not...Well, I'll let Miss Perkins close. I'm afraid to use the word "yield", Mr. Chairman.

Miss Perkins Not here, anyway, Mr. Kelly. Ladies and gentlemen, I urge your support of this amendment as I think it accomplishes everything that the delegates have been interested in, in that we provide that we shall have one member elected from each congressional district, and we do provide for three appointees. I do feel that each of you that possibly supports the managerial board for the other colleges and universities should have no objection to this particular board. In fact, putting elected members on the board serves to accomplish equity, and that the Board of Regents will be the board which determines the finances of each particular university. So, I

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provision that you are proposing merely removes the L.S.U. and the Board of Trustees for the other colleges from (C). Is that not... Is it not a fair statement to say that if someone voted in favor of the Sutherland amendment, that they would then later vote to remove the L.S.U. Board of Supervisors and the Board of Trustees entirely from this constitution?

Mr. Sutherland I would assume that that would follow; yes.

Mr. Stinson Mr. Sutherland, I just have one question. You are a Tulane graduate, aren't you?

Mr. Sutherland That's right; but I went to L.S.U., and I have three sons who went to L.S.U., Mr. Stinson.

Mr. Kean Mr. Sutherland, if I understand your proposal, here, you indicated that if we voted for your amendment, we would, in effect, be setting the stage to take out of the constitution any reference to the Board of Supervisors of L.S.U. Is that correct, sir?

Mr. Sutherland That's correct.

Mr. Kean Do you feel, Mr. Sutherland, that the university of the size and the complexity of the L.S.U. system could be handled by the Board of Regents, along with its other myriad of planning and coordinating duties?

Mr. Sutherland Do I think the management of it... is that what you're asking me? No, I do not think the Board of Regents can handle the management of...

Mr. Kean Then how would you suggest that we would deal with the management supervision, day to day, of L.S.U.? Would you have a board at all?

Mr. Sutherland That would be up to the Board of Regents to recommend to the legislature under the proposal, Mr. Kean.

Mr. Kean If the Board of Regents did not, you simply have no board with reference to management supervision of L.S.U.?

Mr. Sutherland I think the legislature could, on their own, if they wanted to so provide.

Mr. Kean You object, I take it, to having a reference to the Board of Supervisors even for management purposes in the constitution?

Mr. Sutherland I'm sorry?

Mr. Kean I say, you object, I take it then, from your answers to my questions, to having even a reference to the Board of Supervisors as a management board in the constitution?

Mr. Sutherland I don't think it's necessary, Mr. Kean. That's correct.

Further Discussion

Mr. Hernandez Mr. Chairman, ladies and gentlemen of the convention, I have been extended the privilege of reading a statement to you from John Thistlethwaite, who is a member of this convention, but who is absent only because of illness. He is very interested in this. He has written--and I feel honored to have been selected to read this proposal. Now that Mr. Sutherland has offered his amendment, which doesn't do a thing in the world but just skin and gut this proposal, I thought this was an opportune time to read this proposal--I mean this statement--of Mr. Thistlethwaite's. I am reading from his statement:

No proposal advanced for this convention has been so widely and consistently misunderstood as has the plan for governing education offered in Committee Proposal No. 7 of the Committee on Education and Welfare.

The committee's plan is not a full fledged "four-board" plan. Full constitutional status is given the proposed State Board of Elementary and Secondary Education and the Board of Regents. Placed in the article also are the two post-secondary management boards--the Board of Trustees for State Colleges and Universities and the Board of Supervisors of L.S.U. There is, however, a clear-cut procedure for adding additional management boards and transferring institutions from one board to another, without resorting to constitutional amendment, and with legislative action independent of the Board of Regents.

I will discuss here only the plan for governing higher education, since the convention appears to have dealt with the elementary and secondary phase.

The Board of Regents is given full, spelled-out control of all programs and institutions, existing or to be proposed; of allocation and use of resources; of assignment of responsibility; of long range planning, and of budgets.

This type of governing board is known nationally as a coordinating agency with limited regulatory powers. Alternative types are the advisory coordinating agency, on one hand, and the consolidated governing board (or superboard) on the other.

Today, in the light of continuous study by the many commissions, task forces, and recognized authorities on governance of higher education, the committee's plan is by far the preferred system. There are now 28 states with this general system (take note that there are 16 small states with six or fewer institutions, governed by a single board).

To carry out their missions, such boards must be insulated from the operational problems of the individual institutions. Experience has proven that without management boards, the single overall board will spend the bulk of its time and energy on the pressing day-to-day operational matters--the hot potatoes--leaving the planning and coordination unattended. That is why the movement toward 'one big board and no others' faded away in the 1940's. That is principally why every recognized authority in educational governance tends today toward the committee plan. Other major reasons are that management boards tend best to preserve institutional autonomy and to insulate institutions from politics.

Louisiana's situation is such that the committee's plan is particularly desirable. The state has 14 four-year or more institutions of higher learning, plus two medical schools, a school of dentistry, a school of veterinary medicine, and four junior colleges. Only five state have more institutions offering baccalaureate or higher degrees.

In Louisiana, nine institutions offer degrees in phases of agriculture; nine in engineering; ten in education, and twelve in music education; 6 in journalism; five in architecture; eight in zoology and also in biology and botany; nine in art.

Louisiana's public institutions offer 381 graduate programs. Of these, 138 programs had fewer than six graduates in the past three years. A total of 56 masters programs and three doctoral programs failed to have the minimum faculty qualifications to meet criteria of the National Council of Graduate Schools. This criteria also suggests that all graduate programs should serve a statewide need at a minimum and preferable a Southern Regional need.

Some of us who have been taking a hard look at our higher education, with its duplication and proliferation, believe that it might take a sizeable chunk of the entire state budget to support full-fledged high quality in every program offered at every level by every one of our institutions.

If Louisiana's top public university ranked as low in the football ratings as it does in the academic ratings of the American Association of University Professors, there would be an outpouring of rage by citizens of the state difficult to imagine.

One noted authority on governance of higher education (Dr. E. G. Palola), in a recent book, Challenge for Statewide Planners, has written:

of the challenge for the future will be a steady increase in the educational function and role of government, which need these completely overhauled present courses, curricula, and methods of instruction, not only to be improved, but new programs, new methods, and new procedures. Configuration must be designed to meet the needs of our increasingly diverse student population.

The question as to the convention of the type of governing structure proposed by the committee will not enable Louisiana to move forward in the years to come. It retains the desirable features of governmentalism, reminds the state to, and provides the means to meet the future. It moves the state into the forefront of the strong coordinating body with a management innovation, both operationally and administratively.

Hard to find with the need for the sound appearance, structure gives the necessity to insure world performance of the board by providing administrative rather than political leaders.

Higher education is far too vital to limit its governance to the individual who will offer himself for election in the political arena--running in a large district for a relatively minor political post which offers little remuneration but requires large campaign funds to attain. Far better to offer the entire spectrum of the authority to the appointing authority, to enable top quality appointments.

Only one of the appointive boards in higher education in that of the 19 states responsible for higher education in the nation, only nine are elected, including our own state board. Only one, Nevada with two institutions, covers all institutions in its state. The rest, except Louisiana, are for single universities or systems. All are non-voting, none were created in recent decades. The concept, in education, is archaic.

Elected boards, needing a political power base, are saddled with territorial politics. Representing institutions in their districts rather than the state as a whole, they tend to log-roll and form factions. They are likely to be influenced by the governor and legislators because of rewards and political considerations.

Far better to rely on the appointive process, with legislative consent. These are special boards claiming great statewide interest, and the appointing authority, elected himself, is prone to enhance his image by the quality of his appointments. This is the national experience.

In sum, the committee proposal offers a concept that more nearly parallels the history of the development of education governance in Louisiana than any other in consideration, and should serve best, with least readjustment. I am firmly convinced that Louisiana public higher education will be placed on the best possible course for the future if the committee's proposal for its governance is adopted with a minimum of amendment. Thank you very much, ladies and gentlemen.

Further discussion

Mr. Chairman, Mr. Crainan, fellow delegates, I want to be well understood that I rise in opposition to this amendment. Much might be said about why you would need the three boards. I favor the three boards, and I can give you some of the experience I've had over a period of years as serving in the legislature and serving on the Budget Committee where it was our responsibility to try to allocate funds. Let's keep in mind that the state gets an enormous amount of grants. These grants are provided to us because of the excellence that we've had at the university. Probably, the accreditation board throughout higher education in this nation probably frowns on political interference more than any other one. I think that you could bring up your higher education board that you have that will govern everything, will be charged primarily with the responsibility of taking extreme studies in the field of curricula, in the field of the course that is offered, and in the field of determining what such things as student fees have some reasonable relation to

each other throughout the whole system. I think it's a great institution, the other colleges and universities are great with their many funds. I think you would have more with them if you'd be to have worked around the edges. I think you'd be successful with the state system of education, including the budgets and the affairs of the universities, because they have more than that. I think you'd be able to find for architects, artists, and many other things rather than having the responsibility that is being laid by the system. We were an excellent board. If you think that's a little harsh, I would think it one heck of a lot worse than that. We were one day in the budget committee and found that we would order the administration of the state board of Education, 1.46 billion dollars in the year, writing the bills, the board limit, writing checks and not sending them to the bank. They're being turned down by the bank. We called the appraiser of the state board in and he said, "Gentlemen, I just have to have my head in those and tell you we didn't know what we were doing." This is an elected board. Now, let's go back and look at the L.S.U. system. The L.S.U. system has in it--and keep in mind that this is one of the biggest enterprises in this state today--agriculture--have in every one of their hundred schools working in the field of experiment stations trying to provide for the research needed for the food and fiber production of this nation. Over six hundred and fifty people are involved in agricultural extension, home-aking, training of the youth--all of the other phases involved. There, in addition to that, we have the L.S.U. Medical School at New Orleans and Shreveport, the L.S.U. Medical School which was, only a few years ago, the Louisiana State School. We subsidized it with state funds for a couple of years rather than have a cystic state in order to transfer it over to L.S.U. I don't know whether the recent financing we did at the Tulane Medical School is a forerunner of moving the Tulane Medical School into L.S.U. or not. I don't know, but we provided funds to put an additional 100,000 Louisiana students into the L.S.U. Medical School. The point I'm trying to make here is that there is too much need here for an administrative board in both of these fields to start out saying we're going to abolish them and turn it all over to the eleven people that's going to take a couple of their time trying to determine the administrative system that they have in the field of curricula and in the field of trying to govern an overall program of higher education rather than get into the everyday affairs of the institution. Now, I feel that there is more than enough need to take care of all of the time that both boards can put in. So, I would urge you to defeat this amendment, and let's go ahead and get on our way, then, with the legislative process with the three boards.

Further discussion

Mr. Perkins, ladies and gentlemen, I rise in opposition to the Sutherland amendment. In fact, what this amendment accomplishes is the making of a superboard. Let me realize, ladies and gentlemen, that the committee proposal allows the power over education to be diffused. If we support the Sutherland amendment, we are, in fact, putting all power in the hands of Sutherland.

Under the current constitution, the Louisiana State Board of Education can establish administrative boards for other colleges and universities. But, yet, there exist boards and committees of various difficult for a board that has a power to give up the power. I feel that the board of education, particularly in view of the fact that we have some partially elected and appointive--some appointive--would be most reluctant to relinquish any of their power. The administrative boards do not further the committee proposal and we should, therefore, let the day of our colleges and universities should have control over their operations and responsibilities. The responsibilities of these boards would be appointive and would be of course, and would be with the knowledge of the board to which they need.

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control.

Therefore, I strongly urge that you defeat the amendment currently before the convention.

Question

Mr. Flory: Miss Perkins, isn't it true that practically every progressive state in the union has a board for its university system?

Miss Perkins: Yes, sir.

Mr. Flory: Isn't it also true that you need this type of board in order to carry on the day-to-day function of managing that system?

Miss Perkins: Yes, sir.

Mr. Flory: Isn't it further true that this is one of the better ways of providing for quality education and equitable distribution of the educational dollar for higher education?

Miss Perkins: Yes, sir. That is correct. Ladies and gentlemen, before I answer any question, I'd like to make a comment at this point. A few minutes ago I asked Mr. Flory if he'd ask me a question with reference to my rising in opposition to this amendment. I said I wanted it to be a friendly question. You know, the farmers and laborer sometimes have a little difficulty getting together. But, when the farmer's daughter and laborer get together, that's got to be a winning team. Thank you, Mr. Flory.

Chairman Henry in the Chair

Mr. O'Neill: Miss Perkins, the next amendment that would be tacked on to this would be an amendment to completely delete the section on the LSU Board of Supervisors. Right?

Miss Perkins: Yes, sir. I would anticipate that amendment. I don't know it for fact.

Further Discussion

Mr. Aertker: Mr. Speaker, ladies and gentlemen of the convention, I rise in opposition to this amendment. I will leave you just a few brief reasons why I do. First of all, I think that this amendment has a dangerous implication in it. I really believe that if you don't provide in the constitution for some management boards, that you are going to end up with a board that is going to get so involved with management problems, that they are never going to get around to the basic powers that we've given them. Those primarily are the determination of the financing of higher education in this state, and the determination of programs and curriculum because they are going to get too involved in policy making, etc.

I would further state that if we feel that this managing board should have constitutional status, I can't understand why we wouldn't feel that the policy making board wouldn't have also constitutional status. I would think that the inclusion of that type of policy making board in the constitution would provide the stability that, really, we are looking for--the continuity at the local school level. You know, this is very similar to us. We have local school boards, and local school boards are in the constitution. They have the day by day management responsibilities for the operation of elementary and secondary education. So, I just would have to feel that why not have the policy making bodies and the day by day management boards also included in that. As a result of that, I think, there is no need of elaborating on what the system is, or what any other system is. I can assure you that the size and the scope of the operation of that system will be certainly evaluated for you and given information when we get to that part of this proposal. But I think just on the basis of just sheer common sense as to what should be included and excluded, that this should be included in there. The adoption of this

amendment, of course, would move in the direction of the exclusion. So, I urge the defeat of this amendment.

[Previous question tabled. Revised vote taken. Amendment rejected: 10-3. Motion to reconsider tabled.]

Amendment

Mr. Poynter: Next amendment sent up by Delegate Alphonse Jackson.

Amendment No. 1. On page 3, line 21, in Floor Amendment No. 1 proposed by Delegate Kelly and adopted by the Convention on the day, on line 7 of the language added by that amendment, at the end of the line, add the following:

"Not less than two members of the board shall be from the predominant minority race of the state."

Explanation

Mr. A. Jackson: Mr. Chairman, and ladies and gentlemen, I ask your attention. I want to be brief. I promise you that I will because I think I have made the basic arguments on two other occasions as it relates to this important question. But, I do remind you that the Board of Regents will be responsible for coordinating all of higher education and elementary and secondary education. It will control the level of funding. It will make important decisions relative to the whole direction of higher education, and secondary and elementary education as it relates to the kinds of experiences that will be offered. Therefore, I am asking that you would give full consideration to the proposition offered by this amendment and insure that we will have input from all segments...of the population in this state. Now what we are asking here, simply, is that two members of the Board of Regents will be from the predominantly minority race. This will not prevent other minorities from seeking representation. If a minority person from the predominantly segment of the population is elected, that will simply mean that one other one will be appointed.

We would ask that you would favorably consider this amendment, based on the fact that the Board of Regents is of the importance to all of education. The quality of the decision must be the very best. The trust relationship must be increased in order to have the confidence so necessary for a system of higher education and elementary and secondary education.

I ask for a favorable vote on this amendment.

Further Discussion

Mr. Roy: Mr. Chairman, ladies and gentlemen of the convention, I rise in support of this amendment. Previously, when the, when Mr. Jackson brought the amendment up this morning--the other one which provided for proportionate representation--I didn't speak for it although I lean toward it because my feelings are that we must face the issues, and we should do those things which will insure equal--if at all possible--or nearly as equal as possible, the viewpoints of others in this state in all education. This is not the same thing as an election process for a person to represent you on some other type of basis. Education involves every citizen of this state; it involves every group in this state; it involves every Louisianian. We should all stand up for what we think all Louisianians should get and should have. The only way that we can really know that is to get the input of what we all know is a predominant, large minority group in this state. It doesn't pay to take the position that this is a matter that is not as democratic as we would like it. The issue is that in this day, and this time in this state, there is a large group who, because of the past have had some type of discrimination foisted upon them. Now, that's not our fault. It's the fault of history. But, now's the chance for us to do something about it.

Let me point out a couple of things about this

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...that I think are important. There are several large, relatively black institutions who are going to be under the control of the Board of Regents. It is important that all of those people, with the standards of black students attending there, know that they may have some type of voice. More important than a type of voice is being able to give an input--being able to give the majority of the input that it needs to understand some of the problems of the minority groups. There are others in university system, Grambling, Willard, and some other school with large black student bodies. Now, the good thing about this is it only provides for two, which is less than twenty percent of representation on that particular board. It is possible that a black may be elected and thereby have the necessity of only one being appointed by the governor. But it allows the governor, without any fear, if no black is elected, to appoint two of the three that he would be appointing to that particular board. Let me re-emphasize one more time. Blacks represent thirty percent of the population of this state. They have much to contribute in the way of their personal abilities, as well as historical background. I think it is only fair that we allow them to be able to have some input to this particular board.

I'll yield to questions.

Questions

Mr. Lanier: Mr. Roy, how would this amendment work if we had the situation where the board was already filled--eight elected, three appointed--and the Kelly amendment says that they have six-year terms, and a subsequent election is held and a black who was elected, loses. Those who remain all have six-year terms. How would you comply with this amendment in that circumstance?

Mr. Roy: The amendment could only be complied with, Mr. Lanier, if it's possible to do so, which it would appear to me very simple. At the time that the appointments are to be made, if there are no blacks two blacks would be appointed.

Mr. Roemer: Mr. Roy, you said that if we put this in the constitution, then it would insure a certain amount of black representation. Is that right?

Mr. Roy: I said it would insure black representation, and black input which I thought was necessary for a total education.

Mr. Roemer: All right. But, is that the important thing here? Aren't we talking about...or shouldn't we be talking about the quality of the board, whether it be white, black, green or blue? Just because you say that two of them are going to be black, they could be bad blacks, you know, they have bad blacks just like they have bad whites.

Mr. Roy: That's right, Mr. Roemer. Of course, I support it and you've supported the election of these board members, so obviously we can't insure, you know, that we'll have good board members. Probably, with appointees, we'd probably have a more educated person.

Further Discussion

Mr. Flory: Mr. Chairman and delegates, I rise to support the amendment. I have spent the last few months on the Committee on Education. While I didn't serve on the Subcommittee of Elementary and Secondary, or Higher Education Subcommittee, when they reported to the overall committee, we did go in great depth into this whole structure of governance of education. I supported the committee's proposal in the last few votes--particularly as it relates to the number and the method of appointment to the Board of Regents--I did so primarily, in order to insure representation from the total community in this state. I am a firm believer that in solving any of the problems that exist, not only in our educational system, but communication is the key to the solution of many of the problems that we have.

I believe that someone get lost in some capacity in the matter of, of a board, whether that be black, white, or what, from the citizens of this state. But it is a matter of fairness, even as a minority effort, I would like that you adopt this amendment to insure at least an avenue of communication within the governing Board of Regents through the educational structure of higher education in this state. I would ask you to give support to this amendment.

Amendments

Mr. Jenkins: ...I believe, and I think you feel that this provision, if we adopted it, would be in direct and irreconcilable contrast to Section 2 of the Bill of Rights which prohibits racial discrimination by the state.

Mr. Flory: I don't believe that this is a plea for discrimination. I think it provides for equity, Mr. Jenkins.

Mr. Jenkins: Well, doesn't it provide that if there's a vacancy on the board, and say there's only one black on the board besides that vacancy, that every white person would have to be passed over in the state so that a black would be appointed. Now, what would be the difference between that and saying every black would be passed over to say that a white...that the white would have to be selected. Isn't that racial discrimination?

Mr. Flory: Not in my judgment. I think when you look at the overall structure of the board itself, and what the total stature of that board is as it related to majority-minority reputation, I think when you take that into consideration, that if it requires, when there is only one black, and the next appointment comes up, then I would think that the governor, whoever he might be would simply be appointing a black whether there be one or others on the board.

Further Discussion

Mr. J. Jackson: Mr. Chairman, ladies and gentlemen of the convention, I'll be very brief in terms of my remarks. I rise in favor of the amendment. You know it's very strange to hear comments from my two years that I've been associated with legislative bodies, that the key to the progress of black people and minorities in the State of Louisiana, is through education. Don't talk about welfare. Don't talk about hardship. Pull yourself up by your boot straps by education. But, yet, when it comes to a Board of Governors that affect at least a population of at least forty percent blacks we say that we're involved; that this is a form of discrimination, and that we do not want that we don't want to insure black representation. On the very same mechanism that you say, or people say, that we need to get ourselves out of the state of poverty. I suppose to wonder when the amendment from 1-3 was adopted, that this amendment to provide for minority representation, for those who gave that very same argument for the 1-3. I am such I say to you, then, if that's your feeling, if you were so sure that that was going to provide for meaningful representation of minorities, then you should not have any problem whatsoever with this amendment.

Secondly, is that I can understand some persons' concerns about if this is to be a question of reverse. But I want to mention to you that what we need to look at when we vote up with this, or when we vote it with it, or anything, we've got to look at the end effect of anything we put up. Anything that we vote on. If we say that there are going to be eight non-representational districts, then you know--you're not intentionally, as I understand people say--doing for racism or discrimination. But, just say at the discretion. I want you know as a matter of fact that it will be six years before a number of a minority, white or black, is going to be elected for a senatorial district. I suggest to you that if you say that would

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...in the... all people, and particularly... participation of that key that is going to allow... members of the minority race throughout this state to get out of the circle of entrapment.

I ask for your favorable adoption. I just want to remind you that when I heard about the... 3, the argument was that this was going to provide it. All we are doing is further clarifying it... I ask for your favorable adoption. I yield the question.

[Previous question ordered. Record re-ordered. Amendment adopted: 5-48. Motion to reconsider tabled.]

Amendment

Mr. Poynter The next amendment is offered up by Delegate Stovall.

Amendment No. 1. On page 3, delete lines 21 through 27, both inclusive, in their entirety--needs to be some language added--and strike out Convention Floor Amendment No. 1 proposed by Delegate Kelly and just adopted, and insert in lieu thereof the following:

Board membership; terms. The membership of the Board of Regents shall be determined in the same manner as provided in Section 4 of this Article.

Explanation

Mr. Stovall Mr. Chairman, members of the convention, this is an effort for us in this article to express some consistency. Up to this point, we have given approval to a Board of Elementary and Secondary Education. If you notice on page 2, that we indicate that those persons will be selected from single member districts. Now, a moment ago, we adopted an amendment which provides for eight persons to be elected from Congressional Districts. It seems to me that we should be consistent here. This is not a matter of changing anything of substance. We continue with the same number of board members--eight to be elected, three to be appointed--and this simply changes it from the Congressional district to the single member districts. The reason for it is that it simply provides consistency in the Education article. Therefore, I urge your adoption of this amendment.

Questions

Mr. Perez Reverend, isn't this basically the same amendment which was rejected a little bit earlier?

Mr. Stovall It's basically the same. Yes. The...

Mr. Perez Reverend, don't you think if we keep going over there same amendments, time and again, we'll never make that January 4th deadline?

Mr. Stovall Mr. Perez, you can vote the way you choose on it. I think that...we did not realize what we had included previously. I think that the group would like to consider an effort to be consistent at this point.

[Previous question ordered. Record re-ordered. Amendment adopted: 5-48. Motion to reconsider tabled.]

Amendment

Mr. Poynter Delegate Jenkins sends up amendments. Amendment No. 1. On page 4, line 2, after the word "the" and before the word "elementary" insert the word "public".

Explanation

Mr. Jenkins Mr. Chairman, this is a technical amendment which I have checked with Mr. Aertker on. He says that this is the intent of the committee.

This is it--page 4, line 2--where "provides that the coordinating powers of the board with relation to the curricula of elementary and secondary schools," deals only with the curricula of public schools. We would not want any confusion that it might be...somewhat related to private schools. That's the intent of the committee. So, I'd like to urge you to adopt this amendment.

[Amendment adopted without objection.]

Amendment

Mr. Poynter Amendment sent up by Delegate Duval as follows:

Amendment No. 1. On page 4, line 7, immediately after the word and punctuation "board," delete the remainder of the line, and delete lines 8 and 9 in their entirety (we need to add "including all amendments thereto") and insert in lieu thereof "the board shall".

Explanation

Mr. Duval At the outset I'd like to explain that it's my basic philosophy that we probably make a mistake putting boards in the constitution in their composition? But, since it's obvious that we're going to do this, I think the board should be clearly delineated. We've already agreed we're going to have an elected State Superintendent of Education. Now we've made a great to-do about this. We are going to elect our state superintendent. We are also going to elect our State Superintendent. We are also going to elect our State Board of Education which will have the responsibility for secondary and primary education--grades 1 through 12. So, we've done a great thing. We allowed the people to elect this representative and this board. However, in this committee proposal as very candidly answered by Mr. Cowen, the Board of Regents, or superboard, or whatever name you want to give it, can--has the ultimate power to control the curriculum of the primary and secondary education under the committee proposal. The committee proposal reads, "The board shall have coordinating responsibilities as it relates to the elementary and the secondary education curricula." My amendment deletes that. I think there are two separate boards completely. The Board of Regents should be concerned with higher education, and not with the workings and mechanics and the curriculum of primary and secondary education. I think it's a great mistake to have these boards when curriculum actually is the heart and soul, I think of any educational system. The mechanics and the techniques are great. But what you teach, the courses you take, are right at the soul of the system.

Now, if the Board of Regents has the ultimate power to dictate the curriculum then you have emasculated your State Board of Education, your State Superintendent of Education has no real power. It's a great farce to say you elect him when he can be overruled by another board. So, I think we should...perhaps the committee proposal was merely intended to be a euphemism, or a platitude, or a goal which states that they merely get together and talk about it. Well, they can get together and talk about it without this dangerous constitutional language.

I suggest that...I move the adoption of the amendment and suggest that it's necessary to maintain and preserve the integrity of the State Superintendent of Education and the State Board of Education.

[Previous question ordered. Record re-ordered. Amendment adopted: 5-48. Motion to reconsider tabled.]

Amendment

Mr. Poynter Next amendment sent up by Delegate Alphonse Jackson.

Amendment No. 1. On page 4, delete lines 14 and 15, both inclusive, in their entirety.

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Explanation

Mr. A. Jackson: Mr. Chairman and [B] and [C]... I ask for your support of this amendment because I simply want to remove some language from this proposal that I am convinced will serve little or no purpose. The lines that I wish to delete would cause the Board of Regents to review or eliminate any existing degree programs, departments or institutes, divisions or similar institutions. Now I think that the whole purpose of the [ordinance] from 1961 to coordinate education and to eliminate dual systems. I don't think that it ought to get into the business of eliminating programs when there is no need to eliminate them. I'm concerned that we have not placed any limitations here. This would allow--if someone wanted to exercise this authority, this would allow the Board of Regents to wipe out a whole division of a college--to wipe out a whole program without any justification--relative to whether or not that program was needed or not. I just don't think that the committee intended to do this. I think that the committee's wisdom is exercised in the [section] here which is...when it talks about approving, disapproving, or modifying proposed degrees. I think this is where the authority ought to rest. That is the power that the Board of Regents ought to have. I, therefore, would ask that you would delete [A], lines 14 and 15... of this section because I do not believe that it is properly drawn.

Questions

Mr. Brown: Representative Jackson, would you tell me again your opposition? Isn't the purpose of this to help consolidate some of the various degree programs? For instance, if they are teaching German, giving a PhD. in German at...say Northwestern with one professor and two students, and doing the same thing at four or five other universities, you don't think there should be one over-riding body to say, "Now look, it's time you all coordinate all of this and cut down the tremendous expense involved. You think it's wrong for them to have the authority to do that?"

Mr. A. Jackson: Well...this...(B) accomplishes this...(B) accomplishes this as we look at new degree programs, but what I'm concerned about is existing programs that might be interrupted, that might be discontinued, simply because somebody decided that they no longer wanted this to exist. There's no justification.

Mr. Brown: well, what about the...what about some of the overlap that's going on right now, as I mentioned. As I understand it...there are...

Mr. A. Jackson: But it does not...that's the problem with it, Senator. If they had that, if they had the other language to this section, I would not have any quarrel with it. It does not say where we are overlapping. It does not say where we need to effect efficiency. That's the problem with it.

Mr. Brown: what doesn't say that?

Mr. A. Jackson: It simply says to review or eliminate any existing degree programs.

Mr. Brown: You think the justification should spell out just what should be revised?

Mr. A. Jackson: Well, I think if we're going to get into that kind of authority and power, it ought to say when it should have this power and authority but it does not say that. That's my problem with it.

Mr. Wozniak: Mr. Jackson, apparently under the line 15 (B), that you have no objection to them approving or disapproving or modifying any proposed program in the future.

Mr. A. Jackson: No, sir. I have no objection to that.

Mr. Wozniak: Well, if you really are going to be free to have the power to say, "You can't start a new one, why would you have approved it?" saying that they could do that and that's what's really at the heart of it.

Mr. A. Jackson: Well, if we're going to have any program, Mr. Wozniak, to that I'll be glad that they would eliminate programs that are not needed. It says to eliminate programs. It would eliminate a program that is very important in a case somebody didn't like the way somebody approved the way they go about the way to approve.

Mr. Wozniak: wouldn't you think that by this we'd taken order of the right status to eliminate a program that might be good, if it's the best thing. There's no difference in it.

Mr. A. Jackson: Well, there are problems with this kind of power vested in a board of Regents. But, we have to have board action. My only concern is that I don't think that this is a desirable function. If we talk about eliminating programs that are not needed, if we're talking about effecting efficiency, then I will fall for it. But, it does not say that. It'll allow the board of Regents to eliminate any degree program that it wants to.

Mr. Wozniak: One final question, would you think that would be about like a farmer putting a plow in the field and then putting a nozzle on the end?

Mr. A. Jackson: No, sir. I don't.

Mr. Stagg: Mr. Jackson, is what you're saying in effect, in your amendment, that if we've got a great wasteful one right now, let's don't lean it up, but let's not let it get any worse. Is that not the effect of your amendment?

Mr. A. Jackson: No, it's not.

Mr. Stagg: Are you not removing the power from the board, for instance, when it sees a PhD. or a master's degree in Russian, with one student and no graduates? Or a PhD. in a particular language program with six students and no graduates, or a master's degree or a PhD. program. They don't do away with that?

Mr. A. Jackson: Well, Mr. Stagg, we have had the Coordinating Council in operation for quite some time. The problem of these kind of programs existing now is in fact, I don't really, but that we ought to run the risk of really having a possibility of someone really destroying an entire college with this language that we have here.

Mr. Stagg: I feel...I just feel there will be something else that you're not talking about, otherwise, the amendment is...takes the stuff out.

Mr. A. Jackson: Well, I will tell you very frankly, and with all the candor that I know, that with that language, you can define any language that you want to.

Mr. Avant: Mr. Jackson, thank you. One thing I don't understand. A little thing says, "where programs, does that mean, say, a particular program? Or is that a whole program?"

Mr. A. Jackson: That's a whole program.

Mr. Avant: would this permit the board to take this particular college and say, "We're going to have a master's or a PhD.?"

Mr. A. Jackson: That's exactly what it would mean. Mr. Avant: It would mean that if they decided that you could take either a master's or a PhD. degree.

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you don't do it any more.

Further Discussion

Mr. Kierhan. Mr. Chairman and fellow delegates, I won't take much of your time. But the committee did consider this. They decided that this was one of the powers that was necessary if we were going to have a Board of Regents. If you don't have this power, there's no need to have a Board of Regents.

I would ask you to defeat this amendment.

[The following amendment was read and approved by the assembly.]

Amendment

Mr. Joynter. Amendment No. 1 sent up by Mr. Kelly, on page 1, between lines 4 and 5, insert--or add the following:

Student credit hours and the level of student credit hours shall be factors included in the formula.

Explanation

Mr. Kelly. Mr. Chairman, ladies and gentlemen of the convention, I refer you to the top of page 5, between lines 4 and 5, and I'd like to read to you the last sentence: "As a minimum, the plan shall include a formula for the equitable distribution of funds to the institutions of higher education of the state."

All that this amendment does is to guarantee that whatever formula the Board of Regents comes up with, that included within this formula, one of the factors will be the SCH's, or the student credit hours, from the particular universities involved, and the level of the student credit hours. Now I think you've heard this term, "level of student credit hours," referred to before. This would simply refer to a situation where, say, an English I class...where an English I class, three hours at Louisiana Tech, say, should be the same as it is at LSU. However, if you've got a course which would include laboratory work or something like that, that would be considered under the level of student credit hours...student level of student credit hours could also be referred to such as your medical student at Louisiana State University in New Orleans; the Law School curricula would also be determined under the level of student credit hours.

We're not setting any hard and fast formula here. All that this amendment does is to say that these two things shall be factors included within this formula for equitable distribution of funds to the institution.

Question

Mr. Aertker. Mr. Kelly, I don't believe that any formula could be developed for higher education without the inclusion of these factors in it. But do you really believe that this should be a part of the constitution?

Mr. Kelly. Mr. Aertker, I think that this is so important, I think that this is the predominant factor that's used by the Coordinating Council at this particular time. I just want to make sure that through the politics in the future years, that something isn't substituted in its place.

Mr. Aertker. It would be that.

Mrs. Zervigon. Mr. Kelly, the thing that confuses me in...here is your reference to "level of student credit." You were saying that lab courses were more expensive to teach. Is that what you were saying?

Mr. Kelly. That's correct.

Mrs. Zervigon. Dr. Law School courses that involve

a certain number of students sitting in the classroom in front of one professor are more expensive to teach than first level English courses that would involve the same number of students sitting in front of one professor in a classroom? Is that what you're saying?

Mr. Kelly. Yeah. That in essence is what we're saying. There's no question but it takes more money to educate a medical student than it does to educate a government major.

Mrs. Zervigon. That's because of the lab work. But, would it cost more to educate a student on the level of a master's in education than it would on...

Mr. Kelly. I'm sorry, I didn't hear what you said.

Mrs. Zervigon. Does it cost more money to educate a student working for a master's in education than it does for a lower degree in education?

Mr. Kelly. Most certainly. That would also be...

Mrs. Zervigon. Why is that?

Mr. Kelly. I would think that it would. I can't say for sure whether it would. But that...I'm not saying whether it does or it doesn't, Mary. All this does is say that these are factors which will be considered. Now if there is a distinction between a master's and a lower educational degree in the field of education, then it would be considered. If it cost no more on a three hour course per student, then it would not be considered.

Mrs. Zervigon. You mean it would not be heavily weighted. It must be considered.

Mr. Kelly. Well, it would be considered. It wouldn't have to be given any weight.

Mr. Kean. Mr. Kelly, I'm not exactly sure how this works. Do you just take the number of heads of students and divide it into credit hours and come up with your formula? Is that the way it works?

Mr. Kelly. That's correct. I meant you would take the number of students enrolled, and the credit hours involved that each one has taken, etc. That's fitted into the formula under the Coordinating Council at this particular time. Your level of student credit hours, of course, would be as Mrs. Zervigon has related--and I have tried to relate up here--I meant there's no question about it--a three hour course at the LSU Medical School would be more costly and would be weighed heavier than a three hour first English I course, say, here at the Louisiana State University in Baton Rouge.

Mr. Kean. Well, this is exactly my point. If I understand it, the College of Agriculture at LSU, for example, has a limited number of students. The Law School has a limited number of students; the Medical School, Veterinarian School, all of these would have a limited number of students, but a high cost for maintenance and operation. How do you feed that into this formula?

Mr. Kelly. Exactly how it's fed in, Mr. Kean, I do not know. All I know is that this is one of the factors. I'm not saying that this is the predominant factor; I'm not saying that it is the only factor because there are too many factors to consider. I meant the cost of running the experimental stations involved in educating agricultural students, of course, is considered. It's considered at this particular time according to the information that's been furnished to me.

All I'm saying is the SCH's and the level of SCH's will be considered.

Further Discussion

Mr. Womack. Mr. Chairman and fellow delegates, like Mr. Jack said, I wish you would pay a little

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words of management insert the following: "Sub-
ject to the provision of Paragraph A of this
section the power"

Explanation

Mr. Zervigon, Mr. Chairman and delegate, I also
consider this a technical amendment. If you'll
refer earlier in the day when Mr. Owen was
introducing this section, I asked him whether the
reference to powers granted to the Board of Regents
by law was in conflict with part of Paragraph (F)
on page 5, which spoke of the powers given to the
Board of Regents specifically by this section. So
what I'm doing is saying--referring back to Para-
graph (A)--he said that the Committee intended it
to be no conflict, to make it clear that there is no
conflict between those two paragraphs and save us
a lot of court hassles in the future. I urge the
adoption of the amendment.

Question

Mr. Arnette, Mary, I don't mean to hold up any-
thing. I just wanted to ask: do you think this
is necessary? You've already got a statement that
says "powers not vested" and then you talk about
other powers of management that aren't vested.

Ms. Zervigon, If it's specifically by this section,
Greg, in the other place, it says "by this section
and by law." I just want to make sure there's no
conflict, that's all.

Further Discussion

Mr. Fean, Mr. Chairman, fellow delegates, I look
upon this as considerably more than a technical
amendment. As I read it, it would make the powers
of management that is sought to be vested in the
other boards subject to the provisions of (A) and,
in effect, would give the Board of Regents, as I
view it, the very authority that this Subsection
(F) was designed to avoid. I think rather than
making a technical amendment for clarification,
we're making a substantive amendment which could
have significant effect upon the meaning of this
particular Subsection (F); and for that reason I
rise in objection to the amendment.

Question

Mr. Avant, Mr. Fean, wouldn't this mean that in
any case where there was any conceivable or possible
conflict between (A) and (F) that (A) would domi-
nate?

Mr. Fean, That's exactly my objection, Mr. Avant.

*[Previous question ordered. Amendment
rejected: 19-84. Motion to reconsider
tabled. Motion to take up other orders.
Substitute Motion for the Previous
Question of the Section. Pending
Amendments read. Record vote ordered
on the Substitute Motion. Substitute
Motion rejected: 28-74. Motion
adopted: 61-44.]*

Announcements [I Journal 801]

*[Adjournment to 9:00 o'clock a.m.,
Wednesday, November 14, 1973.]*

